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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
VIA TELECONFERENCE**

TIME: 10:30 A.M.

PENNSYLVANIA DEPARTMENT OF STATE

July 16, 2020

State Board of Physical Therapy
July 16, 2020

BOARD MEMBERS:

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

BUREAU PERSONNEL:

Thomas M. Davis, Esquire, Board Counsel
Paul J. Jarabeck, Esquire, Board Prosecution Liaison
Cynthia K. Montgomery, Esquire, Deputy Chief
Counsel/Regulatory Counsel, Department of State
Michelle Roberts, Board Administrator
Theodore Stauffer, Executive Assistant, Bureau of
Professional and Occupational Affairs

1 ***

2 State Board of Physical Therapy

3 July 16, 2020

4 ***

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

8 ***

9 Official Call to Order

10 [Cynthia Potter, PT, DPT, Chairperson, officially
11 called the meeting to order at 10:30 a.m. She
12 welcomed everyone and wished them well.]

13 ***

14 [Thomas M. Davis, Esquire, Board Counsel, noted the
15 meeting may be recorded, and those speaking during the
16 meeting are giving their consent to being recorded.]

17 ***

18 Approval of minutes of the March 11, 2020 meeting

19 CHAIR POTTER:

20 The first item of business is approval
21 of the minutes. Are there additions or
22 corrections to the minutes?

23 [The Board discussed corrections to the minutes.]

24 CHAIR POTTER:

25 Any other additions or corrections to

1 the minutes? If not, is there a motion
2 to accept the minutes as corrected?

3 MS. GRZYBEK:

4 As corrected, so moved.

5 CHAIR POTTER:

6 Grzybek. Is there a second?

7 DR. CAMPBELL:

8 Second.

9 CHAIR POTTER:

10 Moved by Geri. Seconded by Sandy. Any
11 other discussion? We are going to do a
12 roll call vote.

13

14 Sandy Campbell, yes; Jeff Elliott, aye;
15 Tammy Frey, aye; Peter Blank, aye; Geri
16 Grzybek, aye; Brandie McClinton, yes;
17 Jeremy Robb, aye; Chris Staub, aye;
18 Potter, aye.

19

20 The minutes passed.

21 [The motion carried. Commissioner Johnson abstained
22 from voting on the motion.]

23

24 Report of Prosecutorial Division

25 [Paul J. Jarabeck, Esquire, Board Prosecution Liaison,

1 presented the VRP Consent Agreements for Case No. 19-
2 65-018338 and Case No. 20-65-000596.]

3 ***

4 MOTIONS

5 CHAIR POTTER:

6 If there are no questions, is there a
7 motion to accept the two Consent
8 Agreements and Orders presented by Mr.
9 Jarabeck?

10 MS. FREY:

11 So moved.

12 MR. ROBB:

13 Second.

14 CHAIR POTTER:

15 It's been moved and seconded to accept
16 the Consent Agreements and Orders. Any
17 further discussion?

18 MR. DAVIS:

19 For the record, the licensees' names
20 have been withheld because they are
21 entering into the voluntary recovery
22 program, and participation in that
23 program will remain confidential
24 provided they abide by the terms and
25 conditions of the program.

1 ***

2 CHAIR POTTER:

3 We'll proceed with a roll call vote.

4
5 Commissioner Johnson, aye; Sandy
6 Campbell, aye; Jeff Elliott, aye; Tammy
7 Frey, aye; Peter Blank, aye; Geri
8 Grzybek, aye; Brandie McClinton, aye;
9 Jeremy Robb, aye; Chris Staub, aye;
10 Potter, aye.

11 [The motion carried unanimously.]

12 ***

13 Report of Board Chair

14 [Cynthia Potter, PT, DPT, Chairperson, expressed being
15 grateful of her reappointment to the Board for an
16 additional term.

