

UNAPPROVED MINUTES

BOARD OF PHYSICAL THERAPY MEETING MINUTES

The Virginia Board of Physical Therapy met on Friday, April 27, 2007 at the Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room #4, Richmond, Virginia. The following members were present:

Peggy H. Belmont, P.T.
Damien Howell, P.T.
Robert Izzo, P.T.
Maureen E. Lyons, P.T.
George Maihafer, Ph.D, P.T.
Lorraine C. Quinn, P.T.A.

DHP staff present for all or part of the meeting included:

Lisa R. Hahn, Executive Director
Sandra Whitley Ryals, Director
Elaine Yeatts, Senior Policy Analyst
Annie B. Artis, Licensure Operations Manager

Representatives from the Office of the Attorney General were present for the meeting:

Amy Marschean, Assistant Attorney General

Guests present for all or part of the meeting included:

Dixie Bowman, Virginia Commonwealth University
Doug Deussling, Student, Virginia Commonwealth University
Lisa Shoaf, Virginia Physical Therapy Association
Richard Grossman, Virginia Physical Therapy Association
Jeff Buthe, Medical Society of Virginia
Karen Addison, Acupuncture Society of Virginia
Chelsea Rock, Acupuncture Society of Virginia
Ann Furniss, Acupuncture Society of Virginia
Tracey Adler, Physical Therapist

CALLED TO ORDER

Dr. George Maihafer, P.T., President, called the quarterly meeting of the Board of Physical Therapy to order at 9:05 a.m.

ORDERING OF THE AGENDA

Dr. Maihafer added to the agenda discussion of the Task Force Report. He asked that the Board accept, reject or modify the recommendations of the Task Force.

PUBLIC COMMENT PERIOD

There was no public comment.

ACCEPTANCE OF MINUTES

Board Meeting – January 19, 2007

Upon a motion by Mr. Howell and seconded by Ms. Lyons the Board voted to approve the January 19, 2007 Board meeting minutes. The motion carried unanimously.

Task Force on Dry Needling – March 2, 2007

Upon a motion by Mr. Howell and seconded by Mr. Izzo the Board voted to approve the March 2, 2007 Task Force minutes. The motion carried unanimously.

Legislative/Regulatory Committee – March 9, 2006

Upon a motion by Ms. Lyons and seconded by Mr. Howell the Board voted to approve the March 9, 2007 Legislative/Regulatory Committee meeting minutes as amended. The motion carried unanimously.

Task Force on Dry Needling – March 30, 2007

Upon a motion by Mr. Howell and seconded by Mr. Locke the Board voted to approve the March 30, 2007 Task Force on Dry Needling minutes. The motion carried unanimously.

NEW BUSINESS

Sandra Ryals – Agency Director’s Report

Ms. Ryals discussed the Governor’s Health Reform Initiative. She informed the Board that the work groups that were established met several times to discuss, research and deliberate on three particular shortage areas which were: 1) physician shortages; 2) nursing shortages; and 3) nursing support shortages. The first full committee meeting to discuss the Governor’s Health Reform Initiative covered: 1) the overview of Virginia’s healthcare force and; 2) the work group recommendations. She further stated that Medicaid aide was a new profession that was discussed. In May the work groups will meet to discuss health care transparency in Virginia. A public hearing will be held on

May 1, 2007 at 6:00 pm. at James Madison University. There will be two additional meetings that will be held in May. Ms. Ryals stated that all recommendations must be submitted to the Governor by September, 2007. The health care issues will be presented to the General Assembly in the 2008 session.

Dr. Maihafer asked if there was anything that addressed retention. Ms. Ryals stated that there were a number of things attempted regarding studies, recruitment and retention. She stated that there were an overwhelming number of qualified applicants; however they could not enter nursing school because of the lack of faculty and programs. Some of the barriers were facility limitations and the number of recommendations related to nursing and the number of measures undertaken by private sectors and public institutions.

Ms. Ryals informed the Board that the agency will be moving to the new location, 1600 Mayland Drive, the weekend of August 17, 2007.

Ms. Ryals stated that a new policy: DHP Performs has been implemented within the agency and we are working to achieve three key performance measures:

- 1) Achieve high (97%) customer satisfaction ratings from individuals applying for licensure;
- 2) Process 95% of applications for licensure within 30 days of receipt of all necessary materials;
- 3) Resolve 90% of complaints relating to patient care within 250 days.

She stated the agency is doing very well regarding customer satisfaction ratings and has achieved a 95% rating. Processing of applications has never been measured; however, a baseline has been established and the agency is doing very well overall. Regarding the resolution of complaints relating to patient care; the agency has not met this standard. We are currently looking at the resolution process; how it is done and what steps we could take to make it better.

