



*This article is based on a presentation by Tina Baum, PT, DPT, WCS, ATC, CLT, and David Reed, PT, Chair, NC Board of Physical Therapy Examiners, at the 2018 FSBPT Annual Meeting.*

## **Federation of State Boards of Physical Therapy Model Board Action Guidelines**

### **Model Board Action Guidelines**

Tina Baum and David Reed, both members of the FSBPT Ethics & Legislation Committee, presented the Model Board Action Guidelines (MBAG) at the 2018 FSBPT Annual Meeting and Delegate Assembly in Reston, Virginia. Members of the audience varied in their familiarity with the guidelines — some having heard multiple presentations over the last couple of years and some hearing about the guidelines for the first time. The purpose of the MBAG is to promote consistent application of remedial and punitive actions by licensing boards for a given basis for action.

Tina and David began by giving some history of development of the guidelines, demonstrating their use with examples of disciplinary cases, and discussing implementation in individual jurisdictions. The presenters also educated their audience on tools and resources that have been developed for the membership regarding the guidelines.

### **Background**

The development of FSBPT MBAG is a membership driven initiative. In the 2014 Membership Survey, 51 percent of respondents identified “uniform practices across states/portability of license across states” as FSBPT’s greatest challenge/opportunity. In the same survey, 77.7 percent of respondents *strongly agreed/agreed* with developing Model Disciplinary Guidelines as a new and future initiative. The membership survey task force recommended that FSBPT pursue development of model disciplinary guidelines in the future. The Ethics & Legislation Committee began researching model disciplinary guidelines in 2016. The committee reviewed disciplinary guidelines currently used by United States physical therapy regulators, other professions, and internationally. At the 2016 Leadership Issues Forum (LIF) the concept of model guidelines was presented to get membership feedback. The small groups at LIF generally agreed that model guidelines are a valuable project for FSBPT to pursue. The committee continued working to develop guidelines and unveiled the initial product at the 2017 LIF meeting. Incorporating feedback from LIF participants, the guidelines were presented at the 2017 FSBPT Annual Meeting. After final revisions were made based on feedback from the Annual Meeting,

the FSBPT Model Board Action Guidelines were finalized and approved by the Board of Directors.

### **Why are Guidelines Important?**

State licensure boards, regardless of profession, are charged first and foremost with a duty to protect the public. The charge includes protection from real, perceived, or potential harm to an individual or the public trust as a result of violating one of the grounds for disciplinary action found in the jurisdiction's practice act. In determining the appropriate action to best address the licensee's violation of a grounds for action, a regulatory body must ask "what is the goal of the board action?" Is the primary goal to be remedial or punitive in nature? The appropriate discipline should not be too lenient, failing to deter potential offenders, or too restrictive, leading to fewer reports of violation.

What to do when the public is placed in the way of actual or potential physical, financial, or emotional harm is of central concern. The licensing board is responsible for these decisions, though often with relatively little guidance based on anything but precedent. Although handling disciplinary cases is a primary task for regulators, typically very little training is provided to members of regulatory boards to carry out the charge of disciplining licensees. Regulatory board members rarely have expertise in the application of appropriate discipline or remediation. The typical board is made up of a mix of industry professionals and public members, and especially in healthcare, related professionals, such as a physician member on a board for non-physician providers. Regulatory and professional organizations are considering these issues and have created, or recommended creating, guidelines for the consistent, thoughtful, and appropriate application of remedial or punitive actions.

Consistency in the application of remediation and discipline is an issue for regulatory boards. Confusion is created for the board, the public, and the licensee when the same offense has completely different consequences in different jurisdictions. Multi-state license holders may have a situation where disciplinary action against them in one state is vastly different than the reciprocal action taken by another jurisdiction. Perhaps more confusing is when similar situations are handled differently within the same jurisdiction. Jurisdictions need internal consistency to minimize potential claims of unequal treatment if similar cases are handled in different manners. Jurisdictions using Model Board Action Guidelines will have a greater likelihood of staying consistent from case to case, mitigating variation when boards are assigned new legal counsel or administrator, or when relying on recollection of actions from past cases.

