



## STATE OF WISCONSIN

Department of Safety and Professional Services  
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Madison WI 53703

**Governor Scott Walker**

**Secretary Dave Ross**

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**PHYSICAL THERAPY EXAMINING BOARD**  
**Room 121A, 1400 E. Washington Avenue, Madison**  
**Contact: Tom Ryan 608-261-2378**  
**September 27, 2012**

*The following agenda describes the issues that the Board plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the meeting minutes for a description of the actions and deliberations of the Board.*

**FULL BOARD MEETING**  
**8:30 A.M.**

- A. **Call to Order – Roll Call**
- B. **Declaration of Quorum**
- C. **Introduction of New Board Member(s)**
- D. **Recognition of Board Member(s)**
- E. **Adoption of Agenda (1-4)**
- F. **Approval of Minutes – June 28, 2012 (insert) (5-12)**
- G. **Case Presentations**
  - 1) Renay G. Poirier, PTA – 10 PHT 001(105-110)
    - o Attorney Arthur The ton
    - o Case Advisor – ane Stroede
- H. **Secretary Matters**
- I. **Executive Director Matters**
  - 1) Staff Updates
  - 2) Other
- . **Items Received After Mailing of Agenda**
  - 1) Presentation of Proposed Stipulations and Final Decisions and Orders
  - 2) Presentation of Proposed Decisions
  - 3) Presentation of Interim Orders
  - 4) Petitions for Re-hearing
  - 5) Petitions for Summary Suspension
  - 6) Petitions for Extension of Time
  - 7) Petitions for Assessments
  - ) Petitions to vacate Orders
  - ) Requests for Disciplinary Proceeding Presentations
  - 10) Motions
  - 11) Appearances from Requests Received or Renewed
  - 12) Speaking Engagement, Travel and Public Relation Requests
  - 13) Application Issues
  - 14) Examination Issues
  - 15) Continuing Education Issues
  - 16) Practice questions

**K. Board Discussion Items including any received after printing of agenda**

- 1) Visit From Representatives From the Federation of State Boards of Physical Therapy –  
**APPEARANCES 8:40 A.M.**
  - a. Overview and FSBPT Regional Liaison Report – Jeff Rosa, FSBPT Regional Liaison **(insert) (13-14)**
  - b. FSBPT Report of State PT Laws –Leslie Adrian, FSBPT Director of Professional Standards **(insert) (15-22)**
- 2) FSBPT Matters
  - a. Report from Annual FSBPT Meeting **(insert) (23-32)**
- 3) Credentialing Matters
- 4) Division of Enforcement Matters
- 5) Education and Examination Matters
  - a. Appointment of Board Liaison for Review of Foreign Graduate Evaluation Services –  
**APPEARANCE 9:40 A.M. – RYAN ZEINERT, EXAMS SPECIALIST, OFFICE OF EDUCATION AND EXAMINATIONS** **(insert) (33-34)**
- 6) Practice Questions and FAQ's/Issues
  - a. Pending FAQs – Update **(insert) (35-36)**
- 7) Website Updates **(insert) (37-38)**
  - ) Legislation/Administrative Rule Matters
    - a. PT 7 Rule Drafting-Review and Approve Draft Language or Designate Delegate to Approve Final Form, or Both **(insert) (39-52)**
  - ) Liaison Reports
- 10) Speaking Engagement, Travel, Public Relation Requests

L. Informational Items

M. New/Other Business

N. Public Comments

**CONVENE TO CLOSED SESSION to deliberate on cases following hearing (s. 19.85(1) (a), Stats.; consider closing disciplinary investigation with administrative warning (s. 19.85(1)(b), Stats. and 440.205, Stats., to consider individual histories or disciplinary data (s. 19.85 (1)(f), Stats.; and, to confer with legal counsel (s. 19.85(1)(g), Stats.)**

O. Examination of **five (5)** Candidates for Licensure **(insert) (53-54) – 10:45 A.M.**

P. **Monitoring (insert) (55-96)**

- 1) Paul Z. Abler, PT – Requesting Reinstatement of License After Voluntary Surrender –  
**APPEARANCE 1:00 P.M. – PAUL Z. ABLER, PT, AND ATTORNEY JAMES H. FINN**

**Professional Assistance Procedure (PAP) Information – APPEARANCE 1:20 P.M.– PATARA HORN OR ASHLEY HORTON, DEPARTMENT MONITORS** **(insert) (97-104)**

R. **Deliberation of Proposed Stipulation(s), Final Decision(s) and Order(s)**

- 1) Renay G. Poirier, PTA – 10 PHT 001
  - o Attorney Arthur Theaton **(insert) (105-110)**

S. **Application Review**

- 1) Erin Spencer – Review of Application and Proposed Remediation Plan to Retake the NPTE **(insert) (111-120)**

T. **Request for Waiver of CE Requirement**

- 1) R.S., PT **(insert) (121-124)**

U. **Case Closings (insert) (125-126)**

. Deliberation of other items received after printing of agenda

- 1) Case Closings
- 2) Case Status Report
- 3) Proposed Decisions
- 4) Proposed Interim Decisions and Orders
- 5) Summary Suspensions
- 6) Objections and Responses to Objections
- 7) Complaints
  - ) Administrative Warnings
  - ) Matters Relating to Costs
- 10) Monitoring Cases
- 11) Appearances from Requests Received or Renewed
- 12) Examination Issues
- 13) Application Issues
- 14) PAP Cases
- 15) Motions

W. Consulting with Legal Counsel

**RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION**

. Vote on Items Considered or Deliberated Upon in Closed Session, if Voting is Appropriate

Y. New/Other Board Business

**ADJOURNMENT**

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**PHYSICAL THERAPY EXAMINING BOARD  
JUNE 28, 2012  
MINUTES**

**PRESENT:** Lori Dominiczak, PT Mark Shropshire, PT Jane Stroede, PTA Michele Thorman, PT

**STAFF:** Tom Ryan, Executive Director Yolanda McGowan, Legal Counsel Shawn Leatherwood, Paralegal Karen Rude-Evans, Bureau Assistant other DSPS staff

**GUEST:** Matt O'Neill, Fox, O'Neill and Shannon, S.C., Representing the Midwest College of Oriental Medicine Cassandra Wind, Dierdre Dunbar and William Dunbar, Midwest College of Oriental Medicine Ramie Zelenkova, WISCA Sage McCormick

**CALL TO ORDER**

Michele Thorman, Chair, called the meeting to order at 8:32 a.m. A quorum of four (4) members was present.

**ADOPTION OF AGENDA**

**Amendments:**

- Item K3 (open) – DRY NEEDLING PRESENTATION, insert additional information after page 50
- Item K a (open) – PT 7 UPDATE DRAFT, insert additional information after page 76

**MOTION:** Jane Stroede moved, seconded by Lori Dominiczak, to adopt the agenda as amended. Motion carried unanimously.

**APPROVAL OF MINUTES OF MARCH 8, 2012**

**Corrections:**

- On page 4, under PRACTICE QUESTIONS/FAQ's, Change the first heading to "Prescription Devices".

- On page 6:
- Under CASE CLOSINGS, in the first motion, insert (P2) after “compliance gained”
  - Under OTHER BUSINESS, in the second sentence, delete “Mark Shropshire” and insert “Jane Stroede”
  - Under OTHER BUSINESS, change the third sentence to read, “The Board discussed education equivalency related to PT’s taking the PTA examination.”

**MOTION:** Mark Shropshire moved, seconded by Jane Stroede, to approve the minutes of March , 2012 as corrected. Motion carried unanimously.

### **PRESENTATION OF PROPOSED STIPULATIONS, FINAL DECISIONS AND ORDERS**

There were no cases to present.

### **SECRETARY MATTERS**

There was no report.

### **EXECUTIVE DIRECTOR MATTERS**

#### **Status of Public Member Appointment**

Tom Ryan contacted the Governor’s Office and at this time there is no public member appointment.

#### **Agenda Items**

The deadline for the receipt of agenda items is 14 working days prior to the date of the meeting. Tom Ryan reminded the Board that any late items/additions to the agenda must be of an urgent nature and must be received by Department staff at least 24 hours before the start of the meeting in order to comply with the Open Meetings Law.

### **PRESENTATION OF PROPOSED STIPULATIONS, FINAL DECISIONS AND ORDERS**

There were no cases to present.

## **BOARD DISCUSSION ITEMS**

### **FSBPT Matters**

- September Meeting Appearance by FSBPT Representatives  
Jeffrey Rosa, Member of the FSBPT Board of Directors and Regional Liaison, and Leslie Adrian, FSBPT Head of Government Affairs, will give a presentation to the Board at the September 27, 2012 meeting. Board members expressed concerns regarding the field date testing and the hardships this created for the examinees. Tom Ryan will contact the FSBPT to inquire if Christine Sousa, Director of Professional Standards, could connect via teleconference at the September meeting. Board members should send questions for the FSBPT representatives to Michele Thorman for inclusion on the agenda.

Lori Dominiczak will attend the 2012 FSBPT Annual Meeting and Delegate Assembly in Indianapolis, Indiana on September 20-22.

### **Credentialing Matters**

- Review of Equivalency Programs  
Jane Stroede expressed concern regarding the accountability of the degree equivalency review programs. Recently there were two applicants who received conflicting information from one of these programs. Lori Dominiczak will work with credentialing staff to try to resolve the discrepancies for the two applicants.

