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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

F I N A L M I N U T E S

MEETING OF:

STATE BOARD OF PHYSICAL THERAPY

TIME: 9:01 A.M.

PENNSYLVANIA DEPARTMENT OF STATE
Board Room C
One Penn Center
2601 North Third Street
Harrisburg, Pennsylvania 17110

January 16, 2020

State Board of Physical Therapy
January 16, 2020

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BOARD MEMBERS:

Cynthia L. Potter, PT, DPT, Chairperson
Sandra L. Campbell, PT, Ph.D., MBA, Vice Chair
Tammy S. Frey, PTA, Secretary
K. Kalonji Johnson, Acting Commissioner, Bureau of
Professional and Occupational Affairs
Jeffrey R. Elliott, Esquire, Public Member - Absent
Kimberly Early, LSW, Secretary of Health designee
Geraldine M. Grzybek, PT, GCS
Brandie J. McClinton, DPT
Jeremy Robb, Attorney General's Office Designee
Christopher Staub, DPT
Krista Wolfe, DPT, ATC

BUREAU PERSONNEL:

Thomas M. Davis, Esquire, Board Counsel
Paul J. Jarabeck, Esquire, Board Prosecution Liaison
Kimberly Adams, Chief of Fiscal Management, Bureau of
Finance and Operations
Michelle Roberts, Board Administrator

ALSO PRESENT:

Scott Voshell, Vice President, Pennsylvania Physical
Therapy Association
Ted Mowatt, Vice President/Lobbyist, Wanner Associates
Barbara Veas, PTA
John E. Baughman, Select Medical

1 ***

2 State Board of Physical Therapy

3 January 16, 2020

4 ***

5 The regularly scheduled meeting of the State
6 Board of Physical Therapy was held on Thursday,
7 January 16, 2020.

8 ***

9 Official Call to Order

10 [Cynthia Potter, PT, DPT, Chairperson, officially
11 called the meeting to order at 9:01 a.m. K. Kalonji
12 Johnson, Acting Commissioner, Bureau of Professional
13 and Occupational Affairs, and Kimberly Early, LSW,
14 Secretary of Health designee, were not present at the
15 commencement of the meeting.]

16 ***

17 Approval of minutes of the November 14, 2019 meeting

18 CHAIRPERSON POTTER:

19 The first item on the agenda is the
20 minutes. Are there any additions or
21 corrections to the minutes?

22 [The Board discussed corrections to the minutes.]

23 CHAIRPERSON POTTER:

24 Any other additions or corrections? If
25 not, is there a motion to approve?

1 MS. GRZYBEK:

2 So moved.

3 CHAIRPERSON POTTER:

4 Second?

5 DR. STAUB:

6 Second.

7 CHAIRPERSON POTTER:

8 It's been moved and seconded to approve
9 the minutes. All in favor, say aye.

10 Opposed, no? Abstentions?

11 [The motion carried unanimously.]

12 ***

13 Report of Prosecutorial Division

14 [Paul J. Jarabeck, Esquire, Board Prosecution Liaison,
15 presented the VRP Consent Agreements for File No. 19-
16 65-010021, File No. 19-65-012630, and File No. 19-65-
17 016206.]

18 ***

19 [Kimberly Early, LSW, Secretary of Health Designee,
20 entered the meeting at 9:04 a.m.]

21 ***

22 Report of Board Chairperson - No Report

23 ***

24 Report of Board Counsel

25 [Thomas M. Davis, Esquire, Board Counsel, announced

1 that a regulatory status report will now be given at
2 each meeting. He noted nothing new to report with
3 16A-6518 regarding child abuse reporting requirements.

4 He mentioned the Board of Dentistry was still working
5 on a draft, which will then be copied by the Board and
6 moved forward.

7 Mr. Davis referred to 16A-6521 regarding Fees,
8 stating there was no reason to move forward with this
9 fee regulation because the Board was in good shape
10 fiscally.

11 Mr. Davis addressed 16A-6522 regarding early
12 examinations and CE for clinical instructors. He
13 noted changes to the language to make it gender
14 neutral, per prior discussion, to read the "program
15 director or program director's designee." He stated
16 the preamble had been drafted but had not been through
17 the required rounds of approvals. He noted the
18 reference to ProCert going away would be added to the
19 preamble. He commented that it would be quite some
20 time before the regulation was published in the
21 Pennsylvania Bulletin, but asked the Board to review
22 the Proposed Annex and Preamble uploaded to the
23 Board's agenda.]

