

**DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE
BOARD OF PHYSICAL THERAPY
GENERAL BUSINESS MEETING
GENERAL RULES REVIEW
November 7-8, 2013
MINUTES**

**Holiday Inn I-295 & Baymeadows
11083 Nursery Fields Drive
Jacksonville, FL 32256
(904) 854-8000**

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.

November 7, 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:

Mr. 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
Traci Zeh, Regulation Specialist

PROSECUTING ATTORNEY

Oaj Gilani, Prosecuting Attorney,
DOH Prosecution Services
Cecilie Sykes, Prosecuting Attorney,
DOH Prosecution Services

RULE DISCUSSION

Tab 1 Public Meetings; Reasonable Opportunity to be Heard

- 64B17-1.005

During the 2013 legislative session, SB 50 was passed, which relates to members of the public being given reasonable opportunity to be heard on a proposition before the Board.

At the August meeting, the Board voted to open a rule for development. Board counsel has proposed the following draft:

64B17-1.005 Public Comment.

The Board of Physical Therapy Practice invites and encourages all members of the public to provide comment on matters or propositions before the Board or a committee of the Board. The opportunity to provide comment shall be subject to the following:

(1) Members of the public will be given an opportunity to provide comment on subject matters before the Board after an agenda item is introduced at a properly noticed board meeting.

(2) Members of the public shall be limited to three (3) minutes to provide comment. This time shall not include time spent by the presenter responding to questions posed by Board members, staff or board counsel. The chair of the Board may extend the time to provide comment if time permits.

(3) Members of the public shall notify board staff in writing of his or her interest to be heard on a proposition or matter before the Board. The notification shall identify the person or entity, indicate support, opposition, or neutrality, and identify who will speak on behalf of a group or faction of persons consisting of five (5) or more persons.

MOTION: After discussion, Dr. Quillen made a motion to approve the proposed draft and directed counsel to move forward with rule promulgation. The motion was seconded by Mr. Lohr 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 Ms. Pettie and carried 5/0.

Tab 2 Remediation Requirements

- 64B17-3.002

At the August meeting, the Board voted to open Rule 64B17-3.002 for development and amend the language to establish remediation criteria. Board counsel has proposed the following draft:

64B17-3.002 Licensure Examination Subjects and Passing Score; Additional Requirements After Third Failure; Laws and Rules Examination.

(1) The licensure examination shall be the National Physical Therapy Examination (NPTE) for Physical Therapists developed by the Federation of State Boards of Physical Therapy (FSBPT). An applicant for licensure by examination must have obtained a passing score on the NPTE examination within the five (5) years immediately prior to the filing of the application.

(2) Applicants must obtain a passing score on the National Physical Therapy Examination for Physical Therapists developed by the Federation of State Boards of Physical Therapy.

(3)(a) An applicant must reapply, using DOH Form #DH-MQA 1143, Re-Exam Application, Revised ~~08/09~~ 02/14, incorporated by reference, which is available through www.doh.state.fl.us/mqa, in order to retake the examination. If an applicant wishes to take the examination for the fourth time, the applicant must submit to the Board for approval satisfactory evidence of having successfully completed the following since the last taking of the examination: ~~successful completion of a course of study or internship designed to prepare the applicant for the physical therapy examination. An applicant who has completed these additional requirements may take the examination on two more occasions.~~

1. Identification of areas of deficiency as

a. identified by the FSBPT Performance Feedback Report; or

b. determined through consultation with the applicant's educational program;
2. a. Development of a written plan describing a course of study that addresses the areas of deficiency identified in paragraph 1. and

b. successfully complete the course of study so described; and

3. Successfully complete an examination preparation course.

(b) Satisfactory evidence of successful completion shall consist of:

1. submission of the FSBPT score report or certified documentation of consultation with the applicant's educational institution;

2. submission of the written plan as well as transcripts or other certified documentation of completion of the course of study; and

3. submission of a certificate or equivalent certified documentation of successful completion of the examination preparation course.

(c) Once approved pursuant to the above provisions, an applicant may take the examination on two more occasions.

(4) All applicants for licensure including those licensed by endorsement under Rule 64B17-3.003, F.A.C., are required to take and pass the Laws and Rules Examination developed by the Federation of State Boards of Physical Therapy. Passing scores on the Laws and Rules Examination are no longer valid if more than five years have passed since the Applicant took the examination.

(a) The Laws and Rules Examination has 40 scored questions and the content and approximate weights are:

1. Legislative Intent and Definitions 25%;

2. Board Powers and Duties 5%;

3. Licensure and Examination 7.5%;

4. Patient Care 35%;

5. Disciplinary Action and Unlawful Practice 15%; and

6. Consumer Advocacy 12.5%. In order to achieve a passing score on the examination, an applicant must obtain a score equal to or greater than the scaled score based upon a passing score study conducted by the Federation of State Boards of Physical Therapy.

(b) Applicants must reapply to retake the Laws and Rules Examination, using DOH Form #DH-MQA 1143, Re-Exam Application, Revised 08/09 02/14, which is available through www.doh.state.fl.us/mqa.

