

## LOUISIANA PHYSICAL THERAPY BOARD

May 27, 2015

APPROVED

Proceedings for the Louisiana Physical Therapy Board, taken in regular session on Wednesday, May 27, 2015 at 104 Fairlane Drive, Lafayette, LA 70507. A quorum of members was present. Board members present were Chairman Al Moreau, III, Secretary/Treasurer Danny P. Landry, Don Cassano, Jr., Kristina Lounsberry, Elizabeth “Beth” Austin, and Dr. Gerald Leglue, MD. Advisory committee members present were Wayne Campbell, Chris Franks, and Ryan Usner. Charlotte Martin, Executive Director; Gabrielle Bellow, Student Worker; George Papale, General Counsel; and Courtney P. Newton, Attorney were also present. Members of the public included Cristina Faucheaux from the LPTA and Mitchell Guidry, a student of physical therapy.

The meeting was called to order at 8:12am by Chairman Al Moreau.

### **Review of the Agenda**

Chairman Moreau asked the members of the board to review the agenda. The agenda was accepted as written.

### **Approval of Minutes**

Secretary/Treasurer Landry reported on the minutes from April 2015 board meeting. The board reviewed the minutes and a change in the “Legal Report” was made to add the word “hearing”. Chairman Moreau moved to approve the minutes as amended. The Board voted and the minutes were approved.

### **Reports of Officers and the Board Office**

#### Chairman’s Report

Chairman Moreau reported that the board was invited to attend the Chiropractic Examiner Board meeting on June 4, 2015 beginning at 9:00am to discuss the potential study Resolution on increasing patient access to physical therapy services and other collaborative efforts. He and Mrs. Martin will attend.

Chairman Moreau delivered an update on the Louisiana Orthopaedic Association meeting on May 14, 2015 in Alexandria, LA. Chairman Moreau, Mr. Cassano and Mrs. Martin met with representatives to discuss the potential study Resolution on increasing patient access to physical therapy services along with any concerns.

Chairman Moreau discussed changing the July board meeting date from July 30, 2015 to July 22, 2015 with no hearing. The Board voted and approved the date change.

Chairman Moreau reminded the board of the protocol for requesting administrative support. Any and all request for administrative support will go through Mrs. Martin and not directly to staff members.

Chairman Moreau discussed the Board’s protocol on the policy for approving applicants who meet the Rule but not the criteria on forms. Some documents that are required for board interviews are not supporting Rule. The Board agreed that the Rules on applications and interviews should be reviewed and recommendations for changes should be made to the Board. The Board also agreed that all current forms and policies should be reviewed, as well, and recommendations for changes should be presented to the Board. Don Cassano and Kristina Lounsberry agreed to participate in the review of these items and present recommendations to the Board and to participate with the review of these items for the website.

Chairman Moreau clarified PT supervision of PTAs in Rule §333 to ensure consistent messaging. The 50% rule no longer exists in Rule.

Chairman Moreau clarified physical therapy technician supervision in Rule §335. A physical therapist must be present at all times. Rule §335.A.3 is a “stand alone”, for patient safety a PTA assist a patient without a PT present, but not for treatment.

Chairman Moreau discussed Rule §123 as it pertains to the definition of Clinical Supervisor. The definition read that a clinical supervisor must have three years of experience. If a clinical supervisor is the same thing as a supervisor of a provisional licensee in a clinic, the supervising PT must have three years of experience to supervise a provisional licensee; however a new graduate is allowed to supervise a student as a Clinical Instructor. Chairman Moreau also discussed inconsistencies of Rules regarding clinical supervision. Legal Counsel, George Papale recommended that the Board follow the Practice Act for the time being, which is not consistent with the Rule and does not require any specified length of time that a supervisor must have practiced prior to supervising a foreign-trained licensee, nor a CAPTE graduate pending examination. The Board directed the board staff to no longer require that supervisors have specific practice experience time prior to qualify as a supervisor. Mrs. Martin will notify Danielle Linzer, Licensing Analyst of the change which will take effect immediately.

#### Treasurer’s Report

Secretary/Treasurer Landry reported

#### Executive Director’s Report

Executive Director Martin reported to the board an idea for an electronic verification system. The board agreed it will take less time, and is a more efficient way for licensees to receive verifications.