Ms. Ryals stated that a full presentation will be given at the next Board meeting regarding DHP Performs.

Direct Access Advisory Committee Update

Ms. Hahn provided the Board with a list of the Advisory Committee members that has been formed to make regulatory recommendations to the Board regarding the Direct Access legislation. The first meeting will be held on May 11, 2007 from 4:00 p.m. to 6:00 p.m. The committee will submit recommendations to the Board of Medicine in June and in July to the Board of Physical Therapy. All Board members are welcomed to attend the meeting(s). Dr. Maihafer stated he will attend the meeting as a guest.

Ms. Hahn called the Board's attention to House Bill 2087 subsections B. and C. She stated that the Board's job was to promulgate regulations. She stated the regulations will need to become effective by November 26, 2007.

Ms. Hahn informed the Board that the August meeting will possibly be moved up to July. Ms. Yeatts encouraged the advisory committee to provide any information as advice to the Board before the next meeting, to include continuing education. Ms. Shoaf stated that the Virginia Physical Therapy Association is currently collecting items to provide to the advisory committee.

Consideration of 2008 Legislation

Ms. Yeatts gave a brief overview of the draft Legislation for 2008. She stated that this bill is to amend and reenact §54.1-3480 relating to findings of unprofessional conduct by the Board and by repealing §54.1-3483. Ms. Yeatts stated that no new language has been created; however, the Board may want to include some other language to include the length of time to maintain medical records, etc.

Upon a motion by Mr. Howell and seconded by Mr. Locke, the Board voted to accept the proposed draft 2008 legislation as presented. The motion carried unanimously.

Upon a motion by Mr. Howell and seconded by Ms. Belmont, the Board voted to direct the Legislative/Regulatory Committee to upgrade the regulations regarding ethics. The motion carried unanimously.

Consideration of Task Force Recommendation on Dry Needling

Dr. Maihafer asked the Board to review the letters that were submitted by Ms. Komarow, L.Ac. and Ann Furniss, L.Ac., in regard to their positions in response to the Task Force's recommendation on dry needling.

Dr. Maihafer asked that Public Comment be received from anyone in the audience to express their views and/or concerns regarding the recommendation of the advisory committee. He further stated that after public comment, the Board would recess to discuss and vote on the recommendations.

Ms. Addison of the Acupuncture Society of Virginia agreed with Ms. Furniss that "the practice of acupuncture does include dry needling thereby excluding dry needling from the physical therapists' scope of practice."

Mr. Buthe of the Medical Society of Virginia stated that it is very important that physical therapists receive additional training in the area of dry needling.

Ms. Adler stated that dry needling is putting a needle into the trigger point. Ms. Furniss agreed. Mr. Howell stated that the Physical Therapy Journal listed several definitions of dry needling.

Break

The Board recessed at 10:20 a.m. and reconvened at 10:35 a.m.

The Board voted on the following regarding Dry Needling as follows:

- Upon a motion by Ms. Lyons and seconded by Mr. Howell the Board voted that dry needling is within the scope of practice of physical therapy. The members voting yes were Ms. Lyons, Mr. Howell, Ms. Belmont and Mr. Izzo. The member voting no was Ms. Quinn. The member that abstained was Mr. Locke. The motion passed by majority.
- Upon a motion by Mr. Howell and seconded by Ms. Belmont the Board voted that dry needling is not an entry level skill but an advanced procedure that requires additional training. The motion carried unanimously.
- Upon a motion by Mr. Howell and seconded by Ms. Belmont the Board voted that a physical therapist using dry needling must complete at least 54 hours of post professional training including providing evidence of meeting expected competencies that include demonstration of cognitive and psychomotor knowledge and skills. The motion carried unanimously.
- Upon a motion by Ms. Lyons and seconded by Mr. Howell the Board voted that dry needling is an invasive procedure and in accordance with §54.1-3482 of the Code of Virginia requires referral and direction specific for dry needling. Physician written referral should be specific for dry needling and required; if the referral is received orally it must be followed up with a written referral. The motion carried unanimously.
- Upon a motion by Ms. Lyons and seconded by Mr. Howell the Board voted that if dry needling is performed, a separate procedure for each treatment be required and notes must indicate how the patient tolerated the technique as well as the outcome after the procedure. The motion carried unanimously.
- Upon a motion by Mr. Howell and seconded by Mr. Izzo the Board voted that a patient consent form should be utilized and should clearly state that the patient is not receiving acupuncture. The Consent Form should also include the risks and benefits of the technique. The patient should receive a copy of the consent form. The motion carried unanimously.

- Upon a motion by Ms. Lyons and seconded by Ms. Belmont the Board voted to hold the position that the licensed physical therapist bears the burden of proof of sufficient education and training to insure competence with the treatment or intervention. The motion carried unanimously.

