

The Virginia Board of Physical Therapy convened for a full Board meeting on Thursday, February 22, 2024, at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2nd Floor, Board Room #4, Henrico, Virginia.

BOARD MEMBERS PRESENT

Mira H. Mariano, PT, PhD, President*
Susan Szasz Palmer, MLS, Vice-President
Megan Bureau, PT, DPT
Rebecca Duff, PTA, DHSc
Melissa Fox, PT, DPT
Srilekha Palle, PT, DPT

BOARD MEMBERS NOT PRESENT:

Elizabeth Locke, PT, PhD

DHP STAFF PRESENT FOR ALL OR PART OF THE MEETING

Erin Barrett, Director of Legislative and Regulatory Affairs
Sarah Georgen, Licensing and Operations Supervisor
Laura Mueller, Senior Licensing Program Coordinator
Melanie Pagano, Deputy Executive Director
James Rutkowski, Assistant Attorney General, Board Counsel
Corie Tillman Wolf, Executive Director

**Participant indicates attendance to count toward continuing education requirements*

OTHER GUESTS PRESENT:

Helm Simpson
Paige Roberts

CALL TO ORDER

Dr. Mariano called the meeting to order at 10:48 a.m. and asked the Board members and staff to introduce themselves.

With six Board members present at the meeting, a quorum was established.

Dr. Mariano welcomed new Board members, Dr. Palle and Dr. Bureau.

Dr. Mariano read the mission of the Board, which is also the mission of the Department of Health Professions.

Dr. Mariano reminded the Board members and audience about microphones, computer agenda materials, breaks, sign-in sheets, and attendance for continuing education requirements.

Ms. Tillman Wolf then read the emergency egress instructions.

APPROVAL OF MINUTES

Dr. Mariano opened the floor to any edits or corrections regarding the draft minutes for a Board meeting held on August 10, 2023, and a Telephonic Conference held on November 9, 2023. With no additions or edits, the minutes were approved as presented.

ORDERING OF THE AGENDA

Dr. Mariano opened the floor to any additional items to add to the agenda.

Ms. Tillman Wolf noted that Mr. Rutkowski is attending the meeting on behalf of Mr. Saunders as Board Counsel. She also noted that Mr. Owens would not be in attendance and no Agency Report would be provided.

Upon a **MOTION** by Dr. Fox and properly seconded by Dr. Duff, the Board voted to accept the agenda as presented. The motion carried unanimously (6-0).

PUBLIC COMMENT

The Board did not receive any public comment.

STAFF REPORTS

Executive Director's Report – Corie E. Tillman Wolf, J.D., Executive Director

Welcome New Board Members

Ms. Tillman Wolf welcomed Dr. Bureau and Dr. Palle to the Board of Physical Therapy.

Board Updates

Ms. Tillman Wolf reported that since the last meeting, she provided a presentation to third-year DPT students at Old Dominion University on October 5, 2023, providing information on the application and licensure process. Ms. Tillman Wolf reported that Board staff conducted New Board Member Orientation on December 14, 2023, in which Dr. Bureau and Dr. Palle were in attendance.

Ms. Tillman Wolf reported on 2023 accomplishments of the Board to include the initiation of regulatory reduction efforts, updates to the Board website format, the implementation of new licensure functions of

responsive “bots” for application correspondence, document uploads for online applications, and implemented the use of Box for disciplinary cases.

Ms. Tillman Wolf announced 2024 Board initiatives including the finalization of the process for licensing applicants through the Federal Military Spouse Licensing Act, the introduction to CE Broker as a possible tool for licensees, the launch of a Business Process Reengineering review of the licensure process, the development of a flow chart/journey map for students specific to Virginia, the convening of the Legislative/Regulatory Committee meeting in April to review and make recommendations to the full Board on a number of topics, and the implementation of updates to the probable cause review process.

Ms. Tillman Wolf reminded Board Members of the Agency Board Member Training scheduled for March 26, 2024.

FSBPT Updates

Ms. Tillman Wolf reported on attendance of the 2023 Annual Meeting held on October 19-21, 2023, in Jacksonville, Florida, for the Federation of State Boards of Physical Therapy (FSBPT).