Executive Director Martin reported that the staff is ready to move forward with the implementation background checks on new applicants. The board will begin conducting state background checks on all licensees who list a Louisiana residence on their application. If licensees do not have a residency in Louisiana, the board will begin by conducting a federal background check.

Executive Director Martin provided an update on the website. The website update and maintenance is moving forward.

Executive Director Martin reported the newsletter will be sent out before the next board meeting. Chairman Moreau will review the draft.

Executive Director Martin discussed the rules revisions plan. The Advisory Committee members are currently looking at different Rules to provide recommendations to the Board.

Executive Director Martin reported on upcoming staff changes that will taking place. She confirmed that by the next board meeting the temporary help that was hired during the renewal period will be finished. The Assistant Executive Director, Sirwana Granger will be leaving her position. Mrs. Martin recommended hiring a professional staff position whose primary duties would be to oversee compliance of the monitored licensees and continuing education, such as the dry needling certification compliance. The board agreed that filling this position and then hiring an Assistant Executive Director would be effective.

## **Legal Report**

Attorney Courtney Newton reported that she and Secretary/Treasurer Danny Landry attended the Federation of Associations of Regulatory Boards (FARB) Louisiana Comprehensive Regulatory Training (CRT) that was held in Baton Rouge, Louisiana on May 20, 2015. Newton suggested that every board's website should have a clearly articulated statement as to what their board is on the home page, including the purpose of the board and their mission. She recommended that the board read their mission statement into the minutes at the beginning of every meeting moving forward to begin the meeting. She discussed recusal vs. abstaining from a vote. If a member recuses, they should leave the room and not voice an opinion. When abstaining from a vote an individual may not contribute to the conversation either and she recommended that those who wish to abstain also leave the room during the discussion. Mrs. Newton recommended having retired board members trained and being used as investigators on complaints and in disciplinary matters. Mrs. Newton reported that individuals should keep the same license number for history purposes. Mrs. Newton stated that Dale Atkinson does not recommend revoking a license and offering the option for the licensee to reapply. He recommends long-term suspension in lieu of revocation. Newton discussed the application and denial process in detail with the board and provided recommendations from FARB. Secretary/Treasurer Landry continued the report on FARB. He recommended that Regulatory Boards meet with other Regulatory Boards regularly to discuss issues pertaining to practice and public protection. He spoke with an individual who informed him of a Legislative Consultant who has been hired by other boards during the legislative session and suggested that the board keep her contact information on file if ever needed. Landry stated that there was discussion regarding the importance of "Board Retreats" and that they are not a violation of open meetings. Landry advised that FARB strongly suggests that Boards be aggressive in outreach to the general public. He recommended that the Board advertise during PT month in October to express the importance of verifying that those who are performing physical therapy are listed on the board website as an active licensee. He also readdressed the idea to have a voluntary fee included in the application process to fund advertising that will promote public protection and inform the public of physical therapy regulation. Landry addressed areas of concern regarding the application for licensure after reviewing the application at FARB.

Courtney Newton reported that on the cases that she has worked on since the last board meeting, there was closure of 4 confidential complaints that did not result in public disciplinary action, as well as the drafting of 2 consent orders that have been presented to licensees for review.

Newton updated the board on licensees' privacy rights in sharing email addresses. There is no direct case law in Louisiana that she has found, so Newton will continue research.

George Papale discussed the revised the Sarah Myers medication review letter. The board reviewed and approved the letter as written. Mrs. Martin will send the updated letter to Myers, as well as posting to the website.

Newton discussed a letter that was circulated to all Attorney General in all states related to the North Carolina State Board of Dental Examiners as an open letter of inquiry and request for documents. She also informed the board that the Citizen's Advocacy Center has a seminar specifically on the NC Dental Case. She recommends staying abreast of the conversation but does not believe it is necessary for attendance.

## **Reports of Special Committees**

## CEU Committee

The CEU Committee approved a total of 36 courses. There was a total of 34 clinical courses approved. Out of the 34 clinical courses, 23 were traditional, 10 were web based, and 3 were home study. There was 1 traditional, administrative course approved. There was 1 web based, ethics course approved. No courses were denied and the average turn-around time for course approval was 5 days.

