State Board of Physical Therapy July 22, 2021

BOARD MEMBERS:

K. Kalonji Johnson, Commissioner, Bureau of Professional and Occupational Affairs Peter Blank, Policy Director, Secretary of Health Designee

Sandra L. Campbell, PT, Ph.D., MBA, Vice Chair Geraldine M. Grzybek, PT, GCS

Cynthia L. Potter, PT, DPT, Chairperson

Brandie J. McClinton, DPT

Jeremy Robb, Attorney General's Office designee Krista Wolfe, DPT, ATC

BUREAU PERSONNEL:

Thomas M. Davis, Esquire, Board Counsel Heather J. McCarthy, Esquire, Board Prosecution Liaison

23 Liaison 24 Michelle

Michelle Roberts, Board Administrator Andrew LaFratte, MPA, Executive Policy Specialist, Department of State

ALSO PRESENT:

Olivia Higgins
Jessica Huggard
Caitlin Liberatore
Malik Patterson

3 * * * 1 2 State Board of Physical Therapy 3 July 22, 2021 * * * 4 5 [Pursuant to Section 708(a)(5) of the Sunshine Act, at 6 9:00 a.m. the Board entered into Executive Session with Thomas M. Davis, Esquire, Board Counsel, for the purpose of conducting quasi-judicial deliberations and to receive advice of counsel on matters upon which the 10 Board will later vote. The Board returned to open 11 session at 10:30 a.m.] * * * 12 13 The regularly scheduled meeting of the State 14 Board of Physical Therapy was held on Thursday, July 15 22, 2021. 16 K. Kalonji Johnson, Commissioner, Bureau of 17 Professional and Occupational Affairs, was not present 18 during commencement of the meeting. * * * 19 20 Official Call to Order 21 [Cynthia L. Potter, PT, DPT, Chairperson, officially 22 called the meeting to order at 10:30 a.m. 2.3 * * * 24 25 Roll Call

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[A roll call of Board members was taken by Chair
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   [Thomas M. Davis, Esquire, Board Counsel, noted the
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   meeting was being recorded, and those who continued to
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   participate were giving their consent to be recorded.
        Mr. Davis also informed everyone that the Board
   met in Executive Session prior to today's meeting for
   the purpose of conducting quasi-judicial deliberations
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   and to receive advice of counsel.]
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   Approval of minutes of the May 27, 2021 meeting
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   CHAIR POTTER:
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                  Next is approval of the minutes which we
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                  received.
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                       Are there any additions or
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                  corrections to minutes?
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   [The Board discussed corrections to the minutes.]
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   CHAIR POTTER:
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                  Any other additions or corrections?
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                  not, is there a motion to approve the
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                  minutes as presented?
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   MS. GRZYBEK:
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                  So moved.
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   CHAIR POTTER:
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5 Is there a second? 1 2 MR. ROBB: 3 Second. 4 CHAIR POTTER: 5 We'll do a roll call for approval. 6 Potter, aye; Blank, aye; Campbell, aye; 8 Grzybek, aye; McClinton, aye; Robb, aye; 9 Wolfe, aye. 10 [The motion carried unanimously.] * * * 11 12 Report of Prosecution - No Report 13 * * * 14 Report of Board Chair 15 [Cynthia L. Potter, PT, DPT, Chairperson, addressed 16 her and Ms. Grzybek's attendance at the virtual 17 Federation of State Boards of Physical Therapy (FSBPT) 18 Leadership Issues Forum. She stated the intention of 19 the meeting is to gather information from the member 20 boards to guide the federation and Board of Directors 21 as they work on issues. 2.2 Chair Potter touched on areas of discussion as 23 part of that meeting. She encouraged everyone to use 2.4 the federation's website to review the reports. 25 addressed the Boundary Violations Task Force, looking

at how boundary violations are addressed in statutes and regulations and how to help boards address those issues and refine rules.

