

**DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE
BOARD OF PHYSICAL THERAPY
GENERAL BUSINESS MEETING
GENERAL RULES REVIEW
AUGUST 8-9, 2013
MINUTES**

**Crowne Plaza Ft. Myers
13051 Bell Tower Drive
Fort Myers, FL 33907
(239) 210-2462**

Participants in this public meeting should be aware that these proceedings are being recorded and that an audio file of the meeting will be posted to the Board's website.

August 8, 2013 – 6:30 p.m.

The minutes reflect the actual sequence of events rather than the original agenda order.

Call the Meeting to Order and Roll Call:

Clint Lohr, Chair, called the general business meeting to order at approximately 6:30 p.m. Those present for all or part of the meeting, included the following:

MEMBERS PRESENT

Clint Lohr, PT, Chair, Cert. MDT
Dr. Gina Petraglia, Vice Chair, PT
Dr. William S. Quillen, PT, DPT, PhD, FACSM
Dr. Kay Tasso, PT, PhD, PCS
Christina L. Pettie, PT, MHA

BOARD COUNSEL

Larry Harris, Board Counsel,
Assistant Attorney General Office

STAFF PRESENT

Allen Hall, Executive Board Director
Jessica Sapp, Program Administrator

PROSECUTING ATTORNEY

Oaj Gilani, Prosecuting Attorney,
DOH Prosecution Services
Leland McClarron, Prosecuting Attorney,
DOH Prosecution Services

REQUEST FOR FORMAL MONITOR APPROVAL

Tab 1 Matthew Williams, PTA8695

Mr. Williams was present and sworn in by the Chair. Also present was his supervisor, Diane Brawner.

Case No. 2012-04655:

An Administrative Complaint (AC) was filed on October 16, 2012 against Mr. Williams for falsifying patient records and billing notes, a violation of Section 486.125(1)(b), Florida Statutes (2011) and Section 486.125(1)(k) and 456.072(1)(a), Florida Statutes (2011).

The Respondent requests the Board grant formal approval of his proposed monitor, Ms. Diane Brawner. The Board granted authority to the Board's Chairperson to temporarily approve the proposed monitor and temporary approval was granted on February 22, 2013.

The Final order filed on March 4, 2013 placed the Respondent on probation with direct supervision for 2 years and quarterly respondent and monitor reports, a reprimand, fine of \$10,000 and costs of \$1,645.00 due by March 4, 2016 and passage of Laws and Rules Exam by March 4, 2015.

This request was heard at the May 3, 2013. The Board tabled the discussion at the request of the Respondent.

MOTION: After discussion, Mr. Lohr made a motion to formally approve Ms. Brawner, PT 19432, as Mr. Williams' monitor. The motion was seconded by Ms. Pettie and carried 5/0.

RULE DISCUSSION

Tab 2 Remediation Criteria

- Rules 64B17-3.002(3) and 4.002(3)

At the previous meeting, the board discussed revising the above rules to outline specific remediation requirements. Mr. Harris discussed developing criteria outlining the requirements of a remedial training.

Dr. Quillen and Dr. Tasso will submit remediation suggestions to Mr. Harris and Mr. Hall so that rule language can be drafted for the next board meeting.

Tab 3 Foreign Trained Education Requirement

- Rules 64B17-3.003(2) and 4.003(2)
- Proposed Application Revisions

The Board previously approved an alternate method for foreign trained candidates to satisfy the education requirement for initial licensure. However, at this time there is not an established process for candidates to show proof of clinical hours. It is unclear how the Board wants the hours to be demonstrated.

Dr. Gina Musolino addressed the board and shared the California Board requirements.

The board agreed to require a notarized statement certifying their clinical hours completed in the United States.

MOTION: Dr. Petraglia made a motion to open Rules 64B17-3.003 and 4.003 for development and directed counsel to draft language for the next board meeting. The motion was seconded by Dr. Quillen and seconded 5/0.

Board staff proposed application revisions to include the requirements in the application instructions and checklist.

MOTION: After discussion, Mr. Lohr made a motion to approve the application revisions and directed counsel open Rules 64B17-3.001, 3.003 and 4.001, 4.003 for development. The motion was seconded by Dr. Petraglia and carried 5/0.

MOTION: Mr. Lohr made a motion to find the proposed revisions do not have an adverse impact on small businesses and will not be likely to directly or indirectly increase regulatory costs to any entity (including government) in excess of \$200,000 in the aggregate in Florida within 1 year after the implementation of the rule. The motion was seconded by Dr. Quillen and carried 5/0.

REPORTS

Tab 4 Larry Harris, Assistant Attorney General

- Rules Report

Mr. Harris discussed the status of the rules report.

Also discussed was SB 50 which requires board to allow for public participation at public meetings. Mr. Harris inquired with the board as to if they wish to begin development of a rule that would implement this law.

Mr. Lohr made a motion to open the rules for development to comply with amendments to Section 286.0114. The motion was seconded by Dr. Quillen and carried 5/0.

- Annual Regulatory Plan

The Board approved a prior draft of the Annual Regulatory Plan at the May meeting. Mr. Lohr approved the revised/amended ARP after on June 18, 2013 and it was filed June 21, 2013. The Chair's approval was subject to ratification by the full Board at the August meeting.

MOTION: After discussion, Dr. Tasso made a motion to ratify the final Annual Regulatory Rule Plan. The motion was seconded by Dr. Petraglia and carried 5/0.

- Proposed Language
 - Rule 64B17-2.001, Fees for Application, Re-Application and Initial Licensure

This rule was previously approved by the board and opened for development. Due to the rule expiring, the board considered the rule again.

