IN RE: Petition for Declaratory Statement
of MARK D. STOFF, PT

FINAL ORDER

THIS MATTER came before the Board of Physical Therapy Practice pursuant to Section 120.565, Florida Statutes, and Rule 28-105.002, Florida Administrative Code, on September 20, 1997, in Orlando, Florida, for the purpose of considering the Petition for Declaratory Statement filed by Mark D. Stoff. Mr. Stoff was present and provided testimony in support of his request.

Having considered the materials presented and the testimony, the Board of Physical Therapy Practice makes the following factual findings and conclusions of law.

FINDINGS OF FACT

1. Mark D. Stoff is a physical therapist licensed by the state of Florida. Petitioner asks whether he may accept referrals from physician assistants and advanced registered nurse practitioners for physical therapy.

2. Petitioner runs an outpatient orthopedic rehabilitation clinic. Approximately ten percent of the referrals he has received are from licensed physician's assistants and advanced registered nurse practitioners. These referrals often will include a signed plan of treatment. Physicians licensed pursuant to Chapter 458 or 459 will make the vast majority of his referrals. In all instances the referring professional is available for consultation by the physical therapist. If treatment is required beyond twenty-one days,
Petitioner will direct the patient back to the referring professional.

3. A physical therapist under Florida law may initiate a plan of treatment without a referral from another licensed health care practitioner. Only if the patient appears to have a condition not treatable by physical therapy or if treatment beyond twenty-one days for a condition not previously assessed is needed does the law require assessment by a practitioner of record.

Section 486.021(11), Florida Statutes, in part, states:

A physical therapist may implement a plan of treatment for a patient. The physical therapist shall refer the patient to or consult with a health care practitioner licensed under chapter 458, chapter 459, chapter 460, chapter 461, or chapter 466, if the patient’s condition is found to be outside the scope of physical therapy. If physical therapy treatment for a patient is required beyond 21 days for a condition not previously assessed by a practitioner of record, the physical therapist shall obtain a practitioner of record who will review and sign the plan. A health care practitioner licensed under chapter 458, chapter 459, chapter 460, chapter 461, or chapter 466 and engaged in active practice is eligible to serve as a practitioner of record.

Petitioner is unsure whether the above referenced provision prohibits him from accepting referrals from advanced registered nurse practitioners or physician assistants.

4. The Board previously received information from the Florida Nurses Association citing that advanced registered nurse practitioners are authorized to “order physical and occupational therapy”. Section 464.012(3)(c)2., Florida Statutes.

5. Neither Chapter 458 nor 459, Florida Statutes, specifically addresses the role of physician assistants vis à vis physical therapy. Sections 458.347(1)(e) and
459.022(1)(e), Florida Statutes, authorize physician assistants “to perform medical services delegated by the supervising physician.” Should a licensed physician delegate referral for or monitoring of physical therapy treatment to the physician assistant, the Board of Physical Therapy Practice recognizes that as lawful. Further, since physician assistants are licensed pursuant to chapter 458 or 459, Florida Statutes, the Board finds they are clearly included in the list of health care practitioners in Section 486.02(11), Florida Statutes, who may be considered “practitioner of record.”

CONCLUSIONS OF LAW

1. The Board of Physical Therapy Practice has jurisdiction over the matter pursuant to Section 120.565, Florida Statutes, and Rule Chapter 28-105, Florida Administrative Code.

2. Petitioner Mark D. Stoff has established the requisite interest and standing to maintain this action.

3. The Board of Physical Therapy Practice has no jurisdiction over chapters 458, 459 and 464, Florida Statutes, covering medical doctors, osteopathic physicians, and nurses, respectively. It recognized that regulation of physician assistants is covered by provisions in chapters 458 and 459 and the Boards and Council mentioned therein; and advanced registered nurse practitioners are regulated by the Board of Nursing.

4. As licensees under chapter 458 or 459, Florida Statutes, physician assistants are specifically covered health care practitioners within Section 486.021(11), Florida Statutes.

5. Advanced registered nurse practitioners within their scope of practice may
order physical therapy. Section 464.012, Florida Statutes.