17 Chair Potter announced all in-person events
18 scheduled by the Federation of State Boards have been
19 canceled through the end of 2020. She mentioned the
20 Leadership Issues Forum held on July 22, 2020, would
21 be a virtual meeting.

22 Chair Potter reported, in lieu of the annual
23 meeting, the Delegate Assembly will be held on October
24 24, and there will be a candidate forum on October 22
25 to prepare for elections occurring on the 24th.

1 Chair Potter noted previous discussion regarding
2 continuing education and the lack of an updated list
3 for members. She mentioned COVID-19 and people being
4 furloughed and losing jobs. She suggested considering
5 extending time for people to complete continuing
6 education for this biennial cycle and questioned
7 whether there could be a waiver for all licensees.

8 Mr. Davis will explore the issue to determine
9 whether or not the Board could extend time for
10 continuing education.

11 Dr. Staub requested taking it one step further by
12 waiving continuing education (CE) requirements for
13 this biennial period due the lack of courses available
14 because of COVID-19 and the financial hardships.

15 Chair Potter questioned whether there has been
16 any progress with having a vendor while making the
17 updated list.

18 Commissioner Johnson noted pursuing conversations
19 about developing the request for proposal (RFP) and
20 continuing to receive submissions and solicitations
21 from various vendors who are interested. He stated
22 finding one vendor that could handle all of the boards
23 and commissions under their authority or deciding
24 whether or not this would need to be broken into a
25 number of different contracts with various vendors was

1 the issue.

2 Chair Potter questioned how other Boards are
3 handling the situation regarding waivers.

4 Commissioner Johnson noted issuing waivers and
5 suspensions with respect to renewal and CE periods
6 directly related to the pandemic. He stated the can
7 explore a similar type of suspension, but the Board
8 does not have the authority to unilaterally extend
9 renewals or CE requirements.

10 Commissioner Johnson commented that individual
11 licensees may request a hardship waiver, but the
12 burden will fall on program staff and the Boards. He
13 mentioned having a one-size-fits-all solution going
14 into December makes sense. He stated Mr. Davis and
15 the policy folks and hash out that argument with the
16 Governor's Office and Department of Health to make
17 that connection.

18 Commissioner Johnson stated the long-term
19 solution would address the issues around CE auditing,
20 collection of that information, and getting that
21 functionality built into the Pennsylvania Licensing
22 System (PALS).

23 Commissioner Johnson addressed long-term plans
24 regarding renewal periods and what the impacts are for
25 the regulated community and how to best address their

1 needs without completely disrupting the process during
2 COVID-19. He stated there will need to be a really
3 comprehensive fiscal look at what waivers mean for the
4 Board's ability to cover its operating costs.

5 Dr. Campbell stated the Board approved a waiver
6 of the renewal fee for the next cycle and wanted to
7 make sure anything being looked at would include the
8 waiver.

9 Commissioner Johnson noted being more concerned
10 making sure program staff are prepared and able to
11 manage the workload.

12 Dr. Staub expressed concern of not having an
13 updated course list for the entire renewal cycle. He
14 noted being less than five months out from the end of
15 the renewal cycle and people still have not had
16 adequate notice of approved courses.

17 Commissioner Johnson commented that waiving CEs
18 does not mean everyone has been given a pass and
19 continue as if everyone starts from the same position
20 the next biennial period. He stated program staff
21 will still have to maintain records and manage
22 compliance for all of the licensees.

23 Mr. Davis stated the CE requirement had not been
24 waived and was still in place. There were preapproved
25 providers within the regulations. He mentioned the

1 Governor's Office waived in-person requirements when
2 it comes to CE. He noted that CEs are still available
3 online with the requirement of being completed on
4 time. He also noted the possibility of a hardship
5 waiver if an individual wants to apply directly to the
6 Board.

7 Chair Potter mentioned prior discussion at the
8 last meeting concerning individuals saying they are
9 certified and questioned whether Mr. Davis had any
10 follow-up on what other states are doing or what the
11 Board might be able to do to help communicate what
12 certified means to the public.