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Chair Potter noted another area of general concern was impaired practitioners, where the focus has become to find ways to help deter people from committing violations and to see if FSBPT can help the boards find ways to help licensees by developing resources boards may use.

Chair Potter mentioned a lot of time was spent on the exam licensure and disciplinary database. She referred to the most recent Exam, Licensure, and Disciplinary Database (ELDD) Report for the Board's review. She noted prior Board discussion regarding timeliness in reporting to the database. She requested Ms. Roberts send the report to Board members.

Chair Potter addressed discussion regarding returning to practice when a physical therapist (PT) or physical therapist assistant (PTA) has been out of practice for a period of time. She noted discussion regarding how quickly people lose their skills and broke down what skills are lost the fastest. She stated the information is informative because it helps boards decide what people should do to be able to

practice safely after a period of time in which they were not working.

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Chair Potter referred to the term "disuse" and discussion concerning how long it takes to lose and regain those skills for the purpose of guiding what boards may include in their statutes or regulations.

Ms. Grzybek addressed the FSBPT Reentry Task

Force and suggested the Board delve further into that
to make sure resources are available to help licensees
interested in reentering the profession and ensuring
public safety.

Ms. Grzybek noted Chair Potter is running for secretary of FSBPT and wished her well in that endeavor. She noted riveting information and great interaction with other jurisdictions and also encouraged everyone to visit the FSBPT website.

Chair Potter is a candidate for the Board of Directors for the office of secretary and stated that she is honored by the nomination.

Chair Potter noted looking forward to moving forward with the candidate forum in the fall and delegate assembly. She commented that Pennsylvania has not had anyone serve on that Board of Directors since Chuck Meacci, who was the Pennsylvania Board Chair in 2003.

Chair Potter congratulated Ms. Grzybek for her reappointment to the Board.

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Chair Potter addressed items from the previous meeting and requested an update regarding continuing education courses and how FSBPT grant money may be used in relation to technology.

Commissioner Johnson mentioned being in the process of reengaging in those discussions and developing materials needed for either the request for information (RFI) or request for proposal (RFP). He noted still being in the process of working with legal to compile a master list of those continuing education requirements across all of the 30 boards and commissions.

Commissioner Johnson addressed the grant money, noting his previous indication where there may be some potential issues with the gift ban and conflicts. He commented that there seems to be discussions in other areas that suggests they could actually broach that subject again.

Commissioner Johnson did not want to take the possibility of grant money for the specific purpose of developing a platform for that type of continuing education management just yet because he believes there to be other options becoming available and will

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1 | keep the Board updated.]
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3 Report of Commissioner

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4 [K. Kalonji Johnson, Commissioner, Bureau of

5 | Professional and Occupational Affairs, addressed

6 COVID-19 waivers, noting the September 30 deadline for

7 waivers is fast approaching.

Commissioner Johnson stated the Board will be returning to physical meetings starting in October with the cessation of the waivers. He commented that the Department was working to find a way to incorporate many of the benefits from the virtual meetings to in-person meetings and still be compliant with the statutory requirements.

Commissioner Johnson mentioned the next Board meeting is September 16, 2021 and he said it will be in virtual format but he should have a better idea of how Board meetings will be held moving forward at the September meeting.

Commissioner Johnson also addressed physical travel requests, noting physical travel is considered up to the pre-COVID limit of two members with the rest of the Board having the option of attending virtually. He encouraged everyone to submit travel requests to the Board Administrator as soon as possible so any

concerns can be addressed at the administration level.

Chair Potter stated the FSBPT meetings for the rest of the year are all virtual. She commented that the Board would be looking at travel in 2022 with regulatory training for administrators and board members being the first matter.]

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8 Report of Board Chair (Continued)

[Cynthia L. Potter, PT, DPT, Chairperson, addressed issues with registering and approval for the National Physical Therapy Examination (NPTE). She noted requesting information from FSBPT concerning the length of time states typically take from when

credentials are received to approving candidates to sit for the NPTE.