64B17-? Approved Examination Preparation Courses

(1) The Board shall maintain a list of approved examination preparation courses which may be used to satisfy the requirements of Rule 64B17-X.002(3)(a)3. This list may be obtained from the Board office, 4052 Bald Cypress Way, Bin C-07, Tallahassee, Florida 32399 or at www.doh.state.fl.us/mqa.

(2) To obtain or renew Board approval of an examination preparation course, the prospective provider must demonstrate to the Board's satisfaction that the course to be offered will:

(a) Enhance the ability of an applicant for licensure as a physical therapist or physical therapist assistant to pass the National Physical Therapy Examination (NPTE);

(b) Be of sufficient duration to adequately address the subject matter of the NPTE;

(c) Be taught by instructor(s) who possess appropriate education, experience and credentials relevant to the subject matter tested by the NPTE; and

(d) adequately identify the course's goals, objectives and teaching methods in promotional materials.

(3) To allow the Board to evaluate the prospective provider's examination preparation course, the prospective provider must submit the following:

(a) A narrative description of the course;

(b) A statement of the educational goals and learning objectives of the program;

(c) A detailed course outline or syllabus, including such items as method of instruction and testing materials, if any;

(d) All promotional material concerning the course;

(e) The names and qualifications of the instructor(s) for the course, including a current curriculum vitae of each instructor;

(f) A sample of the course evaluation form to be completed by each course attendee; and

(g) A sample certificate of completion.

(4) The provider of the course must present a certificate indicating successful completion of the course to each attendee who successfully completes the course.

MOTION: After discussion, Mr. Lohr made a motion to not proceed with proposed language and to leave the remediation process as is. The motion was seconded by Dr. Petraglia and failed with a 2/3 vote.

MOTION: Dr. Quillen made a motion to table the discussion to a future meeting and invite interested parties to comment on the current and proposed changes to the remediation process. The motion was seconded by Ms. Pettie and carried 4/1.

Dr. Quillen will draft a letter on behalf of the board to send to interested parties. The draft will be presented at the February meeting to be finalized.

MOTION: Dr. Tasso made a motion to proceed with establishing remediation standards and to remove the current “approved” list. Instead, provide a list of remedial courses available as suggestions only to post on the website. The motion was seconded by Ms. Pettie and carried 3/2.

Tab 3 Licensure by Endorsement

- 64B17-3.003

At the August meeting, the Board opened the rule to amend the language to clarify how an applicant should demonstrate proof of clinical practice hours. Board counsel has proposed the following draft:

64B17-3.003 Licensure by Endorsement.

(1) An applicant filing DOH Form #DH-MQA 1142 Application for Licensure, Revised ~~08/12~~ (08/13), 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 demonstrating that he or she meets the requirements of Rule 64B17-3.001, F.A.C., may be licensed to practice physical therapy by endorsement by presenting evidence satisfactory to the Board that the applicant has active licensure in another jurisdiction and has passed an examination before a similar, lawful, authorized examining board in physical therapy in such other jurisdiction if their standards for licensure are as high as those maintained in Florida. The standard for determining whether the standards of another jurisdiction are as high as the standards in Florida shall be whether the written examination taken for licensure in such other jurisdiction by applicants meeting Florida’s minimum educational qualifications was through the national physical therapy examination provider certified by the Department. ~~An applicant who has failed to pass the National Physical Therapy Examination for Physical Therapists by or on the fifth attempt, regardless of the jurisdiction through which the examination was taken, is precluded from licensure.~~

(2) An applicant who has been educated in a foreign country may demonstrate minimum educational qualifications by providing the following:

(a) A certified copy of the credential evaluation used by the physical therapy licensing board of another state. The evaluation must be on the appropriate coursework tool (CWT) adopted by the Federation of State Boards of Physical Therapy (FSBPT) and reflect the education criteria in place at the time of graduation, and;

(b) Proof of 1000 clinical practice hours each year in the United States for five (5) out of the last ten (10) years;

1. Full-time teaching of physical therapy education may count toward 250 of the 1000 required practice hours per year.

2. Proof of clinical practice hours in the United States shall consist of submission of a notarized statement executed under oath certifying the number of clinical hours the applicant practiced in each of the five (5) years.

(3) An applicant who has failed to pass the National Physical Therapy Examination for Physical Therapists by or on the fifth attempt, regardless of the jurisdiction through which the examination was taken, is precluded from licensure.

Due to possible concerns with submitting a statement under oath, Mr. Harris verbally amended the proposed language in (b)2 to "...shall consist of submission of a notarized statement attesting to the number of clinical hours..."

MOTION: After discussion, Mr. Lohr made a motion to approve the proposed draft with the verbal amendment and directed counsel to move forward with rule promulgation. The motion was seconded by Dr. Quillen 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 Ms. Pettie and carried 5/0.

Tab 4 Licensure as a Physical Therapist Assistant by Examination

- 64B17-4.001

At the August meeting, the Board opened the rule to propose changes implementing changes to Section 486.102, F.S. regarding PTA accreditation. Board counsel proposed the following draft:

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 08/13, 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, satisfies the conditions in (a) or (b) below.

(a) Has graduated from a school giving a course of not less than 2 years for received a degree as a physical therapist assistants; and from an institution that, has been approved for the training of physical therapist assistants by the Commission on Accreditation for Physical Therapy Education (CAPTE), at the time of graduation, or

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).

