

**DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE
BOARD OF PHYSICAL THERAPY
GENERAL BUSINESS MEETING
GENERAL RULES REVIEW
February 13-14, 2014
MINUTES**

**DoubleTree by Hilton Deerfield Beach
100 Fairway Drive
Deerfield Beach, FL 33441
(954)427-7700**

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.

February 13, 2014 – 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, Ph.D. FACSM
Dr. Kay Tasso, PT, Ph.D. 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

COURT REPORTER

Apex Reporting Group
Alexandra Ramirez
12 S.E. 7th Street, Suite 702
Fort Lauderdale, Florida 33301
(954) 467-8204

Time Began: 6:35 PM

Tab 1 Recognition of Service

Dr. Petraglia recognized Mr. Lohr for his years of dedicated service and expressed the Board's appreciation.

REPORTS

Tab 2 Larry Harris, Assistant Attorney General

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

Licensure by Endorsement

- 64B17-3.003

At the November meeting board counsel proposed the following draft:

64B17-3.003 Licensure by Endorsement.

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 concerns, Mr. Harris is withdrawing the proposed language in (b)2 "...shall consist of submission of a notarized statement executed under oath certifying the number of clinical hours..." and is proposing to change language to, (b)2 "...shall consist of submission of a written statement evidencing the number of clinical hours..."

Mr. Harris is proposing the following language:

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 February 13-14, 2014, 2013 General Business Meeting Minutes
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<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 written notarized statement evidencing attesting to 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.

MOTION: After discussion, Dr. Petraglia made a motion to revise the language to reflect the suggestion of proposed language and publish the notice of change. 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. The motion was seconded by Dr. Tasso and carried 5/0.

MOTION: Mr. Lohr made a motion to find the proposed revisions 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.

Citations

- 64B17-7.002

Mr. Harris proposed the following draft of the rule:

64B17-7.002 Citations.

(1) "Citation" means an instrument which meets the requirements set forth in Section 456.077, F.S., and which is served upon a licensee for the purpose of assessing a penalty in an amount established by this rule. All citations will include a requirement that the subject correct the violation, if remediable, within a specified period of time not to exceed 60 days, and impose whatever obligations will remedy the offense. If the violation is not corrected, or is disputed, the Department shall follow the procedure set forth in Section 456.073, F.S.

(2) The Department may issue a citation to the subject within six months after the filing of the complaint which is the basis for the citation.

(3) The Board designates the following as citation violations:

(a) Failure to include the disclosure statement in an advertisement as required by Section 456.062, F.S. Violation of Section 456.062, F.S., a advertising 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., o~~Obtaining 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)(xw), 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 of a statute or rule of the Board, as required by Sections 456.072(1)(i), a 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 continuing education requirements for the purpose of renewing a license as required by Section 486.109, F.S., a fine of \$2,000.

~~(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) In addition to the penalties established in this rule, the Department shall recover the costs of investigation in accordance with its rules. The penalty specified in the citation shall be the sum of the penalty established by this rule plus the Department's cost of investigation.

(5) If the subject does not dispute any matter contained in the citation, within thirty days after service, the citation shall become a final order of the Board.

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

MOTION: Dr. Petraglia made a motion to find the proposed revisions do not have an adverse impact on small businesses. The motion was seconded by Dr. Tasso and carried 5/0.

MOTION: Ms. Pettie made a motion to find the proposed revisions 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.

Notice of Noncompliance

- 64B17-7.005

Mr. Harris presented to the board proposed language, resolving Joint Administrative Procedures Committee (JAPC) concerns.

64B17-7.005 Notice of Noncompliance

In accordance with Sections 456.073(3) and 120.695, F.S., the Department is authorized to Board 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 in any advertisement for a free, discounted fee, or reduced fee service.~~

MOTION: Dr. Quillen made a motion to strike language in (2) and (3) and accept the proposed changes. The motion was seconded by Dr. Petraglia and carried 5/0.

MOTION: Dr. Tasso made a motion to find the proposed revisions do not have an adverse impact on small businesses. The motion was seconded by Ms. Pettie and

carried 5/0.

MOTION: Dr. Tasso made a motion to find the proposed revisions 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.

Licensure as a Physical Therapist Assistant by Examination

- 64B17-4.001

The board continued their discussion from the rule workshop.

Mr. Lohr made a motion to strike 4.001 (3)(a). There was not a second so the motion failed.

The board agreed to not move forward with drafting a rule at this time.