Chair Potter referred to a table that shows comparisons from 2019 to the present. She also compared those times to jurisdictions utilizing the FSBPT Alternate Approval Pathway. She reported Pennsylvania is 52nd out of 53 jurisdictions in the length of time it takes for approval for the NPTE with an average length of time of 36.5 days in 2020. She noted it to be unacceptable and referred to staffing issues.

Chair Potter mentioned prior Board discussion

concerning the Alternate Approval Pathway process that
would all but eliminate wait time for the candidates,
noting the need for a rule change. She stated the
current wait time is a deterrent to people wanting to
test and become licensed in Pennsylvania.

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Mr. Davis provided an update on proposed regulation 16A-6522 regarding early examination, continuing education for clinical instruction, and the Alternate Approval Pathway (AAP). He noted there are many steps in the approval process, and noting that each step may take weeks or sometimes months. He stated he has been in regular contact with Regulatory Counsel, and they have been working to finalize the proposed regulation.

Mr. Davis stated he recently received a response from Regulatory Counsel, and he will be making considerable administrative revisions to the Annex, but those revisions should not affect the Preamble or the Regulatory Analysis Form (RAF). He stated as soon as he gets the Annex completed that he will pass it back to Regulatory Counsel, the Office of General Counsel (OGC), and Attorney General (AG). He is hopeful to have the annex recompleted and sent back up the chain in a couple of weeks.

Mr. Davis further explained that from here on

out, it has to go to the Office of General Counsel,

Attorney General's Office, the Independent Regulatory

Review Commission (IRRC) for review, and then it gets

published in the Pennsylvania Bulletin for a 30-day

comment period and then mostly starts over again,

depending upon the comments that are made. He

commented that there is little chance regulation will

be published as final by the end of the summer.

Chair Potter questioned whether there was anything that can be done to get more support to speed up the current examination approval process.

Commissioner Johnson requested additional information concerning how FSBPT characterized those delays and whether there were any metrics or feedback indicating specific areas that contributed to those delays.

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Chair Potter stated that information was provided on average lengths for states that have the AAP in place and average length of time for non-AAP states, but there were no qualifying factors included other than the average number of days.

Dr. Campbell commented that it is taking weeks for things to be processed and provided anecdotal scenarios, where applicants would call the main board number and not get an answer at all and not get a call back, applicants who spoke with the support team would

be processed in 24 hours but others would not, and where Ms. Roberts is assisting in pulling strings to get applicants approved to sit who did everything they needed to do.

Dr. Campbell addressed the importance of getting a test date in a test center near their home, explaining that the longer it takes them to get that test scheduled, the more likely they will be forced to drive further, possibly to the point that they need an overnight hotel stay.

Commissioner Johnson commented that the staff issue has been a problem throughout 2020, noting some relief when the Commonwealth provided exemptions. He stated the numbers will go down but are not going to change the information that has already been reported by FSBPT.]

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18 Appointment - Applicant, Olivia Higgins - Request for 19 3rd Attempt

20 [Olivia Higgins presented to the Board to request a

21 third attempt at the National Physical Therapy

22 Examination. She addressed changes she has made since

23 taking the NPTE and failing in July 2020 and January

24 2021, including implementing a study guide,

25 Scorebuilders, and the Practice Exam and Assessment

Tool (PEAT).

Dr. Campbell suggested Ms. Higgins pay attention to the study mode in PEAT to help make her aware of any kind of testing errors and test-taking issues. She emphasized the importance of understanding what the right answer is, and why, and to also understand why the other answers are wrong. She recommended Ms. Higgins spend more time looking at categories with the largest content area if she is not passing those areas.

Ms. Grzybek asked Ms. Higgins to tell the Board how she is addressing disease conditions, since she did poorly on the second attempt in that area, to improve her scores should she be granted a third attempt.

Ms. Higgins went through the FSBPT website where it breaks down the content and cross-referenced that based off Basecamp and divided her time focusing on all of the areas she wanted to study, not only her weakness areas.]