3. The determinatin 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.

(b) Has graduated from a school giving a course for physical therapist assistants in a foreign country; and

1. Has received a determination that the credentials are equivalent to education required for licensure as a physical therapist assistant in the United States. Educational credentials equivalency shall be determined by the Foreign Credentialing Committee on Physical Therapy (FCCPT) or any other Board approved credentialing agency that meets at least the following criteria:

- a. – g. No Change
2. No Change

Mr. Harris informed the board that a rule challenge has been filed against the above proposed language. This was filed by Paul Hawkes, who represents the University of Southernmost Florida.

Mr. Hawkes was present and addressed his client's concerns with the proposed language.

MOTION: After discussion, Dr. Quillen made a motion to withdraw the proposed language. The motion was seconded by Dr. Tasso and carried 5/0.

MOTION: Mr. Lohr made a motion to open Rule 64B17-4.001 for development and schedule a rule development workshop during the February board meeting. The motion was seconded by Ms. Pettie and carried 5/0.

The board gave approval to Mr. Harris to proceed with discussions with any member of the public regarding proposed rule language.

The board agreed to schedule the rule workshop for February 13, 2014 to begin at 4:00 p.m. and conclude by 6:00 p.m.

Tab 5 Proposed Rule Amendments - Mediation

- 64B17-7.002
- 64B17-7.004
- 64B17-7.005

At the August meeting, the Board considered a proposal from the Bureau of Enforcement to amend the above mentioned disciplinary rules. The intent is for minor violations to be resolved through citation, mediation, or a Notice of Noncompliance. Board counsel has proposed the following drafts:

64B17-7.002 Citations.

(1) – (3) No Change

(a) Violation of Section 456.062, F.S., aAdvertising for discounted services, a—A fine of \$250.

(b) Failure to turn over patient records as required by ~~(Section 456.057, F.S.), a~~ —A fine of \$100.

(c) Violation of Section 456.072(1)(h), F.S., oObtaining a license by issuing a bad check ~~(Section 456.072(1)(h), F.S.), a~~ —A fine of \$100.

(d) Failure to report in writing to the Board within 30 days after criminal conviction of licensee as required by ~~(Section 456.072(1)(w), F.S.)~~—A a fine of \$250.

(e) Failure to display required signs, licenses, and permits as specified in Section 456.077(2), a fine of \$100.

(f) Failure to report another licensee in violation, as required by Sections 456.072(1)(i), af fine of \$500.

(g) Making or filing a report which the licensee knows to be false, or negligently failing to file a report or record required by state or federal law, as prohibited by Section 456.072(1)l), a fine of \$500.

(h) Non-intentional issuance of a bad check to the Department under Section 486.125(1)(k), F.S., a fine of \$100.- (i)(e) Failure of the licensee to satisfy continuing education requirements established by the Board pursuant to (Rule 64B17-9.001, F.A.C.):

1. Fines:

a. Failure to complete less than 9 hours, a fine of \$300.

b. Failure to complete between 9 and 16 hours, a fine of \$600.

c. Failure to complete between 17 and 24 hours, a fine of \$1,000.

2. Licensee must provide proof of completion of the deficient hours within 60 days of the date the citation was filed.

(i) Falsely certifying compliance with required contining education requireemnts for the purpose of renewing a license, a fine of \$1,000.

(k)(g) Failure to comply with a continuing education audit request as required by (Section 486.109(4) and 486.125(1)(k), F.S.) – A fine of \$250, and licensee must provide proof of compliance with continuing education requirements within 60 days of the date the citation was filed.

(l)(f) Failure to keep current mailing or practice address on file or notify the Board office in writing of a change of address as required by (Rule 64B17-6.004, F.A.C.) a —A fine of \$250.

(m)(h) Failure to pay required fees, and/or fines, or costs in a timely manner as required by (Rule 64B17-7.0025, F.A.C.)—A a fine of \$150.

(4) - (5) No Change

The board amended (f) to say “Failure to report another licensee in violation of a statute or rule, as required by Sections 456.072(1)(i), af fine of \$500.”

The board amended the fine amount in (j) to \$2000.00.

MOTION: After discussion, Mr. Lohr made a motion to approve the proposed draft with the verbal amendment to (f) and directed counsel to move forward with rule promulgation. The motion was seconded by Dr. Quillen and carried 5/0.

64B17-7.004 Mediation.

The Board finds that the following offenses may be mediated if the offense meets the criteria of Section 456.078, F.S., is an acceptable resolution of the following violations that are economic in nature or can be remedied by the licensee, and there is no intentional misconduct where the licensee has a differing view from the complainant as to the nature or extent of the violation:

(1) Failure to respond timely to a continuing education audit as required by Section 486.109(4), F.S.

(2) Failure to notify the Department of a change of address as required by Rule 64B17-6.004, F.A.C.

(3) Non-intentional issuance of a bad check to the Department under Section 486.125(1)(k), F.S.

(4) Failure to turn over patient records as required by Section 456.057, F.S.

(5) Failure to provide the specific disclosure statement required by Section 456.062, F.S., which must appear in any advertisement for a free, discounted fee, or reduced fee service.

(6) Failure to notify the Board office in writing of a change of address within 60 days as required by Rule 64B17-6.004, F.A.C.

