



Physical Therapy Board of California

STATE AND CONSUMER SERVICES AGENCY - ARNOLD SCHWARZENEGGER, GOVERNOR

## Physical Therapy Board of California

2005 Evergreen St. Suite 1350, Sacramento, California 95815

Phone: (916) 561-8200 FAX : (916)263-2560

Internet: www.ptb.ca.gov



### APPROVED MEETING MINUTES ASSISTIVE PERSONNEL TASK FORCE January 28, 2009

**Doubletree Hotel  
1646 Front Street  
San Diego, California 92101  
(619) 239-6800**

#### **1. Call to Order and Roll Call – Nancy Krueger, PT**

President Krueger called the meeting of the Physical Therapy Board of California's Assistive Personnel Task Force Meeting to order at 9:45 a.m. Roll call was taken. All task force members were present. A quorum was established.

President Krueger announced that the comments on the proposed supervision language that is on the Board meeting agenda for tomorrow, as a public forum will not be discussed today. If anyone who will not be available to attend tomorrow's Board meeting and has any comments that he or she was prepared to discuss today to please give them to staff to present at tomorrow's meeting.

The task force divided into two subcommittees to review, discuss, and develop recommendations regarding their respective assignments of 1) defining wellness in regulation; and, 2) provider identification. The task force reconvened at the conclusion of their individual group meetings.

#### **2. Possible Recommendations to the Physical Therapy Board of California Regarding Defining Wellness in Regulation**

The subcommittee broke down the language in the physical therapist's scope of practice to assist in the discussion of wellness.

The practice of physical therapy was amended and now includes [1] the promotion and maintenance of physical fitness [2] to enhance the bodily movement related to the health and wellness of individuals [3] through the use of physical therapy interventions.

What regulatory requirements apply to the physical therapist providing this type of physical therapy? For example, a physical therapist offers Pilates classes and hires an instructor to teach the class, does the physical therapist have to document patients going to the Pilates class, and must the physical therapist be present when the instructor/aide offers the class?

The subcommittee discussed the possibility that there could be a conflict of interest in the two roles as a physical therapist and owner of a training program. The three types of scenarios are 1) a physical therapist that is invested in a fitness gym as an economic venture with nothing to do with physical therapy or screening for wellness 2) a physical therapist who has ownership in the gym and refers that patient to the gym he has ownership in 3) the physical therapist is actually contracted with a client to set up a wellness program to manage i.e. diabetes.

Standards regarding self-referrals and required disclosure are adequately addressed by other laws.

The subcommittee discussed whether special rules were needed in these situations, it concluded that special provisions would not be necessary if 1) a physical therapist is treating a condition or 2) when an economic relationship may exist, but the individual is engaging in normal exercise not a part of a physical therapy treatment (attending a gym owned by a physical therapist). A physical therapist teaching a Pilates, yoga, or other class for compensation, falls under the definition of physical therapist. On the contrary, a physical therapist who is volunteer coaching a running, swimming, basketball, etc. team, is not practicing physical therapy.

The subcommittee agreed that physical therapist may not discharge a patient needing restorative care – care of a condition – by substituting a wellness plan. The physical therapist should continue the level of care patient needs. Responsible practitioner tells patient: go to the gym, do x, y z (home exercise care) – this is restorative care for the treatment of a condition and is not exempt from supervision or documentation requirements.

The subcommittee discussed the role of the physical therapist assistant and concluded that a physical therapist assistant is not prohibited from developing the wellness program as long as the physical therapist subsequently reviewed the program.

The subcommittee discussed and agreed that the Board will need to ensure that revisions to amend Business and Professions Code section 2630 (addressing the role of an aide) in the Department of Consumer Affairs' omnibus bill will take effect.

The subcommittee noted that a client is a person who is under the definition of receiving wellness and a patient is a person receiving physical therapy treatment.

**Subcommittee Recommendation:**

Under the following conditions, the board will waive supervision requirements and limit the documentation requirements as described herein:

1. PT (not PTA) must screen a client participating in a wellness program. The screening, which is not necessarily an evaluation, must determine whether the interventions are appropriate. The PT must document the screening. A screening may be accomplished by the use of a health screening questionnaire and assessment tools, physical examination, client interview, or other appropriate measures.
2. Before patient can participate in a wellness program, 1) the patient must have been discharged from any active PT treatment program or 2) the wellness program must be outside the present scope of the patient's current treatment.