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22 Appointment - Applicant, Jessica Huggard - Request for 23 3rd Attempt

24 [Jessica Huggard presented to the Board to request a 25 third attempt at the National Physical Therapy

Examination. She addressed issues she experienced that interfered with her being able to focus and prepare for the NPTE. She discussed how she has been able to change study strategy and implement different tools utilized during practice exams.

Ms. Huggard had also worked with a tutor to focus on weaknesses and discuss different study strategies.

Dr. Campbell recommended Ms. Huggard pay attention to her health and preparation and to not take the next round of the exam if she is not ready. She reminded Ms. Huggard of the six-time lifetime limit on this exam and to use resources and her tutor and to focus on the big sections of the exam.

Ms. Huggard has been using Basecamp to review musculoskeletal foundation in order to be able to better prepare and really understand the bigger concept.

Ms. Grzybek asked Ms. Huggard what she is doing to enhance her understanding and competency with interventions to be more successful should she be granted a third attempt.

Ms. Huggard stated she intends to be able to come up with different interventions for each diagnosis and will help tie that into the diagnoses and how that relates to further treat the patient. She noted she

1 is also working with a tutor.]

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3 Appointment - Applicant, Caitlin Liberatore - Request

4 for 3rd Attempt

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5 [Caitlin Liberatore presented to the Board to request

6 a third attempt at the National Physical Therapy

7 | Examination. She addressed mistakes and personal

I issues that caused her to fail the first two exams.

9 She noted having a mentor and focusing on

10 musculoskeletal and neuromuscular and nervous systems

11 in preparation for taking the NPTE the third time.

12 | She mentioned she has been taking practice exams and

13 her score has gone up 11 percent.

Dr. Campbell suggested Ms. Liberatore utilize

15 performance evaluation data and to make sure she

16 understands the right answer and why and why the other

17 | answers are wrong. She reminded Ms. Liberatore that

18 questions on the NPTE are written out of textbooks and

19 not the journal and to not add to the questions. She

20 stated every question links back to a textbook, and a

21 list of textbooks that are commonly used is available.

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Dr. Wolfe recommended Ms. Liberatore purchase the

24 PEAT Exam through the FSBPT because it has a lot of

25 information that backs up the rationale for why the

answer is correct or incorrect. She mentioned there
is a personal version and one she can get through the
school.

Ms. Grzybek questioned whether Ms. Liberatore is incorporating intervention areas as well as disease pathology.

Ms. Liberatore stated that different interventions have been incorporated through the program and with lectures. She also has the list of textbooks NPTE references.]

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12 Appointment - Applicant, Malik Patterson - Request
13 for 3rd Attempt

14 [Malik Patterson presented to the Board to request a

15 | third attempt at the National Physical Therapy

16 Examination. He addressed the reasons why he failed

17 the first time he took the NPTE, including a group

18 study that was not very effective and is why he

19 switched to independent study, which raised his score

20 to 593 the second time.

Mr. Patterson discussed his plans for the third attempt by continuing independent study and reviewing neuromuscular and nervous systems with his PT advisor two times a week because it was a little low on both exams.

Ms. Grzybek requested additional information concerning study strategies in preparation for the exam.

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- Mr. Patterson explained that he studies different topics every week for 4 hours a day.
- Dr. Campbell noted seeing a big difference with the order of the sections and encouraged Mr. Patterson to reflect on whether there was something psychologically or emotionally happening across the exam that may have impacted his overall performance. She also asked Mr. Patterson whether he was taking any practice tests.
 - Mr. Patterson commented that he was nervous and rushing on the first half of the exam on the first attempt and did a little better in the last two sections on the second attempt. He noted planning on taking different exams to have more exposure with testing.
 - Mr. Patterson asked how he could ensure not being rejected again if he receives approval from the Board today.
 - Ms. Roberts informed Mr. Patterson that she is the person who makes people eligible for the exam, and once he is eligible, he would receive notification from the federation by email and authorization to test