Tab 3 Chair/Vice Chair Report

- Clint Lohr
- Dr. Gina Petraglia

Board members suggested changing the November board meeting dates due to schedule conflicts and possible quorum issues. Mr. Hall advised that board staff would research and inform board members if the meeting date can be changed.

Dr. Petraglia discussed Senate Bill 930: Physical Therapy Practice.

SB 930: Physical Therapy Practice;

An act relating to physical therapy practice; amending ss. 486.051 and 486.104, F.S.; increasing the number of times an applicant for licensure as a physical therapist or physical therapist assistant may take the license examination; providing an effective date.

Dr. Petraglia stated her concerns regarding the Senate Bill proposal and legislative changes. She is concerned for the safety of the public. She states the proposed Senate Bill is to benefit a small minority of applicants, however will affect the potential quality of the majority. She is concerned with the states qualifications becoming less stringent.

MOTION: Dr. Petraglia moved to include the Board position statement in the bill analysis. The motion was seconded by Dr. Tasso and carries 5/0.

Dr. Petraglia will provide a statement concerning the Board's position.

Dr. Quillen discussed House Bill 669: Athletic Trainers.

MOTION: Dr. Petraglia made a motion to include a Board position statement in the bill analysis. The motion was seconded by Dr. Tasso and carries 5/0.

Dr. Quillen will provide a statement to be passed to the Athletic Trainer Executive Director regarding House Bill 669: Athletic Trainers.

Tab 4 Executive Director Report

- Cash Balance Report
- Board Expenditures

The above reports were presented as informational only.

APPLICANT/LICENSEE RATIFICATION LISTS

Tab 5 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), 237 in number starting with PT 28293 and ending with PT 28938. 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), 200 in number starting with PTA 24627 and ending with PTA 24624. 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 6 Ratification List for Employment Exemption

MOTION: Mr. Lohr made a motion to ratify the list of physical therapists/assistants granted an employment exemption, 3 in number starting with Robert Rogers and ending with Scott Lynch. The motion was seconded by Dr. Quillen and carried 5/0.

Tab 7 Ratification List for Voluntary Relinquishments

MOTION: Mr. Lohr made a motion to ratify the list of physical therapists/assistants who administratively relinquished their license, 4 in number starting with Janet Herschel and ending with Ebony Givens. The motion was seconded by Dr. Petraglia and carried 5/0.

NEW BUSINESS

Tab 8 Fee Change Recommendations

The Senior Health Budget Analyst, Mendy Simmons has conducted a review and analysis of current fees and projected cash balances.

MOTION: After discussion Dr. Quillen made a motion to keep fees as they are with no changes. The motion was seconded by Dr. Petraglia and carried 5/0.

Tab 9 Election of Officers

BOARD CHAIR: Dr. Gina Petraglia

VICE CHAIR: Dr. Kay Tasso

LEGISLATIVE LIAISON: Dr. Gina Petraglia

BUDGET LIAISON: Dr. William Quillen

UNLICENSED ACTIVITY LIAISON: Ms. Christina Pettie

EDUCATION LIAISON: Dr. William Quillen

ENFORCEMENT LIAISON: Dr. Kay Tasso

MOTION: After discussion, Dr. Tasso made a motion to approve the above mentioned elections. The motion seconded by Ms. Pettie and carried 5/0.

Tab 10 Delegation of Authority

Board staff prepares a Delegation of Authority matrix to be approved by the board each year. One addition is being requested by board counsel, which is the authority to delegate to the board chair to act on motions affecting an individual appearing at board meetings.

MOTION: After discussion, Dr. Petraglia made a motion to approve the proposed delegation. The motion seconded by Dr. Tasso and carried 5/0.

Tab 11 Budget Liaison

Due to the vacancy of the Budget Liaison position, the board must appoint a new member.

MOTION: After discussion, Dr. Tasso made a motion to elect Dr. Quillen as the budget liaison. The motion seconded by Ms. Pettie and carried 5/0.

OLD BUSINESS

Tab 12 FSBPT Annual Meeting Motions

At the November board meeting the board requested staff to contact the Federation of State Boards of Physical Therapy (FSBPT) to inquire about the upcoming changes to NPTE eligibility requirements.

FSBPT responded and is sensitive to all jurisdiction concerns and will not implement changes until January 2016. This will allow time for the jurisdictions and FSBPT to exchange information, to draft potential language, and to allow for final implementation.

