

The Virginia Board of Physical Therapy convened for a full board meeting on Tuesday, November 12, 2019 at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2<sup>nd</sup> Floor, Board Room #2, Henrico, Virginia.

**BOARD MEMBERS PRESENT**

Arkena L. Dailey, PT, DPT, President\*  
Elizabeth Locke, PT, PhD, Vice-President\*  
Tracey Adler, PT, DPT, CMTPT\*  
Rebecca Duff, PTA, DHSc\*  
Allen R. Jones, Jr., PT, DPT  
Mira H. Mariano, PT, PhD, OCS\*  
Susan Palmer, MLS

**DHP STAFF PRESENT FOR ALL OR PART OF THE MEETING**

Barbara Allison-Bryan, DHP Deputy Director  
Erin Barrett, Assistant Attorney General, Board Counsel  
David Brown, DC, DHP Director  
Sarah Georgen, Licensing and Operations Manager  
Laura Mueller, Program Manager  
Kelley Palmatier, Deputy Executive Director  
Corie Tillman Wolf, Executive Director  
Elaine Yeatts, Senior Policy Analyst

**OTHER GUESTS PRESENT**

Trasean Boatwright, Board of Long-Term Care Administrators  
TJ Cantwell, Compact Administrator, Physical Therapy Compact Commission  
Richard Grossman, Virginia Physical Therapy Association  
Tayla Henderson, Hampton University Student  
Anne Joseph, Deputy Director, Administrative Proceedings Division  
Angela Pearson, Senior Discipline Operations Manager  
Heather Wright, Board of Funeral Directors and Embalmers

*\*participant indicates attendance to count toward continuing education requirements*

**CALL TO ORDER**

Arkena L. Dailey, PT, DPT, Board President, called the meeting to order at 9:33 a.m. and asked the Board members and staff to introduce themselves.

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

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

Dr. Dailey provided reminders to the Board members and audience regarding microphones, sign in sheets, computer agenda materials, attendance for continuing education requirements and breaks.

Ms. Tillman Wolf then read the emergency egress instructions.

### **APPROVAL OF MINTUES**

Upon a **MOTION** by Dr. Jones, and properly seconded by Dr. Mariano, the Board voted to accept the August 13, 2019 Full Board meeting minutes. The motion passed unanimously.

### **ORDERING OF THE AGENDA**

Upon a **MOTION** by Dr. Locke, and properly seconded by Dr. Jones, the Board voted to accept the agenda as written. The motion passed unanimously.

### **PUBLIC COMMENT**

Dr. Dailey introduced Ms. Tayla Henderson as a second-year physical therapy student at Hampton University. Ms. Henderson provided a brief statement regarding her background.

### **AGENCY REPORT**

Dr. Allison-Bryan stated that the Department of Health Professions (“DHP”) held an annual Board Member Training event on October 7, 2019, which was well-received by Board members. She thanked the DHP staff and Board Counsel for their participation. She welcomed further feedback from the Board members.

Dr. Allison-Bryan updated the Board regarding the upcoming building security measures. Dr. Allison-Bryan reported that the building tenants have worked with the Henrico County and Virginia State Police to assess the building and have identified several possible changes including the relocation of the security desk, purchasing walk-through metal detectors, bag and wand screening. She stated that she anticipates the implementation of these changes by the end of 2019.

Dr. Allison-Bryan reported on two DHP workgroups, including the Workgroup on Barriers to Licensure for International Medical Graduates (IMGs) and the Workgroup on Telemedicine.

Dr. Allison-Bryan discussed the results of a recent agency financial audit and the importance of timely submission of travel reimbursement requests.

Ms. Tillman Wolf advised Board members that the current use of Board member badges for meetings and hearings only would remain the same. Board members will be asked to provide identification and sign-in to the building for meetings and hearings. Board staff will alert Board members prior to meetings of upcoming changes as they are implemented.

With no questions, Dr. Allison-Bryan concluded her report.

## STAFF REPORTS

*Executive Director's Report – Corie E. Tillman Wolf, JD, Executive Director*

### *Board Announcements*

Ms. Tillman Wolf congratulated Dr. Locke on receiving the *Inside Business* 2019 Women in Business Achievement Award.

