# STATE OF ALASKA DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT

Board of Physical Therapy and Occupational Therapy 550 WEST 7TH AVE, SUITE 106, ATWOOD BLDG

September 24-25, 2015

By authority of AS 08.065.020 and in compliance with the provision of AS 44.62, Article 6, a scheduled meeting of the Board of Physical and Occupational Therapy was held on September 24-25, 2015 at 550 West 7TH AVE, SUITE 106, ATWOOD BLDG – Anchorage, AK

#### Thursday - September 24, 2015

#### Call to Order/Roll Call

Kathy Lind, Chair of the Board of Physical Therapy and Occupational Therapy called the meeting to order at 8:30 a.m. Those present, constituting a quorum of the Board, were:

Kathleen Lind, Chair, OT Mary Melissa Robinson, OT Valerie Phelps, PT Joseph Kennedy, PT Ruth Kostik, Public Member Ilona Farr, MD arrived at 8:40 a.m.

James Parietti, PT - approved absence

#### Staff Present:

Janey Hovenden, Director (telephonically)
Sara Chambers, Operations Manger (telephonically)
Martha Hewlett, Administrative Officer (telephonically)
Michelle Wall Rood, Investigator
Sonia Lipker, Investigator
Charles Ward, Paralegal (in person and telephonically)
Connie Petz, Licensing Examiner

Public Present: Paul Grace, Heidi Herbst Paakkonen, Charles Brown, Dee Berline, Robin Lampman, LeeAnne Carrothers and Annette Leier

#### Agenda Item 1 - Review/Approve Consent Agenda

- a. AKAPTA 5-7-15
- b. AKOTA 5-7-15
- c. APTA 5-7-15
- d. AOTA 5-7-15
- e. Phelps Liaison Report
- f. Northeast Seminars 5-21-15
- g. Motivations INC 5-21-15
- h. March 26-27,2015 Final minutes

 ON A MOTION MADE BY KENNEDY, SECONDED BY PHELPS, IT WAS RESOLVED TO APPROVE THE CONSENT AGENDA AND THE MARCH 26-27, 2015 FINAL MINUTES AS WRITTEN. ALL IN FAVOR, CARRIED UNANIMOUSLY.

Ms. Lind signed the final March minutes, staff will post to website. Dr Farr was not present for this vote.

## Agenda Item 2 - Review/Approve Agenda

ON A MOTION MADE BY ROBINSON, SECONDED BY KOSTIK, IT WAS RESOLVED TO APPROVE THE AGENDA AS WRITTEN. ALL IN FAVOR, CARRIED UNANIMOUSLY.

Dr Farr was not present for this vote.

## Agenda Item 3 – Ethics Reporting

No ethical violations to report for Phelps, Kostik, Lind, Robinson, Farr or staff.

Joseph Kennedy attended the June 2015 Board Member training with the Federation of State Boards of Physical Therapy. He reported to the Board receipt of a gift for airfare \$1106.49 and lodging \$686.44 to attend the training for a combined total of \$1792.93 paid for by the FSBPT.

## Agenda Item 4 – Old Business/Tasks

The board reviewed tasks and old business.

Mr. Kennedy researched how many boards had physicians. The FSBPT has a resource that shows the composition of board members in all jurisdictions. A small minority of boards have physicians however more had lawyers than physicians. It was noted that board members are appointed to protect the public so in essence they are all public members.

Dr. Farr wanted to inform the Board in how the AK medical board handles DWI's. According to staff of the AK medical board, if a Dr. is charged with a DUI. According to 12 AAC 40.967(18) & (26) use of alcohol or drugs that interferes with professional practice, endangers patients or is illegal is considered "Unprofessional Conduct". This must be reported to the Board no later than 30 days after the date of the conviction.

Staff explained the Physical Therapy and Occupational Therapy statute is what the board follows. **08.84.120.** Refusal, revocation, and suspension of license. (a) The board may refuse to license an applicant, may refuse to renew the license of a person, and may suspend or revoke the license of a person who (2) uses drugs or alcohol in any manner that affects the person's ability to practice physical therapy or occupational therapy competently and safely:

The medical board has in their statutes and regulations more defined authority. Sec. 08.64.326. Grounds for imposition of disciplinary sanctions. (a) The board may impose a sanction if the board finds after a hearing that a licensee

(8) has demonstrated (A) professional incompetence, gross negligence or repeated negligent conduct; the board may not base a finding of professional incompetence solely on the basis that a licensee's practice is unconventional or experimental in the absence of demonstrable physical harm to a patient; (B) addiction to, severe dependency on, or habitual overuse of alcohol or other drugs that impairs the licensee's ability to practice safely;

The medical board also has statutory authority under Sec. 08.64.331. Disciplinary sanctions.

