



December 21, 2007

VIA PDF (SCOTTWARD@APTA.ORG) AND

FEDERAL EXPRESS

R. Scott Ward, PT, PhD
President, American Physical Therapy Association
1111 N. Fairfax Street
Alexandria, Virginia 22314-1488

Re: Anticompetitive activities by the American Physical Therapy Association (APTA) and affiliated groups

Dear Dr. Ward:

This letter addresses matters of the utmost importance.

On behalf of the National Athletic Trainers' Association, Inc. (NATA), I write to address serious matters that I hope can be resolved swiftly and permanently. APTA has engaged in a pattern of anticompetitive activities aimed at NATA and its members for several years. Recent actions by high-level APTA members have been particularly improper, prompting this letter. These recent actions have and will continue to irreparably harm NATA and its members unless they immediately stop. To be clear, the matters we ask APTA to completely and finally resolve and address through this letter are not tied to any single act or event. Rather, they relate to an established course of anticompetitive conduct that violates acceptable practices and the law. In the event you are unaware of the conduct described in this letter, it is NATA's hope that you will work to swiftly address it and to put an end to it.

On November 19, 2007, Dr. Robert H. Rowe, the Practice Chair of the Orthopedic Section of the APTA, sent a threatening letter to Dr. Regis H. Turocy aimed at discouraging Dr. Turocy from lecturing at the NATA continuing education workshop, Manual Therapy Techniques for the Cervicothoracic Spine and Upper Ribs, being held in January 2008 in Las Vegas. Per the letter (copy attached), Dr. Rowe informed Dr. Turocy that, based upon the APTA guidelines, the topic Dr. Turocy was to lecture on

was “exclusively” within the purview of physical therapists and that by teaching the course to an audience of athletic trainers, Dr. Turocy was in direct conflict and contradiction with the APTA and its guidelines. The letter provides that the APTA considers physical therapists to have exclusive rights to perform peripheral or spinal joint mobilization/manipulation procedures. That is simply not the case. As a result of this type of conduct by the APTA and its affiliates, two confirmed instructors withdrew from lecturing at the NATA January workshop. One instructor acknowledged that his withdrawal from presenting at the conference was due to “business concerns” after receiving Dr. Rowe’s letter.

This is not the first instance of improper anticompetitive conduct by the APTA and its members. In fact, this is a culmination of a long history of improper and concerted actions by and between the APTA, its state chapters, collective and individual leadership and members aimed at preventing athletic trainers from competing in the marketplace for which athletic trainers are qualified, trained and educated to participate. A non-exhaustive list of prior bad acts of this sort by the APTA include the following:

- Improperly excluding certified athletic trainers from seminars on manual therapy based upon the incorrect notion that “training ATCs was not legal” under the instructor’s physical therapy license.
- Advising dual-credentialed athletic trainers/physical therapists to refrain from teaching courses to athletic trainers, even though the courses are within the scope of athletic trainers’ practice area and stating as the reason for doing so, the “concern about physical therapist (sic) teaching physical therapy techniques to non-physical therapists.”
- Constant and continuous defamation of athletic trainers by individual physical therapists, physical therapist educators, state physical therapy associations, and specialty sections of the APTA by using derogatory and untrue terms when describing athletic trainers (*e.g.*, unlicensed, unqualified) and routinely promulgating untrue information about athletic training education and scope of practice. A non-exhaustive list of specific examples include:
 - An October 18, 2004 letter to the editor of the *Wall Street Journal*, in which then-APTA CEO Frank Mallon incorrectly implied that an HHS Inspector General report referencing unnecessary services by “unqualified personnel” included work done by athletic trainers.

- A speech before legislators by the President of the Iowa Physical Therapy Association on February 13, 2004, in which he characterized athletic trainers as “glorified PE instructors.”
- The President of the Michigan Physical Therapy Association falsely informing Michigan Blue Cross Blue Shield that “subscribers...should receive genuine professional physical therapy, not a lesser substitute” and warning BCBS that physicians and athletic trainers were “likely to be the greatest abusers of the physical therapy benefit....”
- Incorrectly influencing the marketplace by defining the scope of physical therapy by stating what athletic trainers and others cannot do rather than what physical therapists can do. For example, “the APTA has a statement concerning AT students that limits them from performing any hands on patient care.”
- Falsely instructing athletic trainers that CPT codes 97005 (athletic training evaluation) and 97006 (athletic training re-evaluation) are for use only by dually credentialed PT/ATCs.
- Incorrectly instructing PT/PTA students that “CPT” stands not for Current Procedural Terminology but rather stands for Current Physical Therapy.