In an effort to be consistent with assessing fees for National examinations, Practitioner Reporting and Exam Services (PRES) has modified their rule to delete any fee assessments for those examinations that are with the Nationals. The department cannot justify assessing an additional fee on top of that in which the candidate pays directly to the National vendor.

This requires the board to amend Rule 64B17-2.001, Fees for Application, Re-Application and Initial Licensure by deleting (4). Counsel has proposed the following:

64B17-2.001 Fees for Application, Re-Application and Initial Licensure.

(1) Each applicant for licensure shall pay an application fee in the form of a check or money order payable to the Department of Health. The application fee is nonrefundable and may not be used for more than one year from the original submission of the application. After one year from the date of the original submission of an application and application fee, a new application and new fee shall be required from any applicant who desires to be considered for licensure.

(2) The application fee for licensure by endorsement is \$100.

(3) The application fee for licensure by taking the national examination is \$100.

~~(4) The applicant is responsible for the \$25 application fee for taking the Florida laws and rules examination as prescribed by Rule 64B-1.016, F.A.C.~~

~~(4)(5)~~ When the Board certifies the applicant to sit for the examination, it is the applicant's responsibility to complete the examination process with the national vendor. In compliance with the Americans with Disabilities Act, any applicant requesting special accommodations shall comply with the Department of Health's Rule 64B-1.005, F.A.C.

~~(5)(6)~~ The initial licensure fee is \$75.

~~(6)(7)~~ The unlicensed activity fee is \$5.00. This fee is in addition to the initial licensure fee.

~~(7)(8)~~ If an applicant fails to pass the national examination and/or the laws and rules examination, the applicant is responsible to meet the same requirements as prescribed in subsections (2) through ~~(4)(5)~~ of this rule where applicable.

MOTION: Mr. Lohr made a motion to open Rule 64B17-2.001 for development, approve the proposed rule change and directed counsel to move forward with rule promulgation. The motion was seconded by Ms. Pettie and carried 5/0.

MOTION: Dr. Petraglia made a motion to find the proposed revisions do not have an adverse impact on small businesses and will not be likely to directly or indirectly increase regulatory costs to any entity (including government) in excess of \$200,000 in the aggregate in Florida within 1 year after the implementation of the rule. The motion was seconded by Dr. Taddo and carried 5/0.

- o Rule 64B17-8.001, Requirement for Instruction on Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome

At the previous meeting, the board discussed revising this rule so it is clear that HIV/AIDS is required for the licensee's first renewal and optional for subsequent renewals. Counsel proposed the following revisions:

64B17-8.001 Requirement for Instruction on Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome

(1) Each licensee must complete at least one clock hour of HIV/AIDS education through a Board approved course no later than upon the licensee's first biennial renewal of licensure. The Board shall accept coursework from schools of physical therapy, provided such coursework was completed no more than five (5) years preceding initial licensure date.

~~(2)(1)~~ To receive Board approval for biennial renewal, courses on HIV/AIDS shall be at least one hour and include the following subject areas:

(a) through (e) No change

~~(2) Each licensee must complete at least one clock hour on HIV/AIDS education no later than upon the licensee's first renewal of licensure. The Board shall accept coursework from schools of physical therapy, provided such coursework was completed no more than five (5) years preceding initial licensure date.~~

(3) No change

MOTION: Mr. Lohr made a motion to approve the proposed rule change and directed counsel to move forward with rule promulgation. The motion was seconded by Dr. Tasso and carried 5/0.

MOTION: Dr. Petraglia made a motion to find the proposed revisions do not have an adverse impact on small businesses and will not be likely to directly or indirectly increase regulatory costs to any entity (including government) in excess of \$200,000 in the aggregate in Florida within 1 year after the implementation of the rule. The motion was seconded by Dr. Tasso and carried 5/0.

o Rule 64B17-9.001, Continuing Education

At a previous meeting, the Florida Physical Therapy Association (FPTA) proposed a revision to this rule that allows for Clinical Instructors to obtain continuing education. The rule development expired and is now being brought back to the board so that rule promulgation can proceed. Counsel proposed the following:

64B17-9.001 Continuing Education.

(1) – (5) No Change

(6) Clinical Instructors shall receive 1 contact hour for every 160 hours of clinical internship limited to a maximum of 6 contact hours per instructor per bienium. Clinical instructors must be credentialed by the American Physical Therapy Association (APTA) to receive clinical continuing education credits.

(7)(6) The Board approves for continuing education credit:

(a) Courses sponsored by a program in physical therapy at a college or university which provides a curriculum for training physical therapists or physical therapist assistants, when approved by the physical therapy or physical therapy assistants program, which is accredited by, or has status with an accrediting agency approved by the United States Department of Education. One credit hour is the equivalent of one contact hour.

(b) Courses sponsored or approved by the American Physical Therapy Association or any of its components.

(c) Courses sponsored or approved by the Florida Physical Therapy Association, so long as they meet the criteria set forth in subsection 64B17-9.001(3), F.A.C.

(d) Attendance at Florida Board meetings where disciplinary cases are being heard if the licensee is not on the agenda or appearing for another purpose. The number of risk management contact hours for such attendance is based on the definition of contact hour as set forth in subsection (2).

(e) Former Board mMembers who serve on of the Board's Probable Cause Panel shall receive five contact hours of continuing education risk management credit per biennium for their service on the Panel.