### *Expenditure and Revenue Summary as of September 30, 2019*

Ms. Tillman Wolf presented the Expenditure and Revenue Summary as of September 30, 2019.

Cash Balance as of June 30, 2019	\$1,897,707
YTD FY20 Revenue	\$ 34,590
Less YTD Direct & In-Direct Expenditures	\$ 154,295
<b>Cash Balance as of September 30, 2019</b>	<b>\$1,778,002</b>

### *Staff Updates*

Ms. Tillman Wolf announced that Board staff was finalizing the continuing education audit, with one case pending. She stated that the audits are a staff intensive process and thanked the Board staff with the quick processing of the audit.

Ms. Tillman Wolf reported on the licensure and discipline presentation that she provided to third-year physical therapy students at Old Dominion University in October 2019. Dr. Locke expressed her appreciation for Ms. Tillman Wolf's time and stated that the presentation received positive feedback.

### *FSBPT – Updates*

Ms. Tillman Wolf reported on the FSBPT Annual Regulatory Training held in August 2019 which was attended by Dr. Duff and Ms. Palmer. She stated that more information would be provided by the attendees later in the agenda.

Ms. Tillman Wolf reported on the FSBPT Annual Meeting and Delegate Assembly held in October 2019, which was attended by Dr. Dailey, Dr. Locke and Ms. Tillman Wolf. She reported that Dr. Dailey participated on the Education Committee and was the Board's Voting Delegate. She reported that Dr. Locke provided a presentation on "The Adversity to Diversity" and was the Board's Alternate Delegate. Ms. Tillman Wolf also reported that she was a co-presenter for a Task Force report at the Compact Board Administrators (CBA) meeting, that she participated on the Teller Committee, and was the Board's Compact Delegate. Ms. Tillman Wolf has been appointed to the Rules and Bylaws Committee for the Compact.

### *FSBPT Annual Meeting – Updates*

Ms. Tillman Wolf reported that Virginia continued to have a 5-star rating for the Enforcement Licensure Discipline Database (ELDD) through the FSBPT. Ms. Wolf discussed the requirements of reporting Board

Orders following the 33-day appeal period, which has prevented the Board from receiving a 5-star rating in the discipline category for FSBPT's ELDD report. Ms. Barrett reminded Board members regarding the possible legal issues surrounding early posting of orders.

Ms. Tillman Wolf reported on the CBA forum discussions and other sessions of interest at the FSBPT Annual Meeting. She also discussed a presentation provided by Nancy Oglesby and Mike Milnor on "An Overview of Trauma's Impact on Boundary Violation Investigations." Ms. Tillman Wolf expressed interest in bringing the training to the Board and possibly the agency at a future date.

#### *FSBPT – Upcoming Dates*

Ms. Tillman Wolf provided the following upcoming dates for FSBPT meetings:

- Leadership Issues Forum – July 18-19, 2020
- Annual Regulatory Training for Board members and staff – August 2020
- FSBPT Annual Meeting and Delegate Assembly – October 22-24, 2020

#### *PT Compact Status*

Ms. Tillman Wolf updated the Board on the Physical Therapy Compact status. She stated that Board staff is continuing to work on criminal background check (CBC) processes and uploads of data.

#### *PT Compact Status – Staff Implementation*

Ms. Tillman Wolf reported that Board staff was scheduled to receive orientation training from the Administrator of the Compact Commission following the Board meeting. She announced that pending applicants would receive email communications from the Board in December regarding the new CBC process. She also announced that she will be working with the Compact Commission to host an informational webinar for licensees in early December. She said that more information would be forthcoming.

Dr. Duff inquired as to providing the PT and PTA programs with an update regarding the PT Compact and CBC requirements. Ms. Tillman Wolf agreed and said that she would prepare an email communication for distribution.

#### *PT Compact – Board Actions*

Ms. Tillman Wolf provided an update of the remaining Board actions for the PT Compact to include consideration of revisions to Guidance Document 112-23, to be discussed later in the agenda, as well as updates to the Board's licensure applications, which will be presented at the February 2020 quarterly Board meeting.

