

DRAFT UNAPPROVED

**BOARD OF PHYSICAL THERAPY
MINUTES OF BOARD MEETING**

Friday, October 28, 2005
6603 West Broad Street, 5th Floor
Richmond, Virginia 23230-1712
Conference Room 3

Department of Health Professions

CALLED TO ORDER

Ms. W. Gayle Garnett, P.T., M.B.A., President, called the quarterly meeting of the Board of Physical Therapy to order at 9:05 a.m., on Friday, October 28, 2005 in Board Room #3, at 6603 West Broad Street, 5th Floor, Richmond, Virginia.

PRESIDING

W. Gayle Garnett

MEMBERS PRESENT

J. R. Locke
Maureen Lyons
Damien Howell
Lorraine Quinn
Robert Izzo
George Maihafer

STAFF PRESENT

Elizabeth Young, Executive Director
Annie B. Artis, Operations Manager
Elaine Yeatts, Senior Policy Analyst

COUNSEL PRESENT

Jack E. Kotvas, Assistant Attorney General

GUESTS

Terry Izzo, V.P.T.A.

QUORUM

With seven members of the Board present, a quorum was established.

ORDERING OF THE AGENDA

The agenda was accepted with amendments.

PUBLIC COMMENT PERIOD

Ms. Terry Izzo stated that the Virginia Physical Therapy Association is drafting preliminary options for its 2006 of the legislative agenda. She stated it was too early to report on any of the initiatives.

ACCEPTANCE OF MINUTES

Mr. Howell made a motion to accept the Board meeting minutes of August 19, 2005 as amended. The motion was properly seconded by Ms. Lyons. The vote carried unanimously.

NEW BUSINESS

BOARD OF HEALTH PROFESSIONS MEETING - SEPTEMBER 8, 2005

Mr. Howell provided a brief report of the Board of Health Professions meeting of September 8, 2005. He stated that a bill was being introduced regarding mandatory suspension or revocation of licenses for the time period of 60 days instead of the current 30 day law. Mr. Howell stated that the Executive Committee submitted the budget for the next biennium. He stated that the occupation of Nursing Home Administrators has merged the occupation of Assisted Living Administrators to form the Board of Long Term Care Administrators. There has been deemed the need to add an additional executive director position. Ms. Young stated that the Board of Dentistry will have only one executive director with the new position administering the Boards of Long Term Care Administrator, Physical Therapy and Audiology and Speech-Language Pathology. Therefore, Ms. Young would be the executive director for the Board of Funeral Directors and Embalmers and the Board of Veterinary Medicine.

FEDERATION OF STATE BOARDS OF PHYSICAL THERAPY (FSBPT)

Ms. Garnett and Ms. Lyons both gave a report on the Federation of State Boards of Physical Therapy (“the Federation”) conference that was held from September 9-11, 2005 in Austin, Texas. Ms. Garnett provided handouts from the

information that was presented at the conference and encouraged the board members to have staff make copies of information that was of interest to them. She stated that the coursework tools were reviewed and developed in regard to a fair comparison in terms of graduation dates. Ms. Lyons stated that the Federation examined testing evaluation processes, and the weight of each item on the examination in reference to levels of entry into the profession and areas of practice. Ms. Young asked if foreign-trained therapists were discussed and Ms. Garnett stated they were not.

In a discussion related to foreign credential evaluations, Dr. Maihafer stated that Old Dominion University had received numerous calls requesting that they review the education credentials of foreign trained students. He stated that the students were interested in taking individual courses in order to meet the requirement deficiencies found in the credentials evaluation. Ms. Young stated that even if an additional course were taken, it would have to be sent to the Foreign Credentials Commission on Physical Therapy for further evaluation.

Ms. Lyons stated that HIPDB laws, data bases and disciplinary issues were also discussed. Ms. Garnett recommended that all board members consider attending the FSBPT conference. She further stated that the conferences are always very informative; they afford board members the opportunity to meet colleagues from all over the United States and a variety of topics of interest are discussed.

NEWS FLASH

The FSBPT news flash was provided to the board members for review.

NEWS BRIEF

Ms. Garnett gave a brief overview of the Delegate Assembly motions that were presented to the 2005 Delegate Assembly, which was held on Monday, September 12, 2005.

ADOPTION OF iBT SCORE

The Board decided to accept the current passing scores for the TOEFL and TSE and it determined that the TOELF iBT score is equivalent to the above reference

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score of TOEFL AND TSE. Dr. Maihafer stated he would find out what Old Dominion University accepts as a passing score and will forward the results to board staff via e-mail.