(f) Licensees who file DOH form #DH-MQA 1144, PT Florida Laws and Rules Examination Application, Revised 08/13 ~~08/09~~, incorporated by reference, which is available through www.doh.state.fl.us/mqa, and take and pass the Florida laws and rules examination shall receive two (2) hours of continuing education per biennium. The continuing education credit shall be awarded only for the biennium in which the examination was taken and passed. Continuing education credit shall not be awarded to licensees that take and pass the examination as a result of a disciplinary proceeding or as a board ordered condition of initial licensure, re-activation or reinstatement.

(8)(7) The Board shall make exceptions for licensees from the continuing education requirements including waiver of all or a portion of these requirements or the granting of an extension of time in which to complete these requirements upon a finding of good cause by majority vote of the Board at a public meeting following receipt of a written request for exception based upon emergency or hardship. Emergency or hardship cases are those: 1) involving long term personal illness or illness involving a close relative or person for whom the licensee has care-giving responsibilities; 2) where the licensee can demonstrate that the required course(s) are not reasonably available; and 3) other demonstrated economic, technological or legal hardships that substantially relate to the ability to perform or complete the continuing education requirements.

(9)(8) The licensee must retain such receipts, vouchers, certificates, or other papers as may be necessary to document completion of the appropriate continuing education offerings listed on the renewal form for a period of not less than four years from the date the offering was taken.

Additional changes were proposed to new subsection 7(e) to track the language in statute.

MOTION: Mr. Lohr made a motion to approve the proposed rule change and directed counsel to move forward with rule promulgation. The motion was seconded by Dr. Tasso and carried 5/0.

MOTION: Dr. Petraglia made a motion to find the proposed revisions do not have an adverse impact on small businesses and will not be likely to directly or indirectly increase regulatory costs to any entity (including government) in excess of \$200,000 in the aggregate in Florida within 1 year after the implementation of the rule. The motion was seconded by Dr. Tasso and carried 5/0.

MOTION: Dr. Petraglia made a motion to approve the application changes. The motion was seconded by Mr. Lohr and carried 5/0.

Dr. Gina Musolino asked the board if 9.001(6) could be retroactive to June 1, 2012. Mr. Harris informed the board that would be allowable.

MOTION: Dr. Quillen made a motion to allow Rule 64B17-9.001(6) be retroactive to June 1, 2012. The motion was seconded by Mr. Lohr and carried 5/0.

- Section 486.031 and 486.102, F.S., Education Requirement

Mr. Harris discussed his interpretation and opinion of Rules 64B17-3.001 and 4.001, F.A.C. regarding foreign educational requirements as they relate to Sections 486.031 and 486.102, F.S. Based on Section 486.031(3)(b), applicants trained in a foreign country must have educational credentials deemed equivalent by an agency recognized by the Board.

The board accepted the interpretation and agreed applicants applying by examination must have a credentialing report which clearly states their education is equivalent. Petitions for rule waivers cannot be granted as the statute does not allow for discretion.

Tab 5 Chair/Vice Chair Report

None

Tab 6 Executive Director Report

The following reports were presented as informational.

- Cash Balance Report
- Board Expenditures

NEW BUSINESS

Tab 7 HB 1071, Section 486.102 - Physical Therapist Assistant; licensing requirements

- Summary

This law amended Section 486.102, Florida Statutes, by altering the accreditation requirements for a physical therapist assistant educational program. Accreditation is opened to regional or national institutional accrediting agencies recognized by the United States Department of Education or the Commission on Accreditation in Physical Therapy Education (CAPTE).

Several individuals from the audience addressed the Board regarding this new law including Amy Babb, PT, Kelly Crinkle, PT, Mary Jane Harris, CAPTE, Tad Fisher, CEO of FPTA, and Wendy Hansen, Esq. FPTA.

- Board Counsel Proposed Language
 - Rule 64B17-4.001, Licensure as a Physical Therapist Assistant by Examination

In response to implementing HB 1071, counsel has proposed the following language:

64B17-4.001 Licensure as a Physical Therapist Assistant by Examination.

Every physical therapist assistant who applies for licensure by examination shall file DOH Form #DH-MQA 1142 Application for Licensure, Revised 08/12, which is hereby incorporated by reference, which is available through <http://www.flrules.org/Gateway/reference.asp?No=Ref-02042> or www.doh.state.fl.us/mqa, and demonstrate to the Board that the applicant:

(1) Is eighteen years old.

(2) Possesses a good moral character.

(3) Education,

(a) Has received a degree as a physical therapist assistant from an institution that, at the time of graduation, has been approved for the training of physical therapist assistants by the Commission on Accreditation for Physical Therapy Education (CAPTE) or any regional or national institutional accrediting agencies recognized by the United States Department of Education at the time of graduation, or

(b) No change

The Board did not accept this proposed language.

- APTA Implementation Plan

John Bennett, General Counsel to the American Physical Therapy Association (APTA) has prepared a letter to the Board expressing the APTA's recommendations as to how the Board might accomplish implementing HB 1071.

After discussion and consider the APTA proposed language, the board accepted the language with revisions as noted below:

(3) Education satisfies the conditions in (a) or (b) below.

(a) Has graduated from a school giving a course of not less than 2 years for physical therapist assistants; and

1. The course has been accredited for the educational preparation of physical therapist assistants by the Commission on Accreditation in Physical Therapy Education (CAPTE), or

2. The course has been accredited for the educational preparation of physical therapist assistants by any one of the regional or national institutional accrediting agencies recognized by the United States Department of Education (USDE), as identified by the USDE.

3. The determination whether a course has been accredited for the educational preparation of physical therapist assistants shall be based on the USDE's Database of Accredited Postsecondary Institutions and Programs.

MOTION: Mr. Lohr made a motion to open Rule 64B17-4.001 for development and accepted the APTA proposed language with revisions as noted above. The motion was seconded by Dr. Tasso and carried 5/0.

