

# Colorado Physical Therapists Licensure

*-- Update 2004 --*

*Bill Owens, Governor  
Tambor Williams, Executive Director  
Rosemary McCool, Division Director  
Kevin D. Heupel, Program Director*

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## **New Executive Director**

As of August 2, 2004, the Department of Regulatory Agencies (DORA) has a new Executive Director. She is State Representative Tambor Williams of Greeley. The former director, Richard F. O'Donnell, was appointed by Gov. Owens to head the Colorado Commission on Higher Education earlier this year.

Tambor served in the Colorado House of Representatives since 1997 and was Speaker Pro Tem. She chaired both the House Business Affairs and Legislative Audit committees and is a member of the House Appropriations committee. Throughout her eight years in the Legislature, she served on interim committees dealing with motor vehicle insurance, small employer health insurance availability, and health care.

As an attorney, Tambor's practice has focused on domestic law, estate planning, business organization, insurance, employer practices, and contracts. She earned her law degree from the University of Colorado, Master of Arts degree from Western State College, and Bachelor of Arts degree from Queens College in New York.

## **Electronic Newsletter**

Would you like to receive quarterly notices about the regulations impacting your physical therapy license? If so, sign up for the Physical Therapy Update. To receive your copy by e-mail, simply sign up from the e-mail account where you would like to receive it. When possible, change your format type to "Plain Text" before sending. Send your request to [majordomo@hermes.state.co.us](mailto:majordomo@hermes.state.co.us). Do not include anything in the subject line. Include the words "subscribe ptupdate" as the body of the message, with no punctuation or other words. Remember to delete your automatic signature block, if you use one. You may unsubscribe at any time. The Division will not use, sell, or share this list for any other purpose.

It is our goal to move away from printed newsletters so please take advantage of this opportunity. You may also review updates on our Web site at [www.dora.state.co.us/physical-therapy](http://www.dora.state.co.us/physical-therapy).

## **Corporate Practice**

The topic of physical therapy and corporate practice has been a big issue lately. Section 12-41-124(5) of the Physical Therapy Practice Act specifically states that corporations shall not practice physical therapy unless properly incorporated under the terms and restrictions in § 12-41-124, C.R.S. This provision prevents unlicensed persons from owning physical therapy clinics and physical therapists from working at such corporations. A properly organized physical therapy clinic is one that is organized through persons licensed by the Director of Registrations to practice physical therapy in Colorado, where all shareholders of the corporation are persons licensed by the Director to practice physical therapy, and the president of the corporation is a Colorado licensed physical therapist.

There is an exception when a clinic is a provider network organized pursuant to section 6-18-301 *et seq.*, C.R.S. Section 6-18-303(2) of the Colorado Revised Statutes specifically exempts provider networks from the corporate practice doctrine if three conditions are met:

- (1) There is a written agreement which contains language to the effect that the relationship created by the agreement will not affect the exercise of the licensed or certified professional's independent judgment in the practice of the profession;
- (2) The professional's judgment is, in fact, unaffected; and

- (3) The professional is not required to exclusively refer any patient to a particular provider or supplier or to take any other action that the professional determines is not in the patient's best interest.

Thus, if an entity meets the definition of a provider network, and there is a written agreement between the entity and physical therapist, then the corporate practice of physical therapy is acceptable.

There are several penalties that could result from the unlawful corporate practice of physical therapy. The Director could initiate an injunctive proceeding against the corporation, impose a fine, and seek criminal penalties. The same remedies may be imposed upon physical therapists working at such unlawful entities, as well as initiating disciplinary action against the physical therapists for aiding and abetting the unlawful corporate practice of physical therapy. Please be sure to have your attorney review the corporate practice doctrine when organizing a physical therapy clinic.

### **Physical Therapy Assistants and Physical Therapy Aides**

Our office has seen a rise in complaints about PTAs and aides. The Physical Therapy Practice Act specifies two categories of individuals that a physical therapist may supervise in section 12-41-113, C.R.S., which are physical therapy assistants (PTAs) and physical therapy aides (aides). Colorado does not license PTAs. Instead, one of three conditions must exist for an unlicensed person to function as a PTA:

1. Successfully complete a physical therapist assistant program accredited by the Commission on Accreditation in Physical Therapy Education (CAPTE) or any comparable successor entity,
2. Be registered, licensed, or certified as a physical therapist assistant in another state, or
3. Be qualified to take the physical therapy examination.

