Can regulatory boards and journalists work together effectively to protect and inform the public? The answer is a resounding “Yes,” according to Ted Wendling, a seasoned investigative reporter for the Cleveland Plain Dealer, and Michael R. Moran, a trial attorney in private practice in Columbus, Ohio. In his reporting, Wendling specializes in human services, workforce development, and state regulatory boards and commissions. Moran focuses his practice on administrative law, occupational and professional licensing, health care law, fraud and abuse. He has experience as a health care regulator in various legal, law enforcement and executive positions, and has dealt with the media on “sunshine law” issues. Wendling and Moran spoke to attendees in a joint keynote address at the FSBPT Fall Annual Meeting in Chicago in September 2002.

“Many reporters have an idealized image of themselves as noble seekers of truth and justice, as opposed to the way others may see them,” Wendling said, to the audience’s amusement. Reporters look for important stories that provide information to protect the public. These stories generally fall into one or more of the following categories:

- Stories with well-defined victims and villains
- Stories with a kind of good and evil “parable”
- Stories containing irony
- Outrageous but true stories
- Stories that analyze systemic problems and pose solutions.

**Peaceful Coexistence**
Understanding and Dealing With the Press

Rebecca Thomas
federation forum
www.fsfbpt.org

ADMINISTRATIVE SERVICES
509 Wythe Street • Alexandria, VA 22314
800.881.1430 phone • 703.299.3100 local phone
800.981.3031 fax • 703.299.3110 local fax

ASSESSMENT, EXAM PROCESSING, AND SCORE TRANSFER SERVICE
500 Montgomery Street, Suite 120 • Alexandria, VA 22314
703.739.9420 phone • 703.739.9421 fax

BOARD OF DIRECTORS
Blair J. Packard, PT, President
Jeanne DeKrey, PT, Vice President
Deb Tharp, PT, Secretary
E. Dargan Ervin, Jr., PT, Treasurer
Eileen Bach, PT, MEd, Director
Barbara Sakri, JD, Public Member
Ann Tyminski, Director
Judy White, PT, Director

COMMITTEE CHAIRS, 2002
Cheryl Gaudin, Council of Board Administrators (CBA)
Kaye Howerton, CBA Nominating
Charlene Abbott, CBA Rules of Procedure
Tina Steinman, Education
Margaret Donohue, PT, Ethics and Legislation
Donna Borden, PT, Exam Administration
John Greany, PT, Exam Development
Blair J. Packard, PT, Investment
E. Dargan Ervin, PT, Finance
Becky Lege, PT, Nominating
Alan Meade, PT, Quality Review (FCCPT)

CHIEF EXECUTIVE OFFICER
William A. Hatherill

FOREIGN CREDENTIALING COMMISSION ON PHYSICAL THERAPY
511 Wythe Street • Alexandria, VA 22314
703.684.8562 phone • 703.684.8715 fax
fccpt@fsfbpt.org • www.fccpt.org

Tom Mohr, PT, Chair, Board of Directors

MANAGING EDITOR
Nancy B. Busse

ABOUT THE FEDERATION’S LOGO

fsfbpt

A beautifully simple yet intricately complex drawing by Leonardo da Vinci is the focal point of the FSFBPT logo.

Taken from the great master’s concept of separate but connected, each straight line is meant to represent an individual state board, functioning independently yet coming together for support at the focal point—under the aegis of the Federation. In addition to the aptness of this lovely metaphor, the Federation is proud to link its name to Leonardo da Vinci because his pioneering work paved the way for our modern understanding of the human body.

THE FEDERATION’S MISSION

To protect the public by providing service and leadership to promote safe and competent physical therapy practice.

Federation Forum is published quarterly. Subscriptions may be obtained from Administrative Services for $25/year.

© 2003 by the Federation of State Boards of Physical Therapy. All rights reserved. Unauthorized reproduction or use of the articles contained in this magazine are punishable under federal law. Permission to reproduce articles may be obtained by writing to Federation Forum, FSFBPT, 509 Wythe Street, Alexandria, VA 22314.

GUEST EDITOR

Ron Seymour, PT, PhD, is vice chair of the Department of Physical Therapy, College of Health Professions, State University of New York Health Science Center at Syracuse, where he teaches courses on the spine, special topics in orthopedics, prosthetics and orthotics, and critical inquiry courses. Ron also serves as director of the Children’s Miracle Network Motion Analysis Laboratory, located at the College of Health Professions, and he is engaged in the private practice of physical therapy, specializing in orthopedics. Ron has been active in the New York Physical Therapy Association, serving as a delegate to the General Assembly and serving on numerous committees. He has published a textbook, Prosthetics and Orthotics: Lower Limb and Spinal (New York: Lippincott, Williams and Wilkins, 2002) and many articles in his areas of interest. Ron is currently a member of the FSFBPT Education Committee and the New York State Board for Physical Therapy.
A biblical passage reads, “For if the trumpet gives an uncertain sound, who shall prepare himself to the battle?” The principle implied relates to unclear messages, particularly from leadership. I am addressing the subject of continuing professional competence in this column, and I confess that, until now, I have not attempted even a lame toot on the proverbial horn, nor have I provided a cohesive overview of the main issues and future Federation plans relative to this subject. I have generally been satisfied to “manage” the development of this subject, as opposed to occupying a leadership role.

I have probably not been alone in my reticence, however, as this challenging topic occupies the attention of most regulatory groups. It is linked to an emerging public call to ensure ongoing professional competence. It’s not an easy issue to tackle, though the basic concerns and a few commonsense approaches are not difficult to understand. Let me share some thoughts that may bring greater clarity and point toward a more responsible future for regulation.

**HISTORY**

Public advocacy organizations such as the Pew Health Professions Commission and the Citizen Advocacy Center have advanced the idea that, for public protection purposes, a one-time entry-level examination is inadequate as a career-long measure of practitioner competence. As the science, technology, skill and knowledge base of each profession progresses and expands, it is reasonable to believe that practitioners should feel a responsibility to keep their own knowledge and skills up-to-date. Whether or not this always happens, this belief is a given and it is usually canonized within the standards of practice, in the ethical positions, and in the culture and actual practices of most professions and their members. What has not been clear is whether states should mandate—through re-licensure requirements—the currency of each licensee’s knowledge and skills. What is even less clear is how a state would measure such currency if it were to be mandated as a function of re-licensure.

In the absence of standards and processes beyond the requirement of a fee for relicensure, state legislatures have been filling the void by requiring continuing education (CE) for its licensees. This practice is now being followed in a majority of states, even in the absence of significant evidence that continuing education increases knowledge or improves public protection.

Why is this trend advancing? The most compelling reason relates to the very foundation for issuing a license in the first place. Professionals hold the power to use their knowledge and skill to benefit the public when that skill is applied properly; they can also inflict harm if that skill is misapplied. Thus the need for licensure and regulation. As the knowledge base advances and new procedures arise, the reason for a practitioner’s original license—public protection—becomes even more important, because the license can conceivably become a question of authority without accountability. It is an easy corollary, in the minds of legislators...
Annual Meeting

Chicago’s historic Hotel Knickerbocker—a short walk from the shores of Lake Michigan and from the shopper’s paradise known as the “Magnificent Mile”—provided the setting for the Federation of State Boards of Physical Therapy’s 2002 Annual Meeting and Delegate Assembly. Of the 53 member jurisdictions, 51 were represented—11 with five or more attendees present. There were 30 board administrators, 116 board members (of whom 66 were either Delegates or Alternate Delegates), and 12 non-members, in addition to speakers and staff, for a total of 187 attendees.

PROGRAMMING
The meeting was built around the theme, “Regulation in the Face of Change: Practice, Discipline and Data,” and offered programming in three tracks covering a wide range of topics. On the theme of discipline, two all-day workshops received excellent reviews from participants. Bill Curley, an investigator for the Kentucky State Board of Physical Therapy and former special agent with the Bureau of Alcohol, Tobacco and Firearms, along with attorney Julia Works, led a workshop on “Investigative Training for the Non-Investigator.” Dr. Gary Schoener, a clinical psychologist in Minneapolis, led a well-attended workshop on “Sexual Misconduct and Boundary Violations” (see article on page 6). In the practice realm, a well-received all-day program on “Strengthening Relationships and Partnerships with Individuals and Groups” was offered by John Bradberry, a corporate consultant whose work focuses on strengthening teamwork across company and community boundaries.

Participants attended sessions on “Foreign-Trained Physical Therapists: Degree or Course Content Focus,” “Credentials Fraud and Verification,” “Information Sharing and Public Protection,” “Job Analysis: Implications of Changes in Practice for the NPTE and Regulatory Boards,” and “The Road to Continuing Competence.” Robert Fritz spoke about structural dynamics in his keynote address on “The Path of Least Resistance,” and attendees heard investigative reporter Tom Wendling and Ohio attorney Michael R. Moran deliver a joint keynote address on “Understanding and Dealing with the Press” (see article on page 1). A panel on “Collaborative Practice and the Impact on Professional Regulation” (see article on page 8) drew a large audience as well.

In other programming, attendees received updates from the Uniform Pathway Task Force and the Membership Survey Task Force. And a last-minute juggling of the schedule allowed time for members to hear more about the exposure of examination items on the Internet and what the Federation had done and is doing to protect the exam.

ACTIONS OF THE DELEGATE ASSEMBLY
In preparation for the Delegate Assembly, the Resolutions Committee made itself available to members who wanted to learn more about how to structure resolutions or understand better how the Delegate Assembly functions. In addition, because there were 32 resolutions pending, a Delegate...
Workshop on Saturday evening permitted delegates to discuss the resolutions in advance of the Monday session, enabling the Delegates to complete the agenda on Monday well ahead of schedule. Special thanks to the Resolutions Committee for all their work in helping things move quickly and efficiently: Lynn Kubousek, chair; Carolyn Hultgren, PT; and Barbara Shell, PT.

Here are a few highlights of the actions of the 2002 Delegate Assembly. You can find the complete minutes on the members’ Web site at http://members.fsbpt.org.

- Adopted a motion stating that all adopted 2002 Delegate Assembly motions addressing the Articles of Incorporation, Bylaws, and Standing Rules shall take effect upon the close of the 2002 Delegate Assembly unless otherwise specified.
- Defeated a motion to change the Federation’s mission statement.
- Closed any future additions to the membership category of Honorary Member.
- Clarified the Bylaws by adding the statement, “No Federation Officer or Director may serve as a Delegate.”
- Determined that the quorum for any meeting of the Delegate Assembly shall be a majority of the Member Boards of the Federation.
- Reduced the number of members on the Examination Development Committee and the Finance Committee from six to five, thus adjusting the size of both committees to be consistent with that of all other committees.
- Adopted a motion that the Board of Directors will annually review the Areas of Focus and present them to the Delegate Assembly for adoption.
- Approved the Areas of Focus for 2003 as follows:
  - **Examinations:** Ensure the ongoing excellence, reliability, defensibility and validity of the NPTE and related examinations.
  - **Membership:** Enhance the Federation’s value to its membership by developing and maintaining programs and services responsive to member needs.
  - **States’ Rights and Professional Standards:** Identify and promote desirable and reasonable uniformity in physical therapy regulatory standards and practices while respecting each state’s authority and responsibility to regulate.
  - **Education:** Provide and promote educational programs and products for board members, administrators and other stakeholders.
  - **Leadership:** Broaden the Federation’s leadership role and recognition within the regulatory, professional and related communities.
  - **Organizational and Financial Stability:** Ensure the long-term organizational and financial stability and viability of the Federation.
- Adopted the following position: The Federation of State Boards of Physical Therapy encourages each jurisdiction board to engage in ongoing review of its physical therapy practice act with the intent to improve and strengthen practice acts, public protection, and the regulation of physical therapy. The most recent edition of the FSBPT Model Practice Act is available as a resource in this process. Jurisdiction boards should also engage other interested parties such as professional associations to facilitate this process.
Awareness of sexual misconduct issues has grown dramatically among many professional groups in the last 20 years, but understanding how to assess, evaluate and respond to individual cases of sexual misconduct is still not easy. “Sexual misconduct cases are the hardest cases for health care boards to deal with,” said Dr. Gary Schoener, clinical psychologist and executive director of the Walk-In Counseling Center in Minneapolis, who helps various professional groups address issues of sexual misconduct and boundary violations. Dr. Schoener led an all-day workshop on the topic at FSBPT’s Fall Annual Meeting in Chicago.