(7) Charging a patient or patient's legal representative a fee for releasing patient records in excess of that authorized by Rule 64B17-6.005.

(8) Failure to pay required fees, fines, or costs in a timely manner as required by Rule 64B17-7.0025, F.A.C.

(9) Failure to satisfy continuing education requirements as required by Rule 64B17-9.001, F.A.C.

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

64B17-7.005 Notice of Noncompliance.

In accordance with Sections 456.073 and 120.695, F.S., the Board Department is authorized to shall issue a notice of noncompliance as a first response to a minor violation of a rule in any instance in which it is reasonable to assume that the violator was unaware of the rule or unclear how to comply with it. A minor violation is one which does not endanger the public health, safety, and welfare and which does not demonstrate a serious inability to practice the profession. Failure of a licensee to take action to correct the violation within 15 days shall result in either the issuance of a citation when appropriate or the initiation of regular disciplinary proceedings. The minor violations for which the Department is authorized to issue shall result in a notice of noncompliance are:

(1) Failure to notify of a change of address within 60 days as required by Rule 64B17-6.004, F.A.C.

(2) Non-intentional issuance of a bad check to the Department under Section 486.125(1)(k), F.S.

(3) Failure to provide the specific disclosure statement required by Section 456.062, F.S. which must appear appear in any advertisement for a free, discounted fee, or reduced fee service.

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

MOTION: Mr. Lohr made a motion to find the proposed revisions to Rules 64B17-7.002, 7.004, and 7.005 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.

REPORTS

Tab 6 Larry Harris, Assistant Attorney General

Mr. Harris provided the Board with a summary of rules currently promulgating.

Tab 7 Chair/Vice Chair Report

- Clint Lohr
- Dr. Gina Petraglia

Dr. Petraglia wanted to clarify the proper title of “Physical Therapist Assistant” for future Administrative Complaints.

Tab 8 Executive Director Report

- Cash Balance Report
- Board Expenditures

The above reports were presented as informational only.

Tab 9 Annual Financial Reports and Projections

Mr. Hall summarized the Division’s annual financial reports.

APPLICANT/LICENSEE RATIFICATION LISTS

Tab 10 Ratification List for Approved Applicants

- Physical Therapist Applicants

MOTION: Mr. Lohr made a motion to ratify the list of physical therapists for licensure by examination/endorsement (Exhibit A), 330 in number starting with PT 28250 and ending with PT 28705. 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. Petraglia and carried 5/0.

- Physical Therapist Assistant Applicants

MOTION: Mr. Lohr made a motion to ratify the list of physical therapists assistants for licensure by examination/endorsement (Exhibit A), 304 in number starting with PTA 24407 and ending with PTA 24402. 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. Petraglia and carried 5/0.

Tab 11 Ratification List for Employment Exemption

MOTION: Mr. Lohr made a motion to ratify the list of physical therapists/assistants granted an employment exemption, 4 in number starting with Mark Yanyecic and ending with Paula Massey. The motion was seconded by Dr. Petraglia and carried 5/0.

Tab 12 Ratification List for Voluntary Relinquishments

MOTION: Mr. Lohr made a motion to ratify the list of physical therapists/assistants who administratively relinquished their license, 6 in number starting with Heather Gilotti and ending with Janine Nemeth. The motion was seconded by Dr. Quillen and carried 5/0.

NEW BUSINESS

Tab 13 FSBPT Annual Meeting Update

Dr. Quillen, Christina Pettie, and Jessica Sapp attended the annual FSBPT meeting. The following summary was provided:

Dr. Quillen summarized the delegate assembly motions and possible implications.

Board staff and the board discussed concerns with the following motions:

NPTE Eligibility – Scores Below 400

Motion: The delegate assembly supports the Federation continuing to protect the integrity of the NPTE by establishing a low score policy to ensure that candidates with two failing scores at or below 400 will not be allowed to sit again for the NPTE.

NPTE Eligibility – English Language Skills

Motion: The delegate assembly supports the Federation instituting a requirement that prior to sitting for the NPTE, non-exempt candidates will demonstrate English language proficiency by meeting the most recent Test of English as a Foreign Language (TOEFL) score requirements as defined by FSBPT. Candidates must achieve the TOEFL score requirements in one sitting. Exemptions are defined as those exempted from English language requirements by the U.S. Citizen and Immigration Services in USCIS CFR § 212.15.

Mr. Hall and Mr. Harris will prepare a letter to FSBPT inquiring about the implementation of these motions.

Tab 14 Foreign Education Credentialing Process

At the August meeting, the Board had questions about the credentialing process. Together, the Federation of State Boards of Physical Therapy (FSBPT) and the Foreign Credentialing Commission on Physical Therapy (FCCPT) presented a Webinar explaining the process. A copy of the presentation was included in this tab for review.

Tab 15 Community/Education Outreach

Dr. Tasso has asked the Board to brainstorm ideas to better educate various stakeholders and the public concerning licensure and profession issues.

Dr. Gina Musolino and Tad Fisher welcomed the board to present at future FPTA conferences.

Tab 16 Healthy Weight Liaison

The Department of Health has requested each Board to designate a “Healthy Weight Liaison” to assist the Department’s priority of promoting healthy weight.