13 Mr. Davis stated he contacted his supervisor to
14 ask if he was aware of any other Boards at the Bureau
15 of Professional and Occupational Affairs (BPOA) that
16 were doing something like that outside of the
17 statutory requirement because some of the acts do talk
18 about specialization.

19 Mr. Davis commented that he was unaware of any
20 BPOA Boards that have, within the regulation, any
21 requirements regarding certification or specialization
22 outside of the act and physical therapy would be the
23 first to do so.

24 Mr. Davis noted he also contacted the Federation
25 of State Boards of Physical Therapy (FSBPT) and read

1 an email received from Leslie Adrian. He stated it
2 was kind of a question as to whether any states are
3 doing something like this when it comes to physical
4 therapy.

5 Mr. Davis mentioned the American Board of
6 Physical Therapy Specialties (ABPTS), which is a
7 subset of the American Physical Therapy Association
8 (APTA), which is an established group that could help
9 with this. He offered to circulate an internal memo
10 to BPOA to see if the policy or commissioner's office
11 or anybody wants to weigh in on this possibility. He
12 also would put together a draft annex to write it into
13 the regulations.

14 Chair Potter noted there would be some value in
15 referencing the ABPTS certification because that was a
16 type of certification developed by APTA versus courses
17 where they are receiving certification, so it would
18 help set some standard as far as people utilizing that
19 term.

20 Mr. Davis referred to Section 11(a)(9) of the
21 act, where it states the Board may suspend, refuse,
22 revoke, etc., any licensee who made misleading,
23 deceptive, untrue, or fraudulent representations in
24 the violation of this act or otherwise practice of the
25 profession. He commented that individuals claiming

1 they are certified, specialists, or whatever can be
2 prosecuted if they cannot prove that assertion.

3 Mr. Jarabeck stated an investigation would start
4 if there was a complaint indicating any level of
5 malfeasance in an individual presenting to the public.

6 He commented that prosecution would engage an expert
7 who has background and knowledge, rather than
8 prosecution going out on a limb saying they do not
9 think this meets professional standards when they are
10 going to have the professional testify.

11 Chair Potter stated it sounds like there already
12 was language that would allow pursuit if people had
13 complaints.

14 Mr. Davis suggested not putting together
15 regulations unless there was a good need for that
16 regulation and believed it would be premature at this
17 time.

18 Chair Potter recommended just letting the issue
19 rest for now.]

20 ***

21 Report of Board Counsel

22 [Thomas M. Davis, Esquire, Board Counsel, addressed
23 the suspension of certain regulatory requirements due
24 to COVID-19, noting a comprehensive list on the
25 Department of State's main website at www.dos.pa.gov.

1 He read a list of what directly impacts the Physical
2 Therapy Board and recommended everyone look at those
3 documents and suspensions to see if they impact anyone
4 directly and could offer help in some way. He also
5 suggested looking at the physical therapy website.

6 Mr. Davis referred to Senate Bill 1228 of 2020,
7 which was introduced on July 13. He explained it
8 would expand the authority of all PTs to practice
9 without a referral for up to 90 days from 30 days, and
10 by deleting all references to the current certificate
11 of authorization from the act, it would clearly place
12 dry needling in a PT scope of practice.

13 Cynthia K. Montgomery, Esquire, Deputy Chief
14 Counsel/Regulatory Counsel, Department of State,
15 referred to 16A-6515 regarding the proposed annex for
16 child abuse reporting requirements. She stated 16
17 boards need these regulations, and PT was among those
18 to push one of the regulations through the entire
19 process to receive comments from reviewers and the
20 Independent Regulatory Review Commission. She noted
21 the Board of Dentistry's version had been fully
22 approved.