Tab 13 Board of Physical Therapy Minutes

- November 7-8, 2013 Minutes

MOTION: Mr. Lohr 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 14 Remediation Requirement Update

At the November board meeting, the board discussed revising the remediation requirements for three time NPTE failures. The board decided to no longer maintain a list of approved remedial courses and instead inform applicants of known remedial courses and let the applicants choose their own method of remediation.

An email was sent to the Florida PT and PTA programs soliciting input. No comments were received.

Tab 15 Physical Therapy Optional Reporting Cycle

Physical Therapists and Physical Therapists Assistants completed their optional continuing education reporting phase for the renewal cycle ending November 30, 2013. During this phase 85% of Physical Therapists and 80% of Physical Therapists Assistants were compliant in the CE tracking system.

Tab 16 Dry Needling

This was provided as informational only.

Tab 17 Federation of State Boards of Physical Therapy 2014 Budget

This was presented as informational only.

Tab 18 Exam Statistics

This was provided as informational only.

Tab 19 Staff Recognition

There being no further business, the meeting adjourned at 8:35 p.m.

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February 14, 2014 – 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 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, Ph.D. FACSM
Dr. Kay Tasso, PT, Ph.D. 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

COURT REPORTER

Apex Reporting Group
Alexandra Ramirez
12 S.E. 7th Street, Suite 702
Fort Lauderdale, Florida 33301
(954) 467-8204

DISCIPLINARY PROCEEDINGS

MOTION FOR FINAL ORDER BY HEARING NOT INVOLVING DISPUTED ISSUES OF MATERIAL FACT

**Tab 1 Komal Acharya, PT27041
 Case No. 2013-14200
 (PCP – Lohr, Stoff, Davis)**

Mr. Lohr was recused due to participation in the Probable Cause Panel.

Respondent was not present during the summary of the case.

Ms. Gilani summarized the case for the Board. Respondent was charged with the following violations: **Count I:** Section 486.125(1)(k), Florida Statutes (2012), through a violation of Section 456.072(1)(II), Florida Statutes (2012), by being convicted of a crime related to health care fraud. **Count II:** Section 486.125(1)(k), Florida Statutes (2012), through a violation Section 456.072(1)(kk), Florida Statutes (2012), by being terminated from a state of Medicaid program and the Federal Medicare Program. **Count III:** Section 486.125(1)(k), Florida Statutes (2012), through a violation of 456.072(1)(ii), Florida Statutes (2012), by being convicted of a crime relating to the Medicaid Program, in violation of 18 U.S.C. Section 1349.

MOTION: Dr. Petraglia made a motion to find that the Respondent was properly served and has requested an informal hearing. The motion was seconded by Dr. Quillen and carried 4/0.

MOTION: Dr. Petraglia made a motion to adopt the findings of fact as set forth in the Administrative Complaint. The motion was seconded by Dr. Tasso and carried 4/0.

MOTION: Dr. Petraglia made a motion to adopt the conclusions of law as set forth in the Administrative Complaint and find that this constitutes a violation of the Chapters 486 and 456, Florida Statutes. The motion was seconded by Dr. Quillen and carried 4/0.

MOTION: After discussion, Dr. Petraglia made a motion to revoke Ms. Archarya's license. The motion was seconded by Dr. Quillen and carried 4/0.

At this time the respondent, Komal Acharya and her legal representation entered the meeting. Respondent was sworn in by the court reporter. She was represented by Tara Campion, Esq. The Board panel allowed for the respondent to speak. Further discussion ensued.

MOTION: After further discussion; Dr. Petraglia made a motion to move to reconsider the penalty of revocation of the Respondent's license. The motion was seconded by Dr. Tasso and carried 4/0.

Dr. Tasso reiterated the Boards position and stance on Medicare Fraud.

MOTION: Dr. Tasso made a motion to revoke Ms. Archarya's license. The motion was seconded by Dr. Petraglia and carried 4/0.

Tab 2 Shanin Degraw, , PTA22943
Case No. 2013-02566
(PCP – Lohr, Khuns, Stoff)

Mr. Lohr was recused due to participation in the Probable Cause Panel.

Respondent was not present nor represented by counsel.

Ms. Gilani summarized the case for the Board. Respondent was charged with the following violation: Section 486.125(1)(i), Florida Statutes (2012), by making or filing a report of record which the licensee knew to be false.

MOTION: Dr. Petraglia made a motion to find that the Respondent was properly served and has requested an informal hearing. The motion was seconded by Ms. Pettie and carried 4/0.