Christina Pettie volunteered to be the liaison on behalf of the physical therapy board.

OLD BUSINESS

Tab 17 PRN Update- Greg Sutton

At the August meeting, the Board issued a conditional license to Mr. Sutton. Mr. Sutton is currently in compliance with all conditions.

Tab 18 Data Request- Foreign Trained Applicants

At the August meeting, the Board requested staff to inquire with each credentialing agency to determine how many Florida applicants they serve.

Tab 19 ICD Response to Inquiry

At the August meeting, the Board requested counsel reach out to the International Consultants of Delaware regarding an applicant who communicated concerns to the Board. ICD's response was included as informational.

Tab 20 Continuing Competence

At the May meeting, the FSBPT gave a presentation on continuing competence. Dr. Tasso requested the Board continue discussion on this topic.

No further action was taken by the board at this time due to the current CE reporting changes being implemented.

Tab 21 Board of Physical Therapy Minutes

- August 8-9, 2013 Minutes

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

OTHER BUSINESS AND INFORMATION

Tab 22 Annual Board Chairs Meeting

Mr. Hall provided the Board with an overview of the annual Chairs meeting held in September.

Tab 23 Exam Statistics

This was provided as informational only.

Tab 24 Staff Recognition

There being no further business, the meeting adjourned at approximately 9:45 p.m.

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MEDICAL QUALITY ASSURANCE
BOARD OF PHYSICAL THERAPY
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MINUTES**

**Holiday Inn I-295 & Baymeadows
11083 Nursery Fields Drive
Jacksonville, FL 32256
(904) 854-8000**

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.

November 8, 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:

Mr. 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
Traci Zeh, Regulation Specialist

PROSECUTING ATTORNEY

Oaj Gilani, Prosecuting Attorney,
DOH Prosecution Services
Cecilie Sykes, Prosecuting Attorney,
DOH Prosecution Services

COURT REPORTER

Statewide Reporting
Beth Masters, RPR
606 Blackstone Building
Jacksonville, FL 32202
(904) 353-7706

DISCIPLINARY PROCEEDINGS

MOTION FOR SETTLEMENT AGREEMENT

**Tab 1 Sally Jo Blunier, PTA 19110
 (PCP – Petraglia, Watson, Hughes)**

Respondent was present and sworn in by the court reporter.

Dr. Petraglia was recused from this tab due to participation on the probable cause panel.

Ms. Sykes summarized the case for the Board which consist of one count: Respondent violated Section 486.125(1)(k), F.S. (2011), through a violation of Section 456.072(1)(m), F.S. (2011), by employing a trick or scheme in or related to the practice of physical therapy.

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
- \$2000.00 fine to be paid within two (2) years of the Final Order date
- Costs of \$2269.84 to be paid within two (2) years of the Final Order date
- Probation for one (1) year to consist of providing quarterly progress reports from her Florida Department of Corrections probation officer.

Dr. Tasso addressed the reference in the Administrative Complaint to Ms. Blunier practicing as a physical therapist. Her correct profession is a physical therapist assistant, which was corrected on the record.

MOTION: After discussion, Mr. Lohr made a motion to accept the Settlement Agreement. The motion was seconded by Dr. Tasso and carried 3/1.

**Tab 2 Robert Meisenheimer, PTA 1204
(PCP – Petraglia, Watson, Hughes)**

Respondent was present and sworn in by the court reporter.

Dr. Petraglia was recused from this tab due to participation on the probable cause panel.

Ms. Gilani summarized the case for the Board which consist of one count: Respondent violated Section 486.125(1)(k), F.S. (2012), through a violation of Section 456.072(1)(x), F.S. (2012), by failing to report a criminal plea to the Board.

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
- Letter of Concern
- \$1000.00 fine to be paid within two (2) years of the Final Order date
- Costs of \$991.61 to be paid within two (2) years of the Final Order date

MOTION: After discussion, Mr. Lohr made a motion to reject the Settlement Agreement. The motion was seconded by Ms. Pettie and carried 4/0.

MOTION: Mr. Lohr made a motion to propose a counter offer by accepting the original terms of the Settlement Agreement with the amendment of a 1 year deadline to pay the fine and costs.

The Respondent accepted the counter offer.

The motion was seconded by Dr. Tasso and carried 4/0.

**Tab 3 Michael Scott Haney, PTA 19739
(PCP – Lohr, Kuhns, Stoff)**

Respondent was present and sworn in by the court reporter.

Mr. Lohr was recused from this tab due to participation on the probable cause panel.

Ms. Sykes summarized the case for the Board which consists of three counts. **Count I:** Respondent violated Section 486.125(1)(k), F.S. (2010), through a violation of Section 456.072(1)(x), F.S. (2010), by failing to report a criminal plea to the Board. **Count II:** Respondent violated Section 486.125(1)(k), F.S. (2010), through a violation of Section 456.072(1)(x), F.S. (2010), by failing to report a criminal plea to the Board. **Count III:** Respondent violated Section 486.125(1)(k), F.S. (2012), through a violation of Section 456.072(1)(x), F.S. (2012), by failing to report a criminal plea to the Board.

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
- \$500.00 fine to be paid within two (2) years of the Final Order date
- Costs of \$1396.70 to be paid within two (2) years of 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.

