



# Communiqué

[www.ecptote.state.tx.us](http://www.ecptote.state.tx.us)  
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512/305-6900

## Board Acts on Proposed Rule Changes

The Board took the following actions at the March 4, 2011 meeting:

- §321.1, Definitions – Withdrawn
- §322.1, Provision of Services – Adopted with changes**
- §322.2, Role Delineation – Adopted with minor wording changes**
- §322.3, regarding Supervision – Withdrawn
- §322.4, Practicing in a Manner Detrimental to the Public Health and Welfare – Adopted**
- §329.5, Licensing Procedures for Foreign Trained Applicants - Adopted**
- §329.6, Licensure by Endorsement - Adopted**
- §341.1, Requirements for Renewal - Adopted**
- §325.1, Accessible Services - Repealed**

TPTA was instrumental in helping the Board get the word out to its members that changes were proposed. As a result, the proposed changes spurred many PTs and PTAs, and several organizations, to send comments to the Board. Most of the comments were regarding a wording change to §322.3, regarding Supervision. In the proposal, the Board added the underlined words below to the existing rule:

*"A supervising PT must be on call and readily available to respond in person when physical therapy services are being provided."*

The Board's aim was to make it clear that a supervising PT must be available in a reasonable amount of time if the PTA decides that there is an issue with treatment that requires the professional skills of the PT. The following Q&A, from which the new language came, has been on the Board's website for more than 10 years:

(<http://www.ecptote.state.tx.us/pt/questions.html>)

**Q: What does "on call and readily available" mean?**

*A: "On call" means immediately available by phone or pager; "readily available" means able to respond in person within a reasonable amount of time. The Board has not set time and distance limits so that circumstances particular to each situation may be taken into account. The Board relies on your professional judgment to guide you.*

"Circumstances particular to each situation" might include difference between practice settings, (school vs. outpatient clinic, for example) and also factors such as PTA experience, the condition of the patient, etc. If the regularly supervising PT is not able to respond appropriately and in person in a reasonable amount of time, then a temporary supervising PT should be established. The definition of what is "appropriate" and what is "reasonable" would be based on the particular circumstances involved, and is left to the discretion of the PT. The PTA's note should include the name of the PT supervising at the time treatment is provided.

Many of the people who commented on the proposed language made the assumption that the new language would have required onsite supervision when a PTA was treating; however, this was not the Board's intention. Thanks to the comments received, the Board realized that the language did not adequately explain the concept, and so the proposed changes to this section were withdrawn. The Board will reconsider this rule at a future date.

The Board appreciates the input from everyone who commented. **For the full text of all of the rules as adopted, go to <http://www.ecptote.state.tx.us/>.** While you are there, don't forget to sign up for the **Board eNews** so we can keep you informed of future Board action.



## Disciplinary Action Taken by the Board On March 4, 2011

### Practiced with an Expired License

**Jennifer Brimmage, PT #1124212 (Farmersville)** – practiced with an expired license. Violation of §453.351 of the Act and Chapter 322 of the Board Rules. **Board Order required eight (8) hours of community service.**

**Letitia Schwartz, PT #1108280 (Dallas)** – practiced with an expired license. Violation of §453.351 of the Act and Chapter 322 of the Board Rules. **Board Order required thirty (30) hours of community service.**

### Failed the CE Audit

**Joyce Greer, PT #1012482 (Austin)** – failed the CE audit; ethics course taken outside the renewal period. Violation of §453.351 of the Act and Chapter 341 of the Board Rules. **Board Order required thirty (30) hours of community service.**

**Paul Osborne, PT #1104289 (Corpus Christi)** – failed the CE audit; insufficient number of board approved hours taken during the renewal period. Violation of §453.351 of the Act and Chapter 341 of the Board Rules. **Board Order required thirty (30) hours of community service.**

**Jeanine Thomas, PT #1091163 (Crandall)** – failed the CE audit; insufficient number of board approved hours taken during the renewal period. Violation of §453.351 of the Act and Chapter 341 of the Board Rules. **Board Order required thirty (30) hours of community service and the lacking CE.**

**Margie Snell, PTA #2034213 (Anna)** – failed the CE audit; insufficient number of board approved hours taken during the renewal period. Violation of §453.351 of the Act and Chapter 341 of the Board Rules. **Board Order required thirty (30) hours of community service and the lacking CE.**

**Sherri Asher, PTA #2065857 (Owings Mills, MD)** – failed the CE audit; insufficient number of board approved hours taken during the renewal period. Violation of §453.351 of the Act and Chapter 341 of the Board Rules. **Board Order suspended her license for thirty (30) days.**

**Lara McCrary, PT #1121564 (Dallas)** – failed the CE audit; insufficient number of board approved hours taken during the renewal period. Violation of §453.351 of the Act and Chapter 341 of the Board Rules. **Board Order suspended her license for thirty (30) days.**

