



STATE OF MARYLAND

DHMH

Maryland Department of Health and Mental Hygiene

Board Of Physical Therapy Examiners

September 30, 2011

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
State House, H-107
Annapolis, MD 21041

The Honorable Michael Busch
Speaker of the House of Delegates
State House, H-101
Annapolis, MD 21401

The Honorable Joan Carter Conway
2 West Miller Senate Office Building
Annapolis, MD 21401

The Honorable Peter Hammen
241 House Office Building
Annapolis, MD 21401

Re: State Board of Physical Therapy Examiners
Sunset Review, December, 2009

Dear President Miller, Speaker Busch, Senator Conway and Delegate Hammen:

The State Board of Physical Therapy Examiners has prepared this response to the concerns raised by the Department of Legislative Services in its 2009 review of the State Board of Physical Therapy Examiners.

In response to:

Fund Balance

- Due to fiscal restraint and personnel changes among the Board's staff, the Board is on sound fiscal footing. At the time of review, the projected fiscal year 2010 ending fund balance would be \$65,487, or 6% of total expenditures. However, due to fiscal restraints, and the long-term unpaid leave of the Office Secretary III position as well as the retirement of the licensing administrator, actual figures for fiscal year 2010 demonstrate an end fund balance of \$517,735, approximately 67% of total expenditures.

For fiscal year 2011, the ending fund balance was \$415,838, approximately 47% of total expenditures.

Both fiscal years end with fund balances above the target fund balance of 30%.

Licensing Fees

- The Board voted to raise its renewal fees to the authorized amount of \$325 for physical therapists and \$300 for physical therapist assistants. Due to personnel matters that resulted in fiscal savings, the Board had sufficient funds available so that it was not necessary to raise the renewal fees for the 2011 period. They remained at \$225 for Physical Therapists and \$170 for Physical Therapist Assistants. The Board traditionally has kept its renewal fee lower than that allowed in its fee schedule and hopes to be able to continue on this fiscal path. The Board charges \$150 for initial licenses, lower than many of the other States. (See Attachment A- Fiscal Summary FY10 and FY11).

In response to:

Practice of Physical Therapy by Chiropractors

- The Board's Chairperson, Executive Director and Counsel met with its counterparts in the the Chiropractic Board in June, 2010. The Chiropractic Board stated emphatically that they have no complaints against chiropractors who are practicing physical therapy under the Chiropractic law even though it is decidedly apparent that the Chiropractic training for those who are granted a license with physical therapy privileges is inferior to the training that physical therapists receive. The Board of Physical Therapy floated the idea that the law should be changed to allow chiropractors to use physical therapy modalities but to call it chiropractic rehabilitation. This was suggested because it is of concern to the physical therapy community that chiropractors who say they practice "physical therapy" are merely using physical therapy modalities such as heat, cold, ultrasound, electrical stimulation but are not equipped to perform many of the advanced interventions performed by physical therapists who are now trained at the doctorate level. This suggestion fell on deaf ears. There is no desire on the part of the Chiropractic Board to change the law or the way in which chiropractic is offered to the citizens of Maryland. The Board and the American Physical Therapy Association certainly feel differently about this practice. However, the law was effective in 1947 and neither the PT Board nor the American Physical Therapy Association has challenged this practice legislatively.

In response to:

Board's Penalty Authority Against Unlicensed Practice Owners and Operators is Limited

- There is no appropriate resolution to having penalty authority against unlicensed practice owners and operators unless there is a law against unlicensed persons owning and operating a physical therapy clinic. Hospital based clinics and large free-standing

rehabilitation practices are regulated by the Office of Health Care Quality. Many private physical therapy practices are owned by solo practitioners who are regulated by this Board. It is out-of-state entities that come into this State and place unlicensed persons in charge that are the problem. The Board already refers complaints against such practices to CMS. To date, there have been no complaints that are hospital based to refer to the Office of Health Care Quality.

In addition, physical therapy practices owned by Chiropractors and/or physicians are sent letters of education by both the Chiropractic Board and the Physical Therapy Board indicating the appropriate delivery of physical therapy services.

In response to:

Complaint Resolution

- The Board has always known that delays in complaint resolution are due to problems with defense Attorneys, delays in receiving documents, and the large caseloads in the Attorney General's Office. To address these delay issues the Board has successfully implemented Pre-charge Case resolution conferences and hearings to reduce the backlog of uncharged cases. The Prosecution section of the Attorney General's office has been re-engineered, and the Board's cases are going forward with much less delay. The Board held a training session in May 2011 for expert witnesses who review billings and patient records. Board members attended as well. That training session was presented by prosecutors in the Attorney General's office. It is hoped that the peer review process and expert witness testimony will improve.

In response to:

Privacy Concerns

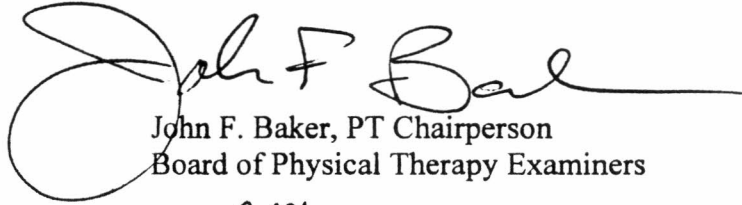
- Board staff insisted that the Department of General Services install a locking door that leads to the Chiropractic Board area. This was put out for bid. The Board paid in excess of \$5,000 to ensure the Board's offices are HIPPA compliant. The Board's offices are now totally locked in the evening with no access by anyone other than someone who has the code. The door is alarmed.

The Board investigators have locking file cabinets and all licensing data is in locked cabinets or locked offices. The Board is confident that it is in compliance with HIPPA regulations.


The Board respectfully submits this response as the required follow-up report and requests that the Legislative Policy Committee waive the State Board of Physical Therapy

Examiners from full evaluation and that the legislation be enacted to extend the Board's termination date by ten (10) years to July 1, 2022.

Sincerely,



John F. Baker, PT Chairperson
Board of Physical Therapy Examiners



Carlton A. Curry, Esq.
Executive Director

cc: Members of the Senate Education, Health, and Environmental Affairs Committee
Members of the House Health & Government Operations Committee
Secretary Joshua M. Sharfstein, MD, Department of Health and Mental Hygiene
Karl Aro, Executive Director, Department of Legislative Services
Caroline Boice, Policy Analyst, Department of Legislative Services
Members of the Board of Physical Therapy Examiners