MOTION: Dr. Petraglia made a motion to adopt the findings of fact as set forth in the Administrative Complaint. The motion was seconded by Dr. Quillen and carried 4/0.

MOTION: Dr. Petraglia made a motion to allow the material under tab 2 and any addendums to be added to the evidence of this proceeding. The motion was seconded by Ms. Pettie and carried 4/0.

MOTION: Dr. Petraglia made a motion to adopt the conclusions of law as set forth in the Administrative Complaint and find that this constitutes a violation of the Chapters 486 and 456, Florida Statutes. The motion was seconded by Dr. Quillen and carried 4/0.

MOTION: After discussion, Dr. Petraglia made a motion to find the respondent willfully filed a false report and therefore imposed the following penalties:

- \$5000.00 fine to be paid within two (2) years of the Final Order date.
- Suspension for six (6) months, followed by six (6) months of supervised probation.
- Passage of the Florida laws and rules exam within 3 months of the Final Order date.
- Probation must be direct supervision with monthly reports. The reports must include accurate documentation and billing practices that have occurred and if any issue relevant to this issue occurs. Respondent must submit three potential supervisors to be reviewed. The monitor will be approved by the Board Chair.

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

MOTION: Dr. Petraglia made a motion to assess the costs of \$849.16 to be paid within two (2) years of the Final Order date. The motion was seconded by Ms. Pettie and carried 4/0.

MOTION FOR VOLUNTARY RELINQUISHMENT

Tab 3 Darren Combass, PTA07827
Case No. 2013-07827
(PCP – Lohr, Clendenin)

Mr. Lohr was recused due to participation in the Probable Cause Panel.

Respondent was not present nor represented by counsel.

Ms. Gilani summarized the case for the Board. Respondent was charged with the following violations: **Count I:** Section 486.125(1)(c), Florida Statutes (2012-2013), by pleading nolo contendere and by being adjudicated guilty of a crime directly related to

the practice of physical therapy or to the ability to practice physical therapy. **Count II:** Section 486.125(1)(a), Florida Statutes (2012-2013), by being unable to practice physical therapy with reasonable skill and safety to patients due to abuse of alcohol and/or abuse of controlled substances, including but not limited to, cocaine.

MOTION: Dr. Petraglia made a motion to accept the Voluntary Relinquishment. The motion was seconded by Ms. Pettie and carried 4/0.

REPORT

Tab 4 Prosecuting Attorney Report

Total cases open/active in PSU:	24
Cases in EAU:	4
Total pre-probable cause cases:	16
Cases under legal review:	11
Cases where PC recommendation made:	1
Total cases where PC has been found:	5
Cases in holding status:	0
Cases awaiting supplemental investigation:	3
Cases pending before DOAH:	0
Cases in intake status:	1
Agendaed for current or future Board Meeting:	3

REQUEST FOR TERMINATION OF PROBATION

Tab 5 David Pelton, PT 9800

Respondent was present and sworn in by the court reporter.

An Administrative Complaint (AC) was filed on August 20, 2010 against Mr. Pelton for impairment and conviction relating to the practice and failure to notify the board of the conviction. On December 2, 2010 a Final Order was filed accepting the terms of the Settlement Agreement below.

- Appearance
- Letter of Concern
- Fine of \$3,000.00 to be paid within three (3) year of the filing of the Final Order.
- Costs of \$4,555.40 to be paid within three (3) year of the filing of the Final Order.
- Compliance with the terms of the monitoring contract with Professionals Resource Network. Confirmation of compliance to be submitted to the Compliance Office within thirty (30) days of the filing if the Final Order.

- Three (3) years probation from the date of the filing of a Final Order accepting and incorporating the Settlement Agreement. Respondent must follow the terms of probation outlined in the Settlement Agreement to include:
 - No home health care
 - Respondent may petition the Board for early termination of probation after a period of twelve (12) months.
- Registration of the Florida laws and rules exam within sixty (60) days of the filing of the Final Order. Successful completion of the Florida laws and rules exam to be completed within twelve (12) months of the filing of the Final Order.

Mr. Pelton has completed three years of probation and is requesting the board to terminate his probation. All terms of the settlement agreement have been met.

MOTION: Mr. Lohr made a motion to accept the Request for Termination of Probation. The motion was seconded by Dr. Quillen and carried 5/0.

REQUEST FOR MODIFICATION OF FINAL ORDER

Tab 6 Diego Sauso, PT 7037

Respondent was present and sworn in by the court reporter.