NEW JERSEY OFFICE OF THE ATTORNEY GENERAL

The Board briefly discussed the letter from the New Jersey Office of the Attorney General. Dr. Maihafer commented that the lower passing grade may translate to lowering the minimal competency. The Board questioned if the lowering of the score endangers the citizens of New Jersey as outlined from the review correspondence.

REPORT FROM VPTA CONFERENCE

Ms. Garnett did not attend the conference that was held on October 21, 2005, in Portsmouth, Virginia. Mr. Howell informed the board that Dr. Lisa Shoaf, former past president of the Board has been voted President-elect of the Virginia Physical Therapy Association.

REQUESTS FOR INTERPRETATION

RANGE OF MOTION MEASUREMENTS BY PHYSICAL THERAPIST ASSISTANTS

Mr. Howell suggested that the Board in response to the request for interpretation refer Mr. Mills to regulation §18VAC112-20-100 (A) (B) and to §54.1-3476 (Exemptions) of the Code. Ms. Young stated that federal law supersedes the state law.

NEEDLING TECHNIQUES BY PHYSICAL THERAPIST ASSISTANTS

Mr. Howell suggested that the Board in response to the request for interpretation, refer Dr. Wayne to §54.1-3482(C) of the Code. Ms. Garnett stated that the dry needling procedure is clearly an invasive procedure. Mr. Locke suggested that the board respond to the request and direct Dr. Wayne to the statutes. There was discussion as to whether or not the board should provide an interpretation if a disciplinary case is pending. Mr. Kotvas advised the board to defer any opinion until such time as a case was brought before the board. Mr. Howell

made a motion to defer the interpretation or response until such a time that a disciplinary case regarding dry needling has been adjudicated before this Board and resolve. The motion was seconded by Mr. Locke. The vote carried unanimously. Ms. Yeatts stated that if there are any existent letters that pertain to dry needling, board staff should revise the Board's response to reflect today's discussion.

VARIOUS SCOPE OF PRACTICE QUESTIONS

Ms. Yeatts suggested the board answer the questions and cite Regulations- 18 VAC 65-20-110 (B.) and 18 VAC 65-20-90 (C.), and 54.1-2901 (6.) of the Code of Virginia. It was the consensus of the board to have Ms. Young draft a response to Mr. Robinson and have Ms. Yeatts review it.

LICENSURE PROVISIONS FOR VICTIMS OF HURRICANE KATRINA

Ms. Young gave a brief report regarding the licensure procedures adopted by DHP to assist the victims of hurricanes Katrina and Rita. She stated that temporary licenses are for a period of one year. Ms. Young stated that thus far the board has issued three temporary licenses, one regular license and one license to a foreign-trained applicant.

DRAFT NEWSLETTER

Ms. Young asked the board members if they wanted to include some of the interpretation issues such as sharp debridement and dry needling. The board members declined and advised not to place any of its interpretations in the newsletter.

OLD BUSINESS

BY LAWS

The following changes were made to the By laws:

ARTICLE I: GENERAL

The organization year for the Board shall be from July 1st through June 30th. At the ~~September~~ April board meeting, the Board shall elect from its

members a President and Vice-President with an effective date of the ~~September meeting~~ next scheduled Board meeting.

Members shall attend all scheduled meetings of the Board and committee to which they serve. In the event of two consecutive unexcused absences at any meeting of the Board or its committees, the ~~Chairman~~ President shall make a recommendation of possible removal from service to the Director of the Department of Health Professions for referral to the Secretary of Health and Human Resources and Secretary of the Commonwealth.

ARTICLE II: OFFICERS OF THE BOARD:

1. The President presides at all meetings and formal administrative hearings in accordance with parliamentary rules and the Administrative Process Act, and requires adherence of it on the part of the board members. The President shall appoint all committees and committee chairs unless otherwise ordered by the Board.