### **Dry Needling – Presentation from Matt O’Neill, Midwest College of Oriental Medicine**

Attorney Matt O’Neill, Fox, O’Neill and Shannon, S.C., representing the Midwest College of Oriental Medicine, gave a presentation challenging the PTEB’s FAQ approving the practice of dry needling by physical therapists.

Jane Stroede stated there are several advanced specialties, including dry needling, in the PT practice act that require advanced training for practitioners. The dry needling FAQ was originally approved by the Board in July 2001 and no complaints have been received by the Board regarding this practice.

Cassandra Wind, Wind Sports Wellness, expressed her concerns about dry needling by physical therapists.

### **Division of Enforcement Matters**

- **DOE Administrative Complaint Closure Policy**

Jeannette Lytle, DOE Attorney Supervisor and Intake and Screening Supervisor, appeared before the Board to review the DOE administrative complaint closure policy. The policy has been in effect since 2000 and was recently amended to include legal and administrative overview for the cases that are not opened and to provide a report to the boards on these cases.

Deane Stroede wants the PTEB to be proactive and to review these cases to see the complaints and issues that are received by the Department. Michele Thorman is not in favor of this policy and said the Board is serious about policing the professions.

Jeannette Lytle will take the Board's comments back to management for review. Any other comments can be sent to Ms. Lytle.

### **Education and Examination Matters**

- **Consideration of aPTtitude as Accepted Health-Related or Other (Credentialing) Organization**

At the last Board meeting the WPTA presented information regarding their continuing education approval procedures. The WPTA will report back to the Board at the first meeting in 2013 regarding the CE approval process and the audit outcome.

Deane Stroede acquired the standards from the FSBPT aPTtitude CE review process for the Board's review.

**MOTION:** Lori Dominiczak moved, seconded by Deane Stroede, to accept and recognize the FSMB's aPTtitude as an acceptable health-related and credentialing organization for purposes of Wis. Admin. Code sec PT .04(2). Motion carried unanimously.

Executive Director Tom Ryan abstained from the discussion.

### **Practice Questions and FAQ's/Issues**

- FA – Prescribing Devices  
Physical therapists may order devices if no prescription is required, however third-party payers may require a physician order for payment. This matter will be reviewed further with legal counsel at the next Board meeting.
- Review of FAQ's  
The Board reviewed the FAQ's currently posted to the DSPS website. Lori Dominiczak will work with Sandy Nowack on suggested revisions.

All FAQ's must now be reviewed and approved by the Governor's Office before being posted to the DSPS website.

### **Website Updates**

The DSPS website is undergoing a comprehensive review and will be updated when the process is complete.

### **Legislation/Administrative Rule Matters**

- PT 7 Update Draft  
The Board reviewed the updated draft of PT 7 and made some language changes. This document should be reviewed again at the September Board meeting.
- CR 12-002 Proposed Rule Order Regarding PT 1 – PT 2  
Paralegal Shawn Leatherwood and Legal Counsel Yolanda McGowan reviewed with the Board the Proposed Rule Order regarding PT 1 – PT 2.

**MOTION:** Mark Shropshire moved, seconded by Jane Stroede, to adopt the CR 12-002 Proposed Rule Order regarding PT 1 – PT 2 and to submit to the Legislative Reference Bureau for publication. Motion carried unanimously.

### **Liaison Reports**

None.

**Speaking Engagement, Travel and Public Relation Requests**

None.

**INFORMATIONAL ITEMS**

There were no informational items.

**NEW/OTHER BUSINESS**

There was no new business.

**PUBLIC COMMENTS**

There were no public comments.

**CLOSED SESSION**

**MOTION:**     ane Stroede moved, seconded Lori Dominiczak, to convene to closed session to deliberate on cases following hearing (Wis. Stat. 1 . 5 (1) (a)) consider closing disciplinary investigation with administrative warning (Wis. Stat. 1 . 5 (1) (b), and Wis. Stat. 440.205) consider individual histories or disciplinary data (Wis. Stat. 1 . 5 (1) (f)) and to confer with legal counsel (Wis. Stat. 1 . 5 (1) (g)). Roll call vote: Lori Dominiczak-yes Mark Shropshire-yes ane Stroede-yes and Michele Thorman-yes. Motion carried unanimously.

The Board convened into closed session at 12:20 p.m.

**RECONVENE INTO OPEN SESSION**

**MOTION:**     Lori Dominiczak moved, seconded by ane Stroede to reconvene into open session. Motion carried unanimously.

The Board reconvened into open session at 2:26 p.m.

**VOTING ON ITEMS CONSIDERED OR DELIBERATED IN CLOSED SESSION**

**VALIDATION OF EXAMINATION SCORE**

**MOTION:** Jane Stroede moved, seconded by Lori Dominiczak, to validate the scores for the four oral examination candidates. Motion carried unanimously.

**CASE CLOSING(S)**

There were no cases to close.

**NEW/OTHER BUSINESS**

The Board gave thoughtful consideration of the presentation from the Midwest College of Oriental Medicine.

The Board members reviewed their tasks from this meeting.

**PUBLIC COMMENTS**

None.

**ADJOURNMENT**

**MOTION:** Lori Dominiczak moved, seconded by Jane Stroede, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 2:20 p.m.

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**State of Wisconsin  
Department of Safety & Professional Services**

**AGENDA REQUEST FORM**

<b>1) Name and Title of Person Submitting the Request:</b>  Tom Ryan		<b>2) Date When Request Submitted:</b>  9/6/2012 Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> <li>▪ 10 work days before the meeting for Medical Board</li> <li>▪ 14 work days before the meeting for all others</li> </ul>	
<b>3) Name of Board, Committee, Council, Sections:</b>  Physical Therapy Examining Board			
<b>4) Meeting Date:</b>  September 27, 2012	<b>5) Attachments:</b> Yes <input type="checkbox"/> No <input type="checkbox"/>	<b>6) How should the item be titled on the agenda page?</b>  Visit From the Federation of State Physical Therapy Boards	
<b>7) Place Item in:</b> x Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	<b>8) Is an appearance before the Board being scheduled? If yes, who is appearing?</b>  Jeff Rosa, Federation of State Physical Therapy Boards Wisconsin Board Liaison	<b>9) Name of Case Advisor(s), if required:</b>	
<b>10) Describe the issue and action that should be addressed:</b>  Jeff Rosa will deliver a presentation and respond to any questions.			
<b>11) Authorization</b>			
Signature of person making this request			Date
Supervisor (if required)			Date
Bureau Director signature (indicates approval to add post agenda deadline item to agenda)			Date

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3) Name of Board, Committee, Council, Sections:  <b>Physical Therapy Examining Board</b>			
4) Meeting Date:  September 27, 2012	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page?  FSBPT Review of State PT Laws	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? If yes, who is appearing?  Yes, Leslie Adrian, FSBPT Director of Professional Standards	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed:  Leslie Adrian will present her review of Wisconsin's statutes and rules.			
11) Authorization			
Signature of person making this request			Date
Supervisor (if required)			Date
Bureau Director signature (indicates approval to add post agenda deadline item to agenda)			Date

**Crosswalk between Model Practice Act and Wisconsin Physical Therapy Practice Act  
Chapter 15, Chapter 440, Chapter 448, and Rules Chapter PT 1 License to Practice  
Physical Therapy  
Umbrella Board**

Article	MPA Section	State Practice Act Section	
Article 1: General Provisions	1.01. Legislative Intent		
	1.02. Definitions	15.01, 440.01,	
Article 2: Board of Physical Therapy	2.01. Board of Physical Therapy	15.08	
	2.02. Powers and Duties	15.07, 15.08, 15.405(7r), 440.03, 448.565	
	2.03. Disposition of Funds		
Article 3: Examination and Licensure	3.01. Examination	440.07- Exam standards and service  448.54 Examination	There are significant discrepancies b/w WI law and MPA. Need to consider adding language regarding cheating and security in 448.54
	3.02. Qualifications for Licensure	440.03(13)(a), 448.53 PT, 448.535 PTA	
	3.03. Licensure by Endorsement	440.09 Reciprocal credentials for spouses of service members(1)-(3) 448.532(3) PT  448.53 (3)?	May want a separate area breaking this out rather than having it lumped into qualifications for licensure- makes it clearer. Also may want to pull the English test language from 448.54 (3) into this section if added
	3.04. Exemptions from Licensure	448.52 Applicability	This is an area that could use significant clarification and expansion *
	3.05. License Renewal	440.08 57 and 57m (dates), 440.23 Cancellation of credential  448.55	Provides for continuing competence- GOOD!
	3.06. Changes in Name and Address	440.11	
	3.07. Reinstatement of License	440.23	
	3.08. Fees	440.05	
Article 4:	4.01. Ethical Practice		