***The Task Force discussed and agreed to make the following recommendations to the Board***

The recommendation from the task forces is as follows:

- Under the following conditions, the Board will waive the supervision requirements and limit the documentation requirements as described: 1) a physical therapist (not a physical therapist assistant) must screen the client participating in a wellness program. The screening, which is not necessarily an evaluation, must determine whether the

interventions are appropriate. The physical therapist must document the screening. A screening may be accomplished by the use of a health screen questionnaire assessment tools, physical examination, client interview, or other appropriate measures. 2) Before a client can participate in a wellness program the client must be discharged from a physical therapy program or the wellness program must be outside the present scope of the client's present treatment program.

- A physical therapist may not discharge a patient needing restorative care or care of a condition by substituting a wellness plan. The physical therapist must continue the level of care the patient needs. The responsible practitioners tells the patient to go to the gym or perform home exercise care, this is restorative care for treatment of the condition and is not exempt from supervision or documentation of care.
- The physical therapist assistant is not prohibited from developing the wellness program as long as the physical therapist subsequently reviewed the wellness program prior to the program being set into motion.
- Standards regarding self-referrals and required disclosure are adequately addressed in other statutes. These provisions do not apply if 1) a physical therapist is treating a condition 2) when an economic relationship may exist and the client is engaging in normal exercise not a part of physical therapy treatment, i.e. attending a gym owned by a physical therapist or attending a Pilates or yoga class given by a physical therapist. However, if the physical therapist instructs the client to attend the gym or Pilates or yoga class as part of physical therapy then it falls under the definition of physical therapy. On the contrary, if a physical therapist is volunteering coaching basketball, etc is not practicing physical therapy.
- Define a client as a person who is receiving wellness and a patient as a person who is receiving physical therapy treatment.

### **3. Possible Recommendations to the Physical Therapy Board of California Regarding Provider Identification**

Ms. Krueger indicated the subcommittee needs to identify what constitutes a signature: a full name, initials, first name initial with full last name, etc. She explained the problem the Board has when reviewing cases is trying to determine who performed the work due to the ineligibility of the signature. Does the Board require a signature page or a stamp, etc and this policy is outlined in the facilities procedure manual. Also, how to identify if the signature is the physical therapist, physical therapist assistant, or physical therapy aide.

Mr. Dagostino inquired to legal counsel "what is considered a legal and valid signature?"

Ms. Freedman discussed what is a signature, and that a signature is not required to be legible, therefore the regulation requiring a legible signature cannot be enforced.

The question is, "what language can be put into regulation to clearly define what the term "legible" means.

During the discussion it was brought up that a master list would be too restrictive in some health care environments and that the task force needs to discuss further electronic signature as most health care agencies are moving to electronic records and signatures.

A comment was made that it is already in regulation that the name must be stamped and printed on each page. How much more specific do we need to get? Should the recommendation be to

require the facility have in place policies and procedures of how to identify the physical therapist, physical therapist assistant, and physical therapy students, and physical therapy aides signature? Can there be a place in the patient's chart where it would clearly identify the person's name and his or her position?

Mr. Hartzell explained we are trying to update the language in the California Code of Regulation 1398.85 that will further define the Business and Professions Code 2620.7 where it states legible signature. The possibility of requiring that the master signature list be maintained for a period of seven years like the patient's record needs to be considered.

The intent of "sign the patient record legibly" in Business and Professions Code 2620.7 is that anyone reading the patient's record should be able to clearly identify who provided all of the physical therapy treatment and documented the treatment in the record.

### **2620.7**

Mr. Hartzell explained the main problem with the statute 2620.7 is the word "legible". In the future maybe the Board should consider removing the word legible; however, since it is in the statute the regulation needs to define clearly what the term "legible" means. Changes to 2620.7(c) should read, signed by a physical therapist with PT after signature, signed by a physical therapist assistant with PTA after signature, signed by a physical therapy student or intern with SPT after signature, a physical therapist assistant student or intern with SPTA after signature, a physical therapist license applicant with PTLA after signature, a physical therapist assistant license applicant with PTALA after signature. Changes to this section will require the legislature to agree to modify the language in the statute.

### **1399.85**

Mr. Hartzell indicated that the task force should define the term "legible". He recommends adding language to the regulation that could possibly read "the intent of a "legible signature" is to ensure that anyone reading the patient's ~~chart~~ record, at any time in the future, will be able to determine who provided and who documented the physical therapy care". This language would replace the language in 1399.85(7) Adjacent to the treating physical therapist's signature or at least on every page if there are multiple entries on a single page shall be printed or stamped name of the treating physical therapist. We may also need to add this language in the regulations for physical therapist assistant, physical therapy aide, and physical therapy students or interns.