ARTICLE IV: COMMITTEES

A. Standing Committee:

1. **Special Conference Committee.** This committee shall consist of two board members who shall review information regarding alleged violation of the physical therapy laws and regulations and determine if probable cause exists to proceed with possible disciplinary action. ~~The special conference committee shall hold at least one meeting a year with the right to change the date or cancel any meeting.~~ The President may also designate another board member as an alternate on this committee in the event one of the standing committee members becomes ill or is unable to attend a scheduled conference date. Further, should the caseload increase to the level that additional special conference committees are needed, the President may appoint additional committees.
2. **Credentials Committee.** The committee shall consist of at least two board members. ~~The committee~~ The members of the committee will review non-routine licensure applications to determine the credentials of the applicant and the applicability of the statutes and regulations. ~~The committee shall not be required to meet collectively.~~

3. **Legislative/Regulatory Committee.** The committee shall consist of at least three Board members of which one member shall be the Chair. The Board delegates to the Legislative/Regulatory Committee the authority to consider and ~~respond~~ recommend action to petitions for rulemaking.
4. **Continuing Education Committee.** This committee shall consists of at least 2 board members who review requests from licensees who seek a waiver or extension of time in complying with their continuing competency requirements.

B. Ad Hoc Committees

There may be **Ad Hoc Committees**, appointed as needed, ~~and~~ which shall consist of ~~three or more~~ at least two persons appointed by the Board who are knowledgeable in the particular area of practice or education under consideration by the Board. The committee shall review matters as requested by the Board and advise the Board relative to the matters or make recommendations for consideration by the Board.

ARTICLE V.: GENERAL DELEGATION OF AUTHORITY

4. The Board delegates to Board staff the authority to develop and approve any and all forms used in the daily operations of the Board business, to include, but not limited to, licensure applications, renewal forms and documents. ~~used in the disciplinary process.~~ New and revised forms must be presented to the Board at their next scheduled meeting.

ARTICLE VI.: AMENDMENTS

A board member or staff personnel may propose amendments to these Bylaws by presenting the amendments in writing to all Board members prior to any regularly scheduled meeting of the Board. Upon favorable vote of at least two-thirds of the Board members present at said meeting, such proposed amendment shall be adopted upon favorable vote of a majority of the Board members. ~~If notice is given to the Board members at a previously held board meeting, a favorable vote of a majority of the Board members present at the current board meeting is required to adopt the amendment.~~

LEGISLATIVE/REGULATORY COMMITTEE

FINAL ACTION OF FEE REDUCTION

Mr. Howell stated he announced the fee reduction at the Virginia Physical Therapy Association (VPTA) conference. Ms. Young stated that all new licenses will expire in the month of December; therefore, she will have all licenses reprinted with an expiration date of December 2006. Ms. Yeatts stated that she hoped the current administration would review the proposed regulations in order that they may be published for public comment by January 27, 2006. She further stated that the final regulations would be ready for adoption on April 28, 2006.

Ms. Yeatts stated that the Board may want to consider having the iBT scores added as a requirement with the TOEFL/TSE scores for foreign trained students. Ms. Lyons made a motion to have TOEFL/TSE and iBT scores deemed as an equivalent examination for English proficiency tests for foreign trained students. The motion was properly seconded by Mr. Howell. The vote carried unanimously. Ms. Yeatts recommended that board staff change the checklist forms to reflect the addition of the iBT scores.

Ms. Garnett recommended that the Continuing Competency Committee review the Continuing Competency Assessment form for revisions for the next renewal cycle of 2008.

LETTER TO LICENSEES

Ms. Young stated that letters were mailed to licensees on October 18, 2005 informing them of the reduction in licensure fees and the change in the biennial renewal month from birth month to December 31st of even-numbered years.

EXECUTIVE DIRECTOR'S REPORT

LICENSEE STATISTICS

Ms. Young stated that the Board of Physical Therapy currently has a total of 6,405 licensees; 1,713 physical therapist assistants and 4,692 physical therapists.

DISCIPLINARY CASES

Ms. Young reported that the Board currently has 37 physical therapy disciplinary cases.

CALENDAR

Ms. Young stated that the next Board meeting is scheduled for January 27, 2006. She also provided upcoming meeting dates through October 27, 2006.

BUDGET

Ms. Young stated the budget will be prepared and mailed at a later date for Board review.

CASE STANDARDS

Ms. Young stated that approximately 40% of the cases for the Board are in probable cause. She further stated that probable cause cases have risen to approximately 66.67%. Ms. Young offered her appreciation to the Board for the prompt responses and turnaround time in reviewing and returning disciplinary cases.

COMMITTEE ASSIGNMENTS

Committee assignments were briefly reviewed and stood as amended.

ADJOURNMENT

With all business concluded, the meeting was adjourned at 11:25 a.m.

W. Gayle Garnett, P.T., M.B.A. President

Elizabeth Young, Executive Director

Date

Date