Tab 29 Michael Haney, PTA 19739

Mr. Haney 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 deny Mr. Haney's exemption for disqualification from employment due to not meeting the requirements in Section 435.07. The motion was seconded Dr. Petraglia and carried 5/0.

**Tab 4 Chantal Fond-Rose, PTA 15402
(PCP – Petraglia, Watson, Hughes)**

Respondent was not present nor represented by counsel.

Dr. Petraglia was recused due to participation in the probable cause panel.

Ms. Gilani summarized the case for the Board which consists of two counts. **Count I:** Respondent violated Section 486.125(1)(c), F.S. (2012), by being convicted or found guilty of a crime related to the practice of physical therapy. **Count II:** Respondent violated Section 456.072(1)(II), F.S. (2012), by being convicted or found guilty of a felony offense that relates to healthcare fraud.

MOTION: Mr. Lohr made a motion to accept the Voluntary Relinquishment. The motion was seconded by Dr. Quillen and carried 4/0.

REPORT

Tab 5 Prosecuting Attorney Report

Ms. Gilani summarized the pending cases for the board.

Total Cases open/active in PSU:	19
Cases in EAU:	3
Total Pre –Probable Cause Cases:	10
Cases under legal review:	6
Cases where PC Recom made:	3
Total Cases where PC has been found:	4
Cases in holding status:	0
Cases awaiting supp. invest.:	1
Cases pending before DOAH:	0
Cases in intake status:	0
Agendaed for current Board Meeting:	4

REQUEST FOR EARLY TERMINATION OF PROBATION

Tab 6 Fe Vasquez Tan, PT 7473 Case No. 2011-00989

Ms. Tan withdrew her request for early termination.

PETITION FOR DECLARATORY STATEMENT

Tab 7 SABER College, Luis F. de la Cruz - Section 486.102, Florida Statutes

Mr. de la Cruz was not present.

Luis F. de la Cruz, attorney for SABER college, has filed a petition for declaratory statement requesting clarification of Section 486.102, F.S., specifically asking the board to authorize SABER's graduates to sit for the National Physical Therapy Examination.

The American Physical Therapy Association (APTA) submitted comments regarding the petition.

MOTION: After discussion, Dr. Petraglia made a motion to deny the petition for declaratory statement due to the petition not being legally sufficient. The petition does not allege proper standing and the petition does not have particular facts and circumstances. The motion was seconded by Dr. Tasso and carried 5/0.

Tab 8 Amy Conchilla, PT 25181

- Section 456.41, F.S.

Ms. Conchilla has filed a petition for declaratory statement requesting clarification of Section 456.41, F.S.

MOTION: After discussion, Mr. Lohr made a motion to deny the petition for declaratory statement due to lack of facts and circumstances.

The motion was seconded by Dr. Tasso and carried 5/0.

PETITION FOR VARIANCE OR WAIVER OF RULE

Tab 9 Krzysztof S. Korthals, PT by Endorsement

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

Mr. Korthals has filed a petition for waiver of Rule 6417-3.001, F.A.C. He is requesting a waiver from the education requirements in regards to deficiencies on his FCCPT evaluation. According to the evaluation, he is pending Integumentary System Evaluation and Interventions, Professional Behaviors, Research & Clinical Decision Making, Communication, and 355 Hours of Clinical Internship.

Mr. Harris clarified that Mr. Korthals' petition should request waive of 64B14-3.003 since his application method is by Endorsement.

MOTION: After discussion, Mr. Lohr made a motion to grant the Petition for Variance or Waiver. The motion was seconded by Dr. Tasso and carried 3/2.

MOTION: After discussion, Mr. Lohr made a motion to approve Mr. Korthal's application for licensure and to certify him to sit for the Florida Laws and Rules Exam. Upon a passing score on the exams shall be licensed. The motion was seconded by Dr. Tasso and carried 3/2.

Tab 10 Francisco Tangan, PT by Endorsement

Mr. Tangan was not present nor represented by counsel.

Mr. Tangan has filed a petition for waiver of Rule 64B17-3.003, F.A.C. He is requesting a waiver from the education requirements in regards to deficiencies on his IERF evaluation. According to the evaluation, he is pending Educational Techniques.

MOTION: After discussion, Dr. Petraglia made a motion to grant the Petition for Variance or Waiver of Rule 64B17-3.003. The motion was seconded by Dr. Tasso and carried 4/0. Dr. Quillen recused himself.

MOTION: After discussion, Dr. Petraglia made a motion to approve Mr. Tangan's application for licensure and to certify him to sit for the Florida Laws and Rules Exam. Upon a passing score on the exams shall be licensed. The motion was seconded by Dr. Tasso and carried 4/0. Dr. Quillen recused himself.

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

Tab 11 Susan Dwyer, PT by Endorsement

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

She was required to appear by the Chair due to examination issues. She does not comply with the requirements in Rule 64B17-3.003, F.A.C, by failing to pass the NPTE within 5 attempts.

MOTION: After discussion, Dr. Petraglia made a motion to deny her application due to not meeting the requirements in Rule 64B17-3.003. The motion was seconded by Dr. Tasso and carried 5/0.

Tab 12 Rise Cooper, PT by Endorsement

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

She was required to appear by the Chair in regards to her "yes" answer in the disciplinary section of her application.