19 about 24 hours later. 1 2 Mr. Davis asked Board members whether they wished to reenter Executive Session after hearing the 3 4 applicants. MR. DAVIS: 5 6 Based on the Board's discussions in 7 Executive Session, I believe the Chair would accept a motion approving the 9 following requests for permission to 10 take the National Physical Therapy 11 Examination a third time: Lydia 12 Higgins, Jessica Huggard, Caitlin Liberatore, Malik Patterson. 13 MS. GRZYBEK: 14 15 So moved. DR. CAMPBELL: 16 17 Second. CHAIR POTTER: 18 19 It's been moved and seconded to grant 2.0 these individuals listed by counsel to 2.1 take a third attempt at the exam. We'll do a roll call. 2.2 2.3 2.4 Potter, aye; Peter Blank, aye; Sandy 25 Campbell, aye; Geraldine Grzybek, aye;

20 Brandie McClinton, aye; Jeremy Robb, 1 2 aye; Krista Wolfe, aye. 3 [The motion carried unanimously.] 4 5 Report of Board Counsel [Thomas M. Davis, Esquire, Board Counsel, provided a 6 Regulatory Status Report for the Board's review. noted earlier discussion of 16A-6522 during the meeting regarding the early exam. He provided an 10 update for 16A-6518 regarding child abuse regulation, 11 noting IRRC voted to approve the regulation at a 12 public meeting on June 17, 2021. He stated the regulation now goes to the Office of Attorney General, 13 14 Legislative Reference Bureau, and then will be 15 published in the Pennsylvania Bulletin. He provided a 16 letter from IRRC approving the regulation for the Board's review. 17 18 Mr. Davis addressed 16A-6523 regarding licensure 19 by endorsement under Act 41. He noted the RAF is 99 20 percent complete. He has been in contact with 21 Regulatory Counsel and was given a couple updates and 22 tweaks to be applied to the Annex, noting it should 2.3 move through before the next meeting in September.] 2.4 25 Motion to Deem Facts Admitted

21 1 MR. DAVIS: 2 Based on the Board's discussions in 3 Executive Session, I believe the Chair would accept a motion to grant the 4 5 Commonwealth's Motion to Deem Facts 6 Admitted and Enter Default in the Paul John Krofka, PTA, matter at Case No. 19-8 65-017354. Dr. Sandra Campbell is 9 recused. 10 CHAIR POTTER: 11 Is there a motion? 12 MS. GRZYBEK: So moved. 13 CHAIR POTTER: 14 15 Second? MR. ROBB: 16 17 Second. CHAIR POTTER: 18 19 Moved and seconded to adopt the motion 20 as read by Counsel. Roll call vote. 21 22 Potter, aye; Blank, aye; Campbell, 2.3 recuse; Grzybek, aye; McClinton, aye; 24 Robb, aye; Wolfe, aye. 25 [The motion carried. Dr. Campbell recused herself

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   from deliberations and voting on the motion.]
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   Regulations
   [Thomas M. Davis, Esquire, Board Counsel, referred to
   the letter received from IRRC approving 16A-6518 on
   July 17, 2021, for the Board's review.]
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   Adjudication and Order
   MR. DAVIS:
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                  Based on the Board's discussion in
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                  Executive Session, I believe the Chair
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                  would accept a motion to adopt as final
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                  the Proposed Adjudication and Order of
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                  the hearing examiner in the following
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                  matter: Commonwealth BPOA v. Diana S.
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                  Taylor, PT, Respondent, Case No. 18-65-
                  006269.
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   CHAIR POTTER:
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                  Is there a motion?
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   DR. CAMPBELL:
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                  So moved.
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   MS. GRZYBEK:
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                  Second.
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   CHAIR POTTER:
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                  The motion has been moved and seconded.
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23 We'll do a roll call. 1 2 3 Potter, aye; Blank, aye; Campbell, aye; 4 Grzybek, aye; McClinton, aye; Robb, aye; 5 Wolfe, ave. 6 [The motion carried unanimously.] * * * 7 Report of Board Counsel - Miscellaneous [Cynthia L. Potter, PT, DPT, Chairperson, referred to 10 research provided by Counsel regarding the 11 jurisprudence examination. She noted prior Board 12 discussion as to whether the Board wanted to put 13 something in place. 14 Mr. Davis stated a jurisprudence exam is required 15 in 29 states for PT licensure and 27 states for PTA 16 licensure according to the FSBPT. He noted 4 of the 17 13 states in the northeast quadrant require a 18 jurisprudence exam, and of those 4 states, only 1 of 19 the 4 seems to specifically reference the 20 jurisprudence exam in the statute itself, where the 21 other 3 have a vague reference. 2.2 Mr. Davis opined that the jurisprudence 23