- FPTA Declaratory Statement

Sheila Nicholson, Esq filed a petition on behalf of the FPTA for declaratory statement, requesting clarification from the Board regarding PTA education. After hearing previous discussion, FPTA withdrew petition.

MOTION: Dr. Petraglia made a motion to find the proposed revisions do not have an adverse impact on small businesses and will not be likely to directly or indirectly increase regulatory costs to any entity (including government) in excess of \$200,000 in the aggregate in Florida within 1 year after the implementation of the rule. The motion was seconded by Dr. Quillen and carried 5/0.

Tab 8 FPTA Proposed Rule Amendment, Rule 64B17-9.001

The FPTA suggests that Rule 64B17-9.001(6)(b) be revised to clarify the entities that are able to accredit CE programing.

Mr. Fisher addressed the board regarding their proposed amendments.

1. That Section (6) be revised to read: **The Board “recognizes”** for continuing education credit. The current sentence reads: The Board approves for continuing education credit.
2. That Section (6)(b) be revised to read, **“Courses sponsored by the American Physical Therapy Association or any of its components.”** The current sentence reads, “Courses sponsored or approved by the American Physical Therapy Association or any of its components”. The current language of the rule is simply incorrect in that APTA does not approve CE accreditation; it does sponsor, but does not approve.

Additional FPTA concerns with the current rule language contained in 64B17-9 (6)(b) is that it allows a CE course applicant to avoid seeking FPTA accreditation if they have a course "sponsored or approved" from APTA or any of its components. FPTA, through its CE accrediting process, is diligent and thoroughly investigates and vets applications for CE accreditation. This ensures that Florida licensure is a statement of the highest standard of practice for physical therapists and physical therapist assistants. Simply allowing waiver of FPTA accreditation requirements in deference to another state component without knowing the other's accreditation process and requirements is cause for concern in that there is an assumption that an appropriate accrediting process exists within all components.

Dr. Tasso made a motion to accept the FPTA proposed amendments (strike “approve”, replace with “recognize”). The motion was seconded by Dr. Quillen and carried 5/0.

MOTION: Dr. Tasso made a motion to find the proposed revisions do not have an adverse impact on small businesses and will not be likely to directly or indirectly increase regulatory costs to any entity (including government) in excess of \$200,000 in the aggregate in Florida within 1 year after the implementation of the rule. The motion was seconded by Dr. Quillen and carried 5/0.

Tab 9 CS/SB 248 Delegation of PRN Evaluations

This legislation relates to the Professionals Resource Network (PRN) and allows a Board/Council to delegate to the Chair or other designee the authority to require an applicant for licensure undergo a PRN evaluation.

Currently the decision to require a PRN evaluation is made by the full Board/Council at the quarterly meetings. The legislation authorizes but does not require this delegation. Each Board/Council may adopt a new procedure or maintain the current practice. Boards/Councils will need to specify by amending the current Delegation of Authority if they wish to delegate this process to the Chair or other designee.

MOTION: After discussion, Dr. Petraglia made a motion to maintain the current procedure and have the full Board determine if a PRN evaluation is required. The motion was seconded by Ms. Pettie and carried 5/0.

Tab 10 Consumer Services Unit, DOH, Proposed Rule Amendment, Rules 64B17-7.002, 7.004

The Bureau of Enforcement requests the Board of Physical Therapy amend the following rules to allow resolution of additional violations by mediation and citation. These changes are proposed to increase mediation authority for minor violations, thus eliminating costs of service, investigation, prosecution, and compliance for successful mediation, as well as change citation authority for second time violations or instances where mediation is unsuccessful. In addition, with the CE@Renewal changes, this allows mediation for continuing education violations until continuing education is required to be documented for renewal, and eliminates the citation rules regarding continuing education.

MOTION: After discussion, Dr. Petraglia made a motion to accept the proposed changes, open Rules 64B17-7.004, 7.005, and 7.002, and direct counsel to draft language and bring to the next board meeting. The motion was seconded by Ms. Pettie and carried 5/0.

Tab 11 Proposed Amendment to Conviction Record Guidelines for Applicants

Board staff is proposing an amendment to the current conviction record guidelines for new licensure applications. The current guidelines require a personal board appearance for applicants with any felonies in their history regardless of nature, time or occurrences. The proposed changes amend required appearances for lesser felony convictions by placing a ten year time limit on certain convictions.

MOTION: Mr. Lohr made a motion to accept the proposed changes. The motion was seconded by Dr. Quillen and carried 5/0.

Tab 12 Proposed Board Meeting Date Revision

The board previously selected February 6-7, 2014 to hold its general business meeting in Ft. Lauderdale. The American Physical Therapy Association (APTA) national convention is scheduled for February 3-6, 2014. It has been requested to discuss a date change to accommodate individuals who wish to attend the APTA convention.

The board agreed to change the date to February 13-14, 2014.

APPLICANT/LICENSEE RATIFICATION LISTS

Tab 13 Ratification List for Approved Applicants

- Physical Therapist Applicants

MOTION: Dr. Petraglia made a motion to ratify the list of physical therapists for licensure by examination/endorsement (Exhibit A), 165 in number starting with PT and ending with Heather Rawson. Upon successful completion of the National Physical Therapy Exam and/or the Florida Laws and Rules Exam, shall be licensed. The motion was seconded by Dr. Tasso and carried 5/0.

- Physical Therapist Assistant Applicants

MOTION: Dr. Petraglia made a motion to ratify the list of physical therapists assistants for licensure by examination/endorsement (Exhibit A), 105 in number starting with Michele Pullen and ending with Marc Roberts. Upon successful completion of the National Physical Therapy Exam and/or the Florida Laws and Rules Exam, shall be licensed. The motion was seconded by Dr. Tasso and carried 5/0.