Dr. Maihafer requested that a guidance document be developed regarding dry needling. Ms. Yeatts stated that if physical therapists are to be held accountable; this must be added to the regulations; however, she agreed with Dr. Maihafer to make this a guidance document.

Board of Health Professions Update

Mr. Howell gave a brief report on the Board of Health Professions meeting held on April 20, 2007.

Ms. Ryals presented a report regarding the timely processing complaints against licensees in a timely manner. In accordance with the Governor's Health Reform Initiative, the agency needs to meet the time quality standards that have been set by the Governor. The major problem areas are investigations and determining probable cause. Mr. Howell stated that the Physical Therapy Board needs to discuss this issue and develop tactics to shorten the time it takes to close a case.

Mr. Howell also asked the Enforcement Division Director and physical therapy investigator to attend the next Board meeting.

The Board of Health Professions has requested that all Boards submit a report by their next meeting on continued competency. They are gathering information to observe what is occurring nationally with continuing competency to include the problems and successes. The Board should report on continuing competency, not continuing education. Mr. Howell asked that Board members correspond with him via e-mail regarding any issues and he will develop the study to report back to the Board of Health Professions.

Upon a motion by Mr. Howell and seconded by Mr. Locke the Board voted to direct the Legislative/Regulatory Committee to look at modifying face-to-face requirements in regard to continued competency. The motion carried unanimously.

The Board of Health Professions has also requested that the Board of Physical Therapy submit names of emerging health professions that they need to be aware of.

The work plan dealing with criminal background checks was approved by the Board of Health Professions. They voted to fast track changes in regulations dealing with modifying Practitioner Self Referral Regulations to allow the use of agency subordinates.

FSBPT Bylaw Amendment

Dr. Maihafer provided some background information regarding the FSBPT Bylaw Amendment. He stated there was a motion to propose that consecutive years on the Federation Board be lengthened from ten to twelve years. The motion did not pass. The nominating committee sent out a request for a mail vote of the Delegate Assembly. The mailed votes must be received by the Federation by May 1, 2007 in order to be counted. It was the pleasure of the board to oppose this motion to extend the years from ten to twelve.

OLD BUSINESS

Notice of Intended Regulatory Action – NOIRA

Ms. Hahn stated that no action is necessary to be taken by the board at this time. The board voted in January to proceed with the Notice of Intended Regulatory Action and to consider all of the recommended changes.

Review of Guidance Document 112-12

Upon a motion by Ms. Lyons and seconded by Ms. Belmont the Board voted to direct staff to rewrite Guidance Document 112-12 to include the regulation and code, update the scope of practice and remove specific names and facilities. The motion carried unanimously.

EXECUTIVE DIRECTOR'S REPORT

Ms. Hahn thanked Ms. Lyons for the compliment in regard to the professional preparation of the minutes; however, she stated that the credit belonged to Ms. Artis and Ms. Minor. She informed the board of the staff she currently had in place for all three Boards. There are currently three full-time staff members and one temporary employee.

Ms. Hahn stated there are currently 4,604 physical therapists and 1,748 physical therapist assistants. There are currently twenty-one open disciplinary cases; 17 are in Investigations; three are in Administrative Proceedings Division and one is at the formal level which is being heard this afternoon.

According to the DHP satisfaction surveys for the Board of Physical Therapy; we received 100%. Ms. Hahn was pleased with the survey results but after reviewing the additional written comments believes that we could improve if we made our forms and applications more easy to understand and more user friendly.

Budget

Ms. Hahn stated the cash balance as of March 31, 2007 was \$456,755.00. She stated that a fee increase will not be recommended at this time. The budget for 2008 through 2010 was submitted to the Finance division; an increase of \$4,800.00 was requested for meetings and expenditures. A request was also submitted to convert the temporary staff position to a P-14 employee staff position as a cost saving measure. Ms. Hahn also stated that she will submit a request to send more than one Board member to the Federation of State Boards of Physical Therapy conference. Mr. Locke requested that the Board members receive a written report of expenditures.

The next Board meeting was scheduled for August 7, 2007; however, the agency move is scheduled during that time. Ms. Hahn stated she will e-mail the Board members with a few dates for the regular board meeting as well as the legislative/regulatory committee meeting. Ms. Belmont stated she would not be available the week of July 9-13, 2007.

ADJOURNMENT

With all business concluded, Ms. Lyons made a motion to adjourn. The motion was seconded by Mr. Locke. The motion carried unanimously.

The meeting was adjourned at 12:05 p.m.

George Maihafer, Ph.D., PT.
President

Lisa R. Hahn, Executive Director

Date

Date