### Failure to Report Felony Conviction

**Steven Krieger, PTA #2073069 (Boston, MD)** – practiced in a manner detrimental to the public health

and welfare by failing to report to the board a felony conviction within 60 days of that conviction. Violation of §453.351 of the Act and Chapter 343 of the Board Rules. **Board Order required thirty (30) hours of community service.**

### Patient Abandonment

**Michael Bauer, PTA #2065193 (Longview)** – practiced in a manner detrimental to the public health and welfare abandoning his position and patients without providing sufficient prior notice. Violation of §453.351 of the Act and Chapter 322 of the Board Rules. **Board Order suspended his license for thirty (30) days.**

### Inaccurate Documentation

**Kami Cargile, PTA #2040632 (Temple)** – practiced in a manner detrimental to the public health and welfare by failing to accurately record treatment notes; documenting treatment notes for a date no such treatment was rendered. Violation of §453.351 of the Act and Chapter 322 of the Board Rules. **Board Order suspended her license for forty-five (45) days.**

### Treatment without a Referral

**Monina Bosita, PT #1092344 (Weslaco)** – practiced in a manner detrimental to the public health and welfare by treating a patient without a referral for treatment, having only an order to evaluate that patient. Violation of §453.351 of the Act. **Board Order suspended her license for thirty (30) days.**

**Christine Kimbrell, PT #1107316 (Amarillo)** – practiced in a manner detrimental to the public health and welfare by treating a patient without a referral for treatment. Violation of §453.351 of the Act. **Board Order suspended her license for thirty (30) days.**

### Violations Involving Alcohol or Drugs

**James Carey, PT #1035459 (Midlothian)** – practiced in a manner detrimental to the public health and welfare by using drugs or intoxicating liquors to an extent that affected his professional competence; resulting in his inability to remain of the job and treat patients. Violation of §453.351 of the Act. **Board Order suspended his license for thirty (30) days.**

**Jan Slater, PT #1043792 (San Antonio)** – practiced in a manner detrimental to the public health and welfare by taking patient medications from a facility that were not hers; taking them for her personal use. Violation of §453.351 of the Act. **Board Order suspended her license for forty-five (45) days.**

## Reevaluation in the Home Health Setting

**Q: How are the Board's requirements for reevaluation within 30 days affected by new CMS rules regarding assessment of the patient? For example, the new home health requirements concerning the 13<sup>th</sup> and 19<sup>th</sup> visits?**

**A:** Recent Medicare changes in the home health setting do not affect the Board's rules. In §322.1(d) of the recently amended rule, it says:

(1) A patient receiving treatment must be reevaluated by a PT:

(A) At a minimum of once every 30 days after treatment is initiated, or at a higher frequency as established by the PT; and

(B) In response to a change in the patient's medical status that affects physical therapy treatment, when a change in the physical therapy plan of care is needed, or prior to any planned discharge.

The point of the Board's reevaluation requirement is to make sure that, at intervals no longer than 30 days once treatment starts, the PT reevaluates the patient's condition by doing a physical reexamination, and reviewing the plan of care and taking the appropriate action. If Medicare or another payer requires that the patient be reevaluated before the 30<sup>th</sup> day, then that reevaluation effectively starts the 30-day clock over again. Now that Medicare also has an "at least every 30 days" requirement for reevaluation – and their 30-day clock starts over as well - it should be less confusing for PTs and agencies. For more answers to Medicare/home health questions go to: <http://www.cms.gov/center/hha.asp>.

### PT RULE UPDATE

The Board took the following rulemaking actions at the March 4, 2011 meeting:

**Adopted and Withdrawn Amendments to rules as listed on page 1 of this newsletter.**

**Proposed Amendments to:**

- i **§329.2, License by Examination**, *correcting the table of additional education requirements*
- i **§347.9, Renewal of Registration**, *regarding the use of the online transaction receipt in lieu of the facility registration renewal certificate*

The full text of all proposed and adopted rules is available at <http://www.ecptote.state.tx.us/pt/rules.html>.

If you would like to comment on these proposed rules, please send your written comments to [nina.hurter@ptot.texas.gov](mailto:nina.hurter@ptot.texas.gov), or 333 Guadalupe, Suite 2-510, Austin, TX 78701.

### Got a Question?

Do you have a question about the legal practice of physical therapy in Texas? If so, we'd like to hear from you; your question could be answered in the newsletter. Please email your question and contact information to [nina.hurter@ptot.texas.gov](mailto:nina.hurter@ptot.texas.gov).

*The Board cannot answer questions about Medicare or Medicaid requirements. For answers to those questions contact:*

#### MEDICARE AND MEDICAID CONTACTS

##### Trailblazer Health Enterprises (Medicare Program administrator)

**Part A Provider #: 866/640-9202** (rehab depts, hospitals)

**Part B Provider #: 866/280-6520** (independent practitioners)

*NOTE: Trailblazer has many other phone numbers for specific types of questions on their website.*

##### Texas Medicaid and Healthcare Partnership (TMHP) Automated Inquiry System (AIS) - 1-800-925-9126

*NOTE: There are many phone numbers for specific issues on this website*