Dr. Schoener began his presentation by recommending a web site, www.advocateweb.com, where victims, survivors and their families, friends, victim advocates, and professionals can find extensive resources.

Current data about sexual misconduct and boundary violations among health care professionals are difficult to obtain. Many health professionals are asked to “self report” data about whether they have crossed boundaries with patients, and such data is not particularly reliable, Schoener said, for obvious reasons. To date, patients have never been surveyed about this issue in the United States, although Canadian data suggest that it is widespread, with up to 8 percent of women reporting some sort of misconduct. “However, we know from studies that lots of people do complain of this behavior to their psychologists,” Schoener said.

Several issues emerge in the process of determining whether sexual misconduct has occurred.

DEFINING SEXUAL MISCONDUCT IS DIFFICULT. Patients’ perception of whether certain kinds of talking or touching are inappropriate greatly varies. “The average person is not sure whether it’s okay to have a relationship with their health care provider,” Schoener explained. “Or, if someone such as a physical therapist is authorized to touch their body in some way, inappropriate touching may not be clear. When patients are touched sexually, they usually worry that they are the ones who have the problem, not the health care provider.”

CONFUSION EXISTS ABOUT WHEN, OR IF, DATING CAN TAKE PLACE. “Professionals are unclear about whether it’s okay to date a former patient, or when to stop dating someone if a professional relationship begins,” Schoener said. Standards vary among health care professions on what is legal.

BOUNDARIES ARE NOT UNDERSTOOD OR UPHOLD. “Boundary crossing is a slippery slope,” Schoener said. “Some predators engage in ‘grooming behavior’—a series of small steps that eventually open the door to misconduct with a patient—that goes unnoticed but is actually inappropriate. Other violators simply begin with overt sexual misconduct. There are always questions about what is the actual phenomenon.”

HEALTH CARE PROFESSIONALS MUST BE ATTUNED TO THE ISSUE OF BOUNDARY CROSSING IN ALL CIRCUMSTANCES. “FOR EXAMPLE, THE APTA CODE OF ETHICS RECOGNIZES A BOUNDARY ISSUE WHEN IT GOVERNS THE EXCHANGE OF GIFTS WITH CLIENTS,” Schoener said, “BECAUSE IT GIVES THE APPEARANCE OF AFFECTING YOUR PROFESSIONAL JUDGMENT.”

VARIETIES OF SEXUAL MISCONDUCT

Sexual misconduct by professionals ranges widely. In general, such behavior can be categorized as follows:

RAPE, AS TRADITIONALLY DEFINED. The rape may be an outright sexual assault on an anesthetized or sleeping patient or a patient in a coma or too ill to resist, or through use of drugs, alcohol or hypnosis to diminish resistance

SEX WITH A MINOR. Statutory rape.

SEX DISGUISED AS TREATMENT. A counselor pretending to be a licensed practitioner might conduct breast, pelvic exams or physical exams. Sometimes patients are told they “need to learn to love or be intimate.”
POTENTIAL SOURCES OF A COMPLAINT OR RUMOR OF SEXUAL MISCONDUCT

- the victim
- offending physical therapist may report self
- family or friend of victim
- another client
- another physical therapist
- rumor in the community
- police or rape center, or other professional place where such complaints are made

CONFIRMING A COMPLAINT

- Accused admits claim
- Someone witnessed them together
- Photos, diaries confirm relationship
- Client told several people as events occurred.
- Letters reveal personal details
- Audio/ videotapes of phone conversations; sexual behavior; sexual intercourse
- Knowledge of the offender’s body (e.g., scars, circumcision, color of pubic hair)
- Knowledge of details of offender’s home
- Knowledge of personal life of offender

DISQUALIFYING A COMPLAINT

- Victim withdraws complaint
- Witnesses say claim is inaccurate
- Consultation records reflect an honest attempt to deal with a client’s transference of feelings.
- Practitioner consulted colleagues for help in dealing with patient’s infatuation.
- Letters admit it was not an intimate relationship
- Tapes revealing a conversation containing admission of this as false complaint
- Cannot confirm specific personal physical details about offender
- Inability to describe offender’s home
- Absence/incorrect knowledge of offender’s personal life

“You’d be amazed what people can get away with when they put on a white coat,” says Schoener. “If the sexual misconduct is carried out convincingly, patients are reluctant to say anything, even if they think something seems weird.”

“Sneaky sex.” Takes place with surreptitious touching or pelvic thrusting or rubbing during a hug or physical encounter. “Such encounters are not exposed, so clients may not be aware or convinced of what is going on,” Schoener noted. “Clients whose communication capabilities are impaired may not be listened to because they don’t make sense.”

VOYEURISM. This is the most common complaint, where patients are watched while they undress. Internet pornography falls into this category when health care providers expose their patients to it. A practitioner may have something visible on a computer or a computer scan may catch it. Sometimes evidence is found when computers are repaired or replaced.

HARASSMENT. Sexual harassment occurs with sexual comments, jokes or voyeuristic inquiry, pressuring for dates, or unwanted touching.

SEXUAL MISCONDUCT IS ALSO CARRIED OUT WITH STAFF—NOT JUST PATIENTS. COMPLAINTS MAY SURFACE ABOUT SOMETHING THAT HAPPENED OUTSIDE THE WORKPLACE, EITHER WITH A PATIENT OR A NON-PATIENT.

- Intensely sexual interaction, either verbal or through fantasy, during delivery of service.
- Romantic-like relationship solely within the professional context.
- Romantic involvement outside the office, either during the professional relationship and/or following termination of the professional relationship.
- Receiving a complaint

Awareness of alleged sexual misconduct by physical therapists can come from various sources. “Your first duty, above anything else,” Schoener emphasized, “is to be supportive of the complainant, regardless of whether the complaint is true or false, or how things end up in the long run.” Many complainants are reluctant to follow through on their complaint if they are overwhelmed by forms, procedures or impersonal attitudes. “The more formal you are about how people must make their complaints, the more likely they are not to proceed. Offer them an option of talking with an investigator first. Remember, the public usually sees the board as a co-conspirator of the (offending) practitioner, not the friend of the victim.

INVESTIGATING A COMPLAINT

The most important thing when investigating sexual misconduct allegations is to gather details, clarifying what the complainant means. “Accuracy is key,” Schoener said. “Words like ‘sex’ have virtually no meaning. We had someone who swore they’d had sex, but upon careful questioning, it literally had been a look across the room.”

Investigators tend to focus on specific offenses. Instead, Schoener recommends that an investigation look at the total context of the relationship. Find out if and in what capacity the patient knew the provider before obtaining services or if they know the provider outside the office context. Ask questions about whether there was anything that made the complainant uneasy before the sexual misconduct took place. If the victim cannot offer anything specific, Schoener suggests asking probing questions such as, “Did the doctor talk about his personal life?” or “Did you receive gifts?”

The stories of both the practitioner and the complainant should be compared. “Clarify details wherever you can—meeting dates, purpose of meetings, what happened, how long they took,” Schoener said, “and look at where the stories
Collaborative Practice and the Impact on Regulation

Rebecca Thomas

Collaborative practice in the treatment of animals is a hot topic these days,” said Georgie Ludwig, DVM. “For most medical professionals, there is little, if any, direction on this issue. It’s vital that we open a dialog to address the many issues involved when practitioners from multiple disciplines care for an animal. And the public is increasingly demanding collaborative treatment for their pets.”

Dr. Ludwig, former member of the Illinois Veterinary Licensing and Disciplinary Board and current member of the executive committee of the American Association of Veterinary Boards, was one of three panelists at the FSBPT Fall Annual Meeting in Chicago addressing this topic. She was joined on the panel by Richard Cole, DC, and Blair Packard, PT.

“If we don’t tackle the issue now of collaborative practice in treating animals, in 10 years we’ll likely find that it is flourishing without proper laws to guide it,” Dr. Ludwig said.

Dr. Ludwig identified three commonly used terms that need to be accurately defined for practitioners talking about working together across professions: referral practice, consultation, and collaborative practice.

**Referral Practice.** A patient is referred from one licensed professional to another licensed professional when the referring professional believes the patient would benefit from the expertise of the referral. The referral professional examines the patient and recommends a treatment plan. In most cases the referring and referral professional work independently and usually communicate in written form, sharing responsibility for the outcome of the case.

**Consultation.** A licensed professional consults with an individual who may or may not be another licensed professional, when the consulting professional believes the consultant has expertise that would benefit an animal. The consult may occur electronically, by telephone or by any other means of communication, but in all cases the responsibility remains with the professional who is receiving the consultation. “Consider including a consultation clause in your practice act if you don’t have one,” Ludwig suggested.

**Collaborative Practice.** Collaborative practice takes place when two or more licensed professionals work together, the result being the delivery of a higher level of service for the patient than could be achieved if either professional worked independently. All professionals involved in the care and treatment of the patient share responsibility and operate under the jurisdiction of their respective boards.

As state regulatory and licensing boards begin to tackle the many aspects of instituting practice guidelines for collaborative practice, Dr. Ludwig suggests they consider the following:

- How much cross-species and cross-profession referral, consultative and collaborative practice is really occurring in your state?
- Does your state practice act have provisions in place to regulate these forms of practice?
- What model is your licensing board most comfortable with?
- Who should be responsible when something goes wrong?
- How often are clients circumventing veterinarians entirely and going directly to the other licensed professionals for treatment and care?
- Who should seek the answers to these questions?
- Can regulators ignore these issues?

The public is demanding the same level of service for their pets as they expect for themselves. Various professions have demonstrated an interest in expanding their professional practice to include animals. “I don’t think we can ignore this trend and I believe there is a lot of benefit to it,” concluded Dr. Ludwig.

A recent survey found little interest in treating animals among 2000 members of the American Chiropractic Association.
Richard L. Cole, DC, vice president of the Federation of Chiropractic Licensing Boards (FCLB), spoke about treating animals from the chiropractic perspective. The FCLB currently has no adopted position on treating animals. “Historically, chiropractic is treatment of humans,” Cole said. “I do believe it is difficult for a person trained in human anatomy and physiology to apply their skills to veterinary medicine. I don’t think it works that well.”