Ms. Tillman Wolf also reported on the upcoming FSBPT meetings to include a Regulatory Training for Board Members and Staff scheduled for May 16-18, 2024 (in-person and virtual), the Leadership Issues Forum (LIF) meeting scheduled for July 13-14, in Arlington, Virginia, and the 2024 Annual Meeting scheduled for October 31-November 2, 2024, in Cedar Rapids, Iowa. She provided a reminder that the Board’s President and Vice President typically attend the FSBPT Annual Meeting as the voting delegate and alternate delegate.

FSBPT – Annual Meeting Updates

Ms. Tillman Wolf reported on issues discussed at the Annual Meeting to include efforts in other states, national examination (NPTE) and examination/licensure/discipline database (ELDD) updates, and newly developed resources from the Sexual and Boundary Violations Committee. She noted that Dr. Yetty Shobo, Director of the DHP Healthcare Workforce Data Center, has been asked to participate on a FSBPT Committee related to the Multi-Disciplinary Minimum Data Set. Ms. Tillman Wolf noted ongoing discussion of educator licensure requirements by the Commission on Accreditation of Physical Therapy Education (CAPTE) and provided a brief overview of a recent challenge filed by FSBPT to the trademark application of Life Time, Inc., related to the use of “DPT.”

PT Compact Updates

Ms. Tillman Wolf reported on the national status of the Physical Therapy Compact, including new states that have enacted legislation or have begun issuing privileges. She reported that thirty-seven jurisdictions have passed legislation to join the Compact and that thirty-one jurisdictions are currently issuing privileges as of February 2024. She reported that nine jurisdictions have pending Compact legislation.

Ms. Tillman Wolf provided a copy of a letter to State Insurance Commissioners regarding the equivalency of license and Compact Privileges.

Ms. Tillman Wolf reported on the active committees of the PT Compact including the Rules and Bylaws Committee, the Compliance Committee, and the Education and Outreach Committee.

She noted two current items in Virginia related to the Compact: awareness of the necessity for licensees to renew their Compact Privilege when their home state license is renewed and the interaction between the Compact and the Federal Military/Spouse Licensing Act.

Ms. Tillman Wolf reported on the 2023 Compact Privileges purchased to practice in Virginia. Additionally, she reported that there were 730 active privileges in Virginia (587 Physical Therapists and 143 Physical Therapist Assistants) as of February 20, 2024.

Expenditures and Revenue Summary

Ms. Tillman Wolf presented the Expenditure and Revenue Summary as of June 30, 2023

Cash Balance as of June 30, 2022	\$1,185,352
YTD FY 2023 Revenue	\$1,545,230
<u>Less: YTD FY 2023 Direct and Allocated Expenditures</u>	<u>\$ 756,419</u>
Cash Balance as of June 30, 2023	\$1,974,162

2024 Board Meetings

Ms. Tillman Wolf noted the remaining 2024 Board meeting dates.

- May 14, 2024
- August 13, 2024
- November 13, 2024

Notes and Reminders

Ms. Tillman Wolf provided reminders to Board Members to keep board staff informed of participation in committees or workgroups and any travel needs for FBSPT participation, as travel authorization is required, as well as any change in contact information.

Ms. Tillman Wolf thanked the Board Members for their hard work and dedication.

Dr. Mariano requested clarification on the concern of the term “Dynamic Personal Trainer” or “DPT.” Ms. Tillman Wolf reported that it can be confusing to physical therapy patients/consumers with the “DPT” term that is used in the practice of physical therapy for the degree designation “Doctorate of Physical Therapy” then also being used to abbreviate “Dynamic Personal Trainer” by a fitness entity.

With no additional questions, Ms. Tillman Wolf concluded her report.