### **1398.37**

Eliminating the title "intern" was discussed. However, the schools are currently working with Medicare to clearly identify and distinguish the roles of the student and the intern. The student title is for students that are still in the middle of coursework and the intern title is for after the student has completed all required coursework and is now performing his or her clinical. This would allow the intern to perform physical therapy and bill Medicare for the service provided. It was agreed to not eliminate the title "intern" based on this discussion but to maybe identify the physical therapist intern as PTI.

The recommendation is to modify regulation 1398.37 by striking (d) all together and replacing it with "All care provided by the physical therapy student or intern must be documented in the patient's record. It must be clear to anyone reading the patient's record, at any time in the future, to be able to determine who provided and who documented the physical therapy care. The supervising physical therapist shall sign or countersign all entries in the patient's record on the same day as the physical therapist student or intern's documentation was entered. The task force would prefer to not indicate same day and for the facility to develop their own procedure of when

to sign and countersign by the physical therapist should take place. There is a high percentage of physical therapists who document within 24 hours. The task force recommends, "All care provided must be documented in the patient's record". Instead of identify "by the physical therapy student or intern must be documented in the patient's record".

Mr. Hartzell explained that every entry must be followed by a clear designation of the signer's licensure title, or other authority, which enables them to perform the care in order to distinguish the role; he or she was in when performing the care.

The task force recommends that the following be applied in some aspect to each area of regulations pertaining to signature. "Every entry must be followed by a clear designation of the signer's licensure title or other authority which enables her or him to perform the care".

### **Task Force Recommendations to the Board**

To recommend to the Board to direct staff to make modifications to 1398.85 by replacing some of the language in section (7) that would indicate "the intent of a "legible signature" is to ensure that anyone reading the patient's record, at any time in the future, will be able to determine who provided and who documented the physical therapy care". This language would replace the language in 1399.85(7) Adjacent to the treating physical therapist's signature or at least on every page if there are multiple entries on a single page shall be printed or stamped name of the treating physical therapist.

In 1398.37 the task force recommends to strike (d) all together and replacing it with "All care provided must be documented in the patient's record. It must be clear to anyone reading the patient's record, at any time in the future, to be able to determine who provided and who documented the physical therapy care. The supervising physical therapist shall sign or countersign all entries in the patient's record on the same day as the physical therapist student or intern's documentation was entered.

To recommend adding that the following be applied in some aspect to each area of regulations or statutes pertaining to signature "Every entry must be followed by a clear designation of the signer's licensure title or other authority which enables her or him to perform the care". We need legal counsel's assistance on where this language would best be served or do we need to create a new regulation?

**Action 1** It was recommended after reading Debra Alviso's paper regarding clarification of student and intern titles dated July 14, 2008 to address the issue of eliminating the title or term "intern" after the education community is surveyed on if they will be willing to give up the term "intern" and for them to provide input on continuing or disbanding the term "intern".

**Action 2** The task force recommends assigning a new task force with representation from the California education community or to have a California educator from one of the physical therapy programs be appointed to the task force to assist in developing the language on students and interns or defining student and interns.

**Moved by Ms. Kimura, Seconded by Mr. Kaye to recommend that all the task force recommendations for wellness and provider identification be presented to the Board tomorrow. Vote: All task force members approved. Motion passed unanimous**

## **4. Agenda Items for Next Meeting**

## **5. Public Comment**

Ms. Krueger thanked all the task force members for all their dedication and hard work.

## **6. Adjournment**

The Physical Therapy Board of California Assistive Personnel Task Force adjourned at 3:39 pm.

**MOTION: To approve the January 28, 2009 Assistive Task Force meeting minutes as amended by correcting on page 3, line 127, change the word “do” to “due”; line 132, correct the spelling of Mr. Dagostino’s name; line 140 change the word”to” after the word be to “too”; page 4, line 171, change 1398.85 to 1399.85; line 176, correct the word “ever” to “every”; page 5, line 208, remove the word “in” after the word authority and change “he or she” to “her or him” and line 227, change the sentence to match the corrections made on line 208 and to approve the August 6, 2009 meeting minutes as written.**

**MOVED: Ms. Dagostino    SECOND: Mr. Kaye    VOTE: 8-0    Motion carried.**