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**Texas Board of Physical Therapy Examiners  
Board Meeting**

**333 Guadalupe, Suite 2-510  
Austin, Texas 78701**

**January 17, 2014  
9:00 a.m.**

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11 **Members Present:** **Gary Gray, PT, Chair**  
12 **Shari Waldie, PT, Vice Chair**  
13 **Melinda Rodriguez, PT, Secretary**  
14 **Karen Gordon, PT**  
15 **Kathleen Luedtke-Hoffman, PT**  
16 **René Peña, Public Member**  
17 **Daniel Reyna, Public Member**  
18 **Jeffrey Tout, PT**  
19 **Philip Vickers, Public Member**

20  
21 **Counsel:** Kara Holsinger, Assistant Attorney General

22  
23 **Staff:** Nina Hurter, PT Coordinator  
24 John Maline, Executive Director  
25 Mark Turek, Chief Investigator  
26 Cindy Machado, Licensing Manager  
27 Marilyn Hartman, Asst. Licensing Manager

28  
29 **Guests:** *Paul Hardin, TPTA*  
30 *Barbara Sanders, PT, TPTA*  
31 *Stacey Mather, TPTA*  
32 *Amber Townsley, TPTA*  
33 *Wally Doggett, TAAOM*  
34 *William Morris, AOMA*  
35 *Kathy Grant*

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- 36  
37
- 38 1. Call to order
  - 39 2. Public comment
  - 40 3. Approval of minutes from the September 6, 2013 meeting
  - 41 4. Discussion and possible action on Executive Director's Report concerning fiscal and budgetary  
42 matters, performance measures, ongoing projects, agency personnel matters, and other agency  
43 business
  - 44 5. Investigation Committee Report and consideration by the Board of the following items  
45 A. Review and possible action on agreed orders for case #s11344; 12040; 13025; 13260; 13264;  
46 13284; 13322; 13380; 13386; 13398; 13401; 13412; 13418; 13422; 13423; 13424; 13426; 13427;  
47 13429; 14020; and 14022.  
48 B. Discussion and possible action on the Investigation Committee Meeting of December 17,  
49 2013  
50 C. Discussion and possible action on investigative activities to date
  - 51 6. Discussion and possible action on adopting changes to §329.1, General Licensure Requirements  
52 and Procedures, §329.6, Licensure by Endorsement, §337.1, License and Renewal Certificate,  
53 §341.1, Requirements for Renewal, §341.2, Continuing Competence Requirements, §341.3,  
54 Qualifying Continuing Competence Activities, and §341.6, License Restoration
  - 55 7. Rules Committee Report and discussion and possible action by the Board on the following items

- 1 D. Discussion and possible action on proposing changes to §341.6, License Restoration
- 2 E. Discussion and possible action on proposing changes to §329.2, Licensure by Examination,
- 3 regarding NPTE eligibility changes
- 4 F. Discussion and possible action proposing changes to §329.3, Temporary Licensure for
- 5 Examination Candidates, regarding the issuance of temporary licenses to candidates who are
- 6 not working in Texas under the supervision of a Texas licensee
- 7 G. Discussion and possible action on proposing changes to §329.1, General Licensure
- 8 Requirements and Procedures, regarding allowing new licensees to work on the basis of
- 9 website verification of licensure
- 10 H. Discussion and possible action on making changes to the reevaluation requirements – is “at
- 11 least every 30 days” still valid?
- 12 I. Discussion and possible action on establishing caseload limits or recommendations for PTs
- 13 and PTAs in the school setting
- 14 J. Discussion and possible action on the provision of physical therapy in the patient’s home by
- 15 PTs who are not employed or contracted by a licensed home health agency
- 16 K. Discussion and possible action on a letter regarding clarification on the “daily treatment note”
- 17 8. Education Committee Report and discussion and possible action by the Board on the following
- 18 items
- 19 D. Discussion and possible action on the TPTA Continuing Competence Approval Program
- 20 (CCAP) report, including changes to the MOU regarding fees for course approval, the approval
- 21 of Massive Open Online Courses (MOOCS) for CC credit, and whether a course on
- 22 kinesiotaping is by its nature “self-promotion“
- 23 E. Discussion and possible action on proposing changes to §341.3, Qualifying Continuing
- 24 Competence Activities
- 25 F. Discussion and possible action on APTA’s perspective on recent continuing competence efforts
- 26 by state boards / regulatory agencies in physical therapy
- 27 G. Discussion and possible action on proposing changes to §329.5, regarding FSBPT exam
- 28 eligibility requirements and remediation of general education deficiencies
- 29 9. Vision Committee Report and discussion and possible action by the Board on the following items
- 30 D. Discussion and possible action regarding the Federation of State Boards of Physical Therapy,
- 31 including a report on the 2013 annual conference and delegate assembly and discussion of
- 32 Federation changes to NPTE eligibility requirements
- 33 E. Discussion and possible action on proposing changes to §325.1, Elections
- 34 F. Discussion and possible action on a letter regarding dry needling from the National Center for
- 35 Acupuncture Safety and Integrity
- 36 G. Discussion and possible action on telehealth/teletherapy
- 37 10. Discussion and possible action on the Board Coordinator's report
- 38 11. Board Chair's report concerning any item listed on the agenda and on events that have occurred
- 39 between this meeting and the Board's last meeting.
- 40 12. Discussion and possible action on long-term planning for future meetings, including future meeting
- 41 dates and agenda items
- 42 13. Adjournment
- 43