Discipline Report

As of January 31, 2024, Ms. Pagano reported the following disciplinary statistics:

- 51 Open cases:
 - 25 Patient Care:
 - 13 at Enforcement/Investigation
 - 9 at Probable Cause
 - 1 at APD
 - 2 at Formal Hearing
 - 26 Non-Patient Care:
 - 3 at Enforcement/Investigation
 - 22 at Probable Cause
 - 1 at Informal Conference

Ms. Pagano reported the following Total Cases Received and Closed:

- Q4 2021 – 20/7
- Q1 2022 – 11/12
- Q2 2022 – 9/8
- Q3 2022 – 15/18
- Q4 2022 – 3/10
- Q1 2023 – 15/21
- Q2 2023 – 13/18
- Q3 2023 – 10/8
- Q4 2023 – 4/5
- Q1 2024 – 10/14
- Q2 2024 – 27/4

Ms. Pagano provided a case status update since the January 2024 Monthly Report and reported the following disciplinary statistics:

- Patient Care:
 - 6 cases closed/pending closure
- Non-Patient Care:
 - 14 Confidential Consent Agreements completed for processing
 - 1 Pre-Hearing Consent Order for consideration by the Board

Ms. Pagano stated that there were no cases ready for probable cause review.

With no questions, Ms. Pagano concluded her report.

Licensure Report – Sarah Georgen, Licensing and Operations Supervisor

Licensure Statistics – All Licenses

Ms. Georgen presented licensure statistics that included the following information and trends in license count:

License	Q1 2024	Q2 2024	Change +/-
Physical Therapist	9,403	9,523	+120
Physical Therapist Assistant	3,758	3,791	+33
Total PT's and PTA.'s	13,161	13,314	+153
Direct Access Certification	1,250	1,257	+7

Criminal Background Check Statistics 2023

Ms. Georgen provided the Criminal Background Check statistics for 2023 that included the following information:

	PT	PTA	Total
Total Applicants	742	197	939
CBC Record Not Disclosed	6	2	8
Self Disclosed	7	4	11
Total Convictions	13	6	19

Ms. Georgen provided data on the trends noted for criminal background checks since 2020.

Examination Statistics

Ms. Georgen presented the Physical Therapist and Physical Therapist Assistant examination statistics from October 2023 and January 2024 administrations and provided information on the examination trends.

Customer Satisfaction

Ms. Georgen reported the customer satisfaction statistics for FY 2023.

Ms. Georgen summarized the written comments from the customer satisfaction survey sent to new licensees.

Call Trends

Ms. Georgen provided a brief report on the call trends from 2019 to 2023. She stated that an average of 5,100 calls are received by the Board each year.

Updates for Expense Reimbursement Vouchers

Ms. Georgen provided information on changes to the Internal Revenue Service (IRS) Standard Mileage Rate increase effective January 1, 2024. She provided information to the Board Members on using an optional

Virginia Department of Accounts Remittance Electronic Data Interchange (REDI) system for pending deposit notifications.

Ms. Georgen provided information on the existing policy regarding compliance with the 30-day requirement to submit Expense Reimbursement Vouchers. She stated that all agencies were required to adhere to these regulations, and there are no exceptions to this policy.

Dr. Palle requested information on the National Physical Therapy Examination comparison to Virginia. Ms. Tillman Wolf said that information could be shared at the next Board meeting.

With no questions, Ms. Georgen concluded her report.

BOARD COUNSEL REPORT

Mr. Rutkowski provided an update on a pending court case involving the Board.

COMMITTEE AND BOARD MEMBER REPORTS

FSBPT Annual Meeting Report – Mira Mariano, PT, PhD

Dr. Mariano reported on the FSBPT Annual Meeting and reviewed the tasked items for 2024.

Board of Health Professions Report – Rebecca Duff, PTA, DHSc

Dr. Duff stated that she had no report to provide.

LEGISLATIVE AND REGULATORY REPORT

Ms. Barrett provided an update on the legislative bills considered by the 2024 General Assembly.

Ms. Palle requested clarification on the regulatory reduction proposed. Ms. Barrett provided clarification that the Board previously reviewed the regulations for duplicate information and guidance document content which would make it difficult for the Board to further reduce regulations. She stated that the review of this information is ongoing, and more information would be provided in the future.

Ms. Tillman Wolf spoke to questions from Dr. Palle regarding the English proficiency examination and review process and the required traineeship for foreign educated applicants.

Ms. Barrett provided an update on the regulatory actions currently in process.

With no questions, Ms. Barrett concluded her report.