Dr. Farr had researched TOEFL requirements and found Texas and AK state nursing board requires TOEFL. The board has wondered if they need to require a TOEFL if it is also being required by other agencies. According to an email from medical board staff "There isn't a requirement per se. However, graduates from foreign medical schools are required to have at least three years of post-graduate training in accredited facilities in the United States or Canada. Graduates from accredited US schools after 1995 are required to have a minimum of two years of accredited post-graduate training. An applicant would have to speak English well enough to successfully complete the required course of study".

# Agenda Item 5 and Agenda Item 6 Presentations by NBCOT and FSBPT

The board had invited representatives from the National Board of Certification of Occupational Therapy (NBCOT) and the Federation of State Boards of Physical Therapy (FSBPT) to share their new programs for continuing competency.

The board asked the minutes reflect a social invitation to an optional self-pay dinner was extended to the out of town guests and the Alaska board members on Wednesday September 23<sup>rd</sup>. Also invited was Dee Berline, an Alaska OT who is on the Board of Directors with the NBCOT, Robin Lampman, President of the Alaska Occupational Therapy Association and LeeAnne Carrothers, President of the Alaska Physical Therapy Association. For the record, no business was discussed as again, this was purely social dinner.

Representatives from the National Board Certification of Occupational Therapy (NBCOT) and Federation of State Boards of Physical Therapy (FSBPT) to shared their new programs for continuing competency. Both competency programs are now live and available to professionals in all U.S. jurisdictions.

Staff introduced Paul Grace, MS, CAE President & CEO of NBCOT, Heidi Herbst Paakkonen – FSBPT MPA Continuing Competence Product Manager Federation of State Boards of Physical Therapy, Charles Brown, Administrator of a Member Board (Arizona) on the FSBPT Board of Directors, Dee Berline AK OT, Board Member of NBCOT Board of Directors and Robin Lampman, AK OT and President of Alaska Occupational Therapy Association.

Mr. Grace presented the NBCOT Navigator program for Continuing Competency and Professional Development. He explained how this new program is interactive and allows the participants to have evidence based education. Their program is accredited and this website has tools to allow professionals to manage and complete courses. Any currently certified OT or OTA has access to a tool suite called the NBCOT Navigator which offers resources to support continued competency and professional development. NBCOT has a 97% certification rate.

The NBCOT does not approve courses, they only accept courses developed by the AOTA, ISF certified, sponsored by state associations, regulatory agencies, employer sponsored, as well as college and university approved courses. It was noted that the PDU is 60 minutes and a contact hour is 50 minutes. It is up to the licensee to enter accurate data in the navigator and submit the certificates of completion in the PDU portal log.

These innovative resources address all areas of occupational therapy, including orthopedics, mental health, school-based, home health, rehab inpatient, rehab outpatient, skilled nursing, education and research, health and wellness, work and industry, pediatrics, and administration management. NBCOT web link: http://www.nbcot.org/navigator

 Key point; this is a self-reflection tool which allows a continuing competence approach that lets each person focus on their current specialty or gain knowledge in areas where they would like to focus.

States that recognize Navigator are CO, MD, HN OR and SC with two more states soon to join. The board thanked Mr. Grace for his presentation.

Break 9:55 a.m. and back on record at 10:19 a.m.

Ms. Lind introduced LeeAnne Carrothers, President of the Alaska Physical Therapy Association who attended to learn more about aPTitude.

Chuck Brown, a liaison on the FSBPT board of directors and a state administrator in Arizona for their board of physical therapy. He encouraged the board to continue to send board members to the FSBPT training as well as the annual meetings which are both funded by the FSBPT. He encouraged the board to enter data in the disciplinary action data base as this is reported to all jurisdictions.

Mr. Brown said one of the many topics at the October FSBPT annual meeting will be about the licensure compact. This idea is to allow portability in licensure between jurisdictions. January 2016 is when states will begin going to their state legislators with the draft language which can be viewed on their website.

Ms. Herbst Paakkonen presented the FSBPT – aPTitude and ProCert programs. As a membership organization they can leverage resources which benefit everyone. These programs were developed to provide a resource for both licensees and providers with the end goal to benefit all parties within the profession in management of CE's. The mission is to help licensing boards with continuing competency efforts and reduce some duplicated efforts for all parties.

aPTitude is a free continuing competence resource available to physical therapists and physical therapist assistants as well as providers of continuing competence and continuing education (CC/CE) activities; and jurisdiction licensing boards. Vendors can publish their activities in aPTitude for no cost. However, if they want it certified they could use ProCert. <a href="https://pt.fsbpt.net/aPTitude">https://pt.fsbpt.net/aPTitude</a>

ProCert is an optional multi-state continuing competence activity certification program and is available to vendors (for a fee) to have their courses reviewed and certified by the FSBPT with a continuing competence units. The goal is to have high quality continuing competence opportunities that other jurisdictions can rely on to meet their CE requirements.

The board agreed that the new programs with NBCOT and FSBPT benefit licensees, course providers and the board. There is no specific reason to currently change the regulations but the website will be updated to direct licensees to the programs available and staff will continue to direct interested parties to these new programs.