requirement may possibly be interpreted as a barrier to licensure, because it would be one more item that someone would have to accomplish before being licensed

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in Pennsylvania and is contrary to Act 41 and similar measures. He noted circulating an internal BPOA memorandum on July 9 asking if anyone in BPOA has anything to add but received no response.

Andrew LaFratte, MPA, Executive Policy

Specialist, Department of State, commented that the policy office is against the addition of a jurisprudence exam requirement and view it as adding another barrier to licensure.

exam as a process of education and not so much as a barrier to licensure. She emphasized the importance of people reading the law and regulations. She stated she would be in favor of some type of open-book exercise, where people would need to be familiar with the statute and regulations to be able to answer the questions for more of an educational exercise, especially with the compact and people practicing in multiple states where there are a lot of differences.

Dr. Campbell commented that there are variations in clinical practice from state to state and is probably where somebody could cross a line unintentionally, noting the jurisprudence exam to be a way of ensuring people have read the practice act.

Ms. Roberts questioned whether the jurisprudence exam would be a hindrance in regard to the Physical Therapy Compact.

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Mr. Davis mentioned contacting FSBPT while doing research and found it would make it more difficult to receive Compact licensure in order to work in the Commonwealth if a jurisprudence exam was added.

Mr. Davis explained that according to the Compact Act, if the jurisdiction an individual is trying to enter into has a requirement for a jurisprudence exam, the person would have to pass that jurisdiction's jurisprudence exam in order to receive Compact licensure. Accordingly, the addition of a jurisprudence exam requirement would add a barrier to licensure.

Mr. Davis suggested moving on for now since the Policy Office is not in favor of adding a jurisprudence examination at this time.

Mr. Davis addressed the extension of COVID suspensions, noting earlier discussion during the meeting with Commissioner Johnson. He referenced Act 21 of 2021 and stated it provides an extension until September 30, 2021. He suggested everyone visit the Department of State's website for waiver updates.]

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26 1 Report of Board Administrator - No Report * * * 2 3 Miscellaneous [Cynthia L. Potter, PT, DPT, Chairperson, noted the September 16 meeting will remain virtual, but the 6 Board may be returning to a physical meeting in November.] * * * Adjournment 10 CHAIR POTTER: 11 Is there a motion to adjourn? 12 MS. GRZYBEK: 13 So moved. 14 DR. CAMPBELL: 15 Second. 16 CHAIR POTTER: 17 Moved and seconded to adjourn. Call. 18 19 20 Potter, aye; Blank, aye; Campbell, aye; 21 Grzybek, aye; McClinton, aye; Robb, aye; 22 Wolfe, aye. 23 [The motion carried unanimously.] * * * 24 25 [There being no further business, the State Board of

Physical Therapy Meeting adjourned at 12:18 p.m.] * * * CERTIFICATE I hereby certify that the foregoing summary minutes of the State Board of Physical Therapy meeting, was reduced to writing by me or under my supervision, and that the minutes accurately summarize the substance of the State Board of Physical Therapy meeting. Derek Richmond, Minute Clerk Sargent's Court Reporting Service, Inc.