24 ***

25 MR. DAVIS:

1 I believe the Chair would accept the
2 motion to approve proposed rulemaking
3 16A-6522, also known as the early exam
4 and CE for clinical instructors'
5 rulemaking, and to direct counsel to
6 promulgate it through the regulatory
7 review process.

8 MS. GRZYBEK:

9 So moved.

10 DR. STAUB:

11 Second.

12 CHAIRPERSON POTTER:

13 Moved and seconded to adopt rulemaking
14 as written by counsel. All in favor,
15 say aye. Opposed, no? Abstentions?

16 [The motion carried unanimously.]

17 ***

18 [Ms. Early questioned where the request originates
19 regarding a decrease or increase in fees. Mr. Davis
20 explained that the Board typically receives
21 suggestions from the Budget and Finance Office (BFO.
22 BFO typically suggests a fee change, and presents the
23 Board with several options. The Board reviews those
24 options and determines whether a fee change is
25 required, and which option best suits the Board's

1 needs.

2 Mr. Davis referred to Act 41, stating that it
3 inadvertently affects some of the regulations already
4 in the works. He noted 16A-6519, student in a
5 master's program as a statement of policy, and
6 16A-6520, foreign-trained applicant evaluations,
7 commenting that Act 41 does not affect the master's
8 program but would affect the foreign-trained
9 evaluation. He explained that a significant number of
10 applicants who would have request licensure as
11 "foreign-trained applicants" will now be requesting
12 licensure under Act 41 instead, as long as their home
13 jurisdiction requires licensure.

14 He questioned whether the Board still desired to
15 move forward with 16A-6520 regarding the foreign-
16 trained evaluation regulation. He noted that 16A-6520
17 would do away with a large section of the current
18 regulations that suggests what a foreign-trained
19 applicant's education must contain, and instead turns
20 that procedure over to accredited evaluation agencies
21 - naming one.

22 Chairperson Potter questioned how unlicensed,
23 foreign-trained individuals who currently work in a
24 jurisdiction that does not require licensure could
25 obtain a license in the Commonwealth if the Board were

1 to not move forward with 16A-6520. Mr. Davis
2 explained that the Board could compare that
3 individual's education to what is required in the
4 Commonwealth under the current regulations.
5 Alternatively, the Board could require individuals to
6 be evaluated by an outside agency.

7 Dr. Campbell addressed CAPTE-accredited foreign-
8 educated programs, mentioning a small number of
9 roughly three to five. He believed the process
10 stopped when their accreditation expired, noting that
11 the citation for the evaluative criteria was listed as
12 2015. She stated this section and standard numbers
13 had changed and would need to be updated.

14 Dr. Campbell suggested considering the feedback
15 from the organization conducting the foreign-education
16 evaluation and voting on their recommendation. The
17 Board would then retain authority on the decision.
18 She questioned whether Act 41 would be the way
19 somebody obtains their initial license in the United
20 States.

21 Ms. Frey commented that a foreign-educated
22 physical therapist must have their license in their
23 country of origin before requesting licensure under
24 Act 41 in Pennsylvania.

25 Ms. Roberts mentioned India as one of the

1 countries where having a simply obtaining a degree
2 grants the individual the authority to practice.

3 Dr. Campbell noted a concern with Indian-trained
4 clinicians receiving their first license in the United
5 States because they are sometimes missing credits.

6 Ms. Roberts noted all applications would go to
7 the Act 41 committee for review, and the Board would
8 make the final decision on licensure if the committee
9 could not, or if the committee decided licensure may
10 not be granted.

11 Dr. Staub questioned the need for 16A-6520 in the
12 face of Act 41, and whether implementing the
13 regulation would be beneficial in any way. Mr. Davis
14 noted approximately 130 active regulations, and
15 suggested that it may not be worth the Board's time to
16 try to pass a regulation that does not seem to be
17 beneficial, especially now that Act 41 is in place.

18 Ms. Roberts noted this was created for
19 individuals who might be short in their general
20 education, where they have multiple years of
21 experience but may be need something to meet that
22 deficiency. Ms. Roberts believed the Federation of
23 State Boards of Physical Therapy (FSBPT), who handles
24 the credentials, requested the change, so Pennsylvania
25 was more in line with everybody else.