The relationship of the guidelines to the mission of public protection includes ensuring uniform, objective, reproducible process for the application of remediation or disciplinary action. Using a transparent process increases the trust in the board to do its work in a fair manner to both licensees and the consumers of services. Not only is it important that the licensed professionals understand the ramifications of committing a violation, the public served by these licensees should be aware of the standards to which these professionals are held. Since the board is charged with protection of the public from harm (real or potential, individual or public), transparency is essential in establishing trust in that profession. Licensees also have an increased trust in the regulatory board if there is a potential violation of a grounds for action, if an objective process by which the licensee will be evaluated exists and will be used in the licensee's case.

## **Challenges to Development**

Although there are many benefits to establishing MBAG, challenges to development exist. As discussed above, the inconsistency of discipline across states is known to exist. Boards may feel that the way their jurisdictions handle complaints and disciplinary matters is the best or most efficient way and be closed to suggestions of a different model.

Jurisdictions have also varied in their choice of basis for action code/category reported to the National Practitioner Data Bank (NPDB). The NPDB, unfortunately, has never published specific definitions for these basis for action Categories. Without specific definitions for the categories, it is impossible to determine when to use one category versus another. As a result every jurisdiction categorizes the data differently; jurisdictions may use more global terms, such as negligence, when there is a more narrow code that better describes the actual offense.

To standardize the use and understanding of these basis for action categories for its membership, the FSBPT Board of Directors appointed the Disciplinary Categories Task Force to develop definitions and guidelines for how and when to use the categories. The task force published a [resource document](#) available to all members with definitions, examples, and guidance for each category and code. Jurisdictions are encouraged to employ the guidance from this resource document in conjunction with the MBAG to maintain consistency.

A major challenge is a lack of standardization in terminology and language amongst the jurisdictions. Typical terms of discipline used in jurisdictions which may have similar meanings include reprimand/warning, fines/fees/monetary sanctions, or suspension/probation. In any guidelines, the terms to be used need to be defined clearly. Clear definitions allow consistent application of the guidelines whether or not the specific terminology of the model guidelines differs from that of the jurisdiction; the intent of the terms defined in the model remain clear.

## **Conclusion**

Any guidelines must have flexibility, acknowledge the differences between states, and permit boards to exercise judgment. A board desiring to put a process in place to increase transparency, consistency, and the appropriate application of discipline or remediation will find Model Guidelines a meaningful resource. If the board is interested in implementing the MBAGs, the Ethics and Legislation Committee has developed two full PowerPoints; one is an informational introduction to the guidelines, the second one guides a jurisdictions through implementation. FSBPT also has materials available to members that will help your jurisdiction go through the cross-walking steps of glossary terms and basis for actions, grounds for actions, and sanctions with the MBAGs. The training materials may be requested from [professionalstandards@fsbpt.org](mailto:professionalstandards@fsbpt.org). The [MBAG and a background paper on their development](#) may be found at the FSBPT Member's Website.



**Tina Baum**, PT, DPT, WCS, ATC, CLT, served on the Nevada Board of Physical Therapy for 6 years including serving as Chair of the Board. She was appointed to the FSBPT Practice Analysis Task Force in 2016 and to the Ethics and Legislation Committee in 2017. Tina received a BS in Athletic Training in 1993, her MPT in 1997, and a DPT in 2014. She has been in private practice since 2002 and is a Board Certified Clinical Specialist in Women's Health. Tina also serves as the Nevada representative for the APTA Section on Women's Health.



**David Reed**, PT, currently works as an administrator of a practice providing physical, occupational, and speech therapy services to geriatric patients throughout the state of North Carolina. He is currently in his second term as a member of the NC Board of Physical Therapy Examiners (NCBPTE), after his initial appointment in 2014. David has served as Chair of the NCBPTE since 2016. He is the current Chair of the FSBPT Ethics and Legislative Committee and received the FSBPT Outstanding Service Award in 2017.

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