Regulation of Physical Therapy	4.02. Use of Titles and Terms	440.21 Enforcement of laws requiring credential 448.51 License required	Additions: 4.02A from MPA: clear regulatory designator Clarification of DPT use?
	4.03. Patient Care Management	448.56-	448.56 (6) Change the "if" to "when" regarding supervision May want to look at current MPA language regarding PT responsibility and documentation
	4.04. Grounds for Denial of License and Disciplinary Action	440.12, 440.121, 440.13,	Tax delinquency, incompetence, child support
	4.05. Investigative Powers	440.03(13)(a) deals only with investigation PRIOR to licensure	May want to add the entire section from MPA regarding investigating a claim against licensee
	4.06. Hearings	440.22 Assessment of costs	
	4.07. Disciplinary Actions; Penalties	440.2 440.205 Administrative Warnings 440.22 Assessment of costs 448.57 448.59	There are many potential situations for disciplinary action that are missing in the statute- refer to MPA.
	4.08. Procedural Due Process		No mention in WI statute
	4.09 Unlawful Practice	440.21 Enforcement of laws requiring credential	
	4.10. Reporting Violations; Immunity	448.565	
	4.11. Substance Abuse Program		No mention in WI statute
	4.12. Rights of Consumers		No mention in WI statute
	Social Security Disclosure		440.03(13)(c), 440.14
Other		440.15- Specifically	

		prohibits fingerprinting requirements	
		440.19- voluntary surrender of license	
		448.57(5)	Should allow reporting the the FSBPT ELDD with at minimum DOB- perhaps not SSN unless address the above

State Rules Section	Commentary
PT 1.01 Authority and purpose.	2.02. Powers and Duties from MPA There are 21 points under powers and duties that your Board may want to review and add. This will clarify many of the things you can do, such as the ability to issue advisory opinions. You have some of them located in your statute already, such as #17 from MPA : <i>17. Report final disciplinary action taken against a licensee [or certificate holder] to a national disciplinary database recognized by the board or as required by law. in 448.57(5)</i>
PT 1.03 Applications and credentials. (1) & (2)	You may want to consider re-writing this section to be more clear. Perhaps use the MPA language from section 3.02
2.01	(2) An application filed under s. PT 1.03 shall be reviewed by an application review panel consisting of at least 2 board members designated by the chairperson of the board. The panel shall determine whether the applicant is eligible for a regular license without completing an oral examination. Does every application require review of the Board? Is this necessary?
PT 2.03	I think you can say this same thing in a clearer way. Such as: After two attempts, an applicant must submit an application with the appropriate fees, evidence of remediation as approved by the Board....etc, etc
Chapter 3	Are all temp license applications reviewed by 2 members of the Board? Is this necessary?  The applications and required documents for a regular license and for a temporary license may be reviewed by 2 members of the board, and upon the finding by the 2 members that the applicant is qualified for admission to examination for a regular license to practice as a physical therapist or physical therapist assistant, the board, acting through the 2 members, may issue a temporary license to practice as a physical therapist or physical therapist assistant under supervision to the applicant.
Chapter 3	3.01 (5) discusses how to renew a temp license where as (7) states that a temp license may not be renewed. Need to clean up this language/inconsistency

Chapter 4	Is this section necessary? I've never seen another jurisdiction with these type of rules? Is the locum tenens license utilized very often? Is it intended to improve mobility or decrease licensure processing time?
Chapter 7 Unprofessional Conduct	We had an earlier discussion regarding this section. I believe we went over a number of documents to reference for help.
8.02	Are these up to date with the technology you are using; do you do on-line renewals? Does any of the language need to reflect that? Are renewal notices sent to e-mail or just physical addresses?
8.05	Break out the jurisprudence exam requirement to stand alone if it applies to both (1) and (2). As is, very easily confused that only applicable to (2)
Chapter 9 Continuing education	Change all references to CE to CC; you already have it in statute Change CEU to CCU as unit of value
9.02	Consider adding the definitions of competence and continuing competence from the MPA to 9.02
9.04	Have rules reflect that WI will accept FSBPT ProCert certification- Add FSBPT to "other organizations including..."
PT 9.05	Consider allowing an aPTitude printout or allowing a licensee to share directly with the Board through aPTitude to respond to an audit and demonstrate that CC requirements have been met

Currently, Wisconsin is not providing FSBPT with licensure or disciplinary data. How can we make that happen legislatively?

Existing legislation in the PT statute:

**448.57 disciplinary proceedings and actions (5) states:**

**(5) The examining board may report final disciplinary action taken against a licensee to any national database that includes information about disciplinary action taken against health care professionals**

The above should allow reporting the FSBPT ELDD with at minimum DOB- perhaps not SSN unless addressing the language below.

The exemption for the nursing board. Perhaps the PT Board could pursue similar language and authority to share SSN with the FSBPT ELDD:

**440.145(b)**

**(a)** The department or a credentialing board may not disclose on any list that it furnishes to another person a personal identifier of any individual who has made a declaration under sub. (2), (3) or (4).

**(b)** Paragraph (a) does not apply to a list that the department or a credentialing board furnishes to another state agency, a law enforcement agency or a federal governmental agency. In addition, par. (a) does not apply to a list that the department or the board of nursing furnishes to the coordinated licensure information system under s. 441.50 (7). A state agency that receives a list from the department or a credentialing board containing a personal identifier of any individual who has made a declaration under sub. (2), (3) or (4) may not disclose the personal identifier to any person other than a state agency, a law enforcement agency or a federal governmental agency.

History: 1999 a. 88; 2001 a. 66; 2009 a. 388.

**NURSING STATUTE: (7) ARTICLE VII — COORDINATED LICENSURE INFORMATION SYSTEM.**

**(a)** All party states shall participate in a cooperative effort to create a coordinated database of all licensed registered nurses and licensed practical/vocational nurses. This system will include information on the licensure and disciplinary history of each nurse, as contributed by party states, to assist in the coordination of nurse licensure and enforcement efforts.

**(b)** Notwithstanding any other provision of law, all party states' licensing boards shall promptly report adverse actions, actions against multistate licensure privileges, any current significant investigative information yet to result in adverse action, denials of applications, and the reasons for such denials, to the coordinated licensure information system.

**(c)** Current significant investigative information shall be transmitted through the coordinated licensure information system only to party state licensing boards.

**(d)** Notwithstanding any other provision of law, all party states' licensing boards contributing information to the coordinated licensure information system may designate information that may not be shared with nonparty states or disclosed to other entities or individuals without the express permission of the contributing state.

**441.50(7)(e) (e)** Any personally identifiable information obtained by a party state's licensing board from the coordinated licensure information system may not be shared with nonparty states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.

(f) Any information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing that information, shall also be expunged from the coordinated licensure information system.

(g) The compact administrators, acting jointly with each other and in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection and exchange of information under this compact.

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**State of Wisconsin  
Department of Safety & Professional Services**

**AGENDA REQUEST FORM**

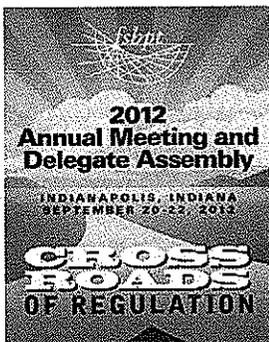
1) Name and Title of Person Submitting the Request:		2) Date When Request Submitted:	
<small>Items will be considered late if submitted after 4:30 p.m. and less than:          - 10 work days before the meeting for Medical Board          - 14 work days before the meeting for all others</small>			
3) Name of Board, Committee, Council, Sections:  Physical Therapy Examining Board			
4) Meeting Date:  September 27, 2012	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page?  Report from Annual FSBPT Meeting	
7) Place item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? If yes, who is appearing?	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed:  Annual Meeting attendees will deliver a summary report.			
11) <b>Authorization</b>			
Signature of person making this request			Date
Supervisor (if required)			Date
Bureau Director signature (indicates approval to add post agenda deadline item to agenda)			Date

*The Federation of State Boards of Physical Therapy*  
Setting the Gold Standard for Service and Protection



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## Event Registration - 2012 Annual Meeting & Delegate Assembly Indianapolis, IN



Federation of State Boards of Physical Therapy

2012 Annual Meeting Schedule

Thursday, September 20

**11:00 AM – 5:30 PM**

**Council of Board Administrators Forum (Lunch provided)**

*Tom Ryan, CBA Chair and Bureau Director, Wisconsin Physical Therapy Examining Board and Tina Kelley, Administrator, New Hampshire Physical Therapy Governing Board*

All board administrators are invited to attend the CBA Forum which is designed for administrators by administrators. Administrators who are funded to attend the annual meeting are automatically funded to attend this session.

**2:00 PM – 5:30 PM**

**Jurisdiction Board Chair Forum**

*Tom Caldwell, PT, Chair, Ohio Physical Therapy Board & Natalie Harms, PT, Chair, Nebraska Board of Physical Therapy*

Jurisdiction board chairs are invited to attend this forum to discuss issues of specific interest to board chairs. Board chairs who are funded to attend the annual meeting are automatically funded to attend this meeting.

**6:00 PM – 7:00 PM**



### Welcome Reception: Celebrating 25 Years!

While this reception is for all attendees, **First-Time Attendees** (who should arrive 15 minutes early, at 5:45) are especially invited to meet the Federation's Board of Directors, candidates for office and other board members and administrators.

