

Communiqué



12/31/2009 Facility Registration Deadline Set For Hospitals and NFs/ALFs Offering Non-exempt PT or OT services

The Executive Council of Physical Therapy and Occupational Therapy Examiners (ECPTOTE) staff and attorney met with representatives of the Texas Department of Aging and Disability Services (DADS) and the Texas Department of State Health Services (DSHS) in late 2007 to begin the work of resolving continuing questions about whether certain types of facilities licensed by those agencies were legally required to register as PT and OT facilities as well.

The law for both PT and OT boards clearly exempts from registration facilities licensed by the state (either by DADS or DSHS) under the Health and Safety Code, Title 4, Subtitle B. Facilities defined in Subtitle B include: hospitals, convalescent and nursing homes and related institutions, ambulatory surgical centers, birthing centers, abortion facilities, continuing care facilities, assisted living facilities, special care facilities, and maternity homes. Not all of the facilities listed in Subtitle B offer PT or OT services, but many do in the regular course of business. Those that do are licensed to provide those services within the definition of the facility that exists in state law.

The basic question that the agencies had to answer was whether exempt facilities had to register in certain circumstances. Several types of exempt facilities, specifically hospitals and nursing facilities, have for some years offered PT or OT services outside of their traditional, legally defined, models. For example, a nursing home is by definition in state law a residence; physical therapy services provided to residents are covered by the nursing home's licensure with the state, and therefore a nursing home that offers PT only to its residents is exempt from registration with the PT Board. However, a nursing home that offers physical therapy to non-residents (even employees) is providing services to individuals not included in the definition. Based on this determination, DADS stated that treatment of outpatients in a nursing home is not covered by the licensure of the nursing home. As a result, nursing homes that offer outpatient physical therapy must register with the Board.

Similarly, a hospital generally provides inpatient and outpatient physical therapy within the hospital; those services are included in the definition. However, the provision of outpatient therapy services, in a building where inpatient services are not provided, is not included in the definition of a hospital unless that building is connected to the hospital itself physically. Therefore, a hospital "outpatient only" facility that is not physically connected to the hospital itself must register with the Board. For more information about how to determine if the hospital outpatient facility you work in is exempt from registration, you should consult the Board's Facility webpage at www.ecptote.state.tx.us/facility. On that page you will find a summary of the specific architectural guidelines in the DSHS rules, and contact information for DSHS if you need further assistance.

Questions about whether these types of facilities must register with the Board were laid to rest this past spring. Both DADS and DSHS have posted notices on their websites of the registration requirement. In August 2009, the agency sent a postcard to all PTs, PTAs, OTs and OTAs notifying them that the facilities in question were required to register. The deadline for compliance is December 31, 2009. If you work in a facility that is required to register, please notify your employer or director of this deadline.

If you or your employer have any questions, we ask that you first look at the information on our website. If you do not find your answer there, please contact the board at info@ecptote.state.tx.us.

Address Requirements Change

In August, ECPTOTE revised its data collection and renewal processes to allow for three licensee addresses: the physical "Home Location Address," an optional Mailing Address, and the Business Address. The Home Location Address is required; it must be a physical street address (such as 123 Houston Street) and not a PO Box. If you have a PO Box you prefer to use for mail, you are welcome to enter that information into the fields for a Mailing Address. If you do not submit a Mailing Address, we will send all correspondence to your home. If you want us to use your Business Address as your Mailing Address, please enter that address into the Mailing Address fields. However, if you choose to use your Business Address as your Mailing Address, be sure you update us immediately. The Board does not forward renewal certificates and yours will not get to you if your Mailing Address is outdated.

If your address of record with the PT Board currently is a PO Box, that information has been moved to your optional Mailing Address. At your next renewal, you will be required to submit the physical Home Location Address. If you do not supply that information, you will receive a letter stating that your renewal is incomplete. Until we receive that information, the Board will not issue the renewal certificate.

The online application process will be revised before the end of the year to also allow for collection of three addresses; currently only two address fields are available.

Legislature Changes PT Act; Rule Updates Underway

The Legislature passed two bills during the 81st regular session, HB 3717 and HB 4281, which have changed the PT Practice Act. HB 3717 amends the list of circumstances under which a PT or PTA may practice physical therapy in Texas without a license for a limited period of time and adds a notification requirement for some categories of exemptions; HB 4281 updates the language regarding continuing competency. For the full text of these bills, go to <http://www.capitol.state.tx.us/> and search by bill number. The Board is proposing rule amendments to reflect these changes. Those proposed rules are available on the Board's website.