Tab 14 Ratification List for Employment Exemption

MOTION: Mr. Lohr made a motion to ratify the list of physical therapists/assistants granted an employment exemption, 9 in number starting with Lauren Arnold and ending with Paula Massey. The motion was seconded by Dr. Quillen and carried 5/0.

OLD BUSINESS

Tab 15 Board of Physical Therapy Minutes

- May 3, 2013 Board Meeting

MOTION: Dr. Petraglia made a motion to approve the minutes as presented. The motion was seconded by Dr. Quillen and carried 5/0.

OTHER BUSINESS AND INFORMATION

Tab 16 Therapy Team Online Remediation

Therapy Team has been previously approved by the Board to offer remediation for candidate who have failed the NPTE after 3 attempts. The board office was notified they have now developed online remediation in addition to the live seminar.

Mr. Hoerner, Therapy Team, was present to address the board. He informed the board that the course content has not changed, only the format.

MOTION: Dr. Quillen made a motion to accept the online course given by Therapy Team Educational Services. The motion was seconded by Dr. Petraglia and carried 4/1. Dr. Tasso opposed.

Tab 17 Dry Needling

Dr. Tasso discussed a Dry Needling Resource Paper prepared by the federation of State Board of Physical Therapy (FSBPT).

No action was taken as the resource paper was informative.

Tab 18 Unlicensed Activity Report *(Informational)*

Tab 19 Board Information Packet *(Informational)*

Tab 20 Exam Statistics *(Informational)*

Tab 21 Staff Recognition *(Informational)*

Being no further business, the meeting adjourned at 9:35 p.m.

**DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE
BOARD OF PHYSICAL THERAPY
GENERAL BUSINESS MEETING
GENERAL RULES REVIEW
AUGUST 8-9, 2013
AGENDA**

**Crowne Plaza Ft. Myers
13051 Bell Tower Drive
Fort Myers, FL 33907
(239) 210-2462**

Participants in this public meeting should be aware that these proceedings are being recorded and that an audio file of the meeting will be posted to the Board's website.

August 9, 2013 – 8:00 a.m.

The minutes reflect the actual sequence of events rather than the original agenda order.

Call the Meeting to Order and Roll Call:

Clint Lohr, Chair, called the general business meeting to order at approximately 8:00 a.m. Those present for all or part of the meeting, included the following:

MEMBERS PRESENT

Clint Lohr, PT, Chair, Cert. MDT
Dr. Gina Petraglia, Vice Chair, PT
Dr. William S. Quillen, PT, DPT, PhD, FACSM
Dr. Kay Tasso, PT, PhD, PCS
Christina L. Pettie, PT, MHA

BOARD COUNSEL

Larry Harris, Board Counsel,
Assistant Attorney General Office

STAFF PRESENT

Allen Hall, Executive Board Director

PROSECUTING ATTORNEY

Oaj Gilani, Prosecuting Attorney,
DOH Prosecution Services

COURT REPORTER

Martina Reporting Services
Andrea J. Stefanick
2069 First Street, Suite 201
Ft. Myers, FL 33901

DISCIPLINARY PROCEEDINGS

MOTION FOR SETTLEMENT AGREEMENT

**Tab 1 Dexter McDonald, PT4414
 (PCP – Hellman, Candela, Hughes)**

Respondent was present and sworn in by the court reporter.

Ms. Gilani summarized the case for the board which consists of three counts. **Count I:** Respondent violated Section 486.125(1)(k), Florida Statutes (2011), and Rule 64B17-6.001(2)(e)1., Florida Administrative Code (2011), by participating in false, fraudulent, misleading, and deceptive communications, when he inaccurately recorded, falsified, or altered patient records. **Count II:** Respondent violated Sections 456.072(1)(a) and 486.125(1)(k), Florida Statutes (2011), by making misleading, deceptive, or fraudulent representations in or related to the practice of physical therapy. **Count III:** Respondent violated Section 486.012(1)(e), Florida Statutes (2011), by failing to maintain acceptable standards of physical therapy practice.

The case was presented as a Settlement Agreement that would impose the following:

- Respondent is required to appear at the Board meeting where the Settlement Agreement is considered
- Reprimand
- \$3,500.00 fine to be paid within two (2) years of the Final Order date
- Costs of \$911.41 to be paid within two (2) years of the Final Order date
- Passage of the Florida Laws and Rules Examination. Respondent must register and apply to the Board within ninety (90) days of the Final Order date, and pass within six (6) months of the Final Order date.

MOTION: After discussion, Mr. Lohr made a motion to accept the Settlement Agreement. The motion was seconded by Ms. Pettie and carried 5/0.

**Tab 2 Abdulbari Azirovic, PT5059
 (PCP – Hellman, Hughes, Candela)**

Respondent was present and sworn in by the court reporter. He was represented by Cathleen O'Dowd, Esq. Dr. Penny Zeigler, PRN was present to address the Board.

Mr. McClarron summarized the case for the board which consists of one count. **Count I:** Respondent violated Sections 486.125(1)(k) and 456.072(1)(x), Florida Statutes (1999-2011) by violating any provision of this chapter, chapter 456, or any rules adopted pursuant thereto and by failing to report the Board within 30 days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction.