The conduct listed above demonstrates an illegal pattern, orchestrated by the APTA, of anticompetitive behavior. The effect of the APTA’s actions is to improperly prevent and discourage athletic trainers from obtaining continuing education and providing services they are educated, trained, qualified and licensed to provide.

The most recent action by Dr. Rowe’s November 19, 2007 letter excludes, or attempts to exclude, athletic trainers from furthering their education regarding techniques and information they are licensed, authorized and entitled to learn and use. Dr. Rowe’s letter incorrectly seeks to prevent athletic trainers from obtaining continuing education consistent with NATA Educational Competencies and the NATA Board of Certification’s (BOC) Standards of Practice. It is clear that the APTA and its members are acting in concert to exclude NATA’s certified athletic trainer members from the manual therapy market. Further, the APTA’s stated basis for some of these actions is that the techniques are “exclusively” within the realm of physical therapy services. The idea of such exclusivity is incorrect, problematic, and wholly unacceptable. APTA and its members act as if they own the manual therapy market, which is simply untrue. It is apparent that APTA and its members seek to monopolize the manual therapy

marketplace at the unfair and improper exclusion of others, such as athletic trainers, who are qualified and licensed to compete in the same marketplace. As a matter of fact, such conduct is contrary to the APTA's own Code of Ethics, Principle 11, which provides that "A physical therapist shall respect the rights, knowledge, and skills of colleagues and other health care professionals" and its Guide for Professional Conduct, Principle 11.3, which provides that "Physical therapists shall not disparage colleagues and other health care professionals." APTA and those in concert with it have continually misrepresented the qualifications, training, education and licensure of athletic trainers. This is not only in violation of APTA's own Code of Ethics, but is also a violation of law. NATA is simply unwilling to permit this course of conduct to continue any longer.

NATA hopes the APTA will address and resolve these issues. Specifically, through this letter, NATA asks that the APTA, its state chapters, collective and individual leadership and members commit and agree to several things *in writing*, including to:

- permanently refrain from defining and communicating to regulators, legislators, and employers what athletic trainers and NATA members are legally qualified to do, as such matters are left to the national association, accredited certification bodies, and state law.
- permanently refrain from stating or advocating that certain practice areas, including rehabilitation, found within the defined practice scope of athletic trainers, are "exclusively" owned by physical therapy.
- immediately and permanently revoke any and all APTA policies that bar physical therapists from instructing athletic trainers in rehabilitation techniques and modalities.
- permanently refrain from excluding athletic trainers, NATA members and affiliates' members from obtaining education on procedures they are legally qualified to perform.
- permanently refrain from banning athletic training students from participating in clinical training programs.

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- permanently refrain from prohibiting physical therapists from receiving instruction from athletic trainers or at athletic training continuing education programs, including those sponsored by NATA or its affiliated organizations.
- permanently refrain from defaming athletic trainers and misinforming APTA members or anyone else that athletic trainers are unlicensed or unqualified to perform tasks they are legally, academically and/or clinically qualified to perform and misstating and misrepresenting the credentials, education, and scope of practice of athletic trainers.
- Permanently refrain from stating that athletic trainers are qualified to provide services *only* to athletes
- permanently refrain from misstating the proper and appropriate use of the physical medicine codes of the *Current Procedural Terminology*© as issued by the American Medical Association including, specifically, refraining from misleading comments that athletic trainers are not allowed to use these codes when billing third parties or that the codes are for the exclusive use of physical therapists.

NATA requests *written* confirmation from the APTA and others mentioned within this letter that it/they will refrain from the above conduct. NATA requests receipt of this written confirmation by no later than close of business on January 7, 2008. In the event same is not received, NATA will have no choice but to pursue other available remedies.

Thank you for your attention to the issues raised in this letter. NATA looks forward to your productive response and to definitively and permanently resolving the matters raised above.

Regards,



Chuck Kimmel
President

cc: Eve Becker-Doyle, CAE, Executive Director
John D. Barnes, APTA Chief Executive Officer