Disciplinary Action Taken by the Board On August 21, 2009

Practiced with an Expired License

Kimberly Romans, PT #1159922 (Dallas) – 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.**

Orson Miller, PT #1073476 (El Paso) – practiced with an expired license. Violation of §453.351 of the Act and Chapter 322 of the Board rules. **Board Order required fifteen (15) hours of community service.**

Susan Hill, PT #1005056 (College Station) – practiced with an expired license. Violation of §453.351 of the Act and Chapter 322 of the Board rules. **Board Order suspended her license for twenty-one (21) days.**

Karen Dillman, PTA #2060660 (Arlington) – practiced with an expired license. Violation of §453.351 of the Act and Chapter 322 of the Board rules. **Board Order suspended her license for sixty (60) days.**

Failed the CE Audit

Misty Luce, PTA #2060960 (Stafford) – failed the CE audit; no *Ethics* course taken during 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.**

Adrian Zuniga, PTA #2060863 (El Paso) – failed the CE audit; insufficient Board-approved hours taken during renewal period. Violation of §453.351 of the Act

and Chapter 341 of the Board rules. **Board Order required sixty (60) hours of community service.**

Practiced Beyond the Scope of Licensure

Adam Shed, PTA #2067940 (Lake Dallas) – practiced in a detrimental manner by knowingly treating patients who did not have current PT evaluations done. Violation of §453.351 of the Act and Chapter 322 of the Board rules. **Board Order suspended his license for twenty-one (21) days.**

Inaccurate Documentation

Eric Sanchez, PTA #2055329 (Midland) – practiced in a detrimental manner by failing to accurately record treatment notes. Violation of §453.351 of the Act and Chapter 322 of the Board rules. **Board Order suspended his license for thirty (30) days.**

Practiced in an Unregistered Facility

Lynn Vodnick, PT #1077196 (Austin) – practiced in a facility that was not properly registered with the Board. Violation of §453.351 of the Act and Chapter 322 of the Board rules. **Board Order required eight (8) hours of community service.**

Sylvia Herrera, PT #1135721 (El Paso) – practiced in a facility that was not properly registered with the Board. Violation of §453.351 of the Act and Chapter 322 of the Board rules. **Board Order required fifteen (15) hours of community service.**

Joseph Olowe, PT #1086973 (El Paso) – practiced in a facility that was not properly registered with the Board. Violation of §453.351 of the Act and Chapter 322 of the Board rules. **Board Order required fifteen (15) hours of community service.**

Kyle Brookhart, PT #1176119 (Frisco) – practiced in a facility that was not properly registered with the Board. Violation of §453.351 of the Act and Chapter 322 of the Board rules. **Board Order required sixty (60) hours of community service.**

Inappropriate Sexual Contact

Terrill Jenkerson, PT #1047405 (Austin) – practiced in a detrimental manner by engaging in sexual contact with a patient. Violation of §453.351 of the Act and Chapter 322 of the Board rules. **Board Order suspended his license indefinitely.**

PT RULE UPDATE

The Board took the following rulemaking actions at the August 21, 2009 meeting:

Adopted amendments to:

- **§329.3, Temporary Licensure for Examination Candidates**
- **§329.2, License by Examination**

Proposed amendments to:

- **§323.3, Adoption of Rules, §341.1, Requirements for Renewal, §341.2, Continuing Education Requirements, §341.3, Qualifying Continuing Education, §341.5, Waiver of Continuing Competence Units (CCUs), §341.8, Inactive Status, §341.9, Retired Status, §341.20, Licensees Called to Active Military Service** – *primarily concerned with the replacement of the term “continuing education” with “continuing competence,” due to the passage of HB 4281 during the legislative session. The existing requirements regarding continuing education or renewal are not affected by these changes.*
- **§347.1, (Facility) Definitions** – *regarding the elimination of the current definition of a “portable facility”*
- **§329.5, Licensing Procedures for Foreign-Trained Applicants** – *regarding a number of changes for this category of applicant*

Proposed new rule:

- **§329.7, Exemptions to Licensure** – *regarding the conditions under which a person may practice physical therapy in Texas without a license, and which of those conditions requires notification of the board*

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 nhurter@mail.capnet.state.tx.us, or 333 Guadalupe, Suite 2-510, Austin, TX 78701.