

Approved

**VIRGINIA BOARD OF PHYSICAL THERAPY
FORMAL HEARINGS
AUGUST 27, 2010**

TIME AND PLACE: The meeting of the Virginia Board of Physical Therapy was called to order at 9:00 a.m. on August 27, 2010 in Board Room 2, Department of Health Professions, 9960 Mayland Drive, Suite 201, Henrico Virginia.

BOARD MEMBERS PRESENT: George Maihafer, PT, Ph.D, President
Maureen Lyons, PT, Vice-President
Damien Howell, PT
J.R. Locke, Citizen Member
Melissa Wolff-Burke, PT, EdD
Peggy Belmont, PT
Lorraine Quinn, PTA

STAFF PRESENT: Lisa R. Hahn, Executive Director
Kathy Truesdale, Discipline Operations Manager
Mykl Egan, Adjudication Specialist
Sherry Foster, Senior Investigator

OTHERS PRESENT: Amy Marschean, Senior Assistant Attorney General
Lt. Richard Hurak, Prince Edward County Sheriff's Office
Chris Bowers, HPMP Case Manager (via telephone)
Michael Michens
Lawrence Elliott
Brenda M. Hunt
David Lounsbury
Vesta Bell

ESTABLISHMENT OF A QUORUM: With seven members of the Board present, a quorum was established.

FORMAL HEARINGS: **Kyle C. Nesser, P.T. License # 2305-205637**
Mr. Nesser appeared.

James Schliessman, Senior Assistant Attorney General, represented the Commonwealth. Ms. Marschean was legal counsel for the Board. Lynn R. Taylor, court reporter, recorded the proceedings.

Sherry Foster, Senior Investigator, Department of Health Professions; Lt. Richard Hurak, Prince Edward County Sheriff's Office; Chris Bowers, Case Manager, Health Practitioners Monitoring Program, and Michael Michens were present and testified.

RECESS: The Board recessed at 10:30 a.m.

RECONVENTION: The Board reconvened at 10:38 a.m.

CLOSED MEETING: Ms. Lyons moved that the Board of Physical Therapy convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 10:45 a.m., for the purpose of deliberation to reach a decision in the matter of Mr. Nesser. Additionally, Ms. Lyons moved that Ms. Hahn, Ms. Truesdale, Ms. Marschean attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations. The motion was seconded and carried unanimously.

RECONVENTION: The Board reconvened in open session at 11:15 a.m.

Ms. Lyons moved that the Board of Physical Therapy certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened. The motion was seconded and carried unanimously.

Mr. Maihafer moved that the Board of Physical Therapy accept the findings of fact and conclusions of law as presented by Ms. Marschean. The motion was seconded and carried unanimously.

ACTION: Mr. Howell moved that the Board of Physical Therapy continue Mr. Nesser on indefinite suspension, however suspension was stayed on the condition that he remains in compliance with the HPMP.

The motion was seconded and carried unanimously.

This decision shall be effective upon the entry by the Board of a written Order stating the decision of this formal hearing panel.

FORMAL HEARINGS: **William Bell, PTA Reinstatement Applicant License # 2306-000821**
Mr. Bell appeared.

James Schliessman, Senior Assistant Attorney General, represented the Commonwealth. Ms. Marschean was legal counsel for the Board. Lynn R. Taylor, court reporter, recorded the proceedings.

Vesta L. Bell, Respondent's mother was present and testified.

RECESS: The Board recessed at 12:52 p.m.

RECONVENTION: The Board reconvened at 1:26 p.m..

CLOSED MEETING: Ms Ms. Lyons moved that the Board of Physical Therapy convene a closed meeting pursuant to §2.2-3711(A)(27) of the *Code of Virginia* at 1:27 p.m., for

the purpose of deliberation to reach a decision in the matter of Mr. Bell. Additionally, Ms. Lyons moved that Ms. Hahn, Ms. Truesdale, Ms. Marschean attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations. The motion was seconded and carried unanimously.

RECONVENTION:

The Board reconvened in open session at 1:57 p.m.

Ms. Lyons moved that the Board of Physical Therapy certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened.

The motion was seconded and carried unanimously.

Mr. Maihafer moved that the Board of Physical Therapy accept the findings of fact and conclusions of law as presented by Ms. Marschean.

The motion was seconded and carried unanimously.

ACTION:

Mr. Howell moved that the Board of Physical Therapy reinstate the physical therapy assistant license of William Bell. Mr. Bell was placed on indefinite probation under the following terms and conditions; Mr. Bell is to remain on probation for at least 36 months, he is to not treat any minors and he must submit quarterly self-reports to the Board

The motion was seconded and carried unanimously.

This decision shall be effective upon the entry by the Board of a written Order stating the findings, conclusions, and decision of this formal hearing panel.

ADJOURNMENT:

The Board adjourned at 2:04 p.m.

George Maihafer, PhD.
President

Lisa R. Hahn
Executive Director

Date

Date