#### *Licensing Report*

Ms. Tillman Wolf presented licensure statistics that included the following information:

##### Licensure Statistics – All Licenses

License	November 6, 2019	August 7, 2019	Change +/-
Physical Therapist	8,633	8,379	254
Physical Therapist Assistant	3,678	3,611	67
<b>Total PT's and PTA's</b>	<b>12,311</b>	<b>11,990</b>	<b>321</b>
Direct Access Certification	1,265	1,261	4

Ms. Tillman Wolf presented the PT Exam Statistics from October 24, 2019, which included the following:

	# who took exam	# Passed	1 <sup>st</sup> time test takers	Repeat test takers	# Failed	1 <sup>st</sup> time testers	Repeat Test Takers
US Applicants	62	49	36	13	13	5	8
Non-CAPTE Applicants	2	1	0	1	1	0	1
<b>Total</b>	<b>64</b>	<b>50</b>	<b>36</b>	<b>14</b>	<b>14</b>	<b>5</b>	<b>9</b>

Ms. Tillman Wolf presented the PTA Exam Statistics from October 3, 2019, which included the following:

	# who took exam	# Passed	1 <sup>st</sup> time test takers	Repeat test takers	# Failed	1 <sup>st</sup> time testers	Repeat Test Takers
US Applicants	42	27	16	11	15	1	14
Non-CAPTE Applicants	0	0	0	0	0	0	0
<b>Total</b>	<b>42</b>	<b>27</b>	<b>16</b>	<b>11</b>	<b>15</b>	<b>1</b>	<b>14</b>

Ms. Tillman Wolf provided the following statistics regarding the Virginia Performs – Customer Satisfaction Survey Results:

- Q1 2019 – 97.2%
- Q2 2019 – 94.3%
- Q3 2019 – N/A
- Q4 2019 – 100%
- Q1 2020 – 100%

Ms. Tillman Wolf shared a positive comment received from a licensee and thanked Ms. Mueller and Ms. Georgen, as well as Mr. Boatwright and Ms. Wright for their hard work on behalf of the Board.

Ms. Tillman Wolf announced that the customer satisfaction statistics from the FSBPT show that Virginia's statistics are above the national average at 90.8%.

Ms. Tillman Wolf announced the proposed Board meeting dates for 2020:

- February 13, 2020 – 9:30 a.m.
- May 12, 2020 – 9:30 a.m.
- August 11, 2020 – 9:30 a.m.
- November 17, 2020 – 9:30 a.m.

#### *Notes and Reminders*

Ms. Tillman Wolf provided reminders to the Board members to contact Board staff with any changes in contact information. Ms. Tillman Wolf reminded Board members to sign in to obtain continuing education credit for attendance of the Board meeting and thanked Board members for their hard work and dedication.

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

#### *Discipline Report – Kelley Palmatier, JD, Deputy Executive Director*

As of August 2, 2019, Ms. Palmatier reported the following disciplinary statistics:

- 46 total cases
  - 1 in Administrative Proceedings Division
  - 0 in Formal Hearing
  - 2 in Informal Conferences
  - 16 in Investigation
  - 27 in Probable Cause

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

- |                  |                   |
|------------------|-------------------|
| • Q4 2017 – 21/9 | • Q1 2019 – 13/15 |
| • Q1 2018 – 6/10 | • Q2 2019 – 10/11 |
| • Q2 2018 – 15/7 | • Q3 2019 – 9/17  |
| • Q3 2018 – 9/2  | • Q4 2019 – 7/12  |
| • Q4 2018 – 4/4  |                   |

Ms. Palmatier reported the following Virginia Performs statistics for Q3 2019:

- Clearance Rate – 138% Received 8 patient cases and closed 11 cases

- Pending Caseload over 250 days at 19%. That represents 6 cases.
- There were 5 cases closed within 250 days.