The case was presented as a Settlement Agreement that would impose the following:

- Respondent is required to appear at the Board meeting where the Settlement Agreement is considered
- Reprimand
- Indefinite suspension from practice. Respondent's license shall be suspending until he obtains an evaluation by the Professionals Resource Network (PRN), and PRN determines Respondent is safe to practice. In the event a monitoring contract is appropriate, Respondent will be required to execute such contract prior to having suspension lifted.
- \$3000.00 fine to be paid within two (2) years from the Final Order date
- Costs of \$796.82 to be paid within two (2) years from the Final Order date
- Passage of the Florida Laws and Rules Examination. Respondent must register and apply to the Board within ninety (90) days of the Final Order date, and pass within six (6) months of the Final Order date.

Dr. Zeigler, PRN, addressed the Board and confirmed his compliance with his monitoring contract.

MOTION: After discussion, Mr. Lohr made a motion to accept the Settlement Agreement. The motion was seconded by Dr. Petraglia and carried 5/0.

Mr. Lohr stated for the record that Mr. Azirovic is in compliance with PRN

MOTION: Mr. Lohr made a motion to lift the suspension due to being compliant with his contract and PRN deeming him safe to practice. The motion was seconded by Ms. Pettie and carried 5/0.

**Tab 3 Jeffrey Joseph Johnson, PT 13473
(PCP – Lohr, Clendenin)**

Mr. Lohr was recused due to participation in the probable cause panel.

Respondent was present and sworn in by the court reporter. Penny Zeigler, PRN, was present to address the Board.

Ms. Gilani summarized the case for the board which consists of 1 count. **Count I:** Respondent violated Section 486.125(1)(a) by being unable to deliver physical therapy services with reasonable skill and safety due to the use of alcohol and controlled substances, including fentanyl, hydrocodone, and oxycodone.

The case was presented as a Settlement Agreement that would impose the following:

- Respondent is required to appear at the Board meeting where the Settlement Agreement is considered
- Reprimand
- Indefinite suspension from practice. Respondent's license shall be suspended until he obtains an evaluation by the Professionals Resource Network (PRN), and PRN determines Respondent is safe to practice. In the event a monitoring contract is appropriate, Respondent is required to execute such contract prior to having suspension lifted.
- \$3000.00 fine to be paid within two (2) years from the Final Order date
- Costs of \$2,794.11 to be paid within two (2) years from the Final Order date

MOTION: After discussion, Dr. Petraglia made a motion to accept the Settlement Agreement. The motion was seconded by Dr. Tasso and carried 4/0.

REPORT

Tab 4 Prosecuting Attorney Report

Total Cases open/active in PSU:	22
Cases in EAU:	5
Total Pre –Probable Cause Cases:	15
Cases under legal review:	10
Cases where PC Recom made:	5
Total Cases where PC has been found:	6
Cases in holding status:	0
Cases awaiting supp. invest.:	2
Cases pending before DOAH:	0
Cases in intake status:	0

REQUEST FOR EARLY TERMINATION OF PROBATION

Tab 5 David Kavanagh, PT18524, Case Nos. 2008-05627 and 2008-06633

Mr. Kavanagh was not present nor represented by counsel.

Mr. Kavanagh originally requested early termination of probation in Case Nos. 2008-05627 and 2008-06633. Mr. Kavanagh served 12 months of suspension and his license was placed on 5 years probation on June 8, 2010. Per the terms of his Settlement Agreement, Mr. Kavanagh may request early termination of his probation after serving 30 months.

He has since submitted a request to be withdrawn from the agenda and to voluntarily relinquish his license.

MOTION: Dr. Petraglia made a motion to accept the voluntary relinquishment and directed staff to administratively relinquish the license. The motion was seconded by Dr. Tasso and carried 5/0.

PETITION FOR VARIANCE OR WAIVER OF RULE

Tab 6 Emanuel Stabile, PT by Examination

Mr. Stabile was not present. He has submitted a request for Mr. Nicholas Hansen to be considered as his Selected Qualified Representative. Mr. Hansen was present and sworn in by the court reporter.

MOTION: Dr. Petraglia made a motion to accept Mr. Hansen to serve as the qualified representative of Mr. Stabile. The motion was seconded by Dr. Tasso and carried 5/0.

Mr. Stabile filed a petition for waiver of Rule 64B17-3.001, F.A.C. He is requesting a waiver from the education requirement in regards to the deficiencies on his ICD evaluation. He has submitted the course descriptions regarding the missing coursework along with his petition. He states his attempts to have ICD re-evaluate his education based on the additional documents have gone unanswered. He is requesting the board use the educational documents from the University of Rome as proof of course completion.

Per his ICD evaluation, Mr. Stabile is pending the following:

Professional Education

Integumentary Examination, Evaluation and Intervention

The content summary for Integumentary indicates several missing areas

MOTION: After discussion, Mr. Lohr made a motion to deny the petition. The motion was seconded by Dr. Quillen and carried 5/0.

On behalf of Mr. Stabile, Mr. Hansen waived the 90 day requirement to act on the application. Mr. Lohr made a motion to accept the 90 day waiver. The motion was seconded by Dr. Quillen and carried 5/0.

The board directed counsel to inquire with ICD regarding the service provided to Mr. Stabile.

The board discussed inviting the credentialing agencies to a future board meeting to inquire about their processes and ensure standardization and provide numbers as to how many applicants they serve for Florida.

Tab 7 Martina Lohouse, PT by Examination

Ms. Lohouse was not present nor represented by counsel.

Ms. Lohouse filed a petition for waiver of Rule 6417-3.001, F.A.C. She is requesting a waiver from the education requirement(s) in regards to deficiencies on her FCCPT evaluation. She lacks 24 hours of the required 800 hours of clinical internship. She has completed 776 hours. Based on her date of

graduation all of the required credits have been met as she completed courses with Hillsborough Community College and CLEP.