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## 44 1. Call to order

45 Mr. Gray called roll and determined that a quorum existed. He called the meeting to order at 9:22 a.m.

## 46 2. Public comment

47 There was no public comment.

## 48 3. Approval of minutes from the September 16, 2013 and the October 11, 2013 meeting

49 *Motion: To approve both sets of minutes as submitted.*

1 Made by: Melinda Rodriguez

2 Second: René Peña

3 Motion passed unanimously.

4  
5 **4. Discussion and possible action on Executive Director's Report concerning fiscal and**  
6 **budgetary matters, performance measures, ongoing projects, agency personnel matters,**  
7 **and other agency business**  
8

9 Mr. Maline reported on the following:

- 10 • Personnel changes
- 11 • Agency budget and fiscal status
- 12 • Performance Measures
- 13 • Executive Council actions

14  
15 **5. Investigation Committee Report and consideration by the Board of the following items**  
16

17 **D. Review and possible action on agreed orders for case #s11344; 12040; 13025; 13260;**  
18 **13264; 13284; 13322; 13380; 13386; 13398; 13401; 13412; 13418; 13422; 13423; 13424; 13426;**  
19 **13427; 13429; 14020; and 14022.**  
20

21 The Board reviewed and approved the following Agreed Orders presented by Mr. Turek:  
22

13386	13427	13025
13418	13424	13260
13284	13429	11344
13426	13264	13380
13422	14323	13322

23  
24 **E. Discussion and possible action on the Investigation Committee Meeting of December**  
25 **17, 2013**  
26

27 Mr. Turek reported that the Committee reviewed 109 cases, held one informal conference, and issued  
28 21 Agreed Orders.  
29

30 **F. Discussion and possible action on investigative activities to date**  
31

32 Mr. Turek reported on performance measures and on the number of investigations and school visits  
33 completed since the last meeting.  
34

35 Mr. Gray reordered the agenda with the agreement of the members.  
36

37 **9. Vision Committee Report and discussion and possible action by the Board on the following**  
38 **items**  
39

40 **D. Discussion and possible action regarding the Federation of State Boards of Physical**  
41 **Therapy, including a report on the 2013 annual conference and delegate assembly and**  
42 **discussion of Federation changes to NPTE eligibility requirements**  
43

44 Dr. Luedtke-Hoffman reported for the Committee on the motions passed by the FSBPT delegate  
45 assembly. Mr. Pena noted that the Committee reviewed the FSBPT's plans to delay implementation of  
46 changes to exam eligibility requirements, and that it recommended that the Board implement the  
47 changes in the coming year.  
48

49 **E. Discussion and possible action on proposing changes to §325.1, Elections**  
50

1           *Motion:*        *To propose changes to §325.1, Elections as submitted. (See Attachment 1)*  
2           *Made by:*     *Committee*  
3           *Second:*      *none required*  
4 *Motion passed unanimously.*

5  
6           There was no discussion of this item, which would move the elections of officers to the second  
7           meeting after new appointments.