The American Veterinarian Chiropractic Association (AVCA), established by a DC/DVM with an interest in both fields, marries chiropractic and veterinary medicine. The AVCA has developed classifications for practitioner definitions:

- An **animal chiropractor** is a chiropractor with certification achieved through a 120-hour course.
- A **veterinarian certified in animal chiropractic** is a DVM who took the same course.
- A **veterinarian chiropractor** is a dually licensed professional.

“I don’t believe it’s time to change state laws to allow chiropractors to manipulate animals because, as a profession, we have a lot of other problems to work through. We don’t want to get involved in this fight right now,” Cole said. “I am glad to see people paying attention to the complex nature of veterinary medicine.”

As an orthopedic outpatient physical therapist, Blair J. Packard, PT, president of FSBPT, does not treat animals. “We know there is collaborative practice between physical therapists and veterinarians in isolated pockets of our profession,” Packard said. “And an increasing number of physical therapists are starting to work in animal therapy. However, the term physical therapy currently cannot be used in every state when talking about treatment of pets.”

Packard talked about how scope of practice evolves for physical therapists. In considering whether or not to move into new arenas of practice, he suggests practitioners pose the following questions:

- Is the procedure currently practiced by the profession as a whole or by a recognized specialty subgroup(s)?
- Is the procedure part of the curriculum for entry-level educational programs or post-graduate training? “It doesn’t matter if it’s animal treatment,” Packard said. “You’re looking at it in the realm of theoretical scope of practice.”
- Is the procedure authorized by statute, or if not specifically authorized and a clinical and educational history is well established, is it not prohibited by the state statute?
- Is the procedure one that is examined on an entry-level competency exam? “That would certainly add to the credibility of something being within scope of practice. But we don’t have anything in our testing for PTs right now that addresses animal therapy per se,” Packard noted.

How does animal physical therapy measure up when one looks at the key questions for scope of practice? “Well, a small but growing number of physical therapists are treating animals. A couple of schools have introduced animal physical therapy in their entry-level curricula. As far as being authorized by law, there may be language in state practice acts that excludes PTs from working with animals, or, if working with animals, the treatment cannot be called physical therapy,” Packard explained.

Packard indicated the best place for interprofessional dialog to begin about collaborative practice is through the regulatory bodies. Challenges will include moving from theoretical models to practice models, as well as significantly shifting current thinking about both practice and regulation. Multiple stakeholder interests will make the process of regulation more difficult as well.

“As we go down this road, ultimately we will need to dialog to make terminology clear and applicable so as not to confuse the public, as well as to protect the practitioner,” Packard said.

Some state statutes may be silent about whether specific practices are allowed, thus making it more difficult for licensing boards or practitioners to determine how to approach individual collaborative practice cases.
A School Visit Is Worth Its Weight in Gold

Jennifer C. Coleman

In 1991, when I became executive director of the Arkansas Board of Physical Therapy, I was working with a brand new board because licensure had just moved from the Arkansas Medical Society to become the responsibility of an independent PT Board. The Board and I were excited about this change, and we wanted to make the most of our limited funding. We decided to connect with the Arkansas PT schools and offer to meet with their students. We started with a small time slot in school schedules, and now we have a full hour to meet with the soon-to-be graduates.

As we have moved from a paper and pencil examination and what we thought was a “high tech” office (we had a fax machine) to this current world of computerized testing and Web sites, one thing has remained constant for our Board. Our need to protect the consumer remains our foremost objective. I still think that includes creating a close connection with the individuals who will become physical therapy providers.

I am an “old timer” with the Arkansas Physical Therapy Board, and while my view of many things has changed, I still believe in the value of face-to-face meetings with future therapists. It is just as important now as it was in 1991. For very little time and money, we provide a valuable service and establish a long lasting relationship. Both students and faculty come to know us better.

WHY NOT?

That is my question: Why not establish this kind of connections with future physical therapists? There is nothing to lose and much to gain. It is a step toward assuring safe and competent physical therapy, with the added bonus that it helps to make the examination process simpler for all concerned.

ANSWERING THEIR QUESTIONS

We have found that the Federation's Exam Candidate Handbook is a useful tool in helping us to answer students’ questions, such as those below.

Questions About the Board

- What is the Physical Therapy Licensing Board?

Jennifer Coleman has served as executive director of the Arkansas Physical Therapy Board since 1991. She has been active in the Council of Board Administrators since its inception, and has served on the Federation’s Finance and Exam Administration Committees. She was also the first board administrator to serve as a director on the FSBPT Board of Directors, from 1997 to 1999. Jennifer sends this personal note: “In order to pursue other interests, I have recently resigned from my position as executive director of the Arkansas PT Board. I have made my last visit to Arkansas PT programs and I will miss those visits. But what I will miss most is each of you in the Federation.

There could not be an organization of people whose knowledge and friendships I have valued more.”
We like to presume that knowledge of right and wrong underlies our society. We expect people to be ethical in their dealings, simply because it’s the right thing to do. But there is increasing evidence that this is not always the case. Unethical behavior on the part of high-ranking executives has brought corporations to their knees. And a recent New York Times article speaks of university surveys showing “not only that there is more cheating these days, but that students and teachers alike have become more accepting of some practices once considered out of bounds.” The same article cites a survey conducted by the Center for Academic Integrity, based at Duke University, which reports that 55 percent of students responding to a 2002 survey said “it was not serious cheating to get questions and answers from a student who had previously taken a test.”

The Educational Testing Service (ETS) in Princeton, NJ, had to scramble this year to protect its Graduate Record Examination (GRE) in China, Taiwan and South Korea. When ETS saw test scores rising substantially in those countries, the company did some digging and found that memorized questions and answers had been posted on Web sites by previous test takers. Recently, two Columbia University undergraduates were arrested on charges of carrying out a high-tech plot to cheat on the GRE using wireless microphones and digital cameras.

In July 2002, the Federation of State Boards of Physical Therapy discovered that “recalled” or memorized items from the National Physical Therapy Examination (NPTE) had been posted on an Internet site. That discovery of the posting of recall items and the actions the Federation has since taken to protect the examination have raised many interesting questions. This article will describe some of the issues and raise some further questions that both the Federation and licensing boards will need to consider. If there is good that has come from this episode of recalls posted on the Internet, perhaps it is that it has given us an opportunity to increase awareness.

**WHAT IS RIGHT AND WHAT IS WRONG?**

Since the Federation first sent out the initial news release announcing the recall postings, one question has been asked repeatedly: “When does sharing information on the examination constitute illegal or unethical behavior?” In other words, what constitutes cheating? We all know that students leaving an exam say things like, “That exam was really difficult!” or “There seemed to be a lot of pediatrics questions.” There is nothing wrong with making such general statements. But what about this question: “I am not sure if I got that question about the electrode placement for high voltage galvanic stimulation on the patient with muscle spasm of the rhomboid correct or not.” We know this type of “sharing” occurs and has occurred for years, but is it unethical? Does it violate federal copyright law? Would candidates making such statements call into question their “moral character” and thus potentially call into question their qualifications for licensure?

As the Federation has investigated the postings, one thing has become clear. Personal definitions of right and wrong are influenced by culture and often specific to an individual.

---

**CONSEQUENCES OF CHEATING ON THE NPTE**

Mark Lane, PT, is FSBPT’s Vice President of Professional Standards and Examinations. He has been licensed as a physical therapist and active in the American Physical Therapy Association for more than 20 years, serving as chapter president of the Washington state chapter for four years. He was on the Washington State Licensing Board for seven years, serving a term as chair. Mark has been on the Federation staff since 1998. Previously he directed a large physical therapy department in a rehabilitation hospital outside Seattle, Washington.

Mark Lane, PT

**CONSEQUENCES continued on page 12**
often very specific to an individual and are often influenced by culture. It is evident that in some cultures, “right” is doing anything to help one’s fellow countrymen—and that may or may not mean helping them to pass an exam by sharing memorized items. “Wrong” would be refusing to provide this help. It is important to clarify the question of right and wrong so that candidates clearly understand that helping out a compatriot could impact the future licensure of both the giver and receiver of the recall items.

Unfortunately, life is not simply black and white. No matter how well such terms as “cheating” or “illicit sharing” are defined, there will always be gray areas, and there is a vast territory of gray between the black and white. So the question is, when does gray become a problem? The best advice to candidates for licensure is this: If there is any question at all that an action may not be right, stay out of the gray zone! It is not worth risking your career. The minute you get into the gray zone, back yourself out.

Following is the definition of illegal behavior in regard to sharing questions from the National Physical Therapy Examination:

The illicit sharing of memorized or recalled questions from the NPTE includes, but is not limited to, the following behavior:
- memorization or copying of any questions from any version of the NPTE;
- knowing, reckless or intentional provision, in written or verbal form, of any questions memorized or copied from any version of the NPTE to any other person through any means;
- knowing, reckless or intentional receipt, in written or verbal form, of any questions memorized or copied from any version of the NPTE to any other person through any means; and
- knowing, reckless or intentional solicitation or encouragement of another person to provide, in written or verbal form, any questions memorized or copied from any version of the NPTE from any other person through any means.

Based on this definition, the example above of a candidate describing a question falls into the category of “illicit sharing” of items.

It is critical for the Federation and its member boards to protect the integrity of the National Physical Therapy Examinations. While we tend to expect candidates to know right from wrong, it is clear that they may not—or that they may know and decide to cheat anyway. Sharing of memorized items from the NPTE is clearly wrong and we need to spread this message. The Federation has revised the Candidate Handbook, the application materials and the agreement that a candidate sees prior to beginning the exam. Licensing boards can help by reviewing materials they provide to candidates and

Beyond making sure that candidates understand what is right and wrong, the Federation and its member boards need to review their respective roles in dealing with candidates who participate in sharing or receiving recall questions.

WHOSE JOB IS IT ANYWAY?

Preventing unethical and illegal behavior is clearly everyone’s responsibility. Academic programs, the professional association, student organizations and individual students clearly have important roles to play. The focus of this article, however, is on the role of the Federation and its member boards.

Beyond making sure that candidates understand what is right and wrong, the Federation and its member boards need to review their respective roles in dealing with candidates who participate in sharing or receiving recall questions. From our brief experience, we know it is critical for these roles to be clarified, and it is equally critical for the Federation and its member boards to work together in these situations. While there have been some bumps along the road, our current experience working with member boards on this issue has been very positive and cooperative. We are now in the process of reviewing examination policies to clarify the Federation’s role and responsibilities. Member boards can help by reviewing their jurisdiction’s laws and rules dealing with this topic.

FSBPT’s Ethics and Legislation Committee has added language to the Model Practice Act: A Tool for Public Protection and Legislative Change (Third Edition, 2002) making it clear that a state has the authority to take action against a candidate for licensure who participates in the sharing of NPTE questions. Louisiana is one of the few states that has developed excellent language designed to deal with this subject, and the Ethics and Legislation Committee used Louisiana’s language as a basis for the development of the MPA language.

EXAMINATION

If the board determines that an applicant or examinee has engaged, or has attempted to engage, in conduct that subverts or undermines the integrity of the examination process, the board may disqualify the applicant from taking the examination. Examples of such conduct may include, without limitation, utilizing in any manner recalled or memorized examination questions from or with any person or entity, failing to comply
Continuing Competence By Twos

Christine A. Larson and Mark Lane

For the first time in the history the New York State Board for Physical Therapy and the New York Chapter of the American Physical Therapy Association, the two organizations held a joint meeting. The topic of discussion was continuing competence. Both groups listened to a presentation on FSBPT’s Physical Therapist Portfolio (PTP), one of the three components of the continuing competence model developed by the Federation.