MOTION: After discussion, Dr. Petraglia made a motion to approve Ms. Cooper'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 12 Gail Byrd, PT by Endorsement

Ms. Byrd was present was sworn in by the court reporter.

She was required to appear by the Chair due to examination issues. She previously passed the NPTE in two parts.

MOTION: After discussion, Dr. Tasso made a motion to approve Ms. Byrd'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 Ms. Pettie and carried 4/1.

Tab 14 Abraham Thottichira, PT by Endorsement

Mr. Thottichira 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. Thottichira's application for licensure and to certify him 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. Tasso and carried 5/0.

Tab 15 Melissa Wood, PT by Examination

Ms. Wood 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. Wood's application 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.

Tab 16 Sergio Leon, PT by Examination

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

He was asked to appear to discuss his criminal history.

MOTION: After discussion, Dr. Petraglia made a motion to approve Mr. Leon's application for licensure. The motion did not have a second and failed.

Mr. Leon waived his 90 days so that no action would be taken on his application while his criminal charge is being processed.

Mr. Leon will be placed on the February agenda. If he has no further criminal documentation by the February agenda, he will be placed on the May agenda.

Tab 17 Cleiton Santos, PTA by Examination

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

He was asked to appear to discuss his criminal history.

MOTION: After discussion, Dr. Tasso made a motion to approve Mr. Santos' application for 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 18 Alisa Vidal, PTA by Examination

Ms. Vidal was not present. She was required to appear to discuss her criminal history. Ms. Vidal has submitted a request to withdraw her application.

Tab 19 Wilson Rubiano, PTA by Examination

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

He was asked to appear to discuss his criminal history.

Mr. Rubiano was asked to submit verification of his prevention of medical errors course to the board office.

MOTION: After discussion, Dr. Tasso made a motion to approve Mr. Rubiano's application for 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 Dr. Quillen and carried 5/0.

Tab 20 Kali Browning, PTA by Examination

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

She was required to appear due to her criminal history.

MOTION: After discussion, Dr. Tasso made a motion to approve Ms. Browning's application 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 Ms. Pettie and carried 5/0.

Tab 21 Anthony Garcia-Prieto, PTA by Exam with Temporary

Mr. Garcia-Prieto was present and sworn in by the court reporter.

He was required to appear due to his criminal history.

MOTION: After discussion, Dr. Tasso made a motion to approve Mr. Garcia-Prieto's application for temporary permit 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 22 Wesley Thompson, PTA by Examination

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

He was required to appear due to his criminal history.

MOTION: After discussion, Dr. Petraglia made a motion to approve Mr. Thompson's application 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 Dr. Quillen and carried 5/0.

Tab 23 Johanns Gammel, PTA by Endorsement

Mr. Gammel was not present nor represented by counsel. His application was placed on the August 2013 meeting agenda. Due to his non-appearance, he was required to appear at one of the next two scheduled meetings.

His application has been tabled to the February 2014 meeting.

Tab 24 Andrea Hayden, PTA by Endorsement

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

She was required to appear due to her criminal history.

MOTION: After discussion, Mr. Lohr made a motion to approve Ms. Hayden's application 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. Tasso and carried 5/0.

Tab 25 Myra Amar, PT by Endorsement

Ms. Amar was not present nor represented by counsel.

She was required to appear to discuss concerns with her foreign credential evaluation.

Ms. Amar has submitted a request to waive her 90 day rights while she resolves her education issues.

REQUEST FOR CONSIDERATION OF EXEMPTION FOR DISQUALIFICATION FROM EMPLOYMENT

Tab 26 Michael Hollander, PTA 23809

Mr. Hollander was not present nor represented by counsel.

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

MOTION: After discussion, Dr. Tasso made a motion to approve Mr. Hollander's exemption for disqualification from employment. The motion was seconded Dr. Quillen and carried 5/0.

Tab 27 Thomas Inman, PTA 19301

Mr. Inman was not present nor represented by counsel.

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

MOTION: After discussion, Dr. Tasso made a motion to deny Mr. Inman's exemption for disqualification from employment due to not meeting the requirements in Section 435.07. The motion was seconded Dr. Petraglia and carried 5/0.

Tab 28 Kathy Clement, PTA 24359

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

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

MOTION: After discussion, Dr. Tasso made a motion to deny Ms. Clements exemption for disqualification from employment due to not meeting the requirements in Section 435. The motion was seconded Dr. Quillen and carried 5/0.

Tab 30 Wendy White, PT 13181

Ms. White was not present nor represented by counsel.

She 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 Ms. White's exemption for disqualification from employment. The motion was seconded Dr. Petraglia and carried 4/1.

Tab 44 Shane Miller, PTA 11468

Mr. Miller was not present nor represented by counsel.

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

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

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

Tab 31 Eric Torres, PT 24356

Mr. Torres was not present nor represented by counsel.

He has submitted a request to be considered for a continuing education exception.

MOTION: Mr. Lohr made a motion to deny the request for a continuing education exception due to lack of showing good cause. The motion was seconded by Dr. Quillen and carried 5/0.

Tab 32 Teresa Schroeder, PT 26903

Ms. Schroeder was not present nor represented by counsel.