8  
9           **F. Discussion and possible action on a letter regarding dry needling from the National**  
10           **Center for Acupuncture Safety and Integrity**

11  
12           Mr. Pena reported that the Committee recommended no action at this time, as the Board has not  
13           received any complaints regarding PTs doing dry needling. It recommended staying up to date on  
14           FSBPT actions regarding the issue. Ms. Holzinger, the Board's legal counsel, recommended no  
15           action at this time. The Board took no action.

16  
17           **G. Discussion and possible action on telehealth/teletherapy**

18  
19           At the request of the Board, Mr. Hardin reported on the status of the taskforce it had volunteered to  
20           establish on this topic. He stated that TPTA currently had 10 volunteers for the taskforce, and had  
21           selected a chair. Mr. Pena noted that the Committee had delegated Mr. Peña and Mr. Gray to  
22           attend the phone conferences for the Board.

23  
24           Mr. Gray recessed the meeting from 10:36 to 10:52 am.

25  
26           **6. Discussion and possible action on adopting changes to §329.1, General Licensure**  
27           **Requirements and Procedures, §329.6, Licensure by Endorsement, §337.1, License and**  
28           **Renewal Certificate, §341.1, Requirements for Renewal, §341.2, Continuing Competence**  
29           **Requirements, §341.3, Qualifying Continuing Competence Activities, and §341.6, License**  
30           **Restoration**

31  
32           *Motion:*        *To adopt changes to §329.1, General Licensure Requirements and Procedures,*  
33           *as proposed.*  
34           *Made by:*     *Karen Gordon*  
35           *Second:*      *Kathleen Luedtke-Hoffman*  
36           *Motion passed unanimously.*

37  
38           There were no comments on this proposal. There was no discussion of this item.

39  
40           *Motion:*        *To adopt changes to §329.6, Licensure by Endorsement, as proposed.*  
41           *Made by:*     *Kathleen Luedtke-Hoffman*  
42           *Second:*      *Rene Pena*  
43           *Motion passed unanimously.*

44  
45           There were no comments on this proposal. There was no discussion of this item.

46  
47           *Motion:*        *To adopt changes to §337.1, License and Renewal Certificate, as proposed.*  
48           *Made by:*     *Karen Gordon*  
49           *Second:*      *Phillip Vickers*  
50           *Motion passed unanimously.*

51  
52           There were no comments on this proposal. There was no discussion of this item.

53  
54           *Motion:*        *To adopt changes to §341.1, Requirements for Renewal, as proposed.*  
55           *Made by:*     *Jeff Tout*  
56           *Second:*      *Melinda Rodriguez*

1 *Motion passed unanimously.*

2  
3 There were no comments on this proposal. There was no discussion of this item.

4  
5 *Motion: To adopt changes to §341.2, Continuing Competence Requirements, as*  
6 *proposed.*

7 *Made by: Karen Gordon*

8 *Second: Kathleen Luedtke-Hoffman*

9 *Motion passed unanimously.*

10  
11 There were no comments on this proposal. There was no discussion of this item.

12  
13 *Motion: To adopt changes to §341.3, Qualifying Continuing Competence Activities, with*  
14 *non-substantive changes.*

15 *Made by: Rene Pena*

16 *Second: Melinda Rodriguez*

17 *Motion passed unanimously.*

18  
19 Dr. Luedtke-Hoffman noted that the Committee was preparing to make changes to this rule at the next  
20 meeting, to correct an oversight in the area of PTA Clinical Instruction. All comments received  
21 regarding this proposal were favorable.

22  
23 *Motion: To adopt changes to §341.6, License Restoration, as proposed.*

24 *Made by: Karen Gordon*

25 *Second: Philip Vickers*

26 *Motion passed unanimously.*

27  
28 There were no comments on this proposal. The Board deferred discussion of additional changes  
29 required to the Rules Committee report.