1 Mr. Davis stated individuals seeking licensure
2 could still contact FSBPT, ask for the evaluation to
3 be performed, and then provide the information to the
4 Board for its ultimate decision.

5 Ms. Roberts mentioned that the Board's policy has
6 been to request that foreign-trained persons have
7 their education credential evaluation completed, and
8 FSBPT was currently the only organization the Board
9 accepts because of their expertise and data from other
10 countries.]

11 ***

12 [K. Kalonji Johnson, Acting Commissioner, Bureau of
13 Professional and Occupational Affairs, entered the
14 meeting at 9:26 a.m.]

15 ***

16 [Mr. Davis suggested placing the regulation on the
17 agenda for further discussion at the Boards' next
18 session.]

19 Mr. Davis referred to 16A-6519. Section 4(a) of
20 the Act makes it unlawful for an individual to
21 practice physical therapy unless such individual is
22 licensed in accordance with the Act. Section 4(b.3)
23 (1) of the act permits a student who is enrolled in a
24 board-approved school of physical therapy to perform
25 acts of physical therapy incidental to the student's

1 course of study.

2 Mr. Davis noted the Board started putting into
3 place a statement of policy, suggesting schools with a
4 CAPTE-approved program would essentially be those
5 schools or programs in which a student would have to
6 be enrolled in order to perform physical therapy and
7 questioned whether the Board still wanted to move
8 forward with the statement of policy. Mr. Davis noted
9 the trend within the Bureau to draft regulations,
10 rather than statements of policy.

11 Chairperson Potter suggested drafting a
12 regulation, rather than a statement of policy, to make
13 it more accessible for public awareness and access.

14 Acting Commissioner Johnson agreed, noting the
15 process provides a public comment period and would be
16 subject to review and commentary by the oversight
17 committee.

18 Dr. Campbell suggested referring to this as
19 physical therapy students or physical therapy
20 educational programs because everybody from a PT side
21 is at a doctoral level, and there are no master's
22 programs anywhere.

23 Mr. Davis will change the language to "student in
24 educational programs" and draft a regulation instead
25 of a statement of policy.

1 Chairperson Potter addressed correspondence from
2 Donald Oliva regarding "CE Broker," questioning
3 whether this was similar to when the Board discussed
4 using the federation for course review. Mr. Davis
5 explained that the Pennsylvania Licensing System
6 (PALS) should be able to eventually handle this for
7 the Board.

8 Acting Commissioner Johnson mentioned a concern
9 from an administrative standpoint, where vendors
10 should not be directly contacting the individual
11 Boards. He noted the challenge would be that vendors
12 would still have to follow the procurement process and
13 the guidelines of the Department of General Services.

14 Dr. Campbell noted having trouble getting reports
15 regarding what courses are approved in the current
16 system and questioned whether there was any movement
17 on getting that information publically available in an
18 easier fashion. Acting Commissioner Johnson commented
19 that technical requirements and stability fixes in
20 PALS were being reviewed.

21 Ms. Grzybek questioned whether the philosophy
22 regarding outside vendors had changed. Acting
23 Commissioner Johnson explained that only vendors
24 willing to take on the role uniformly were being
25 considered, which would save costs by finding one

1 vendor to handle all of the BPOA licensing boards
2 rather than having individual vendors for each board.

3 Dr. Campbell stated the American Physical Therapy
4 Association (APTA) and state chapters were pre-
5 approved continuing education providers and CAPTE-
6 accredited educational institutions were preapproved.

7 She referred to the language found in the Board's
8 regulations stating there was a way for continuing
9 education (con-ed) providers to be preapproved, but
10 she suggested that the process had never been properly
11 defined. She questioned whether it should be
12 revisited at this time.

13 Ms. Roberts noted the Board's decision was to
14 wait one cycle, note the volume of applications
15 received, and then revisit the matter.]

16 ***

17 Appointment - Bureau of Finance and Operations Annual
18 Budget Presentation

19 [Kimberly Adams, Chief of Fiscal Management, Bureau of
20 Finance and Operations, addressed licensee population
21 from a revenue standpoint. She noted FY 2019-2020 at
22 29,217 licensees with an increase of another 39 to
23 29,256; FY 2015-2016 at 24,995 with an increase in FY
24 2017-2018 by another 1,086 bringing the total to
25 26,081; and FY 2019-2020 with the current licensee

1 count at 29,217 (but really 29,256 as of this
2 morning).