23 Ms. Montgomery referred to the Board's version of
24 the regulation to conform to the multitude of
25 amendments made to the PA Child Protective Services

1 Law between 2014 and 2019. She noted Annex A is the
2 regulatory document that incorporates all of the
3 amendments.

4 Ms. Montgomery referred to § 40.12 regarding the
5 application for licensure for a physical therapist,
6 which incorporates the requirement that an applicant
7 complete 3 hours of training in child abuse
8 recognition and reporting and cross referenced to the
9 substantive section § 40.208 to be added in this
10 regulation.

11 Ms. Montgomery stated the same thing was being
12 done in § 40.16 regarding the licensure by endorsement
13 section to requiring applicants complete 3 hours of
14 required training in child abuse recognition and
15 reporting, which was implemented by the bureau in 2015
16 with applications and renewals as of January 1, 2015.

17 Ms. Montgomery referred to § 40.19 regarding
18 renewal of physical therapy license, which was also
19 being amended to include 2 hours of approved courses
20 in child abuse recognition and reporting that was
21 required under the Child Protective Services Law
22 (CPSL) for biennial renewal.

23 Ms. Montgomery referred to § 40.67, noting
24 continuing education was being amended to incorporate
25 2-contact hours in child abuse recognition and

1 reporting as part of the 30-contact hours required for
2 physical therapist with similar amendments being made
3 under Subchapter C for physical therapist assistants
4 because CPSL applies to all licensees and certificate
5 holders.

6 Ms. Montgomery referred to § 40.162 regarding
7 application for certification, which was being amended
8 to include 3 hours of training required as a condition
9 of licensure.

10 Ms. Montgomery referred to § 40.191 and § 40.192
11 continuing education sections, noting they are being
12 amended to incorporate the 2 hours of approved courses
13 in recognition and reporting.

14 Ms. Montgomery referred to Subchapter D, where
15 child abuse reporting requirements had been amended to
16 incorporate all of the changes in the Child Protective
17 Services Law, which includes the § 40.201 definitions,
18 incorporating definitions, and amending definitions.
19 She noted the addition of the definition of bodily
20 injury, bureau for ease of reference, and child.

21 Ms. Montgomery stated the definition of child
22 abuse was significantly amended with minor amendments
23 to the definition ChildLine because the Department of
24 Public Welfare has been renamed to the Department of
25 Human Services. She noted several other deletions and

1 additions.

2 Ms. Montgomery mentioned the definition of
3 perpetrator was incorporated to be consistent with the
4 Child Protective Services Law but without the
5 requirement for physical therapists to make the
6 determination and left it up to the authorities and
7 Office of Children, Youth, and Families and Department
8 of Human Services as to whether the suspected child
9 abuse was child abuse under the definition of child
10 abuse and perpetrator.

11 Ms. Montgomery noted a minor amendment to the
12 definition person responsible for the child's welfare
13 made by CPSL. She mentioned the addition of the
14 definition of program activity or service and minor
15 amendments to recent act or failure to act. She also
16 noted the removal of the definition serious physical
17 injury because it was not used in the Child Protective
18 Services Law and replaced by serious physical neglect.

19 Ms. Montgomery stated the definition of sexual
20 abuse or exploitation was significantly amended in the
21 Child Protective Services Law and also incorporated.

22 Ms. Montgomery referred to § 40.202 regarding
23 suspected child abuse mandate and reporting
24 requirements, which was being amended to clarify that
25 all physical therapists and physical therapist

1 assistants are considered mandated reporters. She
2 noted the CPSL has been amended to expand the duty to
3 report if a reporter comes into contact with the child
4 in the course of employment, occupation, and practice
5 or through a regularly scheduled program, activity, or
6 service.

7 Ms. Montgomery stated they are also mandated to
8 report if they are directly responsible for the care,
9 supervision, guidance, or training of a child or was
10 affiliated with an agency, institution, organization,
11 or established church or religious organization or
12 other entity.