Ms. Palmatier reported on all case information within the last six quarters as follows:

Percentage of all cases closed in one year:

	Q3 – 2018	Q4 – 2018	Q1 – 2019	Q2 – 2019	Q3 – 2019	Q4 – 2019
<b>PT</b>	100%	25.0%	46.7%	45.5%	32.7%	54.5%
<b>Agency</b>	87.6%	80.6%	85.5%	84.0%	76.4%	82.3%

Average days to close a case:

	Q3 – 2018	Q4 – 2018	Q1 – 2019	Q2 – 2019	Q3 – 2019	Q4 – 2019
<b>PT</b>	152.5	412.8	389.3	366.5	467	322
<b>Agency</b>	196.4	201.1	173.8	169.2	258	204

Ms. Palmatier announced that she will be updating the probable cause worksheet in the near future. She reminded Board members that questions regarding the review of a probable cause case should be directed to Board staff. She also reminded Board members to take precaution with security measures to keep case information confidential.

With no further questions, Ms. Palmatier concluded her report.

**BOARD COUNSEL REPORT – Erin Barrett, Assistant Attorney General**

Ms. Barrett updated the Board members on the status of *Myer v. Northam, et al.*

**COMMITTEE AND BOARD MEMBER REPORTS**

*Report from FSBPT Board Member Training – Rebecca Duff, PTA, DHSc, Susan Palmer, MLS*

Dr. Duff and Ms. Palmer provided a report on the FSBPT Board member training. They thanked the Board for the opportunity to attend the training. Dr. Duff and Ms. Palmer reported on the key information shared during the training. Ms. Palmer suggested that DHP more prominently display the mission statement on the website.

*Report from FSBPT Annual Meeting – Arkena L. Dailey, PT, DPT, Elizabeth Locke, PT, PhD*

Dr. Locke and Dr. Dailey provided a condensed verbal report on the FSBPT Annual Meeting held in Oklahoma City, Oklahoma. They thanked the Board for the opportunity to attend the meeting as voting delegates. Dr. Locke and Dr. Dailey reported takeaways on the key information related to the Virginia Board, which were shared at the meeting. These topics elaborated more on improving and maintaining public trust, foreign credentials evaluation process, future of digital Physical Therapy practice, importance of organizational diversity, regulations for dry needling, and pain management benefits related to CBD oil. Dr. Dailey suggested that Board members visit the FSBPT website to find the lectures and presentations provided during the meeting.

Ms. Tillman Wolf announced that Dr. Locke would provide a presentation on diversity to the Board members at a future quarterly meeting. Dr. Allison-Bryan requested that Ms. Tillman Wolf invite the DHP Committee on Diversity to attend the presentation, as well as any other interested DHP staff.

*Board of Health Professions Report – Allen R. Jones, PT, DPT*

Dr. Jones stated that the Board of Health Professions met on August 20, 2019 and that the meeting minutes from the meeting are included in the agenda packet. He reported that the Board of Health Professions recommended establishing a regulatory process for licensing music therapists and will be reviewing the DHP mission statement. Dr. Jones reported that more information would be provided throughout the process.

## LEGISLATION AND REGULATORY ACTIONS

*Update on Status of Regulations*

Ms. Yeatts reported the status of regulatory actions for the Board. She stated that the emergency regulations related to the Implementation of the Physical Therapy Compact were in the public comment stage until November 13, 2019, that the periodic review was in the proposed stage at the Secretary's Office, and that the Practice of Dry Needling was in the final stage at the Governor's Office.

*Update on Legislation*

Ms. Yeatts stated that the legislation previously discussed by the Board related to the authority of the Board to discipline Compact privileges will be included in the Governor's legislative package for the 2020 General Assembly.

*Adoption of Revisions to Guidance Document 112-23 – Guidelines for Processing Applications for Licensure*

The Board discussed the draft revisions to Guidance Document 112-23.

Upon a **MOTION** by Dr. Jones, and properly seconded by Dr. Adler, the Board voted to adopt the revisions to Guidance Document 112-23: Guidelines for Processing Applications for Licensure as presented. The motion passed by a vote of 6-1 (Nay: Locke). (Attachment A)

*Adoption of Fast Track Regulation Related to Handling Fee for Dishonored/Returned Checks or Payments (18VAC112-20-10 et seq.)*

Ms. Yeatts provided an overview of the proposed changes to the Board's regulations related to the handling fee for dishonored/returned checks or payments.