If a person does not satisfy one of the PTA criteria listed above, that person is an aide. An aide can be a CNA, an athletic trainer, occupational therapist, massage therapist or other skilled individual.

There are certain duties that cannot be performed by a PTA or an aide. The physical therapist is responsible for the initial examination and evaluation, interpretation of referrals, diagnosis and prognosis, development and modifications of plans of care, grade 5 mobilizations, wound debridement, and determination of discharge outcomes.

A physical therapist shall rely on his/her expertise and decision-making capability when determining the most appropriate utilization of unlicensed persons in assisting the physical therapist in the delivery of services in a safe, effective, and efficient manner to the patient. Keep in mind that you, the physical therapist, are legally accountable for all care provided by unlicensed personnel under your supervision.

Once a task is delegated, it requires supervision. The degree of supervision depends on whether the task is delegated to a PTA or an aide. A PTA is under the "responsible direction and supervision" of the physical therapist. "Responsible direction and supervision" is defined as direction and supervision provided by the physical therapist who assumes accountability for the delegated acts. An aide is under "direct supervision" of the physical therapist. "Direct supervision" is defined as supervision that is on the premises and in the same building where any such unlicensed personnel are practicing.

### **Billing Responsibility**

Physical therapists are responsible for all billing claims submitted in their name, regardless of whether they are prepared by their own office or a management or billing service. If a billing is submitted incorrectly in your name (i.e. over billing, up-coding, unbundling, or using wrong codes), this office will hold you responsible regardless of who prepared the bill. Thus, it is very important to use a reputable billing service that uses the correct Current Procedural Terminology (CPT) codes. Most importantly, the CPT codes need to match the patient records. If not, such billing could constitute insurance fraud and result in disciplinary action against your license.

### **Latest Information Available on Website**

The current physical therapy statutes, rules and regulations, and policies can be found on our Web site at [www.dora.state.co.us/physical-therapy](http://www.dora.state.co.us/physical-therapy).

### **Malpractice Settlements**

If your insurance company pays a malpractice settlement on your behalf, you must report it to this office within 90 days!

## **Director's Policy #3 on Supervision of Physical Therapy Students**

In Director's Policy #3, the issue of physical therapy student supervision is addressed. The policy states:

The Physical Therapy Practice Act (the Act) at section 12-41-114(1)(a) permits the unlicensed practice of physical therapy by students enrolled in an accredited physical therapy program if under the direction and immediate supervision by physical therapists currently licensed in Colorado. In section 12-41-113(1), C.R.S. of the Act "direct supervision" is defined as on the premises where any such unlicensed individuals are practicing. This section also allows a physical therapist to utilize the services of no more than three unlicensed individuals. The Director acknowledges that clinical internships by physical therapy students are an important part of their education. As such, the Director is willing not to apply the supervision restriction when physical therapy students are only observing the practice of physical therapy and not engaged in patient contact. Once the physical therapy student begins to assist in the practice of physical therapy as defined in section 12-41-103(6), C.R.S., the physical therapy student counts as one of the three unlicensed individuals.

## **Pilates**

Pilates is very popular and being taught by some physical therapists. The use of Pilates in physical therapy is acceptable. However, when a physical therapist becomes a Pilates instructor he or she needs to remember that he is still a physical therapist at all times and is held to generally accepted standards. Thus, it is important to utilize your expertise and skill when teaching such classes, regardless of whether intended for therapy or enjoyment. We also encourage physical therapists to check with their malpractice insurance companies to verify whether their coverage includes Pilates.

## **Violations of the Physical Therapy Practice Act**

Physical therapists can assist in identifying unsafe and negligent physical therapists. If a physical therapist knows that another physical therapist is violating the Physical Therapy Practice Act, he/she has a responsibility to file a complaint with this office pursuant to section 12-41-117(3)(b), C.R.S. This is sometimes the only way that we are aware of a violation that is causing harm to the patients. For those who fear retribution, the practice act provides an immunity clause to those who file complaints or serve as a witness. Please help us in our mission to protect the public by providing information about unlawful practice.

## **Name and Address Changes**

It is important to notify this office within 30 days of a name or address change. Address changes can be mailed, emailed or faxed to this office. For a name change, a copy of the legal document showing the change must accompany the request. Acceptable legal documents are a marriage certificate, divorce decree, or court order. Please do not send original legal documents.