Prior to the meeting in Albany in October 2001, New York physical therapists had formed a task force on continuing competence. The task force developed presentations for chapter meetings to encourage discussion of various methods for maintaining and measuring continuing competence.

Patrick VanBeveren, PT, MA, then president of the New York Chapter of APTA, and Lyn Reynolds, PT, chair of the New York Board, along with members of their respective organizations, met with Dianne Millette, PT, consultant from the Federation, and made plans to pilot the PTP.

In May 2002, 150 physical therapists in New York state received letters from the Federation asking for volunteers to participate in a pilot study of the PTP component that looks at reflective practice. Participants will also evaluate the effectiveness of the self-reflection tool itself. Each physical therapist participating will be given information on how to set up a professional portfolio and how to use it to best determine areas in need of improvement, as well as how to measure and document their own competency.

The second component of the Federation’s continuing competence program is the jurisprudence examination. The premise of this component is that licensees need to know and understand the law that defines practice and the parameters of practice in their state. This is one aspect of minimal competence that is not covered in the National Physical Therapy Examination (NPTE) because it is jurisdiction-dependent.

The Federation and the State of Florida collaborated to develop an exam that was constructed according to sound psychometric principles. This included developing a blueprint, holding an item-writing workshop, validating the items and holding a passpoint study. The Florida Board of Physical Therapy Practice was very helpful in identifying willing volunteers for these meetings.

Two 50-item forms (40 counted items and 10 pretest items) have been downloaded to Prometric testing centers. Candidates for licensure in Florida who apply on or after January 1, 2002, will be required to take and pass the Florida Jurisprudence Examination for licensure. Candidates may register for the exam online as they do for the NPTE.

At this point, Florida is requiring the jurisprudence examination for initial licensure only. The Florida Board will explore requiring it for re-licensure in the future.

Christine A. Larson, PT, is the Federation’s Director of Professional Standards. She has more than 10 years of experience as a Washington State Board of Physical Therapy member, and an equal amount of experience in the Federation, as Washington’s delegate to the Delegate Assembly for four years, and as a member of the Model Practice Act Task Force, Ethics and Standards of Practice Committee, and Legislative Committee. She also served as secretary on the FSBPT Board of Directors. In her current position, Chris works with legislative, regulation and practice issues, and provides support and assistance to the Ethics and Legislation Committee, the Continuing Competence Task Force, and the Uniform Pathway Task Force.
Every one of these initiatives and improvements is a direct result of member responses to the 1999 Membership Survey. So what have we learned from the 2002 Membership Survey? And what will we do about it?

The 2002 Survey showed that FSBPT membership is overall a great deal more satisfied with the Federation than it was four years ago. (The complete 2002 Membership Survey Report can be found on the members-only Web site under “Resources.”) Respondents gave high marks for both value and performance for the education component of Federation meetings, and for the NPTE—it is clear that the exam is the Federation’s number one priority and that it must be kept that way.

In some areas, the most critical concerns have been addressed, and maintaining quality in those areas will be key. Now it is essential for the Federation to look deeper—to see the less obvious but equally important issues that may be new concerns, or that may have been hidden by some of the needs that have been met by the initiatives noted above.

The Membership Survey Task Force has taken all of the data received from members, as well as all of the comments, and has developed a list of recommendations. These are listed below, along with information about the status of each recommendation at this time.

- Educate members about the role of the Issues Forum. Define its purpose in a letter that goes to delegates. Clarify its purpose in News Briefs. Both of these things were done in advance of the 2002 Annual Meeting. Also, the Issues Forum was facilitated in a manner to assure that issues of the most concern to the most attendees were addressed.

- Increase the exposure and familiarity with candidates, as well as new board member orientation. Members need to know who they are voting for. Orient/update all board members on activities. At the 2002 Annual Meeting, a Meet the Candidates forum allowed attendees to ask questions of all of the candidates. The day-long Board Member Orientation was expanded to include anyone who wanted to attend, not just new board members. Ongoing.

- Develop strategies to address members’ perception about the role of FSBPT. Ongoing.

- Expand communications and interaction via the Intranet.
Fraudulent documents are a chronic problem, and credentials evaluators must always be aware of the possibility of fraudulent documents when dealing with credentials from other countries. Recent developments in information technology have made it easier for anyone intent on deceit to procure fabricated, forged or altered documents. This is a serious matter in the United States and abroad. It is not possible to quantify the problem, but the most experienced voices in the field advise prudence rather than paralyzing fear.

Dealing with the issue of fraudulent educational documents is very much a part of the credentials evaluator’s work at the Foreign Credentialing Commission on Physical Therapy (FCCPT). The following issues facing the credentials evaluator at FCCPT are the same as those of international admissions officers in educational institutions:

- how to detect fraudulent documents;
- how to verify that a document is fraudulent; and/or
- what to do to minimize the chances of receiving fraudulent documents.

Fraudulent documents can be described as follows:

- altered, where only some changes have been made;
- forged or fabricated, when all information is made up;
- intentionally misleading translations; and/or
- documents from institutions that do not exist.

In the discussion of fraudulent documents, we must first establish what constitutes “official documents.” Official documents are those provided directly by the issuing institution/organization and must carry the appropriate seals/stamps/signatures. These may not necessarily be originals; some institutions issue certified copies of documents. Copies of documents that have been notarized, provided by the individual, or by a third party requesting an evaluation are not considered official.

FCCPT does not accept copies or originals sent by the applicant. FCCPT’s policy is to work only from official documents sent directly to our office by the issuing institution or organization. This policy helps to minimize the chance of receiving fraudulent documents, but it does not eliminate the problem completely.

Experience is key in detecting fraudulent documents. A good reference library, knowledge of foreign educational systems and foreign languages, combined with the credentials evaluator’s experience and attention to detail are essential in the detection of fraud. The evaluator must always be diligent and alert, and must always check and recheck all the materials presented. When something causes suspicion, the evaluator must refer to available resources, consult with colleagues and, above all, use good judgment. The credentials evaluator must stay connected in the field of international education and always be aware of current issues and trends—social and political—that may promote the occurrence of fraudulent documents.

When a document shows discrepancies, it is the task of the evaluator to determine by means of all the tools available whether verification of the authenticity of the document is warranted. The verification process is time consuming but that should never deter the conscientious evaluator. The institution issuing the documents must be contacted for confirmation of authenticity. The duration of the process varies from country to country and sometimes from institution to institution. At times, communication is very slow. Often many attempts at contact are necessary and the evaluator may never receive a reply.

The detection of fraudulent documents is perhaps the credentials evaluator’s most unpleasant task. The goal is to minimize the chances of having to work with fabricated, forged or altered documents, but the problem is not going to just go away. We need to be prudent, but we can never use short cuts. In the investigation of suspicious documents, a credentials evaluator needs a large dose of patience in dealing with everyone involved. We must remember that it is our duty to protect the public and that detecting fraudulent documents is perhaps the first step in achieving this goal.
What are the legal implications of physical therapists’ or physical therapy students’ participation in fundraisers or promotional events where certain services are provided to members of the public, particularly in states that have no direct access authority?

The typical scenario may be a screening event or participation in a large athletic endeavor such as a marathon or triathlon event. Or it may be a health awareness fair where physical therapists or PT students participate. It may be tied to a student fundraiser.

First and foremost, physical therapists participating in such events must remember that they are licensed health care professionals, regardless of the setting. The issue is slightly different for physical therapist students, but even here, certain standards must be maintained.

Next, it is important to understand the parameters of your own state law and regulations relating to the practice of physical therapy. What constitutes the actual provision of “treatment”? What services or accommodations are being made to members of the public in the scenarios mentioned above?

The next question to ask from a legal perspective is, for what purposes are the services being offered? Normally there will be no fees collected, although in the case of student fundraisers, donations may be requested for sweatshirts, mugs and the like. The crux of the question really is this: Are the services, such as massage or PT screening, directed at a specific pathology? Here is where knowledge of the physical therapy practice act and rules/regulations is crucial, particularly in non-direct access states. For example, is there within the practice act or rules a distinction between treatment that is related to a pathology and an activity that is provided for a so-called “tonic” effect? Many state laws or regulations cover this distinction and exempt from the licensure laws those engaged in the provision of “tonic” care. This category of practitioner is usually someone like a health spa worker or YMCA physical fitness instructor who is not treating a specific condition.

They are trying to help someone improve their physical condition or make them feel relaxed. Arguably, therefore, if your state practice act makes this clear distinction, these activities may be exempted from licensure laws whether the state is a direct access state or not. A caveat to this, however, is a reminder that the physical therapist and even the PT student will be held to different standards in providing these activities, even if the activities themselves are exempted.

To some extent, a PT student or even a physical therapist may have some protection if they are providing accommodations for tonic effect only. If the persons providing these services at a marathon or health fair are unregulated fitness instructors and the like, there is never a question about whether they can do so. Why then are there legal implications for the physical therapist or student physical therapist providing the same services for the same reasons? The answer is that the physical therapist is recognized as having unique training and education and is (and a PT student will be) a regulated professional health care provider. Regulated health care providers are held to different legal standards for liability than are fitness instructors or health spa workers in whatever setting they perform and for whatever reason. This is why many Good Samaritan statutes have been passed to protect physicians who may otherwise be hesitant to assist at an accident scene. They are always held to different legal standards than a lay person providing the same emergency assistance.

The legal standards for providing services to the public as described above may apply to physical therapists in both direct access states and non-direct access states. The only difference is that in direct access states the risk of running afoul of the licensure act is greatly reduced. Whatever the situation,
Regulated health care providers are held to different legal standards for liability than are fitness instructors or health spa workers in whatever setting they perform and for whatever reason.

input when drafting the waiver.

Finally, in non-direct access states, it may also be a good idea, if practical, to involve physicians in these activities. Their presence and collaboration in the event may help to overcome the problem of a referral where the practice act and regulations are unclear or silent on the distinction between medical treatment and tonic care. There is no doubt that physical therapists in non-direct access states may have to jump through more hoops to be involved in such activities from a legal standpoint, but this may be a distinction without a difference. In both direct access and non-direct access states, physical therapists should understand that in providing the activity, they will be held legally to different standards than fitness instructors.

I however, the student or therapist participating in these events should follow certain rules which have legal relevance in light of the discussion above, despite direct access status:

1. Do not focus on any specific health problem a person may have or may relate to you.
2. Do not give health care advice about a specific pathology, even if asked; that is not your mission at these events.
3. Depending on the activity you are providing, such as massage or simple postural assessment, it may matter that certain health information about the person involved be elicited before providing the service.
4. As a professional, be prepared to offer referral advice to appropriate health care providers if the dialogue starts focusing on questions that require professional evaluation or assessment.

In many of the scenarios above, organizers may prepare forms to be completed by individuals who are to receive some type of activity, giving appropriate information about themselves. Sometimes these forms contain a waiver of liability for any physical harm that may occur. The best advice on the use of waivers is to understand that the courts do not favor them as protection, and, if you feel it is necessary to utilize them because of the activity offered, obtain some legal input when drafting the waiver.

and Internet—possibility offer a listserv on the Intranet. Both the Internet and Intranet (the members-only site) are being redesigned to be more useful. Development of listserves integrated with the Intranet is a goal in the 2003 Goals and Objectives.