Upon a **MOTION** by Dr. Locke, and properly seconded by Dr. Jones, the Board voted to adopt the Fast Track Regulation Related to Handling Fee for Dishonored/Returned Checks or Payments as presented by Ms. Yeatts. The motion passed unanimously. (Attachment B)

**NEW BUSINESS**

*Approval of Workforce Survey Question – Third Party Payment Acceptance*

The Board discussed the addition of workforce survey questions to collect information related to third-party payment acceptance.

Upon a **MOTION** by Dr. Locke, and properly seconded by Ms. Palmer, the Board voted to approve the addition of workforce survey questions to collect information related to third-party payment acceptance. The motion passed unanimously.

**BREAK**

The Board took a break at 11:14 a.m. and returned at 11:25 a.m.

**TRAINING**

Dr. Dailey welcomed TJ Cantwell, Compact Administrator with the Physical Therapy Compact Commission to orient the Board to the PT Compact.

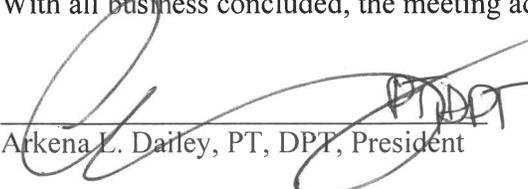
Dr. Dailey requested that Ms. Tillman Wolf report on the number of compact privileges issued in Virginia at future quarterly meetings.

**NEXT MEETING**

The next meeting date is February 13, 2020.

**ADJOURNMENT**

With all business concluded, the meeting adjourned at 12:15 p.m.

  
Arkena L. Dailey, PT, DPT, President

  
Corie Tillman Wolf, J.D., Executive Director

Date 2/13/20

Date February 14, 2020

## Virginia Board of Physical Therapy

### Guidelines for Processing Applications for Licensure: Examination, Endorsement and Reinstatement

Applicants for licensure or registration by examination, endorsement and reinstatement who meet the qualifications as set forth in the law and regulations shall be issued a license, registration, or certificate pursuant to authority delegated to the Executive Director of the Board of Physical Therapy as specified in the Bylaws of the Board. (*See* Article V, Bylaws.)

An applicant whose license, registration, or certificate has been revoked or suspended for any reason other than nonrenewal by another jurisdiction is not eligible for licensure or certification in Virginia unless the credential has been reinstated by the jurisdiction which revoked or suspended it. (Va. Code § 54.1-2408.) A suspension or revocation by another jurisdiction that has been stayed on terms is not considered to be reinstated for purposes of Va. Code § 54.1-2408.

Affirmative responses to any questions on applications for licensure, registration, or certification that might constitute grounds for the Board to refuse to admit a candidate to an examination, refuse to issue a license, registration, or certificate, or impose sanction shall be referred to the Board President for guidance on how to proceed.

Failure to disclose convictions, past actions or possible impairment may result in disciplinary action by the Board.

A criminal conviction for any felony may cause an applicant to be denied licensure or registration. (Va. Code § 54.1-3480.) Each applicant, however, is considered on an individual basis, and there are no criminal convictions or impairments that are an absolute bar to licensure or registration by the Board of Physical Therapy.

Applications for licensure, registration, and certification include questions about the applicant's history, including:

1. Any and all criminal convictions;
2. Any past action taken against the applicant in another state or jurisdiction, including denial of licensure, certification, or registration in another state or jurisdiction; and
3. Any mental or physical illness or chemical dependency condition that could interfere with the applicant's ability to practice.

Replying "yes" to any questions about convictions, past actions, or possible impairment does not mean the application will be denied. It simply means more information must be gathered and considered before a decision can be made. Sometimes an administrative proceeding is required before a decision regarding the application can be made. The Board of Physical Therapy has the ultimate authority to approve or deny an applicant for licensure, registration, or certification. (Va. Code § 54.1-3480.)

#### **The following information will be requested from an applicant with criminal conviction:**

- A certified copy of all conviction orders (obtained from the courthouse of record);
- Evidence that all court ordered requirements were met (i.e., letter from the probation officer if on supervised probation, evidence of paid fines and restitution, etc.); and
- A letter from the applicant explaining the factual circumstances leading to the criminal offense(s).