30  
31 **7. Rules Committee Report and discussion and possible action by the Board on the following**  
32 **items**

33  
34 **D. Discussion and possible action on proposing changes to §341.6, License Restoration**  
35

36 Ms. Gordon, reporting for the Rules Committee, noted that the rule as amended did not offer  
37 alternatives to reexamination for PTAs who wished to restore a license and were not currently licensed  
38 in another state. She reported that the Committee would look for an alternative for PTAs, possibly a  
39 supervised practice option, to discuss at the May meeting, and would reinsert the requirement that  
40 restoration applicants must submit verification of all licenses.

41  
42 **E. Discussion and possible action on proposing changes to §329.2, Licensure by**  
43 **Examination, regarding NPTE eligibility changes**  
44

45 Ms. Gordon reported that the Committee did not at this time recommend further changes to §329.2. But  
46 based on the Board's decision to make eligibility changes this year, the Committee will put those items  
47 on its next agenda.

48  
49 **F. Discussion and possible action proposing changes to §329.3, Temporary Licensure for**  
50 **Examination Candidates, regarding the issuance of temporary licenses to candidates who are**  
51 **not working in Texas under the supervision of a Texas licensee**  
52

53 Ms. Gordon reported that although the logic of the law indicated that the temporary license would only  
54 be useful to a person working in Texas, the Committee recommended clarification of that fact in the  
55 rule. She noted that there had been a case involving an applicant from the military where this lack of  
56 clarity had been an issue.

1  
2 *Motion: To propose changes to §329.3, Temporary Licensure for Examination*  
3 *Candidates, as submitted. (See Attachment 2)*

4 *Made by: Committee*

5 *Second: none required*

6 *Motion passed unanimously*  
7

8 **G. Discussion and possible action on proposing changes to §329.1, General Licensure**  
9 **Requirements and Procedures, regarding allowing new licensees to work on the basis of**  
10 **website verification of licensure**

11  
12 Ms. Gordon reported that the Committee discussed a staff recommendation to amend this rule at a later  
13 date to allow people getting their Texas license to work once the license could be verified on the  
14 website, instead of making them wait until they received the paper license via mail. They agreed to add  
15 this to the May agenda for action at that time.  
16

17 **H. Discussion and possible action on making changes to the reevaluation requirements – is “at**  
18 **least every 30 days” still valid?**

19  
20 Ms. Gordon reported that the Committee discussed whether it might be useful to look at revising the  
21 reevaluation requirements currently in rule. The “30-day limit” that has been part of the rule since the  
22 late 1980s was based on Medicare requirements at the time. Now that Medicare has changed its  
23 requirements, it is possible that there is a better way to define the reevaluation requirement. The  
24 Committee recommended that the Board ask TPTA to develop a taskforce to look at this issue and  
25 keep the item on the agenda. The Board agreed with the recommendation, and Mr. Hardin agreed that  
26 TPTA would be interested in assisting.  
27

28 **I. Discussion and possible action on establishing caseload limits or recommendations for**  
29 **PTs and PTAs in the school setting**

30  
31 Ms. Gordon reported that the Committee saw no legal basis nor defensible logic for limiting caseload by  
32 setting, so recommended no action.  
33

34 **J. Discussion and possible action on the provision of physical therapy in the patient’s**  
35 **home by PTs who are not employed or contracted by a licensed home health agency**

36  
37 Ms. Gordon reported that the Board had received a request from the Texas Association for Home Care  
38 and Hospice regarding the provision of home health care by PTs independent of a licensed home care  
39 agency. The TAHCH is concerned that licensees are not providing services in compliance with the  
40 Health and Safety Code (§142.002, §142.003) regarding how services can be provided to individuals in  
41 their homes, and requested that the Board establish a policy regarding the matter. The Committee  
42 determined that the Board has no authority to regulate licensees based on this statute. It  
43 recommended posting an FAQ informing licensees of those statutes, and the Board concurred.  
44

45 **K. Discussion and possible action on a letter regarding clarification on the “daily treatment**  
46 **note”**

47  
48 Ms. Gordon noted that the Committee discussed a request from a licensee that it clarify what is  
49 expected in a daily treatment note either in rule or in an FAQ. The Committee agreed to develop an  
50 FAQ that discussed what should be in that type of note.  
51

52 **8. Education Committee Report and discussion and possible action by the Board on the**  
53 **following items**