- Create a better understanding of jurisdictional processes and issues when developing or undertaking new services and activities.
- Increase the exposure to and support for certain services such as the HIPDB, licensure DB, ADA assistance. Articles have appeared in Federation Forum by persons with experience in these areas. More will appear in future issues. The 2003 Goals and Objectives includes a goal to explore and address barriers to the development of an effective licensure and disciplinary database.
- Develop guidelines and criteria for development or initiation of new services and activities on behalf of a subset of the membership. Not all jurisdictions will want or be able to use some services. Establish guidelines that must be met before moving forward with a new concept.

As we move through this next year, Federation Forum and News Briefs will keep you apprised as services or initiatives are implemented in response to the 2002 Membership Survey. Many thanks to all of you who participated in the survey. But just because we picked your brain last spring, don’t think we don’t want to hear from you again. Any time you have a suggestion for the Federation, survey or not, please contact the appropriate committee member or chair, or a member of the Board of Directors, or anyone on the staff. It is through response to your thoughtful ideas and suggestions that the Federation remains a vital organization and a useful resource to our members.
Since the last Federation Forum was distributed, the Board of Directors met via conference call and at the Annual Meeting in September to conduct Federation business. Here are some highlights of their work.

- Approved an increase in the exam fee to $400 for exams given on or after January 1, 2005. **Rationale:** The Federation is required to provide member jurisdictions with at least two years’ notice of an increase in NPTE fees. Forecasts of FSBPT budgets from 2005 to 2009 show deficits. These deficits are mainly a result of the continuing trend of declining numbers of candidates sitting for the NPTE each year. This budget information was made available to the FSBPT committee chairs and the CBA Executive Committee, and was provided to attendees at the September 2002 Delegate Assembly.
- Disbanded the Database Development Task Force. **Rationale:** Staff has assumed this task force’s function.
- Appointed the following individuals as chairs, effective January 1, 2003: Margaret Donohue, PT, NH, chair of the Ethics and Legislation Committee; John Greany, PT, MN, chair of the Exam Development Committee; and Tom Mohr, PT, PhD, ND, chair of the FCCPT Board of Directors.
- Changed the criterion for the Long-Term Service Award in...
Reaffirmed the approval of Wachovia Bank as the lender for the acquisition of the building adjacent to the Wythe Street office.

Selected the cities of Philadelphia and Providence for evaluation as potential sites for the 2004 Annual Meeting.

Approved the appointment of Nicholas Haffey, PT, to the Exam Administration Committee for a two-year term expiring December 31, 2004. Nicholas Haffey was president of the APTA Student Assembly Board of Directors.

Assigned Board liaisons to committees, task forces, and outside organizations and jurisdiction liaisons for 2003.
The Federation’s 2003 Budget was sent to members in early January and I hope many of you have taken time to review it. This budget document is the culmination of many hours of work by FSBPT committees and task forces, Federation staff, the Finance Committee and the Board of Directors.

For 2003, we are budgeting an operating loss in excess of $130,000. In my article that followed the preparation of the 2002 Budget (Federation Forum, Spring 2002, Vol. 17, No. 2), I said that the Board was comfortable budgeting an operating loss of just over $26,000, but that “comfort with such an operational loss would be for this year (2002) only.” Although your Federation Board of Directors is uncomfortable with the projected 2003 operating loss, there are some extenuating circumstances that led to the budgeting of this deficit.

During the last quarter of 2002, as part of the Federation’s budget process, committees and staff submitted expense projections for activities and services for 2003. When these were compiled into the initial draft budget, the projected loss from operations was in the area of $1 million. Senior staff and the Finance Committee carefully reviewed this draft and reduced the operational deficit to $130,000. The Finance Committee sent this adjusted budget to the Board of Directors, along with a motion to create a revenue-neutral budget for 2003. After careful consideration, the Board moved to accept the deficit budget and commit to utilizing Emergency Reserve Funds, if necessary, to provide services and projects in 2003 that support the Federation’s ultimate mission of protecting the public and supporting member jurisdictions.

Without a doubt, the primary negative driver of the 2003 Budget is the well-chronicled sharing of NPTE questions on the Internet. This event generated significant unbudgeted expense in 2002. Almost 800 new exam questions were written at a cost of several hundred dollars per question. Legal fees were incurred and an additional exam committee meeting was held to respond to the threat. The entire Federation staff put in extra hours, with many staff being pulled off other projects to help in the initial response to the matter. This same event has necessitated budgeting for significant future expenditures to respond to this injury to our examinations program. In the 2003 Budget, there are increases for additional examination committee meetings to increase the number of questions in the Item Bank, as well as legal fees to respond to the challenges and, if necessary, to prosecute individuals who have violated the Federation’s copyright of the exam questions and compromised the public protection component that the NPTE provides. More than $150,000 has been budgeted for these activities in 2003.

Related issues may arise that will require further financial expenditures as we continue the investigation of the exam compromise. Regarding the protection of the examination, it is not a question of “Can we afford to respond to the challenges?” Rather it is a question of “Can we afford not to?”

Our financial performance in 2002 was much better than the $26,000 loss that was projected. Despite continued declining numbers of examinations that were delivered and less than stellar market performance on investments, the Federation showed an operational surplus of $101,000. This positive result was due to at least two factors. One is that the Foreign Credentialing Commission on Physical Therapy’s financial performance in 2002 allowed it to pay down the reserve that FSBPT had previously advanced it for start-up operations. The other factor is that the FSBPT staff continues to scrutinize expenditures and seek cost effective ways to operate and perform services that support the jurisdictions. As we move into 2003, I am confident that these efforts by staff will continue and, in fact, be intensified.

Looking beyond 2003, our forecast is for another decline in examinations in 2004 and then a flattening of the number of exam deliveries after 2004. This is based on declining enrollment numbers in physical therapy education programs. With inflation, even if we fixed our current services as they are now, our expenses would continue to grow. For those who saw the presentation on the financial forecast data at the Annual
Meeting in September 2002, you know that the projected losses were staggering. We learned a valuable lesson last year: As technology progresses, we have to be proactive in protecting the NPTE and we must have the ability to respond quickly when threats arise. The exam fee increase that will take effect in 2005 will enable the Federation to provide proactive as well as reactive protection for the NPTE and still provide other valuable services as our members direct.

The Federation’s financial position remains strong. Past leaders of FSBPT established a financial reserve system that provides security and protection when “rainy days” occur. Rest assured that the Federation Board and staff will strive to outperform the 2003 Budget, just as we did in 2002.

It continues to be a pleasure to serve as an officer in this great organization and I thank you for the opportunity. As always, please feel free to contact me if you have any questions or if I can be of assistance in any way.
Wendling offered recommendations for regulatory boards to use in working with reporters.

1. **Public records.** Journalists use public records to develop stories. Public records belong to the people, not to the board or the staff. “Public records should be made in a timely fashion, meaning you don’t impose a 72-hour cooling off period,” Wendling said. “Public records should be provided the day the reporter requests them, if possible, and provided at a reasonable cost, which is the cost of reproducing the record. Don’t charge a dollar for a copy that costs you five cents to make.”

2. **Public records may require interpretation.** The board’s interests are best served when it helps reporters grasp the nuances of practice, the board’s role and activity, or other details that can enhance understanding of details in the public record.

3. **Speaking for the board.** Although most boards designate someone to be the spokesperson for a particular issue or for a specified term, “that doesn’t mean that sometimes we might not poll all the board members on a specific story, because not everybody agrees all the time,” Wendling said. The spokesperson should be accessible in both day-to-day matters, as well as at times of crisis. “If you have a crisis, don’t hide. If you say you’ll return a phone call at a specific time, follow through. I don’t expect you to drop everything to take my calls, but you or your assistant should tell me when you’ll call back.”

4. **No comment.** Journalists want the truth or nothing at all. Very rarely should a response be “no comment.” “But I would rather hear ‘no comment’ than something that isn’t true,” Wendling said.

5. **Establish ground rules.** Assume everything you say to a reporter is “on the record” unless you have an explicit understanding that your comments will not be reported. “Don’t casually say something is off the record in the middle of a sentence, for example,” Wendling explained. “You need to say specifically that you want something off the record. And then my word is my bond.”

6. **Talk like a real person.** Avoid using organizational acronyms, technical terms or language that does not make sense to the general public.

7. **Promote your board’s work.** Physical therapy state boards generally have public sessions. Deal with matters that should be dealt with in public 10. **Keep accurate meeting minutes.** Record actual discussions, not just attendance and motions.

8. **Don’t hide from the press.** Don’t instruct your assistant to say you’re not in the office when you are in the office.

9. **Don’t violate sunshine statutes.** Avoid calling executive

10. **Don’t patronize.** “You know a lot more about your practices than I do. I’m interested in learning about them. But I’ll be less interested if you talk down to me,” Wendling concluded.

**TYPES OF MEDIA**

Attorney Michael R. Moran discussed the importance of understanding how different kinds of journalists work.

1. **Daily newspapers.** Generally these journalists are working on a very tight timeline. Phone interviews are common. “They’re often looking for a pithy quote, a bit of irony,” Moran explained.

2. **Weekly newspapers.** Reporters have more time to develop the story. In-person interviews may be done. “They may have time to plow through public records you give them, whereas a daily journalist may want a quick call and a fax,” Moran said.

3. **Television.** TV reporters are looking for stories that have visual appeal, not necessarily just someone talking. They may want to do things such as come into a hearing room and shoot some film of a hearing or get a close-up shot of the offender.

4. **Radio.** Deadlines are tight and coverage is often extremely short, “a blip with oral appeal,” Moran noted. Interviews are usually taped for just a few minutes, with very short outtakes used in the broadcast.

5. **Trade press.** Many journalists cover industries, working on deadlines that are weeks, even months away. Sometimes they do investigative projects, unearthing controversial issues that can be damaging to a profession or organization.

**KNOW YOUR REPORTER**

Moran emphasized the need for building effective relationships with journalists. “Ask these key questions as you begin working with a reporter on a story,” Moran counseled.

1. **What’s the beat?** “The first question I ask a reporter I don’t know is what topic areas they usually cover, that is, their beat,” Moran said. A reporter who normally does not write about health care boards or issues likely will not know a lot. “Take time to educate that reporter by providing background and necessary details,” he said.

2. **What are their quirks?** “Every journalist has hot buttons. In some cases, you might want to avoid pressing those; in other cases, you just might want to press one or two,” Moran said. “The only way you know how a journalist covers a story is to build rapport.” Look at how that reporter has written other stories. Visit newspapers online to research their style, Moran suggested.
I. Never make promises you can't keep.
II. Never use media as an adversary. “Journalists have their job to do, we have ours; they are players in a system just like us,” Moran commented. “The reporter’s role is to inform the public and to hold us accountable as public officials. If you approach it from that perspective, working together is easier.”

DESIGN A MEDIA PROGRAM
Moran advises all organizations to develop a media relations program. “You need a strategy for dealing with the press on an agency or a systemic level,” he said. “You don’t want to be caught handling things in a piecemeal fashion.” Moran suggested that regulatory boards be proactive in developing

3. What are you getting into? Before agreeing to be interviewed, ask about the deadline, when and where the story will run, who else is being interviewed, the spelling of the reporter’s name, and what number to call back. “Never get caught up in talking to reporters before you have a chance to pull your thoughts together,” Moran emphasized. “After asking these key questions, agree to call back at a specific time with the information the reporter is requesting. Be pleasant but firm about this approach.”

