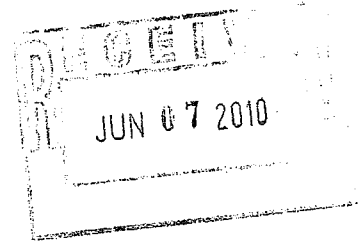
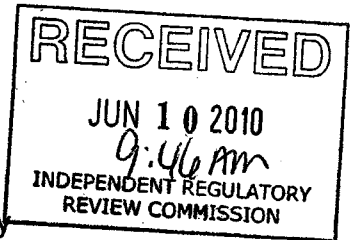


2843

June 3, 2010



Judy Harner, Board Administrator
State Board of Massage Therapy
P.O. Box 2649
Harrisburg, PA 17105-2649



Re: Regulation #16A-721, Massage Therapy

Dear Ms. Harner:

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Harrisburg, PA 17109.1525
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Please allow this letter to serve as the comments of the Pennsylvania Physical Therapy Association ("PPTA") relative to the proposed rule making, State Board of Massage Therapy, Regulation #16A-721, Massage Therapy, as published in the Pennsylvania Bulletin on May 8, 2010 (the "Regulations"). While there are many provisions of the Regulations that are not of concern to the PPTA, there are certain provisions with which the PPTA has significant concerns, emanating from having been very closely involved with the negotiations during the drafting of the final legislation, the Massage Therapy Law (the "Act"). The PPTA's concerns, as enumerated in detail below, are as follows:

officers

*Ivan Mulligan, PT, DSc, SCS, ATC
President*

*Ann D. Dennison, PT, DPT, OCS, ATC
Vice President*

*Timothy Drevna, PT, DPT, OCS, ATC, CSCS
Treasurer*

*Tom McNamee, PT
Secretary*

*Michael P. Johnson, PT, PhD, OCS
Chief Delegate*

1. The PPTA's greatest area of concern with the Regulations is under §20.41, Scope of practice. The PPTA believes a number of the enumerated soft tissue manifestations of the human body are not in fact "manifestations". Manifestations are defined as perceptible, outward, or visible expressions.¹ The PPTA does not believe that conditions such as hypertonicity, hypotonicity, loss of muscle function, muscle atrophy, diminished mobility, restricted lymph flow, restricted blood flow, fascial restrictions, and postural deviations are manifestations, but rather that they are impairments, illnesses, diseases or disabilities, which are expressly excluded from the definition of massage therapy. In the context of the Act and the Regulations, manifestations may include issues such as muscle tightness due to conditions such as hypertonicity, muscle atrophy, or diminished mobility, or swelling due to restricted lymph flow or restricted blood flow. Many of the items listed are in fact not "manifestations" but rather medical conditions which are outside the scope of massage therapy.

¹ <http://www.merriam-webster/dictionary/manifestation> (accessed June 2, 2010).

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Additionally, the PPTA is concerned because many of the "soft tissue manifestations" listed in this section are signs or symptoms of an underlying pathology or disease process that is present. If the individual is not properly screened for the underlying condition, this pathology or disease process may be missed, delaying appropriate medical treatment. For example, an individual may have shoulder or muscle pain that may be the first sign of a heart condition; edema in the legs may be one of the initial signs of congestive heart failure; hypertonicity, hypotonicity, paresthesia, muscle atrophy, or loss of muscle function may indicate a neurologic condition; pain, edema, loss of muscle function, diminished mobility, muscle atrophy, muscle cramps or spasms, fascial restrictions, and postural deviations that may be signs and symptoms of musculoskeletal pathology; or restricted lymph flow that may indicate an underlying cancer. The educational requirements of a massage therapist as set forth in the Act do not address these areas and therefore may place the consumer at risk.