13 Ms. Montgomery stated they are also responsible
14 to report if a person makes a specific disclosure to
15 the mandated reporter that an identifiable child was
16 the victim of child abuse, which was no longer
17 restricted to just contact within their profession and
18 must be reported to the Department of Human Services.
19 She commented that they also have a duty to report if
20 an individual 14 years of age or older makes a
21 specific disclosure that they have committed child
22 abuse.

23 Ms. Montgomery referred to § 40.202(b) concerning
24 members of staff of a medical or other public or
25 private institution, school, facility, or agency. She

1 stated the individual who suspects child abuse has the
2 duty to report and immediately notify the person in
3 charge of the institution, school, facility, or
4 agency.

5 Ms. Montgomery referred to § 40.202(c) regarding
6 reporting procedure, where the Department of Human
7 Services added an electronic process to permit either
8 the existing process of making an oral report by
9 calling ChildLine and then following that up with a
10 written report or making an electronic report through
11 the Child Welfare Information Solutions self-service
12 portal.

13 Ms. Montgomery referred to § 40.202(d) reporting
14 information, noting a long list of information that
15 must be reported.

16 Ms. Montgomery referred to § 40.203, noting
17 photographs, X-rays, and medical tests have to be
18 submitted within 48 hours after and electronic report
19 was made.

20 Ms. Montgomery referred to § 40.204, noting
21 amendments to reporting a suspected death as a result
22 of child abuse to either the coroner or medical
23 examiner.

24 Ms. Montgomery referred to § 40.205, where
25 immunity by liability has been amended to comport with

1 amendments to CPSL. She stated a licensee or
2 certificate holder who participates in good faith and
3 makes a report or cooperates with an investigation has
4 immunity from civil and criminal liability, and the
5 Board will hold the same good faith presumption in any
6 disciplinary proceedings.

7 Ms. Montgomery referred to § 40.206, where
8 confidentiality was waived. She stated there was a
9 new section in the law that says any privileged
10 communications between a mandated reporter and a
11 patient does not apply to a situation involving child
12 abuse and does not relieve the mandated reporter of
13 the duty to make the report.

14 Ms. Montgomery referred to § 40.207 regarding
15 sanctions for noncompliance and § 40.207(a)
16 disciplinary actions. She stated there are criminal
17 penalties for the willful failure to report child
18 abuse or make a referral to the appropriate
19 authorities. She addressed § 40.207(b) concerning
20 criminal penalties and offenses.

21 Ms. Montgomery referred to § 40.208 regarding
22 mandatory training requirements, where individuals
23 applying to the Board for initial license or
24 certificate have to submit proof of completion of at
25 least 3 hours of training in child abuse recognition

1 and reporting and those seeking renewal have to
2 complete at least 2 hours of approved continuing
3 education in child abuse recognition and reporting.
4 She stated courses must be approved by the bureau in
5 consultation with the Department of Human Services.

6 Ms. Montgomery referred to § 40.209 regarding the
7 course approval process put in place by the bureau and
8 Department of Human Services of how to become approved
9 for training.

10 Ms. Montgomery addressed continuing education for
11 physical therapists and physical therapist assistance.
12 She stated the Board does not require licensees or
13 certificate holders to complete continuing education
14 during the first biennial renewal cycle. She
15 mentioned an amendment that would provide an exception
16 that individuals would still have to complete the 2
17 hours in the first renewal cycle.

18 Ms. Montgomery stated she can remove that
19 language and have the exception being that no CE was
20 required during the first renewal cycle because most
21 people do not receive their license at the beginning
22 of a renewal cycle and often receive it somewhere in
23 the middle. She commented that rather than
24 individuals completing 5 hours, which was not required
25 by the CPSL, she can remove that language if it was

1 the rule of the Board.

2 Chair Potter recommended leaving the language the
3 way it is.

4 Dr. Campbell also suggested leaving the language
5 the way it is, where everybody has to complete it.
6 She commented that it was better to have it than have
7 an individual go for almost four years between
8 courses, which was what it would be if it was waived
9 for an individual who gets their license in January of
10 the biennial because they would not have to complete
11 it the first renewal.]