**7:00 PM - 8:30 PM**

**CBA Dinner with the Board of Directors (By invitation)**

**Friday, September 21**

**7:00 AM – 8:00 AM**

**"Eat and Greet" Hearty Breakfast**

**8:00 AM – 8:30 AM**

**Welcome to Indiana**

*Mary Bennett, PT, Board Chair and Tasha Coleman, Board Executive Director, Indiana Physical Therapy Committee*

**President's State of the Federation Address**

*Maggie Donohue, PT*

**8:30 AM – 9:30 AM**

**Assuring the competence of those educated outside the US: A report from the Leadership Issues Forum**  
*FSBPT Board of Directors and Mark Lane, PT, FSBPT Vice President, Moderator*

This session will review the information gathered at the FSBPT's August Leadership Issues Forum that focused on assuring the competence of those educated outside the US. Are our current methods effective? Are we preventing qualified people from practicing while allowing those with significant gaps to practice? The session will report on various strategies that were explored at the forum and their potential for addressing these complex issues.

**9:50 AM – 11:20 AM** *Choose one of three sessions*

**Post-Enyart and Title III Accommodations: A Brave New World**

*Brian S. Inamine, Esq., Partner, LeClairRyan LLP – Los Angeles Office and Larry J. Wilkerson, CPA, FSBPT CFO*

Years before the Enyart decision, licensing and certification organizations assumed that a reasonableness standard governed disability accommodation requests under Title III of the ADA. Case law and the Department of Justice were supportive – until Stephanie Enyart sued to challenge the reasonableness of the "reasonableness" standard.

After a David v. Goliath court battle, the accommodation criterion was changed, and we now face an uncertain future where accommodations must meet the new "best ensure" standard. This presentation will review the history of Title III's accommodation standard, analyze Enyart and its implications, and discuss best practices for adapting to the post-Enyart world.

**Continuing Competence: where are we now?**

*Heidi Herbst Paakkonen, FSBPT Continuing Competence Product Manager and Mark Lane, PT, FSBPT Vice President*

It's time to share updates on the development and progress of the key components of the Federation's continuing competence program including aPTitude, the FSBPT continuing competence model, the Practice Review Tool (PRT) and jurisprudence assessment tool partnership. We will devote much of this time to exploring ProCert – the continuing competence activity certification program.

**The NPTE: Fixed-date testing and more**

*Susan Layton, FSBPT Chief Operations Officer and Lorin Mueller, PhD, FSBPT Managing Director of Assessment*

All of FSBPT's stakeholders know that we now offer the NPTE on a limited number of dates per year. But not everybody knows how the transition has gone and what to expect in the future. This session will cover three important topics in depth:

- How is the transition to fixed-date testing going? We will look at a number of stakeholder groups and the way the change has affected them.
- What did the change mean in terms of how the NPTE is developed?
- What are the plans for 2013 and beyond in terms of exam administration?

**11:30 AM – 11:50 AM**

**Updates from the Board of Directors**

The Board of Directors will provide updates on issues of interest to the membership.

**11:50 AM – 12:50 PM**

**Issues Forum (Lunch provided)**

*Stephanie Lunning, PT, Executive Director, Minnesota Board of Physical Therapy, Moderator*  
Members share their questions and concerns as they prepare for the Delegate Assembly.

***The Issues Forum depends on member input!***

If you have topics to share with other jurisdiction board members – or questions to ask them – please email them to our CEO, William A. Hatherill. There will also be an opportunity to submit issues at the Registration Desk.

**1:00 PM – 1:50 PM** *Choose one of three sessions*

**Uniform Application for Physician State Licensure (UA)**

*Ingo Hagemann, M.B.A., Uniform Application Director, Federation of State Medical Boards*

The Uniform Application for Physician State Licensure (UA) is a web-based application designed to enhance the nation's state-based licensure system by standardizing, simplifying and streamlining the medical licensure process. The Uniform Application streamlines and simplifies applying for a medical license, while incorporating the unique requirements of the state-based licensing authorities.

**Is there another way? North Carolina Board of Nursing Disciplinary Guidelines**

*Linda D. Burhans, PhD, RN, FRE, Associate Executive Director, Practice, Regulation, and Education, North Carolina Board of Nursing*

This presentation will describe the North Carolina Board of Nursing's implementation of Just Culture principles in its disciplinary processes. The evaluation tools and guidelines developed and implemented to support this evolutionary change will be discussed.

**North Carolina Dental Board vs. the FTC: what's the significance?**

*Jennifer Ancona Semko, Partner, Baker & McKenzie LLP*

The FSBPT board of directors took the lead in working with FARB (Federation of Associations of Regulatory Boards) and their membership to file an amicus brief in the case involving the Federal Trade Commission (FTC) vs. the North Carolina Dental Board.

What is the significance of this case to states' rights, jurisdiction board member immunity, state action immunity from federal anti-trust laws, the future of professional regulation by state regulatory boards, the professions and most importantly, to the consuming public?

**2:00 PM – 2:50 PM** *Choose one of three sessions*

**Cooperation and Commitment: keys to overcome licensure barriers**

*Jim Clahane, PT and Kevin Lindsey, PT, FSBPT Ethics and Legislation Committee*

You asked for more, we answered! With the greater impact of telemedicine, interstate medical partnerships and other alternative medical delivery models, more attention is being directed towards current licensure models and the effect on the mobility of healthcare professionals.

This session answers the Delegate Assembly's call for FSBPT to continue gathering information and evidence regarding issues surrounding licensure portability in physical therapy. Discuss legislative and regulatory initiatives, evaluate data gathered on the numbers of therapists holding multiple licenses, and review results of a survey to the Council of Board Administrators regarding licensure processing.

**2012 PTA Update: What are the current issues relating to the physical therapist assistant?**

*Justin Berry, PT, DPT, MS, Northland Community & Technical College, East Grand Forks, MN and Becky McKnight, PT, MS*

There are many recent and prospective changes which have the potential to create a significantly different environment for PTAs within the profession. This session will provide an overview of the current educational, regulatory, reimbursement, and professional issues relating to PTAs which may be of interest to individual state board members. Current research regarding these issues will also be presented.

**Patient Safety**

*Lisa McGiffert, Director of Consumers Union's Safe Patient Project*

This presentation will describe Consumer Union's Safe Patient Project. This project is focused on preventing patient harm and providing information to the public both on how to report problems they have encountered and encouraging licensing boards to make information available to the public. Hear about the concerns from the public on patient safety and how licensing boards may want to review their systems and processes related to these concerns.

**3:00 PM – 4:00 PM**

**Delegate Workshop and Candidate Forum**

*Eugene R. Lambert, PT, Resolutions Committee chair and Claudia Alexander, Nominating Committee chair*

This session is required for Delegates and Alternate Delegates. The Resolutions Committee will encourage discussion regarding motions that will come before the Delegate Assembly. In addition, candidates will provide information about their qualifications and answer questions from the floor.

**6:00 PM – 7:30 PM****Honorary Members and Board of Directors Dinner (By invitation)**

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Saturday, September 22

**6:30 AM – 7:30 AM****Board of Directors Liaison Breakfast with Delegates, Alternate Delegates, Jurisdiction Chairs, Candidates, Nominating & Resolutions Committees (By invitation)**

- Nominating Committee introduces candidates
- Resolutions Committee available to discuss motions with Delegates

All others: "Eat and Greet" Hearty Breakfast

**7:30 AM – 8:15 AM****An International Perspective***Emma Stokes, (Dr), Senior Lecturer and researcher in the Discipline of Physiotherapy, Trinity College, Dublin, Ireland*

The world has become a smaller place! You will not want to miss Irish physiotherapist and educator Emma Stokes' talk about the importance of a global perspective when dealing with regulatory issues. A broad, world perspective is critical in preventing regulatory barriers that do not serve public good and in finding effective solutions to regulatory challenges that are common throughout the world.

**8:15 AM – 9:00 AM****Planning for the Future: The Health Professions Minimum Dataset***Jean Moore, Director, Center for Health Workforce Studies, School of Public Health, State University of New York at Albany*

Lack of relevant and timely data on the health workforce is a significant barrier to the development of effective health workforce programs and policies. The National Center for Health Workforce Analysis is supporting the development and implementation of the Health Professions Minimum Dataset (MDS), a set of basic questions on the demographic, educational and practice characteristics of health professionals.

The MDS is designed to enhance health workforce data collection that is currently underway by states and to support the collection of information in a consistent manner. The MDS has the potential to support systematic health workforce monitoring both at state and national levels.

**9:15 AM - 10:30 AM** *Choose one of three sessions***Crossing Over to Continuing Competence: states share their strategies***Mary Bennett, PT, Indiana, David Perry, PT, MS, Michigan and Lee Nelson, PT, Vermont*

Making the shift to a continuing competence model can be fraught with trials and barriers. Indiana, Michigan and Vermont will present the challenges they faced while developing and implementing continuing competence requirements, and how those were addressed. Attendees of this session are strongly encouraged to have their issues, challenges and questions prepared in advance for the panelists to address.

**When do billing issues become regulatory issues?***E. Dargan Ervin, PT and Deborah Hatherill, PT*

This session will look at the inappropriate billing for services and attempt to determine the role of licensing boards in dealing with billing issues. Actual cases will be reviewed and appropriate board action will be explored.

The session will attempt to challenge the notion that "billing is not a regulatory issue." Come prepared to participate and engage in dialogue and discussion.