An Administrative Complaint (AC) was filed on October 12, 2004 for sexual misconduct. On December 8, 2004 a Final Order was filed imposing the following:

- Letter of concern
- Respondent may not treat female patients unless a third person is in the room
- Three hour course on Record Keeping to be completed within 6 months
- One course on Professional Boundaries to be completed within 6 months
- One year of probation to include quarterly reports
- Costs of \$5,371.90 to be paid within one year

Mr. Sauso is requesting a modification of his Final Order by removing the term of not being able to treat female patients unless a third person is in the room.

The board agreed that Mr. Sauso did not provide any proof that he has been rehabilitated.

MOTION: Dr. Petraglia made a motion to deny the request for Modification of Final Order. The motion was seconded by Dr. Tasso and carried 5/0.

HEARING NOT INVOLVING DISPUTED ISSUES OF MATERIAL FACT

Tab 7 Kathy Clement, PTA 24359

Ms. Clement submitted a request for this discussion to be tabled until the next available board meeting.

PETITION FOR VARIANCE OR WAIVER OF RULE

Tab 8 Rodney Mendoza

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

Mr. Mendoza filed a petition for waiver of Rule 64B17-3.003, F.A.C. He requested a waiver from the education requirement(s) in regards to not being able to obtain the required certified copy of the credential evaluation used by the New Jersey Physical Therapy Board. He requested that the Board accept his copy of the ICD evaluation he provided. He provided proof of the required practice hours.

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 Mr. Lohr and carried 4/1. Dr. Quillen opposed.

MOTION: After discussion, Dr. Petraglia made a motion to approve Mr. Mendoza'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 Mr. Lohr and carried 4/1. Dr. Quillen opposed.

Tab 9 Ma Theresa Mendoza

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

Ms. Mendoza filed a petition for waiver of Rule 64B17-3.003, F.A.C. She requested a waiver from the education requirement(s) in regards to not being able to obtain the required certified copy of the credential evaluation used by the New Jersey Physical Therapy Boards. She requested that the Board accept her copy of the ICD evaluation she provided to satisfy the requirements. She provided the required proof of practice hours.

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 Mr. Lohr and carried 4/1. Dr. Quillen opposed.

MOTION: After discussion, Dr. Petraglia made a motion to approve Ms. Mendoza'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 Mr. Lohr and carried 4/1. Dr. Quillen opposed.

Tab 10 Ronald Jake Ko Rumbaoa

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

Mr. Rumbaoa filed a petition for waiver of Rule 64B17-3.001, F.A.C. and 64B17-3.003, F.A.C. He requested a waiver from the education requirement(s) in regards to deficiencies on his FCCPT evaluation in his general education. Based on his date of graduation, he meets the required content hours but is pending one course in physics with lab.

MOTION: After discussion, Dr. Tasso made a motion to grant the Petition for Variance or Waiver of Rule 64B17-3.001 and 3.003. The motion was seconded by Dr. Quillen and carried 5/0.

MOTION: After discussion, Dr. Tasso made a motion to approve Mr. Rumbaoa'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. Petraglia and carried 5/0.

PETITION FOR DECLARATORY STATEMENT

Tab 11 Brittany DeCroes

Ms. Decross was not present nor represented by legal counsel. She has filed a petition seeking a declaratory statement for Section 486.161, F.S. She is currently licensed in Maryland and will be performing research in Florida for approximately one week and has asked if she is exempt from licensure per Section 486.161(b), F.S.

The board determined that the proposed question does not fall under Section 486.161.

MOTION: After discussion, Mr. Lohr made a motion to decline the Petition for Declaratory Statement of Section 486.161(b), F.S. The motion was seconded by Dr. Tasso and carried 5/0.

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

Tab 12 Przemyslaw Tokarski, PT By Examination

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

He was required to appear in regards to his education issues.

According to ICD, he meets the number of professional education hours but lacks .50 hours of general education including Humanities, Physics, and Chemistry. He also lacks Pharmacology, Integumentary Examination and Evaluation, Research and Clinical Decision Making, and 260 hours of the required 800 hours of supervised clinical internship.

The board allowed Mr. Tokarski to withdraw his application.

Tab 13 Sandra Cardona, PT by Examination

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

She was required to appear in regards to her education issues.

Her FCCPT credential evaluation indicates deficiencies in professional education including Clinical Sciences Examination and Evaluation: Integumentary Systems.