12 ***

13 MS. MONTGOMERY:

14 If you are satisfied with the regulation
15 as drafted, I would be looking for a
16 vote to promulgate as proposed
17 rulemaking.

18 CHAIR POTTER:

19 Is there a motion?

20 MR. ROBB:

21 So moved.

22 DR. CAMPBELL:

23 Second.

24 CHAIR POTTER:

25 It's been moved and seconded to move

1 forward with the proposed rulemaking as
2 presented. We will do a roll call vote.

3
4 Commissioner Johnson, aye; Sandy
5 Campbell, aye; Jeff Elliott, aye; Tammy
6 Frey, aye; Geri Grzybek, aye; Brandie
7 McClinton, aye; Jeremy Robb, aye; Chris
8 Staub, abstain; Potter, aye.

9 [The motion carried. Dr. Staub abstained from voting
10 on the motion.]

11 ***

12 Ms. Montgomery referred to the proposed preamble
13 for 16A-6615 regarding child abuse reporting
14 requirements.

15 Ms. Grzybek questioned whether there was any plan
16 along the way to look at elder abuse in the same light
17 as child abuse to look at some education and
18 requirements for that vulnerable population.

19 Ms. Montgomery explained that the Older Adults
20 Protective Services Act has those requirements for
21 entities regulated by the Department of Human
22 Services, and nursing home administrators have that
23 requirement because their facilities are regulated by
24 the Department of Human Services.

25 Ms. Montgomery provided an explanation of the

1 preamble, noting it to be the explanatory document
2 that goes along with the rulemaking when it was
3 published as proposed and was a summary of the
4 regulation.

5 Mr. Davis addressed 16A-6522, the proposed annex
6 regarding early exam for clinical instructors (CI)
7 credit. He noted the Board's prior approval in
8 January of the proposed rulemaking to be promulgated
9 through the Independent Regulatory Review Commission
10 process.

11 Mr. Davis noted recognizing that by making it so
12 people could take the exam prior to graduating that
13 people who want to graduate and then take the exam
14 were overlooked.

15 Mr. Davis explained that as the last annex was
16 written, every person applying for the exam could take
17 it prior to graduation, but every person would still
18 have to get that letter from the program director
19 saying they are going to graduate within 90 days. He
20 stated individuals who just want to graduate, obtain
21 their certificate or diploma, and then present that to
22 the Board would still be forced to get the letter. He
23 noted the section that references graduating within 90
24 days and obtaining that letter was in the annex in
25 addition to the old language.

1 Mr. Davis again mentioned that ProCert was gone
2 but stated ProCert's authority lingers with
3 certification through 2023. He recommended not
4 pulling the reference to ProCert from the regulations
5 because individuals who want to take one of these CE
6 courses that says certified by ProCert will have
7 nothing guaranteeing them that will be okay and may
8 cause confusion and financially hurt some companies.
9 He recommended talking about pulling ProCert later in
10 2022.]

11 ***

12 MR. DAVIS:

13 Based on the Board's discussions in open
14 session, I believe the chair would
15 accept a motion promulgating proposed
16 regulation 16A-6522 known as early exam
17 and CE for clinical instruction through
18 the regulatory review process.

19 CHAIR POTTER:

20 Is there a motion?

21 MS. GRZYBEK:

22 So moved.

23 DR. CAMPBELL:

24 Second.

25 CHAIR POTTER:

1 mentioned limiting applicants to six times in a
2 lifetime would be seen as blocking a path to
3 licensure.

4 Dr. Campbell commented that applicants who need
5 six attempts will find those somewhere, whether they
6 go through Pennsylvania or start switching states.
7 She believed when the regulation was written there was
8 no lifetime limit. She stated there was now a
9 lifetime limit, so what does it matter whether they
10 pay and test in Pennsylvania or they go to some other
11 state and apply for endorsement after they pass. She
12 recommends exploring this alternative approval
13 pathway.