#### **An Introduction to the 2013 NPTE Content Outlines**

*Lorin Mueller, PhD, FSBPT Managing Director of Assessment and David Relling, PT, PhD; Director, FSBPT Board of Directors; Faculty, University of North Dakota, Department of Physical Therapy, Grand Forks, ND*

In January, 2013, FSBPT will implement new content outlines and performance standards for the PT and PTA examinations. This presentation will describe the reasoning behind these changes and the steps FSBPT took to ensure the changes maintained the validity of the tests to measure entry-level competence for physical therapy professionals.

**10:45 AM - 11:45 AM** Choose one of three sessions

#### **Coming to America: supervised clinical practice as a requirement for physical therapy licensure**

*Panel discussion: Joni Kallis, PT and Mary Keehn, PT, FSBPT Foreign Educated Standards Committee; Chuck Brown, Executive Director, Arizona State Board of Physical Therapy; Nina Hurter, Administrator, Texas Board of Physical Therapy Examiners and George Maihafer, PT, PhD, President, Virginia Board of Physical Therapy*

How are supervised clinical practice and public protection related? Why do barely one quarter of the jurisdictions require a supervised clinical practice for non-US educated physical therapists as a requirement for licensure? How should a foreign educated PTs' performance in the clinic be evaluated? What are the barriers to implanting in my state? What are the pros/cons?

Come share your thoughts and opinions on these questions as the Foreign Educated Standards committee continues with their work in this area. The final version of the supervised clinical practice model will be discussed. Get first look at the Performance Evaluation Tool being developed for foreign educated PTs!

#### **A Fine Line: responding to questions from licensees or the public**

*Panel Discussion*

How do you respond to questions related to scope of practice when your practice act is silent on an issue? What about interpretations of the practice act or regulations? What do you do when you are asked your opinion on an issue or topic at a state chapter meeting? What do you do when someone calls you at home to share a concern about a colleague? This interactive session will explore ways to deal with such questions. A panel will respond to various scenarios and the audience will have a chance to provide their input. The end result will be a start of the development of some guidelines for board members and administrators to use.

#### **Going Green: taming the board meeting paper monster**

*Nancy R. Kirsch, PT, DPT, PhD, Program Director, University of Medicine and Dentistry of New Jersey and Karen Wilk, PT, DPT, Chair, NJ Board of Physical Therapy; Administrative Director of Rehabilitation Medicine, Englewood Hospital and Medical Center, New Jersey*

The volume of paper managed by each board member to prepare and participate in a meeting can be overwhelming. In addition to the challenges of paper management from the office, there are financial considerations and physical limitations for getting the paper back to the meeting. This session will explore the advantages as well as the challenges of going green from the viewpoint of the administrator, board chair and board member. The experiences of several different boards will be shared with practical applications considered for all size boards.

**11:45 AM – 12:45 PM**

#### **Awards Luncheon**

*Maggie Donohue, PT, President*

**12:45 PM - 1:30 PM****The Gestalt of Professional Regulations**

*Bruce G. Matthews, Past-President, Council on Licensure, Enforcement and Regulation (CLEAR) and Deputy Registrar, Real Estate Council of Ontario*

The term "Gestalt" describes a configuration or pattern having specific properties that cannot be derived from the sum of its component parts. It is typically a visual design and visual perception concept, but this presentation will suggest that Gestalt can be extended beyond visual issues to impact our perception of larger constructs including processes, systems, buildings and even organizations. This presentation will illustrate the way in which principles of Gestalt can be applied to a regulatory environment to address challenges being faced by modern regulators in process and organizational design.

**1:30 PM - 2:20 PM** *Choose one of three sessions***What's happening at CAPTE and why you should know about it**

*Mary Jane Harris, PT, MS, Director, Department of Accreditation, American Physical Therapy Association*

This presentation will address several issues currently facing CAPTE and the physical therapy educational community and the initiatives that CAPTE is currently undertaking to address them. Implications for licensure boards will be discussed.

**Use and Abuse of Social Media**

*Nancy R. Kirsch, PT, DPT, PhD, Program Director, University of Medicine and Dentistry of New Jersey and Sherri Paru, PT, Clinical Advisor/Investigator, Oregon Physical Therapist Licensing Board*

This session will explore the most popular types of social media, and how they are being used in physical therapy practice. The session will also look at the ways in which social media can be abused. Are there professional guidelines for use? How should licensing boards manage complaints against licensees that are related to the use of social media? The presentation will also look at the ways Licensing Boards can utilize social media advantageously to communicate with licensees as well as gain information needed for complaint investigations. Together we will explore the future of PT regulation as it relates to social media.

**Improper Delegation of Duties**

*Sheila K. Nicholson, Esq.*

FSBPT's *Model Practice Act for Physical Therapy* states that "a physical therapist is fully responsible for managing all aspects of the physical therapy care," and that a PT shall provide all care that requires the skills and knowledge of a physical therapist. Many PTs struggle with determining what may be properly delegated to supportive personnel. The session will focus on how a PT properly enlist a PTA or aide to assist in providing care that is safe, effective and efficient.

**2:35 PM - 3:20 PM** *Choose one of three sessions***The State of the Jurisdictions: state legislative update (Part 1)**

*Leslie Adrian, PT, FSBPT Director*

This interactive session will discuss some of the most pressing legislative and regulatory issues faced by the physical therapy regulatory community in the 2012 legislative session. Participants are encouraged to share experiences and challenges faced by his/her physical therapy board.

**Navigating Ethics & Morals vs. Professional Conduct**

*Mark Brengelman, Assistant Attorney General, Office of the Attorney General, Commonwealth of Kentucky*

The intersection of ethics, morals, and standards of professional conduct can be puzzling. The rule of law is enforced by boards of physical therapy. And yet, boards often confuse the nature of the laws they enforce. Is

unethical conduct against the law? Can moral principles really govern? Is a code of ethics truly enforceable by a state agency? How? If not, why bother? What can be done to define the standards of professional conduct so they can be clearly written and applied? Learn how to identify and place into perspective the categories of conduct which are governed by the law.

### **Education, Regulation & Practice in the European Union/Ireland**

*Emma Stokes, (Dr), Senior Lecturer and researcher in the Discipline of Physiotherapy, Trinity College, Dublin, Ireland*

We are living in a global health care society. It is important for regulators to hear what is going on outside their jurisdictions and country. What is happening in regulation around the globe will impact us at some point. How is competent practice assured in the European Union? What is working well in these countries? What can we learn from their experiences? Come listen to a speaker who brings a global perspective and be prepared to be challenged with interesting ideas.

**3:30 PM – 4:30 PM** *Choose one of three sessions*

### **The State of the Jurisdictions: state legislative update (Part 2)**

*Leslie Adrian, PT, FSBPT Director*

This interactive session will discuss some of the most pressing legislative and regulatory issues faced by the physical therapy regulatory community in the 2012 legislative session. Participants are encouraged to share experiences and challenges faced by his/her physical therapy board.

### **Accountability: The addicted PT or PTA and the licensing board**

*Brian Fingerson, RPh; President; Kentucky Professionals Recovery Network*

An overview of the risk of addiction in healthcare professionals; how it is identified in a person; responsibilities of boards to the public; accountability of the recovering PT or PTA to the board through monitoring by the Impaired Physical Therapy Practitioners Committee.

### **Physical Therapist Practice Models: challenging current assumptions to meet future needs**

*Dianne V. Jewell, PT, DPT, PhD, CCS – Director, APTA Board of Directors, American Physical Therapy Association and Blair J. Packard, PT, member, APTA Task Force on Professionals and Personnel Involved in the Delivery of Physical Therapy, and FSBPT former president*

Demand for physical therapist services is increasing, yet access is constrained by the structure, financing and workforce availability of the current health care system. Innovative care delivery models are being implemented to address these limitations. In response, the American Physical Therapy Association (APTA) convened a task force to identify potential new models of physical therapist services delivery. This interactive presentation will provide an overview of the task force work to date as well as reactions from the APTA Board of Directors and House of Delegates. Implications for regulation of participants in physical therapist services delivery also will be discussed.

**4:30 – 5:00 PM**

**Break (Food and networking)**

**5:00 PM - 7:00 PM**

**Delegate Assembly**

### **Resolutions Committee Availability**

The Resolutions Committee will be available to meet during the meeting at a delegate's request. In addition, they will attend Saturday's breakfast with the Board of Directors and Delegates.

There will be a sign-up sheet at the Registration table to set up a time to meet with the committee. Check your registration package to find out what room they will be in.