3 Ms. Adams reviewed revenue on a biennial basis,
4 noting 96.5 percent of the revenue was derived from
5 renewals and applications. She noted the biennial
6 total. She also noted renewal fees would be waived
7 for FY 2020-2021.

8 Ms. Adams provided a categorical breakdown of
9 expenses for FY 2017-2018, FY 2018-2019, and the
10 current budget for FY 2019-2020 with the expenses as
11 of December 31, 2019. She noted a recent increase in
12 expenses. She stated, being halfway through the
13 fiscal year, the budgeted amount was adequate. She
14 mentioned expenses are incurred from direct-based
15 charges, timesheet-based charges, and licensee-based
16 charges.

17 Dr. Campbell referred to the budget for the
18 current year in regard to enforcement and
19 investigation, mentioning that seems low upon
20 considering the past two years of actual expenses.

21 Ms. Adams explained the most recent Bureau of
22 Enforcement and Investigation (BEI) expenses, which
23 seemed to be adequate.

24 Ms. Adams reviewed revenues and expenses for FY
25 2017-2018 and FY 2018-2019 followed by the budget for

1 FY 2019-2020. She stated the Board was in good shape
2 due to its licensee growth and the fact that expenses
3 were not exceeding revenue, which was why the Board
4 decided to waive one renewal year.

5 Ms. Grzybek questioned whether there would be an
6 opportunity at this point or for the next budget cycle
7 to propose additional Board administrative support.

8 Acting Commissioner Johnson stated the complement
9 was constantly being evaluated to ensure substantial
10 support across all of the boards and commissions.
11 There currently was not one particular area that would
12 justify adding to the complement. He noted speaking
13 with various Board administrators during busy seasons
14 to make sure there was adequate staff and proper
15 resources, whether it is personnel or technical
16 support.

17 Ms. Adams informed the Board that staff from the
18 fiscal office will re-examine the numbers every year.

19 She stated the Board's numbers look good and was
20 confident by missing a biennial period with the
21 renewals that the Board would be in good shape.

22 Acting Commissioner Johnson addressed budget
23 operations and projections, noting that the Policy and
24 Budget Office worked with the Independent Regulatory
25 Review Commission and specifically discussed the

1 concern related to the fluctuation between various
2 boards in regard to balances. He noted the
3 Independent Regulatory Review Commission (IRRC) felt
4 the bureau needed to do a better job of handling this.

5 Acting Commissioner Johnson stated the fiscal
6 office staff projects three biennial cycles, which was
7 designed to help normalize some of the big fee swings.
8 He mentioned Pennsylvania's application and renewal
9 fees were still some of the lowest in the country. He
10 noted fee increases are instituted fairly so all of
11 the potential licensees are identifying with the
12 affects and not just those who are renewing.

13 Acting Commissioner Johnson discussed fee
14 increases moving forward, and how, for Boards that
15 require fee increases, those fee increases will most
16 likely be instituted incrementally over a 6-year
17 period. He mentioned that fee increases or waivers
18 would be posted on the website and social media, and
19 associations will be alerted so they may reach out to
20 their members as well.

21 Acting Commissioner Johnson addressed tracking
22 trends related to licensure, specifically since the
23 Governor's Office was spotlighting professional
24 licensure. He stated the Workforce Development Task
25 Force was tracking factors concerning burdens of

1 licensure and other structural tools used for
2 oversight to see their effects on workforce
3 development.

4 Dr. Campbell addressed PT Compact legislation,
5 where there may be a decrease in individuals choosing
6 to keep their Pennsylvania license through the Board
7 versus obtaining licensure through the compact, noting
8 a need for the Board to address the matter when the
9 compact is passed.

10 Chairperson Potter questioned whether a permanent
11 fee decrease may be preferable to a fee waiver. Ms.
12 Adams explained the preference to implement a waiver
13 because a decrease or an increase must go through IRRC
14 and approvals beyond the Board.

15 Ms. Adams reviewed Board member expenses, noting
16 that the current budget was adequate and had been
17 carried to FY 2020-2021. She mentioned current
18 expenditures at the end of December. She stated any
19 money not spent will remain in the Board's restricted
20 account.]