You can email address changes to [pt@dora.state.co.us](mailto:pt@dora.state.co.us), fax them to (303) 894-7693, or mail address and name changes to: Division of Registrations, 1560 Broadway, Suite 1350, Denver, CO, 80202.

## **Coming Soon: A New Way to Do Business with the Division of Registrations**

The Division of Registrations will soon be introducing **Registrations Online Services**, a new online system that will make maintaining your professional license easier than ever. After a simple registration process through our secure Web interface, you will be able to:

- Renew your license online using a credit card.
- Update your mailing address and contact information in "real time."
- Check the status of a pending application, and much more!

Registrations Online Services is the final phase of Project T, the Division of Registrations' ongoing effort to streamline, standardize, and improve the way we do business. For the latest updates on Registrations Online Services, please keep checking our Web site at [www.dora.state.co.us/registrations](http://www.dora.state.co.us/registrations).

## Sign Up for the DORA Regulatory Notice Email System

The Department of Regulatory Agencies' new Regulatory Notice email system provides business owners with the ability to effortlessly track and comment on proposed state regulations before they take effect. After signing up at the Office of Economic Competitiveness and Regulatory Reform Web site: [www.dora.state.co.us/oecrr](http://www.dora.state.co.us/oecrr), participants will receive an email when a proposed regulation has been submitted in their specified industry. The email provides several key items: a link to the proposed rule, details about the hearing (time, location, etc.), and the submitting agency's contact information. Should you have concerns about a proposed regulation, please contact the Office of Economic Competitiveness and Regulatory Reform at (303) 894-2950 or [oecrr@dora.state.co.us](mailto:oecrr@dora.state.co.us). The DORA Regulatory Notice email system helps to hold state government more accountable for its actions, and empowers Coloradans to become more involved in the regulatory process. Sign up for DORA Regulatory Notice today!

## Disciplinary Actions

The following people have been disciplined between August 1, 2002 and July 31, 2004:

| <b>Licensee's Name</b> | <b>Date</b>    | <b>Conduct</b>  | <b>Disciplinary Sanction</b> |
|------------------------|----------------|---|------------------------------|
| Darwin G. Abrams       | June 17, 2003  | Failed to make essential entries in patient record                                  | Probation                    |
| Margarita Antonio      | Oct. 24, 2003  | Submitted SSN affidavit while holding SSN   | Letter of Admonition         |
| Luisa N. V. Apin       | May 5, 2004    | Failed to supervise unlicensed personnel  | Probation                    |
| Dan M. Babbel          | Feb. 7, 2003   | Substandard patient care;<br>Inadequate record keeping                              | Probation                    |
| Ralph L. Bidwell       | Sept. 3, 2003  | Failed to supervise unlicensed personnel  | Letter of Admonition         |
| Timothy D. Bonack      | Mar. 14, 2003  | Failed to make essential entries in patient record;<br>Excessive patient treatments | Probation                    |
| Monika L. Chace        | Feb. 21, 2003  | Unlicensed practice   | Letter of Admonition         |
| William F. Perkins     | June 1, 2004   | False information on application;<br>Failed to reveal felony conviction             | Probation                    |
| Rodrigo D. Rodriguez   | April 28, 2004 | Failed to make essential entries in patient record;<br>Excessive patient treatments | Probation                    |
| Richard A. Sadvar      | Feb. 4, 2004   | Billing improper CPT codes  | Probation                    |
| Carmen I. Smith        | Mar. 5, 2003   | Failed to make essential entries in patient record;<br>Excessive patient treatments | Probation                    |
| Grant G. Stephens      | Aug. 25, 2003  | False information on application  | Voluntary Surrender          |
| Fredrick J. Stoot      | May 6, 2003    | Failure to notify of settlement   | Letter of Admonition         |
| Teresa A. Sturm        | July 14, 2004  | Failure to notify of settlement   | Letter of Admonition         |

Between July 1, 2002 and June 30, 2004, 50 new complaints were filed against physical therapists in Colorado. This is up from the 23 complaints filed between July 1, 2000 and June 30, 2002. The allegations filed against physical therapists include engaging in substandard care, practicing without a license, poor supervision, excess treatment, monetary dispute, sexual misconduct, practicing beyond the scope of physical therapy, providing false information, failure to inform of judgment, and insurance fraud. Eighteen complaints were dismissed between August 1, 2002 and July 31, 2004.

To view disciplinary documents dating from January 1, 1999 to the present, visit:  
<http://www.dora.state.co.us/doraimages>.