Next

**State of Wisconsin  
Department of Safety and Public Services**

**AGENDA REQUEST FORM**

Name and Title of Person Submitting the Request: Jill Remy Program Manager		Date When Request Submitted: 9/7/2012
		Items will be considered late if submitted after 5 p.m. and less than: <ul style="list-style-type: none"> <li>▪ 10 work days before the meeting for Medical Board</li> <li>▪ 14 work days before meeting for all other boards</li> </ul>
Name of Board, Committee, Council: Physical Therapy Examining Board		
Board Meeting Date: 9/27/2012	Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	How should the item be titled on the agenda page? Appointment of Board Liaison For Review of Foreign Graduate Evaluation Services
Place Item in: <input type="checkbox"/> Open Session <input checked="" type="checkbox"/> Closed Session <input type="checkbox"/> Both	Is an appearance before the Board being scheduled? If yes, by whom? <input type="checkbox"/> Yes by _____  <input checked="" type="checkbox"/> No	Name of Case Advisor(s), if required:
Describe the issue and action the Board should address: Make motion to appoint a board liaison to work with the Office of Education and Examinations on the review of foreign graduate evaluation services.		
If this is a "Late Add" provide a justification utilizing the Agenda Request Policy:		
<b>Directions for including supporting documents:</b> 1. This form should be attached to any documents submitted to the agenda. 2. Documents submitted to the agenda must be single-sided. 3. Only copies of the original document will be accepted. 4. Provide original documents needing Board Chairperson signature to the Executive Director or Program Assistant prior to the start of a meeting.		
<b>Authorization:</b>		
Jill M. Remy	9-7-2012	
Signature of person making this request	Date	
Supervisor signature (if required)	Date	
Bureau Director signature (indicates approval to add late items to agenda)	Date	

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**State of Wisconsin  
Department of Safety & Professional Services**

**AGENDA REQUEST FORM**

1) Name and Title of Person Submitting the Request:  Sandy Nowack Board Legal Counsel		2) Date When Request Submitted: September 6, 2012 <small>Items will be considered late if submitted after 4:30 p.m. and less than:</small> <ul style="list-style-type: none"> <li>▪ 10 work days before the meeting for Medical Board</li> <li>▪ 14 work days before the meeting for all others</li> </ul>	
3) Name of Board, Committee, Council, Sections: <b>PHYSICAL THERAPY EXAMINING BOARD</b>			
4) Meeting Date:  September 27, 2012	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page?  Pending FAQ's, update.	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? If yes, who is appearing?  <input type="checkbox"/> Yes by _____ (name) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed:  Legal counsel will discuss process of pending FAQ's:  out-of-state orders; prescription orders vs. orders for nonprescription medical devices; intramuscular manual therapy			
11) <span style="float: right;">Authorization</span> <div style="display: flex; justify-content: space-between; align-items: center;"> <div style="text-align: center;">             Signature of person making this request         </div> <div style="text-align: center;">             Date         </div> </div>			
Supervisor (if required)		Date	
Bureau Director signature (indicates approval to add post agenda deadline item to agenda)    Date			
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Board Services Bureau Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

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**State of Wisconsin  
Department of Safety & Professional Services**

**AGENDA REQUEST FORM**

1) Name and Title of Person Submitting the Request:		2) Date When Request Submitted:	
		Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> <li>▪ 10 work days before the meeting for Medical Board</li> <li>▪ 14 work days before the meeting for all others</li> </ul>	
3) Name of Board, Committee, Council, Sections:  Physical Therapy Examining Board			
4) Meeting Date:  September 27, 2012	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page?  Website Updates	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? If yes, who is appearing?	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed:			
11) Authorization			
Signature of person making this request			Date
Supervisor (if required)			Date
Bureau Director signature (indicates approval to add post agenda deadline item to agenda)			Date

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**State of Wisconsin  
Department of Safety & Professional Services**

**AGENDA REQUEST FORM**

<b>1) Name and Title of Person Submitting the Request:</b>  Sandra L. Nowack Legal Counsel		<b>2) Date When Request Submitted:</b>  September 7, 2012 Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> <li>▪ 10 work days before the meeting for Medical Board</li> <li>▪ 14 work days before the meeting for all others</li> </ul>	
<b>3) Name of Board, Committee, Council, Sections:</b>  Physical Therapy Examining Board			
<b>4) Meeting Date:</b> September 27, 2012	<b>5) Attachments:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<b>6) How should the item be titled on the agenda page?</b>  PT7 Rule Drafting: Review and approve draft language or designate delegate to approve final form or both.	
<b>7) Place Item in:</b> <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	<b>8) Is an appearance before the Board being scheduled? If yes, who is appearing?</b>  <input type="checkbox"/> Yes by _____ (name) <input type="checkbox"/> No	<b>9) Name of Case Advisor(s), if required:</b>	
<b>10) Describe the issue and action that should be addressed:</b>  The Board will review the attached document, will discuss and if desired vote on the substance of the proposed language. The Board will also consider whether or not it wishes to delegate one of its members to approve final document for filing. (Necessary if Board intends to have order language ready for filing following its December 16, 2012, meeting).  Possible motions the members may wish to consider include, but are not limited to:  Move to [accept, reject or amend] proposed language of rule(s) number(s) subject to technical legal revision as necessary.  And/or  Move to delegate [board member] to act on the Board's behalf in approving drafts as necessary to move to public hearing.			
<b>11) Authorization</b>			
Signature of person making this request		Date	
Supervisor (if required)		Date	
Bureau Director signature (Indicates approval to add post agenda deadline item to agenda) Date			

*Physical therapists and physical therapist assistants are guided by values of accountability, altruism, compassion/ caring, excellence, integrity, professional duty, and responsibility. As representatives of the physical therapy profession, they are obligated to empower, educate and enable patients to facilitate greater independence, health, wellness and enhanced quality of life. Physical therapists and physical therapist assistants must therefore act at all times with honesty, compliance with the law, reasonable judgment, competence and respect for the patient's dignity.*

**DEFINITIONS**

<p>"Any federal or state law or rule that is substantially related to the practice of physical therapy" includes, but is not limited to, conduct constituting a violation of the rules of this board or any other credentialing agency, and or a misdemeanor or felony crime, within this state or without, the circumstances of which involve aiding, abetting, actual or attempted dishonesty.</p>
<p>"Negligence in the practice of physical therapy or as a physical therapist assistant" means an act performed without the care and skill of reasonable physical therapists or physical therapist assistants who perform the act in question, whether or not the negligent care results in actual harm to the patient.</p>
<p>"Patient health care records" has the meaning set forth in Wis. Stat. § 146.82(4).</p>
<p>"Sexual contact" has the meaning set forth in Wis. Stat. § 948.01(5).<sup>1</sup></p>
<p>"Sexually explicit conduct" has the meaning set forth in Wis. Stat. § 948.01(7)<sup>2</sup></p> <p>"termination of professional services"</p>

Unprofessional conduct is defined to include but is not limited to violating, aiding, abetting, or conspiring to engage in any of the following:

<sup>1</sup> (5) "Sexual contact" means any of the following: (a) Any of the following types of intentional touching, whether direct or through clothing, if that intentional touching is either for the purpose of sexually degrading or sexually humiliating the complainant or sexually arousing or gratifying the defendant: 1. Intentional touching by the defendant or, upon the defendant's instruction, by another person, by the use of any body part or object, of the complainant's intimate parts. 2. Intentional touching by the complainant, by the use of any body part or object, of the defendant's intimate parts or, if done upon the defendant's instructions, the intimate parts of another person.

(b) Intentional penile ejaculation of ejaculate or intentional emission of urine or feces by the defendant or, upon the defendant's instruction, by another person upon any part of the body clothed or unclothed of the complainant if That ejaculation or emission is either for the purpose of sexually degrading or sexually humiliating the complainant or for the purpose of sexually arousing or gratifying the defendant.

<sup>2</sup> (7) "Sexually explicit conduct" means actual or simulated: (a) Sexual intercourse, meaning vulvar penetration as well as cunnilingus, fellatio or anal intercourse between persons or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal opening either by a person or upon the person's instruction. The emission of semen is not required; (b) Bestiality; (c) Masturbation; (d) Sexual sadism or sexual masochistic abuse including, but not limited to, flagellation, torture or bondage; or (e) Lewd exhibition of intimate parts.

- (1) Violating s. 448.57 (2) (a) to (g), Stats., other provision of chs. 440 and 448, administrative rule, or any provision of a board order.
- (2) Committing any act that constitutes a violation of the [code of ethics reference here].
- (3) Engaging in fraud, deceit, or misrepresentation in applying for or procuring a license to practice physical therapy or as a physical therapist assistant, in connection with applying for or procuring periodic renewal of a license, or in otherwise maintaining licensure.
- (4) Failing to complete continuing competence requirements within the time period established by law.
- (5) Permitting or assisting any person to perform acts constituting the practice of physical therapy or as a physical therapist assistant without sufficient qualifications, necessary credentials, adequate informed consent, or adequate supervision.
  - a. For the Board's purposes, the physical therapist is responsible for determining whether general, direct or one-on-one supervision is necessary to protect the patient from unacceptable risk of harm.
  - b. For the Board's purposes, the physical therapist retains responsibility for delegated or supervised acts, unless the Board determines that delegate knowingly and willfully violated the supervisor's direction or instruction.
- (6) Engaging in any act of fraud, deceit or misrepresentation, including acts of omission, to the Physical Therapy Examining Board or any person acting on the Board's behalf, including but not limited to Department of Safety and Professional Services personnel.
- (7) Any practice or conduct that falls below the standard of minimal competence within the profession that results in unacceptable risk of harm to the patient, regardless of whether injury results.
- (8) Negligence in the practice of physical therapy, regardless of whether injury results.
- (9) Practicing as a physical therapist or working as a physical therapist assistant when physical or mental abilities are impaired by the use of controlled substances or other habit-forming drugs, chemicals or alcohol, or by other causes.
- (10) Practicing physical therapy with a mental or physical condition that impairs the ability of the licensee to practice within the standard of minimal competence or without exposing the patient to an unacceptable risk of harm.
- (11) Performing any act constituting the practice of physical therapy on any patient without the patient's informed consent or after the patient has withdrawn informed consent, whether verbally or in writing, or any of the following:

- a. Failure to document informed consent; or
  - b. Failure to inform the patient that any medical act may or will be performed by a non-physician delegate.
  - c. Failing to adhere to the recognized standards of ethics of the physical therapy profession as established by rule.
- (12) Practicing beyond the scope of any professional credential issued by the Department or any other state or federal agency.
- (13) Knowingly, negligently or recklessly making any statement, written or oral, in the course of the practice of physical therapy or as a physical therapist assistant, which is likely to deceive, defraud, mislead or create an unacceptable risk of harm to the patient or the public or both.
- (14) Divulging a privileged communication or other confidential patient health care information except as required or permitted by state or federal law.
- (15) Engaging in sexually explicit conduct, sexual contact, exposure, gratification or other sexual behavior with or in the presence of a patient, a patient's immediate family member or a person responsible for the patient's welfare.
- a. Sexual motivation may be determined from the totality of the circumstances and is presumed when the physical therapist or physical therapist assistant has contact with a patient's intimate parts without legitimate professional justification for doing so.
  - b. For the purposes of this subsection, an adult receiving treatment shall continue to be a patient for six months after the termination of professional services.
  - c. If the person receiving treatment is a minor, the person shall continue to be a patient for the purposes of this subsection for two years after termination of services or for two years after the patient reaches the age of majority, whichever is longer.
  - d. It is a violation of this section for a physical therapist or physical therapist assistant to engage in any sexual contact or conduct with or in the presence of a patient or former patient who lacks the ability to consent for any reason, including but not limited to age, medication, or psychological or cognitive disability.
- (16) Illegal or unethical business practices, including but not limited to:
- a. Fraud, deceit or misrepresentation in obtaining or attempting to obtain any fee or third-party reimbursement;
  - b. Engaging in uninvited, in-person solicitation of actual or potential patients who, because of their particular circumstances, are vulnerable to undue influence.
- (17) Providing treatment intervention unwarranted by the condition of the patient or continuing treatment beyond the point of reasonable benefit.

(18) Violation or conviction of any federal or state law, including criminal law, which bars the following conduct and which is therefore substantially related to the practice of physical therapy or practice as a physical therapist assistant:

- a. Theft or fraud;
- b. Violence;
- c. Sexual contact with a patient, patient's guardian or family member, or any act performed in the presence of a patient, patient's guardian or family member, for the purposes of sexual gratification;
- d. Victimization of children, elderly or other vulnerable person;
- e. Any crime occurring in the course of the practice of physical therapy by a physical therapist or a physical therapist assistant, or in any place in which physical therapy is practiced;
- f. A certified copy of any document demonstrating the entry of a guilty, nolo contendere plea, alford plea or entrance into a deferred prosecution agreement (with or without expungement) pertaining to a crime substantially related to the practice of physical therapy shall be conclusive evidence of a violation of this subsection.

(19) Except as provided above, violation or conviction of any federal or state law or rule that is substantially related to the practice of physical therapy.

- a. Except as otherwise provided by law, a certified copy of a relevant decision by a state or federal court or agency charged with making legal determinations relevant to this subsection is conclusive evidence of findings of facts and conclusions of law contained therein.
- b. Under this subsection, the division of enforcement has the burden of proving that the act is substantially related to the practice of physical therapy.

(20) Failure to establish and maintain timely patient health care records as required by law and professional standards. Patient health care records are presumed to be untimely if not completed and signed within 60 days of the date of service.

(21) Failure to transfer or timely transfer patient health records to any person or practitioner authorized by law to procure the patient health care records. Failure to comply with any lawful request for patient health care records within thirty days of receipt of the request is presumed to be a violation of this subsection.

(22) Having any credential pertaining to the practice of physical therapy result in adverse action by any agency of this or another state, or by any agency or authority within the federal government, which results in any disciplinary action, including but not limited to limitation, restriction, suspension, revocation or any other disciplinary action.

- a. This subsection applies whether the adverse action results in temporary or permanent limitation, restriction, suspension, revocation or disciplinary action;

- b. This subsection applies whether or not the adverse action is accompanied by findings of negligence or unprofessional conduct.
- (23) Failure, within thirty days, to report to the Department any adverse action, whether final or temporary, taken against the licensee's authority to practice physical therapy as follows:
- a. Any adverse action by another licensing or credentialing jurisdiction concerned with the practice of physical therapy or as a physical therapist assistant; or
  - b. Any adverse action by any division of the state or federal government that results in limitation or loss of authority to perform any act constituting the practice of physical therapy or as a physical therapist assistant.
- (24) Failure, within thirty dates, to report to the Department any voluntary agreement to limit, restrict or relinquish the practice of physical therapy or as a physical therapist assistant entered into with any court, or agency of any state or federal government.
- (25) Failure to report to the Department any incident in which the licensee has direct knowledge of reasonable cause to suspect that a physical therapist or physical therapist assistant has committed any unprofessional, incompetent or illegal acts in violation of state or federal statute, administrative rule or orders of the Board. Reports shall be made within the time necessary to protect patients from further unacceptable risk of harm, but no more than thirty days after the required reporter obtained knowledge of the act.

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COMPARISON PT 7.02 — MODEL PRACTICE ACT

CURRENT PT 7.02	MODEL PRACTICE ACT	NOTES
<p><b>(1)</b> Violating or attempting to violate s. 448.57 (2) (a) to (g), Stats., or any other applicable provision or term of ch. 448, Stats., or of any valid rule of the board.</p>	<p>1. Violating any provision of this [act], board rules or a written order of the board.</p>	<p><del>Consider necessity.</del></p> <p>Combine with (2)...objective is to prohibit violation of statutes, all applicable administrative rules, and board orders. Model act language may work.</p>
<p><b>(2)</b> Violating or attempting to violate any term, provision or condition of any order of the board.</p>	<p>1. Violating any provision of this [act], board rules or a written order of the board.</p>	<p><del>Consider combining with (1).</del></p>
<p><b>(3)</b> Knowingly making or presenting or causing to be made or presented any false, fraudulent or forged statement, writing, certificate, diploma, or other thing in connection with any application for a license.</p>	<p>2. Obtaining or attempting to obtain a license [or certificate] by fraud or misrepresentation.</p> <p>3. Attempting to engage in conduct that subverts or undermines the integrity of the examination or the examination process including, but not limited to, a violation of security and copyright provisions related to the national licensure exam, utilizing in any manner recalled or memorized examination questions from or with any person or entity, failing to comply with all test center security procedures, communicating or attempting to communicate with other examinees during the test, or copying or sharing examination questions or portions of questions.</p>	<p><del>Current subs. 3-6 seem redundant and not used often; consider combining.</del></p> <p>Include application</p>
<p><b>(4)</b> Practicing fraud, forgery, deception, collusion or conspiracy in connection with any examination for a license.</p>	<p>2. Obtaining or attempting to obtain a license [or certificate] by fraud or misrepresentation.</p> <p>3. Attempting to engage in conduct that subverts or undermines the integrity of the examination or the examination process including, but not limited to, a violation of security and copyright provisions related to the</p>	<p>Current subs. 3-6 seem redundant and not used often; consider combining.</p>

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	<p>national licensure exam, utilizing in any manner recalled or memorized examination questions from or with any person or entity, failing to comply with all test center security procedures, communicating or attempting to communicate with other examinees during the test, or copying or sharing examination questions or portions of questions.</p>	
<p><b>(5)</b> Giving, selling, buying, bartering or attempting to give, sell, buy or barter any license.</p> <p><b>(6)</b> Engaging or attempting to engage in practice under any license under any given name or surname other than that under which originally licensed or registered to practice in this or any other state. This subsection does not apply to a change of name resulting from marriage, divorce or order by a court of record.</p>	<p>2. Obtaining or attempting to obtain a license [or certificate] by fraud or misrepresentation.</p> <p>2. Obtaining or attempting to obtain a license [or certificate] by fraud or misrepresentation.</p> <p>3. Attempting to engage in conduct that subverts or undermines the integrity of the examination or the examination process including, but not limited to, a violation of security and copyright provisions related to the national licensure exam, utilizing in any manner recalled or memorized examination questions from or with any person or entity, failing to comply with all test center security procedures, communicating or attempting to communicate with other examinees during the test, or copying or sharing examination questions or portions of questions.</p>	<p>Current subs. 3-6 seem redundant and not used often; consider combining.</p> <p>Current subs. 3-6 seem redundant and not used often; consider combining.</p>
<p><b>(7)</b> Engaging or attempting to engage in the unlawful practice of physical therapy.</p>		<p>Relevant only to PTA's, which is covered in practicing outside the scope. Unnecessary and seldom used.</p>
<p><b>(8)</b> Any practice or conduct which tends to constitute a danger to the health, welfare or safety of a patient or the public.</p>	<p>5. Acting in a manner inconsistent with generally accepted standards of physical therapy practice, regardless of whether actual injury to the patient is established.</p>	<p>Rework to address standard of minimal competence. Need to incorporate specific language from <i>Gimenez</i> and <i>Gilbert</i>.</p>
<p><b>(9)</b> Practicing or attempting to practice under any</p>		<p>Consider combined approach with ¶1121,</p>