MOTION: After discussion, Dr. Petraglia made a motion to deny the petition as Section 486.031(3)(b) does not allow for discretion.

Ms. Lohouse previously waived the 90 day requirement to act on the application therefore the Board did not take action on the application.

Tab 8 Gavin Hamer, PT by Endorsement

Mr. Hamer was not present. He was represented by Alex Figares, Esq.

Mr. Hamer has filed a petition for waiver of Rule 64B17-3.001, F.A.C. He is requesting a waiver from the education requirement(s) in regards to deficiencies on his FCCPT evaluation in his education. Based on his date of graduation, he lacks 24.59 of the required 30 content hours and is pending the following course:

Professional Education

Humanities

The board discussed waiving the requirements of 3.003, which refer back to 3.001

MOTION: After discussion, Dr. Tasso made a motion to grant the Petition for Variance or Waiver of Rule 64B17-3.003. The motion was seconded by Dr. Petraglia and carried 5/0.

MOTION: After discussion, Dr. Tasso made a motion to approve Gavin Hamer's application for licensure and to certify him to sit for the National Physical Therapy Exam (NPTE) and the Florida Laws and Rules Exam. Upon a passing score on the exams shall be licensed. The motion was seconded by Ms. Pettie and carried 5/0.

Tab 9 Luiza Caparelli, PT by Examination

Ms. Caparelli was present and sworn in by the court reporter.

Ms. Caparelli has filed a petition for waiver of Rule 64B17-3.001, F.A.C. She is requesting a waiver from the education requirement(s) in regards to deficiencies on her FCCPT evaluation in her education. Based on her date of graduation, she meets the required content hours but is pending the following course:

MOTION: After discussion, Dr. Petraglia made a motion to deny the petition. The motion was seconded by Dr. Tasso and carried 5/0.

Ms. Caparelli waived the 90 day requirement to act on the application. Mr. Lohr made a motion to accept and the motion was seconded by Dr. Quillen. The motion was carried 5/0.

Tab 10 Rene Navarro, PT by Endorsement

Mr. Navarro was present and sworn in by the court reporter. He was represented by Monica Rodriguez, Esq.

Mr. Navarro has a filed a petition for waiver of Sections 486.031, 486.051, 486.081, F.S. and Rules 64B17-3.001(3)(b), 3.002 and 3.003, F.A.C. He has submitted an application for PT by Endorsement. He has filed a petition requesting the Board accept his Puerto Rico physical therapy exam score in place of the NPTE. Mr. Navarro holds an active license in Puerto Rico with an expiration date of April 3, 2015.

The Board did not find the Puerto Rican exam to be equivalent to the National Physical Therapy Examination (NPTE) and agreed to uphold the five time limit on exam eligibility.

MOTION: After discussion, Dr. Tasso made a motion to deny the petition due to the finding that the Puerto Rican exam is not the equivalent of the NPTE; the applicant has failed the NPTE five or more times; and does not find the principle of hardships were met. The motion was seconded by Dr. Quillen and carried 5/0.

Ms. Rodriguez requested a recess.

MOTION: After further discussion, Dr. Tasso made a motion to deny the application. The motion was seconded by Dr. Quillen and carried 5/0. The board clarified the reasons as he has not passed the NPTE and does not meet the minimum standard for licensure.

PERSONAL APPEARANCE PURSUANT TO §456.013(3)(c), F.S.

Tab 11 Raul Pellicane, PT by Examination

Mr. Pellicane submitted an application for licensure as a PT by Examination. He answered yes to discipline history as his previous licensure application had been denied by the Florida PT Board. Per review by the Board Chair, Mr. Pellicane's appearance was required at this meeting.

Mr. Pellicane first applied for PT licensure by Examination on October 19, 2007. He was required to appear before the Board on February 13, 2009 due to failing TOEFL scores (English proficiency) and a falsified letter regarding his application presented to his employer which was not generated by the Department. This action constituted a denial per Section 456.072(1)(a)(m) and (o), F.S.

MOTION: After discussion, Mr. Lohr made a motion to deny Mr. Pellicane's application due to questionable character and concern with the fraudulent letter submitted. The motion was seconded by Dr. Quillen and carried 5/0

Tab 12 Randall Browning, PTA Temporary Permit by Examination

Mr. Brown was present and sworn in by the court reporter.

He was asked to appear to discuss his criminal history.

MOTION: After discussion, Mr. Lohr made a motion to approve Mr. Brown's application for temporary licensure and to certify him to sit for the National Physical Therapy Exam and the Florida Laws and Rules Exam and upon a passing score on the exams shall be licensed. The motion was seconded by Ms. Pettie and carried 5/0.

Tab 13 Kathy Clement, PTA by Endorsement

Ms. Clement was present and sworn in by the court reporter.

She was asked to appear to discuss her criminal history.

MOTION: After discussion, Dr. Tasso made a motion to approve Ms. Clement's application for licensure and to certify her to sit for the Florida Laws and Rules Exam and upon a passing score on the exams shall be licensed. The motion was seconded by Dr. Quillen and carried 5/0.

Tab 14 Krzysztof Korthals, PT by Endorsement

Mr. Korthals was present and sworn in by the court reporter.

He was asked to appear to discuss his education history. Mr. Harris advised the board that a petition is required if the applicant is requesting the board to consider waiving portions of the educational requirement.

Mr. Korthals waived the 90 day requirement to act on the application.

MOTION: Mr. Lohr made a motion to accept his 90 day waiver request. The motion was seconded by Dr. Quillen and carried 5/0.