54  
55 **D. Discussion and possible action on the TPTA Continuing Competence Approval**  
56 **Program (CCAP) report, including changes to the MOU regarding fees for course**

1 **approval, the approval of Massive Open Online Courses (MOOCS) for CC credit, and**  
2 **whether a course on kinesiotaping is by its nature “self-promotion“**  
3

4 Dr. Luedtke-Hoffman reported that the Committee reviewed and approved the CCAP report, and made  
5 the following decisions:

- 6 • Agreed that a course focusing on one particular commercial product, though not the techniques  
7 associated with the product category, might be considered “self-promotion.” The Board discussed  
8 the difficulty in determining the limits of “self promotion” and decided that a statement regarding  
9 possible conflict of interest should be included in the CCAP application. It also decided to begin a  
10 review of the criteria for course approval, including the restriction on self-promotion, at the next  
11 meeting;
- 12 • Requested that TPTA submit the recently revised MOU for Board review at the next meeting; and
- 13 • Asked TPTA to bring information on CCUs for PTA program Clinical Instructors (CIs) to the next  
14 meeting in order to amend the rules to address the different between PT and PTA CIs.

15  
16 **E. Discussion and possible action on proposing changes to §341.3, Qualifying**  
17 **Continuing Competence Activities**  
18

19 Dr. Luedtke-Hoffman reported that the Committee was planning to make revision to this rule at the next  
20 meeting, to correct an oversight regarding credit for PTA Clinical Instructors, as well as a few other  
21 items.

22  
23 **F. Discussion and possible action on APTA’s perspective on recent continuing**  
24 **competence efforts by state boards / regulatory agencies in physical therapy**  
25

26 Dr. Luedtke-Hoffman noted the APTA’s concern regarding the decision of one state board to require all  
27 CC activities to be approved by the FSPBT’s ProCert, but did not see any need for action by the Board.  
28 The Board concurred.

29  
30 **G. Discussion and possible action on proposing changes to §329.5, regarding FSBPT**  
31 **exam eligibility requirements and remediation of general education deficiencies**  
32

33 Dr. Luedtke-Hoffman noted that the Committee was not currently recommending any changes to the  
34 rules or policies regarding general education requirements for foreign-trained applicants. However, it  
35 would address the eligibility issues at the next meeting as the Board decided.

36  
37 **10. Discussion and possible action on the Board Coordinator's report**  
38

39 Staff announced that the new website was going to be delayed, and recommended that implementation  
40 of the new CC rules be delayed until March 1. The Board agreed.

41  
42 **11. Board Chair's report concerning any item listed on the agenda and on events that have**  
43 **occurred between this meeting and the Board's last meeting.**  
44

45 Mr. Gray stated for the record that the Board would be sorry to see Ms. Hurter retire effective January  
46 31<sup>st</sup>, and thanked her for her service.

47  
48 **12. Discussion and possible action on long-term planning for future meetings, including future**  
49 **meeting dates and agenda items**  
50

51 The Board confirmed the next meeting date as May 2, and set July 25<sup>th</sup> for the following meeting.

52  
53 **13. Adjournment**  
54

55 Mr. Gray adjourned the meeting at 12:26 p.m.

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**Date reviewed by the Committee: 05/02/2014**  
**Action taken by the Committee: approved as corrected**



1 **Attachment 1**

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2 The Texas Board of Physical Therapy Examiners proposes amendments to §325.1, regarding  
3 Elections. The amendments would move the election of officers until the second meeting attended by  
4 newly appointed board members.

5 John P. Maline, Executive Director, has determined that for the first five-year period these amendments  
6 are in effect there will be no additional costs to state or local governments as a result of enforcing or  
7 administering these amendments.

8 Mr. Maline has also determined that for each year of the first five-year period these amendments are in  
9 effect the public benefit will be an election process that gives new board members the opportunity to  
10 observe how the board functions prior to voting for board officers. Mr. Maline has determined that there  
11 will be no costs or adverse economic effects to small or micro businesses, therefore an economic  
12 impact statement or regulatory flexibility analysis is not required for the amendment. There are no  
13 anticipated costs to individuals who are required to comply with the rule as proposed.