- The Learning and Training Center, Evaluation and Treatment of Patients with Neurodegenerative Demyelinating Diseases, Traditional
- Wound Care Education, Skin and Wound Management Course, Traditional
- Summit Professional Education, Autism and Sensory Processing Disorder, Traditional
- Summit Professional Education, Oppositional, Uncooperative, and Aggressive Behavior, Traditional
- Education Resources, Inc., Linking Play to Function, Traditional
- Education Resources, Inc., Neuroplasticity and Pediatric Intervention-Children's Brains, Traditional
- Cross Country Education, Lymphedema & Complete Decongestive Therapy, Traditional
- EDUCATA, Orthopedic Edema Management- A Case Study, Online
- EDUCATA, Fall Prevention-What's All the Fuss Over Falls?, Online
- Louisiana Occupational Therapy Association, Recovering Function in the Hemiplegic Upper Extremity Using NDT Handling Strategies, Traditional
- Therapy Network Seminars, Core Stabilization: Facilitation and Training, Traditional
- Academy of Spinal Cord Injury Professionals, 2015 ASCIP Educational Conference, Traditional
- Interim LSU Hospital, Transporting Children with Special Health Care Needs on School Buses, Traditional
- Education Resources, Inc., Advanced BPPV, Online
- Education Resources, Inc., What to do when it's not BPPV: Challenging Vestibular Disorders Including Post Concussion Syndrome, Online
- www.physicaltherapy.com, Gait Examination and Evaluation in Patients with Neurological Disorder, Online
- www.physicaltherapy.com, Recycle Bin Boogie- Move with Recyclables, Online
- Cross Country Education, Learn to Move, Move to Learn- Evidence Based Neuroscience Foundations in Sensory Processing Disorder-on demand, Online
- Trauma and Critical Care Foundations, Trauma, Critical Care, and Acute Care Surgery, Traditional
- Orlando Orthopedic Center Foundation, 2015 11<sup>th</sup> Annual Cutting Edge Concepts in Orthopedics and Sports Medicine Seminar, Traditional
- Select Medical, Concussion Rehab, Traditional
- Cross Country Education, Effective Prevention & Treatment of Running Injuries, Traditional
- Cross Country Education, Assessing & Treating Progressive Neurological Diseases, Traditional
- Cross Country Education, Fueling Fitness & Peak Performance, Online
- Rocktape, Performance Movement Techniques, Traditional
- St. Tammany Parish Hospital, Helping Patients and Families Journey Through the Final Stages of Life, Traditional
- Performance Health, TheraBand Kinesiology Taping and CLX Exercise Methods, Traditional
- Institute of Advanced Musculoskeletal Treatments, Dynamic Taping, Traditional

- IndeFree Association, Advanced Clinical and Business Skills Course for Physical and Occupational Therapists, Traditional
- www.physicaltherapy.com, The Spine in Sport: Considerations for the Athlete, Online
- www.physicaltherapy.com, The Shoulder in Sports, Online
- www.physicaltherapy.com, The Ankle: Functional Anatomy, Pathophysiology, & what to do about it, Online
- www.physicaltherapy.com, Evidence-Based Rehabilitation of the Knee, Online
- www.physicaltherapy.com, Diagnosis and Treatment of Athletic Hip Joint Injuries, Online
- MedBridge Education, Ethics for Rehabilitation Professionals, Online
- Summit Professional Education, Evidence Based Rehab Strategies for Joint Replacement, Traditional

Re-elections for the CEU Committee will be held in January. Advisory Committee Members Chris Franks and Jeremy Dye have recently been added to the CEU Committee to help Beth and Kristina with the review and approval process. Trainings for both were held prior to this board meeting and both Advisory Committee members have started reviewing courses.

The CEU Committee discussed the course “Integrative Health Conference and Biomodulator Training Program” that was submitted by an individual for course approval. The board determined that more information is needed before approving the course. Mrs. Martin will request the actual course agenda from the licensee who attended the course.

#### Declaratory Statements

The Board reviewed the following declaratory statements:

1. Advance Practice Registered Nurse and Physician Assistant/ Referrals - Can a prescription for physical therapy be signed by a "nurse practitioner"?
2. APRN - Referral - Is it required for nurse practitioners to have referrals for physical therapy co-signed by a physician? Additionally, what is the care for PTA on this issue?