**The following information will be requested from an applicant with past disciplinary action or licensure/certification/registration denial in another state (unrelated to criminal convictions):**

- A certified copy of the Order for disciplinary action or denial from the other state licensing entity;
- A certified copy of any subsequent actions (i.e. reinstatement), if applicable; and
- A letter from the applicant explaining the factual circumstances leading to the action or denial.

**The following information may be requested from applicants with a possible impairment:**

- Evidence of any past treatment (i.e., discharge summary from outpatient treatment and inpatient hospitalizations);
- A letter from the applicant's current treating healthcare provider(s) describing diagnosis, treatment regimen, compliance with treatment, and an analysis of the applicant's ability to practice safely; and
- A letter from the applicant explaining the factual circumstances of the condition or impairment and addressing ongoing efforts to function safely (including efforts to remain compliant with treatment, maintain sobriety, attendance at AA/NA meetings, etc.).

**The Executive Director may approve the application without referral to the Board President in the following cases:**

1. The applicant's history of a criminal conviction was disclosed on an application for licensure and either:
  - a. Does not constitute grounds for denial (any felony or any misdemeanor involving moral turpitude) or constitute grounds for Board action pursuant to §54.1-3480 of the Code of Virginia. (Article V, Bylaws; Va. Code § 54.1-3480.), or
  - b. The applicant Does constitute grounds for denial or Board action pursuant to § 54.1-3480 of the Code of Virginia, has a history of criminal conviction for felonies or misdemeanors involving moral turpitude (specifically any felony or any misdemeanor involving moral turpitude), but the following criteria are met:
    - Conviction history includes only misdemeanors which are greater than 5 years old, as long as court requirements have been met;
    - If one misdemeanor conviction is less than 5 years old, the court requirements have been met, and the crime was unrelated to the license or registration sought; or
    - If the applicant was convicted of one felony more than 10 years ago, when that one felony was non-violent in nature and all court/probationary/parole requirements have been met;
- 3 2. The applicant has Reported juvenile convictions.
- 4 3. The applicant has Applicants with a conviction history previously reviewed and approved by the Board of Physical Therapy, provided no subsequent criminal convictions exist. (Article V, Bylaws.)

## BOARD OF PHYSICAL THERAPY

### Handling Fee

#### 18VAC112-20-27. Fees.

- A. Unless otherwise provided, fees listed in this section shall not be refundable.
- B. Licensure by examination.
  - 1. The application fee shall be \$140 for a physical therapist and \$100 for a physical therapist assistant.
  - 2. The fees for taking all required examinations shall be paid directly to the examination services.
- C. Licensure by endorsement. The fee for licensure by endorsement shall be \$140 for a physical therapist and \$100 for a physical therapist assistant.
- D. Licensure renewal and reinstatement.
  - 1. The fee for active license renewal for a physical therapist shall be \$135 and for a physical therapist assistant shall be \$70 and shall be due by December 31 in each even-numbered year.
  - 2. The fee for an inactive license renewal for a physical therapist shall be \$70 and for a physical therapist assistant shall be \$35 and shall be due by December 31 in each even-numbered year.
  - 3. A fee of \$50 for a physical therapist and \$25 for a physical therapist assistant for processing a late renewal within one renewal cycle shall be paid in addition to the renewal fee.
  - 4. The fee for reinstatement of a license that has expired for two or more years shall be \$180 for a physical therapist and \$120 for a physical therapist assistant and shall be submitted with an application for licensure reinstatement.
- E. Other fees.
  - 1. The fee for an application for reinstatement of a license that has been revoked shall be \$1,000; the fee for an application for reinstatement of a license that has been suspended shall be \$500.
  - 2. The fee for a duplicate license shall be \$5, and the fee for a duplicate wall certificate shall be \$15.
  - 3. The handling fee for a returned check or a dishonored credit card or debit card shall be ~~\$35~~ \$50.
  - 4. The fee for a letter of good standing/verification to another jurisdiction shall be \$10.
  - 5. The application fee for direct access certification shall be \$75 for a physical therapist to obtain certification to provide services without a referral.