14 Mr. Davis questioned whether the Board was
15 willing to stop having these individuals present to
16 the Board face-to-face for third attempts.

17 Chair Potter commented that it was a burden for
18 the applicant to appear before the Board and
19 questioned how much work Ms. Roberts would cut down on
20 her end.

21 Mr. Roberts stated it would streamline things
22 immensely and cut down on an enormous amount of work.

23 Dr. Campbell noted it would also probably
24 eliminate that challenge sometimes with people who
25 have registered for the federation and said they were

1 going to test in Pennsylvania but then never got an
2 application, where they would at least be cleared to
3 sit for the exam and then could chase the backend
4 later.

5 Ms. Roberts mentioned individuals who registered
6 but never submitted the actual application, meaning
7 they registered in the Pennsylvania Licensing System
8 (PALS) but never actually applied for a new license
9 and thought they were done. She noted that she cannot
10 even contact people who do that because she does not
11 know they are out there.

12 Ms. Roberts was not sure how temporary licensure
13 would work out and mentioned the possibility of making
14 application adjustments to be able to issue temporary
15 licenses.

16 Ms. Roberts commented that if the Board does go
17 with the alternate pathway, the federation would be
18 making individuals eligible to sit for the exam. She
19 stated the federation may have made the individuals
20 eligible based on they are going to graduate within 90
21 days, so the Board would still have to have that
22 verification of graduation before we could issue a
23 temporary license.

24 Commissioner Johnson questioned whether
25 relegating that simple function to a third party was

1 acting outside the scope of their authority or are
2 they improperly delegating a function of the Board to
3 a third party.

4 Mr. Davis stated he looked into that issue and
5 read a small section from the statute, where the
6 statute already states it was the Board's duty to
7 conduct examinations, and the Board has already
8 delegated that authority to FSBPT.

9 Commissioner Johnson expressed concern over an
10 individual challenging the process and possibly saying
11 the alternative pathway was an attempt to circumvent
12 the process of going through the typical statutory
13 process in terms of joining a compact and was this a
14 proper delegation of our authority. He also mentioned
15 the fact that it would take some of the workload off
16 of Ms. Roberts but does not know where the Board
17 stands in terms of statutory implications.

18 Mr. Davis stated the Board and Board
19 administrator both think this was something that would
20 be beneficial and help with the workload as well. He
21 requested a vote to execute the alternate approval
22 pathway addendum of the FSBPT agreement. He noted he
23 would make that happen as long as he finds no legal
24 reason that would stop the document from being
25 executed.]

1 ***

2 CHAIR POTTER:

3 Would anyone like to make a motion to
4 that effect?

5 MS. GRYZBEK:

6 So moved.

7 MS. FREY:

8 Second.

9 CHAIR POTTER:

10 It's been moved and seconded.

11 MR. DAVIS:

12 To execute the FSBPT alternate approval
13 pathway addendum to the FSBPT agreement.

14 CHAIR POTTER:

15 We'll do a roll call vote.

16

17 Commissioner Johnson, aye; Sandy
18 Campbell, aye; Jeff Elliott, aye; Tammy
19 Frey, aye; Peter Blank, aye; Geri
20 Grzybek, aye; Brandie McClinton, aye;
21 Jeremy Robb, aye; Chris Staub, aye;
22 Potter, aye.

23 [The motion carried unanimously.]

24

25 Report of Acting Commissioner

1 [K. Kalonji Johnson, Commissioner, Bureau of
2 Professional and Occupational Affairs, thanked Board
3 members for their patience and flexibility with the
4 continued transition to the virtual platform. He
5 thanked stakeholders and members of the public for
6 participating. He was pleased to see a platform that
7 allows greater participation.

8 Commissioner Johnson commented that all of the
9 licensees and Board members are in the bureau and
10 agency's thoughts and prayers given the challenges and
11 burdens.]