4. What’s the story? Before giving an interview, review the records, talk with staff or others involved. “Have documents right in front of you during the interview and quote from them,” Moran said. “If you’re quoting out of a public record you will not be successfully sued for defamation. If you start getting into your own opinion, you could have exposure for civil liability.”

5. What’s the law? Know what the state public records laws allow. Consult the state ethics commission or public records division for assistance, if need be. “Be very careful in this area,” Moran said, “because if you disclose confidential government information, that is a criminal offense for a public official. Don’t put yourself in a jam by giving out more information than you are legally entitled to give out.”

6. Do staff and board members know the limitations? “Everyone in the organization should understand that anything they say to a reporter, or within the hearing of a reporter, can be printed in the newspaper,” Moran said. “You can’t emphasize this enough!”

Moran also shared his “never do” list:
- Never lie to a reporter. “If you lie to them once, they will come for you, sooner or later,” he said.
- Never say “no comment.”

Don’t avoid the press in sticky situations by saying “No comment.” Always find something to say. “Dr. Smith was charged yesterday; his attorney has filed a request for hearing. The hearing will be set in 10 days, and at that point, the man will be adjudicated.” That’s “no comment” without saying so.

In closing, Moran reminded participants that “anything you say to the media is fair game to be written down and reported.” But journalists should be held accountable. Compliment good and fair stories. Respectfully provide feedback if information is misrepresented. Keeping these principles in mind, regulatory boards should be able to formulate effective strategies for working with the media.

Rebecca M. Thomas specializes in writing about health-related topics. She has a degree in health journalism and a clinical background as a respiratory therapist. During the course of her career, Ms. Thomas has held professional managerial positions at the Arthritis Foundation, the American Diabetes Association and the Asthma and Allergy Foundation of America. Her writing is published in various print venues, including The Washington Post, as well as on health-oriented and consumer-interest Web sites, including thriveonline.com and discoveryhealth.com.
ELECTION RESULTS
The 2002 Membership Survey indicated that Delegates wanted more time to get to know the candidates for office, so the Education Committee built into the program a number of opportunities to “meet the candidates.” A Networking Reception on Friday evening provided some informal time to meet and chat, followed by a time to get to know everyone in a lively and entertaining exchange of gifts representative of each state, emceed by Education Committee members Sonja Farrell and Patrick Braatz. Then on Sunday evening, a Candidates’ Forum provided a formal setting for members to ask questions of candidates. Evaluation forms indicated that these opportunities enabled Delegates to feel more informed when it came time to vote.

Delegates elected two new members to the Federation’s Board of Directors: Judy White, PT, North Carolina; and Ann Tyminski, Maryland, who will serve as the administrative staff director on the Board. Peter Petrone, Rhode Island, was elected to the Nominating Committee. The Council of Board Administrators elected Cheryl Gaudin, Louisiana, as its new president, and Becky Klusch Hughes, Kentucky, to the CBA Nominating Committee. Congratulations to all.

Special thanks to the following members who completed their terms of office with the Federation in 2002: Diane Hansmeyer, Nebraska, Board of Directors; James Hughes, PT, Iowa, Board of Directors; Candy Bahner, Kansas, chair of the Nominating Committee; and J.J. Walker, New Mexico, president of the Council of Board Administrators. The work of the Federation would not be possible without the active participation and leadership of so many great individuals.

AWARDS
RICHARD MCDougALL LONG-TERM SERVICE AWARD.
President Blair Packard, PT, announced that the Board of Directors had renamed the Long-Term Service Award in honor of the Federation’s long-serving honorary member, Richard “Mac” McDougall. Mac’s commitment to the Federation over many years has been a model for volunteer involvement. The Richard McDougall Long-Term Service Award went to two individuals this year:

Steve Hartzell, executive officer of the Physical Therapy Board of California, has a long history of commitment to the work of the Federation. He attended both FSBPT Summits, has served on the Finance Committee, the Computer Needs Task Force, the Exam Committee, the...
Richard “Mac” McDougall, for whom the Board of Directors has renamed the Federation’s Long-Term Service Award, is the very exemplar of long-term service to the Federation and to the profession of physical therapy. Mac was one of the founders FSBPT in the 1980s, serving as treasurer of the Federation for more than 15 years. Carolyn Bloom, another founder and fellow Honorary Member, notes that “Mac set up the financial software program starting with only ‘red ink’ and planned ahead so there was funding for program needs even before the BOD initiated the new programs. Without his stable financial base, FSBPT could not have grown at the speed it did.” E. Dargan Ervin, Jr., current Federation treasurer, agrees. “Without a doubt, Mac’s dedication, perseverance and vision with the fledgling FSBPT played a major role in making it the financially strong organization it is today,” Ervin said.

The Federation has moved forward on many fronts, in large part because Mac was an astute financial manager, carefully monitoring the budget and at the same time exhorting staff and committees to think big and ask for what they need. The result has been an explosion of projects coupled with the resources to bring those projects to fruition. Additionally, Mac supported board administrators in their quest for a greater role in the organization and his leadership was vital to building cohesiveness and a shared vision within the Federation.

Bloom also noted Mac’s interest in teaching: “Mac shared his years of expertise as an investigator, serving as a role model for the current generation of investigators. He is a willing mentor who will answer all questions without tiring of educating others.” Mac was chair of the department of physical therapy at the University of Kentucky’s College of Allied Health Professions for 25 years. In 1999, the University of Kentucky established the McDougall Distinguished Alumni Lecture Series Award in his name. He chaired the Kentucky chapter of the APTA’s Standards of Practice Committee, and was on the Kentucky State Board of Physical Therapy for eight years, most of that time as chair. Since 1989, he has been an investigator for the Kentucky Board and has provided investigative training at both the state and national levels.

Scott Stephens, another Honorary Member who has known Mac well and worked closely with him over the years, said, “Mac has spent an entire professional career trying to help others while avoiding any personal recognition. He was always interested in what was good for everyone else. His body of work with the Federation epitomizes long-term, high quality, service.”

Congratulations, Mac, on this newest of honors in your career. The Federation has benefited in untold ways from your selfless and energetic involvement, and thanks you for having a vision of this organization long before it became what it is today.
Information Management Systems Committee, the Database Development Task Force, and the Uniform Pathway Task Force. He served as chair of the CBA Rules of Procedure Task Force and as treasurer of the CBA Executive Committee. In 1993, he received the President’s Award from the Federation.

**Mary Kay Solon**, PT, chair of the North Carolina Board of Physical Therapy Committee, also attended both FSBPT summits. She has served as member and chair of the Committee on Licensure Examination, as chair of the Examination Committee, and as a member of the Ethics and Legislation Committee and the Computer-Based Testing Task Force. She has been an item writer for the NPTE and has assisted in both Job Analyses done by the Federation.

**President’s Award.** President Blair Packard recognized two individuals for this award:

- **Susan Glover Takahashi**, executive director of the Canadian Alliance of Physiotherapy Regulatory Boards, was recognized for her continuing willingness to be a frequent speaker and resource for the Federation. Packard said, “She may be with the Canadian Alliance but she seems like one of us.” Takahashi has served on the Foreign Educated Physical Therapist Committee and is a member of the FCCPT Board of Directors.

- **Patrick Braatz**, Wisconsin, served on the Education Committee, and became a member of the FCCPT Board of Directors last year. He actively brings new ideas to the FCCPT Board and keeps the Board focused.

**Outstanding Service Awards.** Six members were presented with Outstanding Service Awards this year:

- **Steve Hartzell**, Maryland
- **Mary Kay Solon**, North Carolina
- **Susan Glover-Takahashi**, Canada
- **Judy White**, North Carolina
- **Patrick Braatz**, Wisconsin
- **Kathy Fleischaker**, Minnesota

1996, she has provided education sessions on job analysis, incompetence, the Coursework Evaluation tool, entry-level competence, and the Canadian Program Learning and Remediation (PLAR) program.

**Judy White**, PT, chair of the North Carolina Board of Physical Therapy, has been a critical member of numerous FSBPT committees, including the Education Committee, the Exam Construction and Review Committee, and the Exam Development Committee, which she currently chairs. She had a major role in the development of the education tool, *Practice Under Pressure*, which trains in supervision issues in North Carolina, and she has written numerous articles for *Federation Forum*. She has helped with multiple exam projects, including item bank work and willing participation in emergency meetings.

President Blair Packard recognized two individuals for this award:

- **Susan Glover Takahashi**, executive director of the Canadian Alliance of Physiotherapy Regulatory Boards, was recognized for her continuing willingness to be a frequent speaker and resource for the Federation. Packard said, “She may be with the Canadian Alliance but she seems like one of us.” Takahashi has served on the Foreign Educated Physical Therapist Committee and is a member of the FCCPT Board of Directors.

- **Patrick Braatz**, Wisconsin, served on the Education Committee, and became a member of the FCCPT Board of Directors last year. He actively brings new ideas to the FCCPT Board and keeps the Board focused.

**Kathy Fleischaker**, PT, Minnesota, attended the 1999 FSBPT Summit, and is a vital member of the Finance
Committee.

Cheryl Gaudin, executive director of the Louisiana State Board of Physical Therapy Examiners, is the new Council of Board Administrators president. She was the driving force behind the completion of the new online Jurisdiction Resource Manual, and she has served on the Awards Task Force, the Bylaws & Rules of Procedure Task Force, the Information Management Systems Committee, the Database Development Task Force, and as chair of the CBA Rules of Procedure Committee. She attended the 1999 FSBPT Summit.

John Greany, PT, Minnesota, has helped with multiple exam projects, including emergency meetings and item bank work. He served on the Rerubric Task Force, the PTA Online Review Guide Task Force, and as both member and chair of the PT Item Bank Review Committee. He also provided cardiac strips for enhanced items for the exam.

Pam Keller, PTA, Indiana, also helped with multiple exam projects, including emergency meetings and item bank work. She served on the PTA Online Review Guide Task Force, the Rerubric Task Force, the PTA Item Writer Review Committee, and as member and chair of the PTA Item Bank Review Committee.

Alan Meade, PT, Tennessee, is a member of the FCCPT Board of Directors and chair of the FCCPT Quality Review Committee (formerly the Credentials Review Committee). He has served on the Prescreening Task Force and was chair of the Foreign Educated Physical Therapist Committee.

Congratulations to these deserving awardees, and many thanks for your continuing commitment to the Federation.

Lastly, it is to the Education Committee that kudos should go for this outstanding Annual Meeting. They paid close attention to feedback from previous meetings and to the 2002 Membership Survey as they planned the program, with the result that this meeting achieved a new high in ratings in all categories. On a scale of 1–5, Topics were rated 4.74; Presenters, 4.62; Value, 4.49; and Overall Program, 4.74.