21

22 Report of Acting Commissioner

23 [K. Kalonji Johnson, Acting Commissioner, Bureau of
24 Professional and Occupational Affairs, referred to a
25 memorandum regarding new changes to the travel policy,

1 where all reservations must be made through a new
2 system effective January 1, 2020. He noted
3 transitioning to a new platform called Concur for all
4 board and commission members the second quarter of
5 this year.

6 Acting Commissioner Johnson announced a change to
7 Management Directive 230.10 and advised members to
8 apprise themselves of the changes, where the standard
9 reimbursement rate changed from \$0.58 per mile to
10 \$0.575 per mile and other vehicles decreased from
11 \$0.20 per mile to \$0.17 per mile.]

12 ***

13 Report of Board Administrator - No Report

14 ***

15 [K. Kalonji Johnson, Acting Commissioner, Bureau of
16 Professional and Occupational Affairs, exited the
17 meeting at 10:19 a.m.]

18 ***

19 [Pursuant to Section 708(a)(5) of the Sunshine Act, at
20 10:19 a.m. the Board entered into Executive Session
21 with Thomas M. Davis, Esquire, Board Counsel, for the
22 purpose of conducting quasi-judicial deliberations and
23 to receive advice of Counsel. The Board returned to
24 open session at 10:40 a.m.]

25 ***

1 MOTIONS

2 MR. DAVIS:

3 Pursuant to Section 708(a)(5) of the
4 Sunshine Act, the Board met in Executive
5 Session for the purpose of conducting
6 quasi-judicial deliberations and to
7 receive advice of Counsel on the matters
8 upon which the Board is about to vote.

9 Based on the Board's discussions in
10 Executive Session, I believe the Board
11 would entertain a motion to adopt the
12 Consent Agreements at Case No. 19-65-
13 010021, Case No. 19-65-012630, and Case
14 No. 19-65-016206.

15 MS. FREY:

16 So moved.

17 DR. STAUB:

18 Second.

19 CHAIRPERSON POTTER:

20 It's been moved and seconded to adopt
21 the motion as read by counsel. All in
22 favor, say aye. Opposed, no?

23 Abstentions?

24 [The motion carried unanimously.]

25

1 MR. DAVIS:

2 For the record, the licensees names have
3 been withheld because they are entering
4 into a voluntary recovery program, and
5 their participation in that program will
6 remain confidential as long as they
7 abide by the terms and conditions of the
8 program.

9 ***

10 Miscellaneous

11 [Cynthia Potter, PT, DPT, Chairperson, noted the next
12 scheduled meeting date is March 11, 2020.]

13 ***

14 Report of Board Counsel (Continued)

15 [Thomas M. Davis, Esquire, Board Counsel, suggested
16 not moving forward with a fee regulation at this
17 time.]

18 ***

19 MR. DAVIS:

20 I believe the Chair would entertain a
21 motion to not move forward with the
22 proposed fee regulation at this time.

23 MS. GRZYBEK:

24 So moved.

25 DR. CAMPBELL:

1 Second.

2 CHAIRPERSON POTTER:

3 Moved and seconded to not move forward
4 with the fee regulation. All in favor,
5 say aye. Opposed, no? Abstentions?

6 [The motion carried unanimously.]

7 ***

8 Adjournment

9 CHAIRPERSON POTTER:

10 Is there a motion to adjourn?

11 DR. STAUB:

12 So moved.

13 MS. FREY:

14 Second.

15 CHAIRPERSON POTTER:

16 Moved and seconded to adjourn the
17 meeting. All in favor, say aye.
18 Opposed, no?

19 [The motion carried unanimously.]

20 ***

21 [There being no further business, the State Board of
22 Physical Therapy Meeting adjourned at 10:43 a.m.]

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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.



Evan Bingaman,

Minute Clerk

Sargent's Court Reporting
Service, Inc.

STATE BOARD OF PHYSICAL THERAPY
REFERENCE INDEX

January 16, 2020

TIME	AGENDA
9:01	Official Call to Order
9:01	Approval of Minutes
9:02	Report of Prosecutorial Division
9:05	Report of Board Chairperson
9:06	Report of Board Counsel
9:44	Appointment - Kimberly Adams, Chief of Fiscal Management, Bureau of Finance and Operations Annual Budget Presentation
10:16	Report of Acting Commissioner
10:19	Report of Board Administrator
10:19	Executive Session
10:40	Return to Open Session
10:40	Motions
10:42	Miscellaneous
10:42	Report of Board Counsel (Continued)
10:43	Adjournment