Tab 15 Greg Sutton, PTA Temporary Permit by Examination

Mr. Sutton was present and sworn in by the court reporter.

He was asked to appear to discuss his criminal history.

The board questioned Mr. Sutton as to if he had previous criminal history. Mr. Sutton believes he has a previous DUI conviction in New Jersey that he received as a teenager, approximately 35 years ago.

MOTION: After discussion, Mr. Lohr made a motion to approve the application for licensure and authorize Mr. Sutton to sit for the National Physical Therapy Assistant Exam and the Florida Laws and Rules Exam. Upon successful completion of a PRN evaluation and compliance with their recommendation, licensure is granted. Applicant has 30 days to contact PRN, 90 days to schedule an evaluation and 120 days to comply or licensure is denied. Board staff is delegated to approve licensure once all terms are completed. The motion was seconded by Dr. Tasso and carried 5/0.

Tab 16 Johanns Gammel, PTA by Endorsement

Mr. Gammel was not present nor represented by counsel.

His application was considered by the Board due to possible violation of Section 456.0635, F.S.

MOTION: Dr. Quillen made a motion to require his appearance at one of the next two scheduled board meetings. The motion was seconded by Dr. Petraglia and carried 4/1. Mr. Lohr opposed.

Tab 17 Norma Bolanos, PTA Temporary Permit by Examination

Ms. Bolanos was present and sworn in by the court reporter.

She was asked to appear to discuss her criminal history.

MOTION: After discussion, Dr. Petraglia made a motion to approve Ms. Bolanos' application for temporary licensure and to certify her to sit for the National Physical Therapy Exam and the Florida Laws and Rules Exam and upon a passing score on the exams shall be licensed. The motion was seconded by Dr. Tasso and carried 5/0.

Tab 18 Lisa Vivian, PT by Endorsement

Ms. Vivian was present and sworn in by the court reporter.

She was asked to appear to discuss his criminal history.

MOTION: After discussion, Dr. Petraglia made a motion to approve the application for licensure and authorize Ms. Vivian to sit for the National Physical Therapy Assistant Exam and the Florida Laws and Rules Exam. Upon successful completion of a PRN evaluation and compliance with their recommendation, licensure is granted. Applicant has 30 days to contact PRN, 90 days to schedule an evaluation and 120 days to comply or licensure is denied. Board staff is delegated to approve licensure once all terms are completed. Board requested staff provide update. The motion was seconded by Dr. Quillen and carried 5/0.

MOTION: Dr. Quillen made a motion to give the applicant the opportunity to revise the answers to the application. The motion was seconded by Mr. Lohr and carried 5/0.

Tab 19 Vanessa Mae Fernandez Dulig, PT by Endorsement

Ms. Dulig was not present nor represented by counsel.

She was required to appear per the Board Chair due to not meeting the exam attempt requirement. Since being noticed for the board meeting, she submitted a request to withdraw her application.

MOTION: Mr. Lohr made a motion to accept her request to withdraw her application. The motion was seconded by Dr. Petraglia and carried 5/0.

REQUEST FOR CONSIDERATION OF EXEMPTION FOR DISQUALIFICATION FROM EMPLOYMENT

Tab 20 John Hazelwood, PTA21214

Mr. Hazelwood was present and sworn in by the court reporter.

He has submitted an application for Exemption from Disqualification to seek employment in a health care setting.

MOTION: After discussion Mr. Lohr made a motion to approve Mr. Hazelwood's exemption for disqualification from employment. The motion was seconded by Dr. Petraglia and carried 5/0.

Tab 21 David Esack, PT3635

Mr. Esack was not present nor represented by counsel. Dr. Petraglia recused herself due to personal knowledge.

He has submitted an application for Exemption from Disqualification to seek employment in a health care setting.

MOTION: After discussion Mr. Lohr made a motion to approve Mr. Esack's exemption for disqualification from employment. The motion was seconded by Dr. Quillen and carried 4/0.

REQUEST FOR CE HARDSHIP PURSUANT TO RULE 64B17-9.007(7), F.A.C.

Tab 22 Piyush Tiwari, PT27342

Mr. Tiwari is requesting a hardship exemption from the 24 hour continuing education requirement for the 2013 licensure renewal. Mr. Tiwari is unable to attend live courses and is requesting and allowance to complete all 24 hours of continuing education hours online.

MOTION: After discussion, Mr. Lohr made a motion to deny the request due to an abundance of continuing education courses being available nationally. The motion was seconded by Dr. Quillen and carried 5/0.

Tab 23 Ismael Raffucci, PTA1919

Mr. Raffucci is requesting a hardship exemption from the 24 hour continuing education requirement for the 2013 licensure renewal. Mr. Raffucci is unable to attend live courses and is requesting that the live portion of his requirement be waived.

MOTION: After discussion, Mr. Lohr made a motion to grant the request contingent upon him submitting medical documentation from his physician within 30 days; verify 24 hours were completed for the 2009-2011 biennium, within 30 days, otherwise the request is denied. The motion was seconded by Dr. Tasso and carried 5/0.

PERSONAL APPEARANCE PURSUANT TO §456.013(3)(c), F.S.

Tab 24 Rachael Bastien, PTA by Examination

Ms. Bastien was present and sworn in by the court reporter.

She was asked to appear to discuss her criminal history.

MOTION: After discussion, Mr. Lohr made a motion to approve Ms. Bastien's application for temporary licensure and to certify her to sit for the National Physical Therapy Exam and the Florida Laws and Rules Exam and upon a passing score on the exams shall be licensed. The motion was seconded by Dr. Quillen and carried 5/0.

There being no further business, the meeting adjourned at approximately 1:15 p.m.