MOTION: After discussion, Dr. Tasso made a motion to approve her application. The motion was seconded by Dr. Quillen and carried 2/3. Dr. Petraglia, Mr. Lohr, and Ms. Pettie were opposed.

MOTION: Dr. Petraglia made a motion to deny Ms. Cardona's application due to not meeting the requirements in Rule 64B17-3.003. The motion was seconded by Mr. Lohr and carried 3/2.

Tab 14 Stephen Leonard, PT by Endorsement

Mr. Leonard was present and sworn in by the court reporter. He was represented by Edwin Bayo, Esq.

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

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

Tab 15 Jennifer Davis, PT by Endorsement

Ms. Davis 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. Tasso made a motion to deny Ms. Davis' application for licensure based on her discipline being very recent. There was no second to this motion.

MOTION: After discussion Mr. Lohr made a motion to approve Ms. Davis' application for licensure and to certify her to sit for the Florida Laws and Rules Exam and upon a passing score on the exam shall be licensed with the following conditions:

- Six (6) months of probation with indirect supervision.
- Supervisor must be approved by Board Chair within 60 days of the Final Order.
- One hundred percent (100%) chart review and monthly reports submitted to board staff.

The motion was seconded by Dr. Quillen and carried 4/1. Dr. Tasso opposed.

Tab 16 Jennifer Francis, PT by Endorsement

Ms. Francis was not present nor represented by counsel.

She was asked to appear to discuss her criminal history.

MOTION: Mr. Lohr made a motion to issue an order to require her appearance at the next Board meeting or the application will be denied due to failure to appear. The motion was seconded by Dr. Quillen and carried 5/0.

Tab 17 Lisa Vivian, PT by Endorsement

Ms. Vivian was not present nor represented by counsel.

Ms. Vivian's application came before the Board for reconsideration as she has not complied with her Notice of Intent to Approve with Conditions.

MOTION: Mr. Lohr made a motion to reconsider Ms. Vivian's application for licensure. The motion was seconded by Dr. Tasso and carried 5/0.

MOTION: Mr. Lohr made a motion to vacate the previous Board Order. The motion was seconded by Ms. Pettie and carried 5/0.

MOTION: After discussion, Mr. Lohr made a motion to deny her application due to failure to comply with the conditions. The motion was seconded by Dr. Tasso and carried 5/0.

Tab 18 Karla Smith, PT by Endorsement

Ms. Smith 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. Smith'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. Quillen and carried 5/0.

Tab 19 Johanns Gammel, PTA by Endorsement

Mr. Gammel was not present nor represented by counsel.

He was asked to appear to discuss his criminal history.

MOTION: After discussion, Dr. Petraglia made a motion to deny his application due to noncompliance with Board Order by failure to appear at a scheduled Board meeting. The motion was seconded by Dr. Tasso and carried 5/0.

Tab 20 Nicholas Martin, PTA by Endorsement

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

He was asked to appear to discuss his criminal, discipline, and personal history.

MOTION: After discussion, Dr. Tasso made a motion to approve the application for licensure and authorize Mr. Martin to sit for 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 with the recommendations, if any, or licensure is denied. Board staff is delegated to approve licensure once all terms are completed. The motion was seconded by Dr. Quillen and carried 5/0.

Tab 21 Ailsa Vidal, PTA by Examination

Ms. Vidal 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. Vidal'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. Tasso and carried 4/1. Dr. Petraglia opposed.

REQUEST FOR CONSIDERATION OF EXEMPTION FOR DISQUALIFICATION FROM EMPLOYMENT

Tab 22 Abdulbari Azirovic PT 5735

Mr. Azirovic was present and represented by counsel.

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

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

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

Tab 23 Bruno Silva, PT 23754

Mr. Silva was not present nor represented by counsel.

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

MOTION: Ms. Pettie made a motion to approve the request for a continuing education exception and allow Mr. Silva to complete all twenty-four (24) continuing education hours online. The motion was seconded by Mr. Lohr and carried 5/0.

Tab 24 Michael Kam, PT 26763

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

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

The Board agreed Mr. Kam has sufficient time to complete the continuing education requirements prior to the hardship occurring.

MOTION: Dr. Tasso made a motion to deny the request for a continuing education exception. The motion was seconded by Dr. Quillen and carried 5/0.

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

Tab 25 David Austin, PTA by Examination

Mr. Austin 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. Austin's application for examination 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.

There being no further business, the meeting adjourned at 12:20 p.m.