The board agreed to remove both questions from the declaratory statements as they exist and under the heading “Advance Practice Registered Nurse and Physician Assistant Referrals” provide the following response:

*The Physical Therapy Board has taken the position that an advanced practice registered nurse (APRN) has the legal authority to make a referral for physical therapy to a physical therapist. Likewise, the Board has taken the position that a physician assistant can refer a patient for physical therapy. There is no need for a co-signature from the attending physician with regards to the referral for physical therapy from a physician assistant or an APRN. A physician assistant and an APRN have the authority from their respective regulatory boards to make physical therapy referrals if internal protocol is established and complied with between the physician and these healthcare professionals.*

*The Physical Therapy Board's legal position as set forth in this letter with regards to physician assistants and advanced practice registered nurses is based upon its interpretation of La R.S. 37:2418 of the Louisiana Physical Therapy Practice Act which requires that physical therapy be implemented upon the prescription or referral of a person licensed to practice medicine. Based upon the laws allowing physician assistants and advanced practice registered nurses to refer for physical therapy enables the Board to legally and logically extend the term "license to practice*

*medicine" in Section 2418B to extend to those healthcare professionals to whom such authority is legally delegated.*

*Reference: Rule 341.A.1: A prescription or referral is a written request for physical therapy signed by a healthcare provider lawfully authorized to make such request which may initially be a verbal order but must be later confirmed in writing. The verbal order shall be documented by the PT in the patient's record. If the verbal order is not confirmed in writing, then the PT shall send a written communication requesting a written prescription or referral to the prescribing practitioner within fifteen days of commencement of treatment or by the fifth treatment session, whichever occurs first. A copy of the written communication to the prescribing or referring practitioner must be maintained in the patient's record.*

### Legislative Task Force

The Senate Resolution (SCR 19) to study patient access was heard and was moved through committee with two additional amendments to add more committee members, now bringing the total of committee members to twenty-five (25). The Board discussed if this is a manageable group to perform a study and determined that it is more important to have all parties heard at the table than to worry about the size of the group. House Bill (HB 247) has also moved through committee favorably. Both will be heard on the floor of the House and Senate, respectively, prior to the next board meeting.

Chairman Moreau shared a posting in the Louisiana Register regarding changes to Recreational Therapy law. The board asked that Patrick Cook attend the hearing for Recreational Therapy on June 25, 2015 at 9:30am, if available. Mrs. Martin will contact Mr. Cook and confirm.

Chairman Moreau updated the board that the Chiropractic Bill (SB 56) was heard in the House on May 27, 2015 and was not passed.

Secretary/Treasurer Landry informed the board that licensed massage therapists are inquiring about starting to use kinesiotaping.

Secretary/Treasurer Landry informed the board of a recent article that was published by the FSBPT regarding licensure portability.

Chairman Moreau advised that, after the session, the board report to the legislature on what the PT board is currently doing as well as things that have been done. This will be a similar concept to the mid-term governor's report that was sent to the legislature. Don Cassano and Mrs. Martin will work on this report to be sent out to the legislature. Mrs. Martin will also send a personal note to the legislators that she has met this session.

### New Business

The board reviewed a correspondence from attorney Allan Placke asking if a physical therapist is allowed to make diagnoses of conditions and the cause of those conditions when those diagnoses have previously been made by a physician and transmitted to the physical therapist. The legal team at the board will review the question in detail and the board will respond.

The board reviewed a correspondence from Judd Patterson as follows: Does the board have an opinion on billing if the PT is seeing a patient and the tech is performing exercises with another patient at the same time? *I know that medicare says that you cannot bill for tech treatment. What*

*about CPT guidelines?* The board does not answer billing questions and requested that Mrs. Martin forward the question to the LPTA for review.

#### Old Business

Chairman Moreau moved to enter into Executive Session to discuss sensitive information related to monitoring consent orders, as well as the review of a consent order that is being presented to the board in relation to an investigative case (2014-I-001) on a physical therapist licensee Ayodeji Famuyide (License Number 03314F).

The board unanimously voted to come out of Executive Session. Upon exiting executive session, the board unanimously voted to present amendments to Mr. Famuyide in an effort to resolve the case with a consent order. The board moved to accept the consent order if Mr. Famuyide accepts the amendments with a suspense date-to-return of 10 days. The board moved to grant authority to Chairman Al Moreau to accept the Consent Order as amended.

The board also voted unanimously in favor of summarily suspending Ashley Wilkinson's license pursuant to a hearing due to a second failed drug and alcohol screen since signing her consent order.

The board meeting was adjourned at 10:00pm.