Congratulations and thank you to the Education Committee: Tina Steinman, chair; Patrick Braatz; Corinne Ellingham, PT; Sonja K. Farrell, PT; Ron Seymour, PT; and Deb Tharp, PT, Board Liaison.
diverge.” Confessions should not be accepted as the full story, nor should categorical denials be accepted. Every allegation needs to be examined.

| WITH MOST COMPLETE DENIALS, THE OFFENDER ENDS UP ADMITTING TO ABOUT 90% OF THE ALLEGATION, BUT IS SIMPLY DENYING WHAT HE OR SHE CONSIDERS THE WORST PART OF THE OFFENSE. |

CONFIRMING A COMPLAINT

“Most complainants are quite ambivalent about telling their story. They vacillate between protecting or supporting the offender and filing the complaint,” Schoener said. Guidelines can help confirm or disqualify a complaint:

FALSE AND MISLEADING COMPLAINTS

Many practitioners worry about the increasing number of false complaints patients lodge about sexual misconduct or boundary crossings, Dr. Schoener said. “In fact, the fear level among professionals about false complaints is almost off the map.” Schoener presumes all complaints are false until proven otherwise. False complaints generally fall into one of the following categories:

- Misunderstanding by counselor investigating the complaint
- Mistaken identity
- Misinterpretation of words or touch
- Exaggeration or distortion by the client
- Hostile client with an “agenda”
- Personal relationship categorized as a professional one
- Apparent fabrication
- False “recovered” memories

ASSESSMENT AND REHABILITATION FOR PROFESSIONALS WHO VIOLATE BOUNDARIES

To design the right plan for rehabilitating a professional who has violated boundaries with a client, the practice problem and the complaint itself must first be adequately defined. “The goal of the evaluation process is to figure out why the behavior occurred,” Schoener explained. “If you can’t figure out why the behavior occurred, then you can’t rehabilitate someone effectively. In three to five percent of cases, it’s impossible to figure out why the practitioner exceeded acceptable boundaries.”

Not everyone can be rehabilitated, even when behavior is understood. “If the person is a hard core sex offender, we really have no way to ‘fix’ that. We can help those people, but that’s not rehabilitation,” Schoener said. Rehabilitation is predicated on the idea that at one time the offender did function normally, and they can return to that normal behavior with appropriate treatment.”

Some sexual offenses are not categorized as serious. “Some practitioners have a bad habit of talking dirty to patients,” Schoener noted. “But those bad habits are harder to cure than many psychiatric disorders. If the behavior harms patients and it’s inappropriate for the practitioner to do it, the only question is, can we fix it somehow?”

If the evaluation team cannot determine why the sexual misconduct occurred, “then you can’t design a rehab plan because it is not theoretically possible,” said Schoener. “Those individuals should be pulled from practice and undergo treatment. If evaluators eventually figure out why a person committed the offense, a re-evaluation may be considered.”

When rehabilitation appears to be theoretically possible, a treatment plan proposal goes to the board, the training program or the employer for review and for a final decision as to whether to implement the plan. The practitioner also must agree to the plan, but sometimes the offender wants the plan changed. “Altering the plan is usually a big mistake,” Schoener noted. “Let those who developed the plan know you are being pushed by the practitioner to make a change and you’d like to explore other solutions. But don’t change the plan on your own.”

New problems that also need to be addressed may surface after treatment begins. Then, at the end of the rehabilitation program, a re-evaluation is conducted and a practice re-entry plan is proposed that may or may not be accepted.

“When reviewing outcomes of the rehabilitation process, be sure you look at each step taken,” Schoener cautioned. “Many times, no one figures out what was actually wrong with offenders. Instead, they are treated for secondary issues such as depression (depressed because they’ve lost their license, for example).” When an assessment is well done, there is no need to have multiples to back it up.

Boundaries with clients can get loose in many ways. For instance, a client may offer to help a therapist by providing investment advice. Suddenly, that relationship becomes too personal. Sexual harassment in the health care setting is another example of sexual misconduct and it can be just as damaging as overt sexual contact. Many times, complaints about practitioner behavior apply to their relationships with colleagues or other staff as well as with clients.

“Always keep in mind that professionals who are loose with boundaries do not always commit sex offenses and those who maintain boundaries do,” Schoener said. “There are many cases where a person with loose boundaries is not interested in sex, and innumerable instances where a professional who seems to be very tight with boundaries to the point of being distant or rigid turns out to be the offender.”

If a practitioner is caught committing a sex offense in the community, a board must determine whether that professional has the potential for behaving the same way in the workplace. “I
You cannot help someone who won’t admit what they’ve done. And I guarantee you cannot treat them successfully.” Some argue that a high degree of recidivism exists with rehabilitated practitioners, “but there’s no good evidence to support that theory,” he said.

DISCIPLINE

A board is responsible for protecting the public, with discipline and rehabilitation being tools. Loss of a license, registration, certification, or a job can be prescribed as discipline or punishment for sexual misconduct. In most cases, the question is not punishment versus rehabilitation. In fact, consequences may be a key ingredient in successful rehabilitation. Rehabilitation should not be used as a mild form of punishment. Following are typical goals of discipline:

- To reinforce a standard or underline the seriousness of an offense
- To deter the offender from repeating the offense
- To deter others from committing a similar offense
- To bring justice and/or to maintain the integrity of the profession.

OUTCOMES AND PRACTICE RE-ENTRY

The proposal of a rehabilitation plan does not mean it is going to be fully carried out. “The fact that we embark on an rehab scheme does not mean you’re going to get somebody back into practice again. That is our experience,” Schoener said. “A great many people don’t finish, and either old problems or new problems can come into play.” Rehab outcomes may include scenarios in which the professional

- refuses the evaluation once its reviewed;
- begins evaluation but does not complete it;
- is evaluated but a problem exists that cannot be “cured”;
- agrees to rehabilitation but then tries to get the requirements changed;
- becomes disenchanted with the field during rehab and asks for vocational counseling into another field;
- makes all progress possible but is still not sufficiently changed to be a “safe practitioner”; and/or
- the old problems are still there or new problems are identified, and rehabilitation is not successful.

When evaluating a practitioner for re-entry to practice following completion of the rehabilitation plan, the evaluator must answer two key questions:

- To a reasonable degree of psychological certainty, have the goals set for the rehabilitation been attained?
- Would you have any qualms whatsoever about having your own family members treated by this person?

When these questions can be answered with a sense of personal conviction, then the job of rehabilitation is done.
and public advocates, to want ongoing scrutiny of those who have previously been granted licenses and who may or may not be keeping up with their profession’s advances, or who may not even be maintaining the level of skill judged necessary for entry-level competence and patient protection.

Professional and regulatory organizations must sense a trend toward greater professional accountability, possibly for different reasons, and acknowledge that this issue must be addressed and not ignored.

**ROLE DELINEATION**

Professional associations have an obvious, broad and appropriate role in promoting and encouraging professional development. It is likewise their role to promote research and advance science in support of efficacy of services, to protect and advance scopes of practice, to promote and provide ongoing professional education, to provide for and encourage specialties with advanced certifications, and any number of other activities related to the promotion of professional development. They also have a legitimate interest in government affairs and influencing the public policy that impacts the professions.

Licensing boards, as well as the Federation of State Boards of Physical Therapy, have a far narrower role. Our mission is to protect the public through use of standards and regulatory processes that promote safe and competent practice. Standards and methods relating to both entry-level and continuing competence to practice, the ongoing regulation of practice, and the discipline of licensees where violation of law occurs all pertain to regulators.

There have been at least two concerns publicly expressed by APTA in relation to role delineation. The first is that the Federation’s development of continuing competence standards somehow encroaches on the professional association’s role in professional development. The second concern expressed is that continuing competence standards might be developed beyond entry-level, exceeding the role of regulatory focus, and somehow also encroach on an APTA role in promoting advanced competence in specialty areas. I’ll address this second issue later when I explain the Federation’s model.

There are many things that the Federation and our members are, and some that we are not. While the Federation may provide educational offerings related to any and all aspects of regulation, testing, discipline and licensure laws for regulators, board administrators and all other stakeholders, we do not engage in the business of professional clinical education, whether entry-level, post-graduate or continuing education. We do not provide professional entry-level education; we test and assure that the practical application of that knowledge by applicants for licensure is sufficient for public protection. We do not accredit professional education programs; we test the graduates of those programs for entry-level competence to practice.

Boards do, however, retain the right through longstanding constitutional legal authority to set educational standards for entry into the profession. Historically, this right is generally exercised in broad terms by requiring graduation from an approved and accredited educational program for U.S.-educated physical therapists, or a substantially equivalent education for foreign-educated physical therapists. The states, in their licensure acts, specifically reserve the authority to set educational requirements for entry to the profession, including defining what “substantially equivalent education” means. The fact that most U.S. licensing jurisdictions currently recognize a single accrediting authority, CAPTE, in physical therapy education, does not in any way abdicate the state’s authority to set educational standards for entry into the profession.

Using similar reasoning, it is my personal opinion that the Federation does not need to engage in the business of accrediting or certifying continuing education offerings. We should set standards, however, which encourage and even require—by way of practice acts—the ongoing professional development of licensees, and we should develop and provide the means to test the currency of knowledge sufficient to guarantee public protection. The Federation has occasionally been asked to enter the course-certifying business. Some state licensing authorities presently engage in CE course certification, and there are other professional regulatory associations that perform this function on behalf of their entire profession, in conjunction with maintaining a comprehensive licensure database. My personal opinion, based on the history and logic described above, is that CE certification on behalf of the profession is currently not an essential function of the Federation. Perhaps others will see this differently in the future.

**PROPOSED PLAN AND MODELS**

For several years, the Federation has had a Continuing Competence Task Force engaged in developing standards and models. Their work has been challenging but well chronicled and reported in Federation publications and meetings. I appreciate the foundation that these dedicated task force members have developed.

What the Federation now advocates and will work to further develop, pilot and encourage licensing jurisdictions to embrace, is a three-pronged approach that encourages and ensures a higher degree of continuing professional competence. I’ll explain each of these approaches.
JURISPRUDENCE EXAMINATIONS: Crucial to public protection is familiarity and compliance with the laws of the state under which a licensee practices. Statutes and their associated rules can change from time to time, and practitioner memory of those laws and rules can change even more rapidly. The Federation now has in-house test development expertise with its entry-level professional competence testing products, and that expertise is being applied to develop other tests. We are presently engaged in cooperation with jurisdictions in developing jurisprudence examinations that can be required, not only at entry-level, but also periodically throughout the lifetime of a practitioner. These are computer-based exams designed for administration at testing centers, similar to the way the NPTE is administered. The Federation encourages the development and use of well constructed jurisprudence examinations at entry-level and on a 5-6 year cycle thereafter for all licensees.

PROFESSIONAL DEVELOPMENT. Rather than default to mandatory CE requirements, the Federation advocates a broader, but in some ways more specific, program of professional development that has two elements. First, the program should be tied to re-licensure requirements for each renewal period (usually every 1-2 years) and include credit for such professional development activities as specialty certification, advanced practice or transitional professional degrees, contributions to professional research publications, formal in-service experience, and other activities that evidence ongoing professional development of knowledge and skill. The second important element of this approach is the required use of an assessment tool. What tool is used is not as important as insuring that there is an integral inclusion of an assessment tool that will allow licensees to evaluate their current status and set professional development goals.

How will jurisdiction boards assess the effectiveness of this learning process? They won’t, no more than they assess the direct teaching effectiveness of faculty in entry-level professional education. States that adopt such an approach will simply require their licensees’ participation in professional development activities at a level they deem appropriate to promote personal professional development. On the other hand, we will advocate assessing the results of such involvement similar to how we assess the results of an entry-level education. That will be the third element of our approach.