6. If a physical therapist does receive a suggested plan of treatment with which, in the physical therapist's opinion after proper assessment of the patient, the therapist does not agree, the better practice is to confer with the referring practitioner. As a licensed health care practitioner, a physical therapist has the responsibility to practice within the scope of practice defined, inter alia, in Sections 486.021(11) and 486.125, Florida Statutes.

7. Because a referral is not specifically required under Section 486.021(11), Florida Statutes, the Board does not believe it is necessary to require a referral from a practitioner licensed under Chapter 458 (medical doctors), Chapter 459 (osteopathic physicians), Chapter 460 (chiropractic physicians), Chapter 461 (podiatrists), or Chapter 466 (dentists). By training and licensure both advanced registered nurse practitioners and physician assistants should be in a better position than a lay person in assessing the need for physical therapy. A lay person could independently seek physical therapy treatment. Nothing in Section 486.021(11), Florida Statutes, prohibits a physical therapist from treating a patient to whom a health care practitioner suggests the need for physical therapy and who refers that patient to a physical therapist.

8. The Board of Physical Therapy Practice concludes Mr. Stoff may within the scope of chapter 486, Florida Statutes, treat patients referred to him for physical therapy treatment by properly licensed advanced registered nurse practitioners or physician assistants.

9. Petitioner is notified he may appeal this order by filing one copy of a Notice of
Appeal with the Clerk of the Department of Health, and by filing a filing fee and one copy of a Notice of Appeal to the District Court of Appeal within 30 days of the date this Order is filed.

DONE AND ORDERED this 2nd day of February, 1998.

BOARD OF PHYSICAL THERAPY PRACTICE

PAUL HUGHES, P.T.
CHAIRMAN

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Order was provided by certified mail to Mark Stoff, 309 E. Osceola Street, # 107, Stuart, Florida 34994, this 16th day of February, 1998.

[Signature]
NOTICE OF DISPOSITION OF PETITION FOR DECLARATORY STATEMENT

The Board of Physical Therapy Practice hereby gives notice that it has issued a final order in the Petition for Declaratory Statement (# BOPT-DS-97-01) filed by Mark D. Stoff, P.T. The Petition asks whether physical therapists may accept referrals from physician's assistants and advanced registered nurse practitioners in light of the requirements in Section 486.021, Florida Statutes, for only specified practitioners to be able to sign physical therapy orders/plan of care.

The Board reviewed the petition at its meeting on September 20, 1997, in Orlando, Florida. The Board's final order concludes that the Petitioner may within the scope of Chapter 486, Florida Statutes, treat patients referred to him for physical therapy treatment by properly licensed advanced registered nurse practitioners or physician assistants.

A copy of the Final Order can be obtained by writing to: Kaye Howerton, Executive Director, Board of Physical Therapy Practice, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750.
January 20, 1997

PETITION FOR DECLARATORY STATEMENT

PETITIONER:

Mark D. Stoff, P.T. (FT0001216)
309 E. Osceola Street, Suite 107
Stuart, Florida 34994

AGENCY:

Board of Physical Therapy Practice
Agency for Health Care Administration
State of Florida

STATUTORY PROVISION FOR CONSIDERATION:

Chapter 486
Physical Therapy Practice
486.021 Definitions
(11) "Practice of Physical Therapy...."
Physician's Assistants (P.A.) and Advanced Registered Nurse Practitioners (A.R.N.P.) are commonly involved in direct patient care and work closely with physicians. Physician's Assistants and Advanced Registered Nurse Practitioners make referrals for physical therapy services and sign the prescription/plan of care on behalf of their physician employers. Physician's Assistants and Advanced Registered Nurse Practitioners work as physician "extenders" and their referrals to physical therapy are accepted. However, the Florida Statute 486.021 does not identify these practitioners specifically as being able to sign a physical therapy order/plan of care. The acceptance of these orders has been an established practice in the medical community since Physician's Assistants and Advanced Registered Nurse Practitioners work under protocols established by medical practitioners licensed under Florida Statutes 458 and 459. Many Physical Therapists and administrators are unwilling to accept these referrals until the law is clarified.

I therefore request the Board of Physical Therapy Practice to provide a clarification of this issue to insure that Physical Therapists continue to practice within the regulations and rules establishing the Agency for Health Care Administration.

Mark D. Stoff, P.T., M.Ed.
Florida License #PT0001216

MDS/sbs