COMPARISON PT 7.02 — MODEL PRACTICE ACT

<p>license when unable to do so with reasonable skill and safety to patients.</p>	<p>22.</p>	
<p>(10) Practicing or attempting to practice under any license beyond the scope of that license.</p>	<p>4. Practicing or offering to practice beyond the scope of the practice of physical therapy.</p>	
<p><del>(11) Offering, undertaking or agreeing to treat or cure a disease or condition by a secret means, method, device or instrumentality; or refusing to divulge to the board upon demand the means, method, device or instrumentality used in the treatment of a disease or condition.</del></p>		<p>Not used in this profession.</p>
<p>(12) Representing that a manifestly incurable disease or condition can be or will be permanently cured; or that a curable disease or condition can be cured within a stated time, if it is not the fact.</p>	<p>20. Making misleading, deceptive, untrue or fraudulent representations in violation of this [act] or in the practice of the profession.</p>	<p>Consider combining reference to acts that are misleading, deceptive, untrue, fraudulent provisions.</p>
<p>(13) Knowingly making any false statement, written or oral, in practicing under any license, with fraudulent intent; or obtaining or attempting to obtain any professional fee or compensation of any form by fraud or deceit.</p>	<p>20. Making misleading, deceptive, untrue or fraudulent representations in violation of this [act] or in the practice of the profession.</p>	<p>Consider combining reference to acts that are misleading, deceptive, untrue, fraudulent provisions.</p>
<p>(14) Willfully divulging a privileged communication or confidence entrusted by a patient or deficiencies in the character of patients observed in the course of professional attendance, unless lawfully required to do so.</p>	<p>25. Failing to maintain patient confidentiality without documented authorization of the patient or unless otherwise required by law. All records used or resulting from a consultation by telehealth means of telecommunications, as defined in [Definitions, Article 1.02], are part of a patient's records and are subject to applicable confidentiality requirements.</p>	<p>Break out telehealth?</p>
<p>(15) Engaging in uninvited, in-person solicitation of actual or potential patients who, because of their particular circumstances, are vulnerable to undue influence.</p>		<p>Business practice; consider combined version, as the Dept cannot become involved in billing disputes.</p>
<p>(16) Engaging in false, misleading or deceptive advertising.</p>		<p>Business practice; consider combined version, as the Dept cannot become involved in billing disputes.</p>

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<p><b>(17)</b> Having a license, certificate, permit, registration or other practice privilege granted by another state or by any agency of the federal government to practice physical therapy limited, restricted, suspended or revoked, or having been subject to other disciplinary action by the state licensing authority or by any agency of the federal government.</p>	<p>12. Having had a license [or certificate] revoked or suspended, other disciplinary action taken, or an application for licensure [or certification] refused, revoked or suspended by the proper authorities of another state jurisdiction, territory or country.</p>	<p>Recommend adding a self-reporting requirement (within 10 days?) Add PTA</p>
<p><b>(18)</b> Conviction of any crime which may relate to practice under any license, or of violation of any federal or state law regulating the possession, distribution or use of controlled substances as defined in s. 961.01 (4), Stats. A certified copy of a judgment of a court of record showing the conviction, within this state or without, shall be presumptive evidence of the conviction.</p>	<p>13. Having been convicted of or pled guilty to a felony in the courts of this state jurisdiction or any other state jurisdiction, territory or country. Conviction, as used in this paragraph, shall include a deferred conviction, deferred prosecution, deferred sentence, finding or verdict of guilt, an admission of guilt, an Alfred plea, or a plea of <i>nolo contendere</i>.</p>	<p>Recommend identifying particular crimes that are substantially related to practice.</p> <p>Inset MED10 proposal on law violations that are substantially related to the practice of PT...okay to adopt the particular proposed language that sets out substantial relationship as a matter of law.</p>
<p><b>(19)</b> Engaging in inappropriate sexual contact, exposure, gratification, or other sexual behavior with or in the presence of a patient. For the purposes of this subsection, an adult receiving treatment shall continue to be a patient until the time of final discharge from physical therapy.</p>	<p>11. Engaging in sexual misconduct. For the purpose of this paragraph sexual misconduct includes:</p> <ul style="list-style-type: none"> <li>a. Engaging in or soliciting sexual relationships, whether consensual or non-consensual, while a physical therapist or physical therapist assistant/patient relationship exists.</li> <li>b. Making sexual advances, requesting sexual favors or engaging in other verbal conduct or physical contact of a sexual nature with patients or clients.</li> <li>c. Intentionally viewing a completely or partially disrobed patient in the course of treatment if the viewing is not related to patient diagnosis or treatment under</li> </ul>	<p>Recommending reworking to incorporate criminal statutes and definitions.</p> <p>Inset MED10 proposal on definitions, cross reference to criminal statutes and law violations that are substantially related to the practice of PT...okay to adopt the particular proposed language that sets out substantial relationship as a matter of law.</p> <p>Tentatively adopted a one year period for continuation of patient relationship.</p>

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	current practice standards.	
<p>(20) Failure to inform a patient or client of the costs, benefits and risks of viable physical therapy intervention and treatment alternatives.</p>		<p>Recommend amending to add, including failure to inform patient that person providing services is a delegate, student intern or PTA.</p> <p>Adopt recommendations regarding informed consent on costs issue (nature of and contact for billing person)</p> <p>Recommend adding documentation.</p>
<p>(21) Failing to report to the board or to institutional supervisory personnel any violation of this chapter by a licensee</p>	<p>5. Failing to report to the board, where there is direct knowledge, any unprofessional, incompetent or illegal acts that appear to be in violation of this [act] or any rules established by the board.</p>	<p>Documentation permissible by signature or in patient health care record.</p> <p>Consider expanding to include duty to report based on reasonable cause to suspect and add a timeliness element.</p>
	<p><del>6. Failing to adhere to the recognized standards of ethics of the physical therapy profession as established by rule.</del></p>	<p>Consider adding ethical requirements by incorporation.</p>
	<p>7. Failing to complete continuing competence requirements as established by rule.</p>	<p>Recommend adding. Cross reference to rule and definition.</p>
	<p>8. Failing to maintain adequate patient records. For the purposes of this paragraph, —adequate patient records   means legible records that contain at minimum sufficient information to identify the patient, an evaluation of objective findings, a diagnosis, a plan of care, a treatment record and a discharge plan.</p>	<p>Recommend adding.</p> <p>Requirement is to create and maintain patient health care record for five years.</p>
	<p>9. Failing to supervise physical therapist assistants or physical therapy aides in accordance with this [act] and board rules.</p>	<p>Recommend adding.</p>
	<p>14. Aiding and abetting the unlicensed practice</p>	<p>Recommend adding; also re failing to</p>

COMPARISON PT 7.02—MODEL PRACTICE ACT

	<p>of physical therapy.</p> <p>15. Directly or indirectly requesting, receiving or participating in the dividing, transferring, assigning, rebating or refunding of an unearned fee, or profiting by means of a credit or other valuable consideration such as an unearned commission, discount or gratuity in connection with the furnishing of physical therapy services. This does not prohibit the members of any regularly and properly organized business entity recognized by law and comprising physical therapists from dividing fees received for professional services among themselves as they determine necessary.</p>	<p>inform pt that delegate performs act.</p> <p>Business practice; consider combined version, as the Dept cannot become involved in billing disputes.</p>
	<p>16. Promoting any unnecessary device, treatment intervention or service resulting in the financial gain of the practitioner or of a third party.</p>	<p>Business practice; consider combined version, as the Dept cannot become involved in billing disputes.</p> <p>Need to define fee splitting and include that.</p> <p>Consider adding.</p>
	<p>17. Providing treatment intervention unwarranted by the condition of the patient or continuing treatment beyond the point of reasonable benefit.</p>	
	<p>18. Participating in underutilization or overutilization of physical therapy services for personal or institutional financial gain.</p>	<p>Business practice; consider combined version, as the Dept cannot become involved in billing disputes.</p>
	<p>19. Charging fraudulent fees for services performed or not performed.</p>	<p>Business practice; consider combined version, as the Dept cannot become involved in billing disputes.</p>
	<p>21. Practicing as a physical therapist or working as a physical therapist assistant when physical or mental abilities are impaired by the use of controlled substances or other habit-forming</p>	<p>Recommend adding.</p>

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	<p>drugs, chemicals or alcohol, or by other causes.</p> <p>22. Practicing physical therapy with a mental or physical condition that impairs the ability of the licensee to practice with skill and safety.</p>	<p>Recommend adding but consider combined approach with ¶21.</p>
	<p>23. Practicing after having been adjudged mentally incompetent by a court of competent jurisdiction.</p>	<p>Recommend adding but consider combined approach with ¶21.</p>
	<p>24. Interfering with an investigation or disciplinary proceeding by failure to cooperate, by willful misrepresentation of facts, or by the use of threats or harassment against any patient or witness to prevent that patient or witness from providing evidence in a disciplinary proceeding or any legal action.</p>	<p>Recommend adding. Add presumption of failure to cooperate when request is not responded to board's satisfaction within 30 days of initial request.</p>
		<p>Need to address negligence.</p>

NOTE Michele is working on preamble

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