PRACTICE REVIEW EXAMINATIONS: The third element of the model involves the Federation creating a number of examinations similar to what is known in the literature as “key features examinations.” Licensing jurisdictions can use these exams to examine licensees less frequently, perhaps on a 10-12 year cycle in their licensure history. The exams will likely be short with 15-25 questions relating to a specific clinical case. Cases may be specialty related, although not specialist level. In other words, cases may be specific to an orthopedic, neurological, pediatric or other case familiar to the primary area of practice of the licensee being examined.

A practice review exam will focus on key decision-making points within the case. It will test a licensee’s ability to integrate information about the case within the context of each of the domains of the current patient/client management model and against accepted standards of competence required of any licensee, entry-level or otherwise. For example, it may test the ability to integrate pertinent elements of evaluation: history, examination, tests and measures, etc., in determining a diagnosis, a prognosis and plan of therapeutic intervention for that patient/client. The test may further evaluate knowledge of contraindications for care, proper documentation of care, appropriate parameters of care, and a variety of other elements consistent with current standards of practice, not at advanced specialty levels as some have prematurely concluded.

The implication of such a process is that a graduate of an entry-level program in the 70s will likely need ongoing involvement in a professional development program to keep knowledge and skill levels current with entry-level licensees and, more importantly, to keep knowledge and skill levels sufficient for whatever levels they are personally practicing.

The implication of such a process is that a graduate of an entry-level program in the 70s will likely need ongoing involvement in a professional development program to keep knowledge and skill levels current with entry-level licensees and, more importantly, to keep knowledge and skill levels sufficient for whatever levels they are personally practicing.
BEYOND ENTRY-LEVEL COMPETENCE

Having stated the above as clearly as I can, I must also address one more element of regulation so that misunderstanding does not occur. Someone once suggested the importance of saying something clearly enough that it will be understood, and then saying it again in a way that it cannot possibly be misunderstood.

In previous dialogue with APTA, the professional association expressed an opinion that the domain of practice acts, regulation and regulatory bodies deals only with ensuring entry-level competence. The Federation has strongly disagreed with this opinion and continues to do so. While the foregoing described model of encouraging and ensuring greater levels of continuing competence relates to the competence levels of any licensee—that is, a foundation level that can be equated to mean “entry-level”—that does not preclude a licensing board’s role in requiring competence at any level of practice, including advanced levels. As an example, for years the California physical therapy law has included a rather detailed set of requirements in rules for those physical therapists wishing to practice needle-insertion EMG. This is a requirement over and above entry-level requirements in California. Any state now has the authority to use a similar approach with any procedure that it determines is beyond entry-level if there exists a sufficient public protection interest. The right to set additional requirements for practicing such procedures is inherent in the licensing authority of a state.

Practice acts do not preclude licensing boards from examining licensees and holding them responsible for their conduct and competence at any level of practice. Indeed, those with greater skills may have even greater capacity to do good, or greater capacity to do harm. When harm occurs, a licensing board is certainly not limited to using only a standard of entry-level conduct or knowledge in arriving at judgment in a current case. Whether in a court of law with a malpractice case or before a licensure board, the professional licensee will be judged by a standard of law and by what comparable peers would reasonably do or not do in a similar case, i.e., the standard of practice. That standard, whether examined in a judicial or regulatory setting, would never hinge on entry-level knowledge, skill or judgment of this or any other licensee; it would center on the expected level of knowledge and performance at his or her current level of practice.

Likewise, before harm occurs, a state can require standards that assure minimal competence at any practice level beyond entry-level. Again, for example, the California rules provide additional standards for EMG practice before one provides these procedures. There could conceivably be a time in the future when testing capacity could reach a level of specificity where competence to practice at any level could be tested before or after potential or actual harm occurs. While such is clearly not the intent of the model of continuing competence that the Federation is now advancing, we specifically retain the privilege as being within our mission to always explore means to enhance the effectiveness of public protection by ensuring safe and competent physical therapist practice at any level. That is indeed our present and future mission.

CONCLUSION

I believe that the approach to stimulating greater continuing competence that I have presented has the potential to benefit all concerned—a true win-win-win situation for all: first the public, who will benefit from the currency and competence of all licensees no matter when they graduated; regulators (including legislators) who will fulfill their role of assuring public protection; the professional licensee who maintains competence and gains the respect of public and peers; and the professional association that will benefit in fulfilling its responsibility, as always, relative to a unique body of knowledge, and with perhaps even more involvement due to licensure mandates related to requirements for professional development.

As always, the Federation welcomes continued dialogue from within the Federation community and also with the entire profession. This is one of many important developments providing opportunities for dialogue and collaboration. I hope that my comments open the door to both and clarify our position and planning as a Federation of State Boards of Physical Therapy.

ENDNOTES

1 I Corinthians 14:8, The Bible, King James Version
2 www.futurehealth.ucsf.edu/compubs.html
3 www.cacenter.org/pronet401.html
4 APTA letter from Ben Massey, PT to Chapter Presidents, April 26, 2002
5 Federation response to APTA letter, sent to Chapter Presidents and Jurisdictional Boards, May 2002
Questions About the NPTE

- Who develops, maintains and administers the National Physical Therapist Examination?
- What is the Federation of State Boards of Physical Therapy?
- What is exam content?
- Do all licensing boards require the same passing score? (Answer: Yes, since July 1996.)
- What does the test evaluate and measure? (Are students aware that the test is to measure knowledge and abilities for entry-level practice?)
- What is involved in the application process? (Every Administrator knows how much dialogue exists about fees, applications, etc. What appears simple to us can actually be made simple when candidates review the forms and ask their questions in person.)
- Are there review courses available? [Be sure to mention that the Federation offers an online Practice Exam and Assessment Tool (PEAT). They can learn more about this on the FSBPT Web site at www.fsbpt.org.]
- How are scores received and/or transferred?

Questions About the Practice Act and Rules & Regulations

- May I see a copy of the state PT practice act? (Yes, we distribute copies of our practice act and rules. We always wonder if practicing PTs read these, and we feel that distribution to the students can have a great impact. We talk about the key sections and areas that can be confusing.)
- What is the complaint process? (This is a great opportunity to stress the importance of competency.)
- What action may a Board take if there is a violation?
- How are violations reported?

Questions About the Renewal Process

- What are fees and other requirements?
- Is continuing education mandated? (If the answer is yes, this is an opportunity to describe courses approved by the Board.)

I want to emphasize, in conclusion, that we in Arkansas have found that having a Board member, staff member or both visit the schools has been “worth its weight in gold,” to our Board and its processes and to the students.
Get nostalgic with Dick, Jane and Sally.
Enjoy recesses instead of breaks.
Work with your fellow regulators on the basic, bottom line for all that you do—protecting the public.

Join Us in Salt Lake City!
You’ll find Olympic-class skiing, snowmobiling, tremendous views of the Rocky Mountains and wonderful restaurants to pique the winter spirit. There are unlimited opportunities for skiers: Park City for the family, Deer Valley for the best grooming, Alta and Snow Bird for the skilled purist, Solitude and Brighton, Sundance and Snow Basin, and The Canyons, the area’s newest ski resort. And if you’re not a skier, how can you miss with all the beauty at hand?
**Highlights**

**Statutes 101: Dick and Jane Write Regulations** — A goal of this Spring Education Meeting is to provide a hands-on workshop for boards to address potential revisions to their practice acts. Deb Tharp, PT (FSBPT Board); Bridgett Wallace, PT (former APTA associate director of government affairs); Kent Culley (FSBPT legal advisor); and Chris Larson, PT (FSBPT director of professional standards) will lead attendees in looking at their practice acts with new eyes. Your only advance instruction: BYOA (bring your state’s practice act). You may wish to invite your state APTA chapter counterpart to collaborate on updating this key document for the profession, for regulators and for public protection.

**Keynotes**

**Barbara Safriet**, the Federation Board’s public member and associate dean at Yale University Law School, will speak on *What Is Public Interest?* Always a hit with FSBPT audiences, she entertains as she educates.

**Margaret Monahan Hogan, PhD**, is associate professor of philosophy at King’s College in Wilkes-Barre, Pennsylvania. Her topic, *Restoring a Culture of Honor*, is particularly appropriate as the Federation recovers from the internet cheating episode that forced removal from current use of one form of the exam. Ms. Hogan serves on the board of directors of the Center for Academic Integrity at Duke University.

**Brent James, MD**, will present the Third Institute of Medicine (IOM) Report entitled, *Leadership by Example: Coordinating Government Roles in Improving Health Care Quality*. Dr. James is vice president for medical research and continuing medical education and executive director of the Institute for Health Care Delivery Research at Intermountain Health Care in Salt Lake City. He is a member of the Institute of Medicine’s National Roundtable on Health Care Quality and the Quality of Health Care in America Committee. The IOM’s first report in 1999 found that 44,000–98,000 Americans die each year as a result of medical error. The second report in 2001 concluded that the health care system was plagued by a serious quality gap and called for eliminating handwritten clinical information by 2010 and refocusing the health care system on treating chronic illnesses. Come hear what the third report (October 2002) recommends to improve this disturbing situation in the nation’s hospitals.

**Isabelle Turcotte-Baird, PT**, is a Canadian Olympic triathlon competitor and a physical therapist. A delightful speaker, she will talk about *Olympic Training for Regulation* in an inspiring closing keynote address on Sunday.

**Accommodations**

Contact The Grand America Hotel in Salt Lake City at (800) 437-5288; www.grandamerica.com. Make reservations by February 12, 2003 to take advantage of a special room rate of $159 per night.

**For More Information**

800.881.1430, ext. 223 • Fax 800.981.3031 • kwright@fsbpt.org • www.fsbpt.org
Registration

IF YOUR REGISTRATION IS FUNDED BY THE FEDERATION, YOU WILL RECEIVE A SEPARATE MAILING CONTAINING REGISTRATION MATERIALS; DO NOT COMPLETE THIS FORM. PLEASE TYPE OR PRINT INFORMATION AND CHECK THE APPROPRIATE BOXES.

Registrant Information  Check all that apply:

- board member  - board administrator  - first-time attendee
- delegate  - alternate delegate  - associate member
- other

- PT  - PTA

Name (This is how your name will appear on the attendance list.)

Nickname for badge (if different)

Organization

Mailing Address

City  State  ZIP

Billing Address (if different)

City  State  ZIP

Daytime Telephone  Fax

E-mail

Special room or dietary needs requested (please specify):

Do not include my address on the attendance list.

Please send a receipt.

Fees Registration includes all three days of programming, continental breakfast, lunch and a reception.

<table>
<thead>
<tr>
<th></th>
<th>By 2/1</th>
<th>By 2/28</th>
<th>On-site</th>
</tr>
</thead>
<tbody>
<tr>
<td>Member*</td>
<td>$350</td>
<td>$370</td>
<td>$390</td>
</tr>
<tr>
<td>Non-Member</td>
<td>$400</td>
<td>$420</td>
<td>$440</td>
</tr>
<tr>
<td>Board Representative</td>
<td>WAIVED</td>
<td>WAIVED</td>
<td>WAIVED</td>
</tr>
<tr>
<td>Board Administrator</td>
<td>WAIVED</td>
<td>WAIVED</td>
<td>WAIVED</td>
</tr>
</tbody>
</table>

* Members and administrators of U.S. boards and Canadian colleges.

PAYMENT

- Check  - Visa  - MasterCard

Card Number  Expiration

Name as it appears on credit card

Signature

MAIL this form to FSBPT; 509 Wythe Street; Alexandria, VA 22314; or FAX this form with credit card information to 800.981.3031.