

July 26, 2011

EDUCATION FUNDING AND TAXATION COMMITTEE CONCUSSION STUDY – SB 2281
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REPRESENTATIVE KELSCH AND COMMITTEE MEMBERS:

My name is Jack McDonald. I'm appearing here today on behalf of the North Dakota Board of Physical Therapy (NDBPT).

The NDBPT, at its May 9th 2011, meeting, discussed at length SB 2281, the concussion bill, and more specifically the final wording of Section 5 regarding return to play:

5. A student who is removed in accordance with subsection 3 may not be allowed to return to practice, training, or competition until the student or the student's parent obtains written authorization from a licensed, registered or certified health care provider whose scope of practice included the diagnosis and treatment of concussion and provides that authorization to the students coach or athletic trainer.

Our main concern is the use of the term "diagnosis." We had some concerns this might preclude physical therapists (PTs) from making the return to play decision. The Board looked at what other states are doing, the Commission on Accreditation in Physical Therapy Accreditation (CAPTE) standards, the National Physical Therapy Examination (NPTE), the American Physical Therapy Association's (APTA) position paper and The Guide to Physical Therapist Practice (GPTP) to decide what this meant to PT's in North Dakota.

CAPTE states the skills relating to evaluation and treatment of concussion/brain injuries includes systems review screening of general health status (nausea, vomiting, dizziness, lightheadedness, numbness, paresthesia, weakness mentation, cognition); tests and measures of central neurological system function including arousal, attention, orientation, processing and registration of information, retention, recall and communication/language. CAPTE considers this to be minimum required skills of physical therapist graduates at entry-level.

The NPTE includes questions pertaining to concussion/brain injuries. The APTA's stance is: "The American Physical Therapy Association recognizes that concussions should be evaluated and managed by a multidisciplinary team of licensed health care providers. Physical therapists are an integral part of the multidisciplinary team. An individual suspected of having a head injury should be removed from participation in organized activity for assessment of concussion. If signs, symptoms, and behaviors of concussion are present, the individual should be prohibited from further participation until he or she is evaluated by and receives written clearance for return to participation from a licensed health care provider trained in the evaluation and management of concussion".

In addition, the GPTP describes the practice pattern for diagnosis and treatment of impaired motor function and sensory integrity associated with non-progressive disorders of the central nervous system and specifically includes concussion.

Under our North Dakota Physical Therapy Practice Act (Ch. 43-26.1, NDCC), the practice of physical therapy (43-26.1-01 (9)) includes:

- a. Examining, evaluating, and testing individuals with mechanical, physiological, and developmental impairments, functional limitations in movement and mobility, and disabilities or other health and movement-related conditions in order to determine a diagnosis for physical therapy, prognosis, and plan of therapeutic intervention, and to assess the ongoing effects of intervention.
- c. Engaging as a physical therapist in reducing the risk of injury, impairment, functional limitation and disability, including the promotion and maintenance of fitness, health, and wellness in populations of all ages.

Other states' physical therapy boards have taken varying positions on this issue. Some states allow physical therapist but not athletic trainers to make the decision while other states allow the opposite.

Our 5/9/2011 minutes concerning discussion of SB 2281 read that: "The first item on the agenda was discussion of Senate Bill 2281 just passed by the North Dakota Legislature. Robert Schulte and Jack McDonald discussed and clarified the use in the legislation of the phrase "diagnosis and treatment of concussion" when describing who could authorize an athlete's return to practice or play. It was noted that this was not described in the bill as strictly a medical diagnosis and that the Legislature, had it intended it to be a medical diagnosis, would have specified this. It appears the overall goal of this legislation is that the injured athlete be evaluated by a health care professional trained in concussion management. Evidence presented for the board's consideration included:

- 1) CAPTE felt this is within the accreditation standards for PT schools and academic education for the PT.
- 2) The NPTE examination tests for this under foundations for evaluation, differential diagnosis and prognosis.
- 3) The GPTP describes the practice pattern for diagnosis and treatment of impaired motor function and sensory integrity associated with non-progressive disorders of the central nervous system and specifically includes concussions.

Following discussion, the Board unanimously accepted a motion that the "diagnosis and treatment of concussions" language of SB 2281 includes the diagnosis a physical therapist is authorized to make under Ch. 46.1 and is within the current scope of practice for physical therapy.

In addition the Board voted unanimously to offer to sponsor or co-sponsor an educational seminar for coaches, volunteers, and others dealing with the evaluation and management of concussions, including participation by physical therapists and the spending of up to \$5,000 for this.

The Board understands that the legislative intent was to allow any licensed health care provider that has been trained in concussion management to make the return to play decision. By using the term "diagnosis" the Legislature may have excluded certain professions of health care providers from making that call. For example, it does not appear from their Practice Act that athletic trainers have the ability to diagnose. The Physical Therapy Practice Act allows for a diagnosis for physical therapy. Under a very strict interpretation of the "diagnosis" language it may be that only certain physicians would be allowed to make the return to play decision. This would be unfortunate.

As the Committee studies whether or not to expand SB 2281 to cover non-school athletics, it may also want to consider changing the "diagnosis" provisions. That limiting language could cause problems, especially in communities where traditionally this has been within the scope of practice of both athletic trainers and physical therapists.

The Board recommends that the committee consider using the language "licensed health care provider trained in the evaluation and management of concussion" when stating who is allowed to make return to play decisions.

If you have any questions, I will be happy to try to answer them. THANK YOU FOR YOUR TIME AND CONSIDERATION.