12 ***

13 Report of Board Administrator - No Report

14 ***

15 Miscellaneous

16 [Michelle Roberts, Board Administrator, noted
17 remaining 2020 Board meeting dates. She will provide
18 2021 meeting dates via email for the Board's review.]

19 ***

20 [Thomas M. Davis, Esquire, Board Counsel, addressed
21 Act 53 of 2020, formerly Senate Bill 637, signed by
22 Governor Wolf on July, 1, 2020. He stated the act
23 requires occupational license boards and commissions
24 to apply one common set of rules when considering
25 whether to deny, suspend, or revoke a license on the

1 basis of a criminal conviction.

2 Mr. Davis commented that it will amend the
3 Criminal History Record Information Act known as CHRIA
4 to require the Boards only withhold a license for
5 convictions directly related to the practice of the
6 occupation and that the Boards consider the nature of
7 the offense, the amount of time passed since the
8 conviction, evidence of the applicant's fitness to
9 practice the occupation, and other relevant factors
10 prior to withholding the license.

11 Mr. Davis stated the Boards will have to develop
12 a list of crimes that directly relate to the
13 occupation or profession. He stated he will work on
14 providing a list of criminal convictions that would
15 essentially bar someone. He also stated the Board
16 would have to determine whether the nature of the
17 criminal conviction licensure of the individual would
18 pose a substantial risk in health and safety of the
19 individual's patients or clients if the crime was not
20 on the list.

21 Mr. Davis stated the Board may not issues a
22 license if the individual was convicted of a sexual
23 offense. He stated applicants convicted of "crimes of
24 violence" as assigned under Title 42 Pa.C.S. Section
25 9714 may only be granted a license if the crime and

1 the applicant met certain conditions listed under the
2 act.

3 Mr. Davis stated existing provisions related to
4 felony drug convictions shall only apply to an
5 individual who has been convicted of a drug
6 trafficking offense as defined by the act.

7 Mr. Davis addressed preliminary determinations,
8 where an applicant with a criminal history was unable
9 to determine whether the applicant's criminal history
10 would disqualify the applicant, and they will need to
11 file a petition for preliminary review. He commented
12 that the Board would make that determination.

13 Mr. Davis commented that the Department of State
14 must develop a best practices guide for applicants
15 with criminal convictions summarizing certain sections
16 of Act 53 describing what it does. He mentioned that
17 all of the sections that have monumental changes in
18 the way the Board deals with criminal history are not
19 effective for 180 days.

20 Mr. Davis informed the Board of what steps he
21 will be taking concerning regulations and working with
22 the Governor's Office.]

23

24 [Cynthia Potter, PT, DPT, Chairperson, announced the
25 Federation of State Boards of Physical Therapy will be

1 providing a series of webinars since there will be no
2 annual conference.]

3 ***

4 [Geraldine Grzybek, PT, expressed her appreciation to
5 Ms. Roberts for continuing to do the work under very
6 different circumstances and also to Board counsel for
7 developing all this work the Board has been talking
8 about for months and making it come to fruition.]

9 ***

10 Adjournment

11 CHAIR POTTER:

12 Is there a motion to adjourn?

13 DR. STAUB:

14 So moved.

15 MR. ELLIOTT:

16 Second.

17 CHAIR POTTER:

18 Moved and seconded to adjourn the
19 meeting. All in favor, say aye.

20 [The motion carried unanimously.]

21 ***

22 [There being no further business, the State Board of
23 Physical Therapy Meeting adjourned at 12:24 a.m.]

24 ***

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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

July 16, 2020

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TIME	AGENDA
10:30	Official Call to Order
10:34	Approval of Minutes
10:36	Report of Prosecutorial Division
10:39	Report of Board Chair
11:09	Report of Board Counsel
12:14	Report of Commissioner
12:15	Miscellaneous
12:24	Adjournment