2. The PPTA is also concerned with the use of the word "treatment" without the inclusion of the qualifying language "of the soft tissue manifestations of the human body in which the primary intent is to enhance the health and well-being of the client without limitation." The PPTA, as noted, was involved in extensive negotiations with representatives of the massage therapy community regarding the definition of "massage therapy". During these negotiations, significant time was spent on the definition and qualification of the word "treatment", and the fact that such treatment is of the soft tissue manifestations of the human body in which the primary intent is to enhance the health and well-being of the client. Addressing the "soft tissue manifestations" in a manner to afford tonic relief to the human body was where this issue was focused. This purpose is in stark contrast to treatment of impairment, illness, disease or disability, which is expressly enumerated as an exclusion to the definition of "massage therapy". The PPTA believes that this is an essential delineation of the definition of "massage therapy" which must be carried over to the Regulations at all times. As currently written, the Regulations contain a number of references to the word "treatment" without the necessary qualifying language and clarification. The PPTA would propose that this matter be resolved by either including such qualifying language each time the word "treatment" is used, or including a clarification of the term "treatment" within the definitions section of the Regulations so that it is clear that the definition of "treatment" is addressing the soft tissue manifestations of the human body in which the primary intent is to enhance the health and well-being of the client without limitation for tonic care, and not treatment of an impairment, illness, disease, or disability. The training and educational requirements for licensure of massage therapists provided for by the Act are inadequate for purposes of allowing massage therapists to provide "diagnosis or treatment" of a pathology of the human body. PPTA believes that the Regulations raise significant consumer protection concerns and confusion if they do not accurately delineate throughout the Regulations, in their entirety, that the term "treatment" is limited by the included qualifying language or by otherwise clarifying the definition of "treatment" accordingly.

3. A second term used throughout the Regulations is "therapeutic massage techniques", which connotes that these techniques are treatment regimes. The PPTA is concerned that this term is undefined in both the Act and the Regulations. The PPTA believes that this term should either: (i) be defined consistent with the definition of massage therapy; or, (ii) be deleted and replaced with the term "massage therapy techniques", such term to be defined to include those techniques which are within the definition of massage therapy set forth in the Act. Under the Act, massage therapists cannot practice physical therapy, such practice of physical therapy which specifically includes within its definition the ability to perform therapeutic massage.
4. There are frequent references throughout the Regulations to the term "treatment plan". Again, this term should be defined to clarify that the limitations on treatment set forth in the Act are carried over to the Regulations. The concept of a "Treatment Plan" must be consistent with prohibitions on diagnosis and treatment of impairment, illness, disease or disability. Otherwise, again, this could be very confusing to the public recipients of massage therapy services.
5. Section 20.26. Application requirements for temporary practice permits, sets forth the temporary practice permit process. The PPTA believes in reviewing this section it is unclear what level of services an individual with a temporary practice permit may perform. In similar practice acts in the Commonwealth, particularly those where supervision is required for students of the particular subject matter, a level of supervision and oversight is also required for individuals holding a temporary practice permit. The PPTA believes that applicable supervision requirements are not clearly stated in this section and should be so clarified.
6. In Section 20.34, Penalty for failure to complete continuing education, in subsection b there is reference to a six month deficiency period. This language appears inconsistent with that of other acts relative to practicing with an expired license. In the opinion of the PPTA it is not appropriate to allow what, as a practical matter, is a six month license extension where the only disciplinary action is a civil penalty. The PPTA believes there are significant consumer protection concerns raised by allowing an individual to practice for an extended period on an expired license.

Thank you for allowing the PPTA to comment on the Regulations and to participate in the regulatory process. If you have any questions regarding the PPTA's comments on the Regulations, please do not hesitate to contact me directly to discuss. Thank you.

Sincerely,



Ivan Mulligan, PPTA President, PT, DSc, SCS, ATC, CSCS

c: J. Kent Culley, Esquire
The Honorable Robert M. Tomlinson
Chairman, Senate Consumer Protection
and Professional Licensure Committee
The Honorable Michael P. McGeehan
Chair, House Professional

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Licensure Committee

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