BOARD DISCUSSION AND ACTIONS

Consideration and Adoption of Proposed Regulations for Regulatory Reduction (18VAC112-20-10 et seq.)

Ms. Barrett provided an overview of the draft Proposed Regulations for Regulatory Reduction (18VAC112-20-10 et seq.) and noted additional changes to ensure consistency of reference within the regulations, as well as the proposed removal of the requirement for applicants for licensure by endorsement to provide evidence of completion of continuing education in 18VAC112-20-65(B)(4).

Upon a **MOTION** by Dr. Bureau, properly seconded by Dr. Palle, the Board voted to adopt Proposed Regulations for Regulatory Reduction (18VAC112-20-10 et seq.), as amended. The motion carried unanimously (6-0).

Initiation of Fast-Track Regulatory Action Related to Agency Subordinate Proceedings (18VAC112-20-26)

Ms. Barrett provided an overview of a proposed Fast-Track Regulatory Action Related to Agency Subordinate Proceedings (18VAC112-20-26) to conform with a 2023 change to the *Virginia Code*.

Upon a **MOTION** by Ms. Szasz Palmer, properly seconded by Dr. Fox, the Board voted to amend 18VAC112-20-26 by fast-track action as presented. The motion passed unanimously (6-0).

Initiation of Periodic Review - Public Participation Guidelines (18VAC112-11-10 et seq.)

Ms. Barrett provided an overview of the periodic review process and the required review of the Board's Public Participation Guidelines (18VAC112-11-10 et seq.).

Upon a **MOTION** by Dr. Duff, properly seconded by Dr. Palle, the Board voted to initiate periodic review of 18VAC112-11-10 et seq. as presented. The motion carried unanimously (6-0).

Review of Designation of Documents as Guidance Documents

Ms. Barrett provided information related to the review of the Board's guidance documents to determine if they meet the requirements to serve as guidance documents or if they should be labeled as policy documents going forward.

The Board requested the Legislative/Regulatory Committee to review the guidance documents for recommendations and considerations by the full Board.

BREAK

The Board took a break at 12:28 p.m. and reconvened at 12:33 p.m.

NEW BUSINESS

Initial Discussion Regarding CE Broker as Tool for Continuing Education Tracking and Reporting

Ms. Georgen provided an overview of CE Broker as a tool for continuing education tracking and reporting.

The Board requested a presentation from a representative of CE Broker at the next meeting for further discussion and consideration.

Initial Discussion - Developing Guidance on NPTE Appeal Process

Ms. Tillman Wolf initiated discussion on developing guidance from the Board on the process for candidates who seek an appeal of the FSBPT's attempt limits for the National Physical Therapy Examination.

The Board requested the Legislative/Regulatory Committee to review the NPTE Appeal Process for recommendations and considerations by the full Board.

CONSIDERATION OF CONSENT ORDER

Dr. Mariano turned the facilitation of the meeting over to Ms. Szasz Palmer.

Ms. Pagano provided a summary of the Consent Order for case number 226697.

Upon a **MOTION** by Dr. Duff, the Board of Physical Therapy convened in a closed meeting pursuant to Section 2.2-3711(A)(27) of the Code of Virginia for the purpose of deliberation to consider a settlement proposal in a pending disciplinary action regarding Joshua Forrest, Physical Therapist.

She moved that Mr. Rutkowski, Ms. Tillman Wolf, Ms. Pagano, and Ms. Georgen attend the closed meeting because their presence in the closed meeting is deemed necessary and will aid the Board in its consideration of this topic.

Having certified that the matters discussed in the preceding closed session met the requirements of §2.2-3711(A)(27) of the Code, upon motion by Dr. Duff, the Board reconvened in open session.

Upon a **MOTION** by Dr. Bureau, and duly seconded by Dr. Fox, the Board moved to accept the Consent Order. The motion carried unanimously (6-0).

NEXT MEETING

The next meeting date is May 14, 2024.

ADJOURNMENT

Dr. Mariano called for any objections to adjourn the meeting. Hearing no objections and with all business concluded, the meeting adjourned at 1:10 p.m.

Corie Tillman Wolf, J.D., Executive Director

Date