14 Comments on the proposed amendments may be submitted to Nina Hurter, PT Coordinator, Texas  
15 Board of Physical Therapy Examiners, 333 Guadalupe, Suite 2-510, Austin, Texas 78701; email:  
16 nina.hurter@ptot.texas.gov. Comments must be received no later than 30 days from the date this  
17 proposed amendment is published in the *Texas Register*.

18 The amendments are proposed under the Physical Therapy Practice Act, Title 3, Subtitle H, Chapter  
19 453, Texas Occupations Code, which provides the Texas Board of Physical Therapy Examiners with  
20 the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

21 Title 3, Subtitle H, Chapter 453, Texas Occupations Code is affected by these amendments  
22

23 **§325.1. Elections.**

24 Elections of officers shall be held at the ~~second~~ [first] board meeting after new members are  
25 appointed. Officers will assume duties at the next board meeting. Vacancies of offices shall be filled by  
26 election at the next board meeting.  
27

1 **Attachment 2**

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2  
3 The Texas Board of Physical Therapy Examiners proposes amendments to §329.3, regarding  
4 Temporary Licensure for Examination Candidates. The amendments would clarify that a temporary  
5 license is issued to licensees who will be working in Texas under the supervision of a PT or PTA  
6 license by this board.

7 John P. Maline, Executive Director, has determined that for the first five-year period these amendments  
8 are in effect there will be no additional costs to state or local governments as a result of enforcing or  
9 administering these amendments.

10 Mr. Maline has also determined that for each year of the first five-year period these amendments are in  
11 effect the public benefit will be clearer information for those seeking temporary licensure. Mr. Maline  
12 has determined that there will be no costs or adverse economic effects to small or micro businesses,  
13 therefore an economic impact statement or regulatory flexibility analysis is not required for the  
14 amendment. There are no anticipated costs to individuals who are required to comply with the rule as  
15 proposed.

16 Comments on the proposed amendments may be submitted to Nina Hurter, PT Coordinator, Texas  
17 Board of Physical Therapy Examiners, 333 Guadalupe, Suite 2-510, Austin, Texas 78701; email:  
18 nina.hurter@ptot.texas.gov. Comments must be received no later than 30 days from the date this  
19 proposed amendment is published in the *Texas Register*.

20 The amendments are proposed under the Physical Therapy Practice Act, Title 3, Subtitle H, Chapter  
21 453, Texas Occupations Code, which provides the Texas Board of Physical Therapy Examiners with  
22 the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

23 Title 3, Subtitle H, Chapter 453, Texas Occupations Code is affected by these amendments.  
24

25 **§329.3. Temporary Licensure for Examination Candidates.**

26 (a) Requirements. To be eligible for a temporary license, the applicant must:

- 27 (1) meet all requirements as stated in §329.1 of this title (relating to General Licensure  
28 Requirements and Procedures);  
29 (2) register for the national physical therapy examination;  
30 (3) submit **[notarized]** temporary supervision affidavits as provided by the board; and  
31 (4) submit fees for temporary licensure as set by the executive council.

32 (b) Eligibility. The board will issue a temporary license **<etb>to work in Texas<et>** to an applicant who  
33 is taking the exam for the first time. An applicant who has received a license from another state is not  
34 eligible for temporary licensure. A candidate who has taken and failed the physical therapist  
35 examination is not eligible for temporary licensure as a physical therapist assistant.

36 (c) Duration. A temporary license is valid until the applicant receives the score report from the board, or  
37 until the last day of the third month after the month the license is issued, whichever occurs first. The  
38 coordinator may extend the temporary license for no more than 30 days to offset an unreasonable  
39 delay in reporting the examination results to the applicant.

40 (d) Failure of examination. If the applicant fails the exam, the temporary license is void and must be  
41 returned to the board when the notification of the failure is received.

42 (e) Supervision requirements. An applicant with a temporary PT license must have on-site supervision  
43 by a physical therapist with a permanent license **<etb>to practice in Texas<et>** when providing  
44 physical therapy services. An applicant with a temporary PTA license must have on-site supervision by  
45 either a physical therapist or a physical therapist assistant with a permanent license **<etb>to practice  
46 in Texas<et>** when providing physical therapy services.