She has submitted a request to be considered for a continuing education exception.

MOTION: Dr. Petraglia made a motion to grant the request for a continuing education exception by allowing all continuing education requirements to be completed online. The motion was seconded by Mr. Lohr and carried 5/0.

Tab 33 Fernanda Fartek, PTA 23290

Ms. Fartek was not present nor represented by counsel.

She has submitted a request to be considered for a continuing education exception.

MOTION: Mr. Lohr made a motion to grant the request for a continuing education exception by extending the deadline to April 30, 2014 to complete all continuing education requirements. The motion was seconded by Dr. Tasso and carried 5/0.

Tab 34 Jeffery Ringo, PTA 19310

Mr. Ringo was not present nor represented by counsel.

He has submitted a request to be considered for a continuing education exception.

MOTION: Mr. Lohr made a motion to grant the request for a continuing education exception and allow reactivation of license. Mr. Ringo must complete all continuing education requirements for reactivation by January 30, 2014. The motion was seconded by Dr. Quillen and carried 5/0.

Tab 35 Manuel Vidal, PTA 22890

Mr. Vidal was not present nor represented by counsel.

He has submitted a request to be considered for a continuing education exception.

MOTION: Dr. Tasso made a motion to grant the request for a continuing education exception by requiring Mr. Vidal to complete twelve online continuing education courses by November 30, 2013. Mr. Vidal must complete his twelve live continuing education courses by March 1, 2014. The motion was seconded by Dr. Quillen and carried 5/0.

Tab 36 William Siffling, PT 27701

Mr. Siffling was not present nor represented by counsel.

He has submitted a request to be considered for a continuing education exception.

MOTION: Dr. Petraglia made a motion to grant the request for a continuing education exception by requiring him to complete twelve online continuing education courses by November 30, 2013. Mr. Siffling must complete his twelve live continuing education courses by April 30, 2014. The motion was seconded by Dr. Quillen and carried 5/0.

Tab 37 Nancy Sekowski, PT 1421

Ms. Sekowski was not present nor represented by counsel.

She has submitted a request to be considered for a continuing education exception.

MOTION: Dr. Tasso made a motion to deny the request for a continuing education exception due to not demonstrating good cause. The motion was seconded by Dr. Quillen and carried 5/0.

Tab 38 Lori Stillerman Feldman, PT 4511

Ms. Feldman was not present nor represented by counsel.

She has submitted a request to be considered for a continuing education exception.

MOTION: Dr. Tasso made a motion to grant the request for a continuing education exception and provide her with an extension to complete twelve live hours of continuing education by April 1, 2014. The motion was seconded by Mr. Lohr and carried 5/0.

Dr. Petraglia made a motion to reconsider Tab 38. The motion was seconded by Dr. Quillen and carried 5/0.

Dr. Petraglia made a motion to amend original motion and extend Ms. Feldman's deadline to April 30, 2014. The motion was seconded by Mr. Lohr and carried 5/0.

Tab 39 Tracey Williford, PT 5667

Ms. Williford was not present nor represented by counsel.

She has submitted a request to be considered for a continuing education exception.

MOTION: Mr. Lohr made a motion to grant the request for a continuing education exception by waiving all twenty four continuing education requirements due to demonstrating good cause. The motion was seconded by Dr. Quillen and carried 4/1.

Tab 40 Lisa Sprague, PTA 858

Ms. Sprague was not present nor represented by counsel.

She has submitted a request to be considered for a continuing education exception.

MOTION: Mr. Lohr made a motion to deny the request for a continuing education exception due to not demonstrating good cause. The motion was seconded by Dr. Quillen and carried 5/0.

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

Tab 41 Christopher Enos, PTA by Exam with Temporary

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

He was required to appear due to his criminal history.

MOTION: After discussion, Mr. Lohr made a motion to approve Mr. Enos' application for temporary permit 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 Dr. Petraglia and carried 5/0.

Dr. Petraglia made a motion to give authority to staff to administratively process his future application for exemption. The motion was seconded by Dr. Quillen and carried 5/0.

Tab 43 David Lloyd Zweig, PT by Endorsement

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

He was asked to appear to discuss his disciplinary history.

MOTION: After discussion, Dr. Tasso made a motion to deny Mr. Zweig application due to his past disciplinary history in other states. Mr. Zweig does not display safety to practice. The motion was seconded by Dr. Quillen and carried 5/0.

Tab 42 Jonathan Jack Beach, PT by Endorsement

Mr. Beach was not present and nor represented by counsel.

He was asked to appear to discuss his criminal history.

MOTION: After discussion, Mr. Lohr made a motion to order Mr. Beach to appear at the February meeting or his application for licensure will be denied due to two non-appearances. This motion was seconded by Dr. Tasso and carried 5/0.

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

Tab 45 Lanie Benzon, PT 14298

Ms. Benzon was not present nor represented by counsel.

She has submitted a request to be considered for a continuing education exception.

MOTION: Dr. Petraglia made a motion to grant the request for a continuing education exception by waiving the twelve live continuing education hours. Ms. Benzon is required to complete twelve online courses by November 30, 2013. The motion was seconded by Dr. Quillen and carried 5/0.

There being no further business, the meeting adjourned at approximately 12:00 noon.