Both agencies were asked to provide wording other jurisdictions have used to include these programs in their continuing education regulatory verbiage as one day the board may want to consider revising regulations to include these programs. Staff will provide to the board in the next board packet.

Dr. Farr left the meeting at 11:35 a.m.

Ms. Lind left the meeting at 12:04 p.m.

Lunch break off the record at 12:08 p.m. and back on at 1:15 p.m.

Ms. Robinson called the meeting to order at 1:15 p.m. Present were Phelps, Kennedy, Kostik, Robinson and staff. Ms. Lind arrived at 1:17 p.m. and Dr. Farr arrived at 1:30 p.m.

## Agenda Item 7 – Public Comment

LeeAnne Carrothers AK PT and President of Alaska Physical Therapy Association shared her concern that her physical therapy assistant graduates are on a very short time line to graduate, meet AK professional licensing requirements and be approved to take the national physical therapy assistant exam by the December 16, 2015 deadline date for the January 2016 exam. In addition it appears the Prometric testing center does not have enough seats for her PTA graduates to take the test in AK and if they have to leave the state this will be expensive for them.

Neither the FSBPT fixed test dates nor the Prometric seating are under the authority of the Board.

Annette Leier – Supportive of the legislative goal to replace the physician board member but wanted to know the history of why the Board made that decision.

## <u>Agenda Item 8 – Regulations Project</u>

Ms. Lind stated the proposed regulations were re-noticed for written public comments which were required no later than 4:30 p.m. on September 18, 2015. No written comments were received for the supplemental regulations. Ms. Lind called for a motion to proceed with the regulation project.

ON A MOTION BY ROBINSON, SECONDED BY KENNEDY, TO ADOPT THE PROPOSED REGULATIONS 12 AAC 54.500, 12 AAC 54.600, 12 AAC 54.610, 12 AAC 54.640 AND 12 AAC 54.800 AS RENOTICED. THE BOARD CONSIDERED THE COST TO THE PUBLIC AND DOES NOT FORESEE ANY COSTS. ALL IN FAVOR, NO NAYS, MOTION PASSED.

Ms. Lind signed and dated the order. Staff will forward to the regulations specialist.

Break 2:15 p.m. back on record at 2:28 p.m.

## Agenda Item 9 – Legislative Progress update

As of this meeting the board has not had any contact from any legislator. Ms. Lind will craft a letter to the FSBPT to ask them to help draft the legislative goals in a format that would help expedite the bill once introduced with a cc to Sara Chambers to keep the division informed of the boards' legislative goals.

ON A MOTION BY FARR, SECONDED BY KENNEDY TO REQUEST ASSISTANCE FOR FSBPT FOR OUR 14 GOALS FOR LEGAL DRAFT TO PROPOSE TO ALASKA STATE LEGISLATURE TO GET LEGISLATION PASSED WITH NEXT 2016 SESSION.

Ms. Lind will craft a letter and staff will forward it to FSBPT and cc Sara Chambers.

#### The board deviated to Agenda Item 14 - Discussion time - 10 minute topics

The Federal Trade Commission (FTC) wanted boards to know they will be issuing guidance to help states interpret a recent supreme court ruling on how much supervision is required for state boards and other entities to gain federal antitrust immunity.

The state of Oklahoma has issued an Executive Order in response to the U.S. Supreme Court decision for N.C. vs FTC a ruling. The board recognized this is a decision that would come from higher up than an individual state board in AK.

Correspondence regarding Dry Needling demonstration – Ms. Phelps and Mr. Kennedy stated Dry Needling with the proper education is very beneficial for the patient.

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Ms. Robinson stated Telehealth services are very beneficial to Alaskans, she is still very concerned how a person from a jurisdiction outside of AK could treat a patient without knowing the patient or the culture of the patient. Mr. Kennedy thought maybe one day it could be considered that the law reflect the telemedicine be connected to an in-state business. How can the board help make this work. This is coming and if it's mandated the board wants to be proactive. The board will continue to keep informed of what is going on nationally.

Joe Kennedy provided a recap of his Board Member training with FSBPT stating the experience was well worth attending and he thinks every board member attend at the beginning of their term on the board. He noted that although we are one of many jurisdictional boards, there are a few issues in common that all or most seem to be dealing with or just recently dealt with: Dry Needling, the role of PTA in various situations, Foreign trained applicants: can they sit for PTA if trained as PT but fail PT boards, equivalency of training CAPTE. Tele-medicine/telehealth is a hot topic nearly everywhere as well.

Alabama board of medical repealed their Telehealth rules and the board noted this is another area that will be tracking across all boards with the federal health laws.

Ms. Lind recessed the meeting at 4:11 p.m. The board will reconvene at 8:30 a.m.

# Friday – September 25, 2015

Ms. Robinson called the meeting to order at 8:46 a.m. Role call, Phelps, Kennedy, Kostik, Robinson and staff. Ms. Lind arrived at 8:48 a.m. and Dr. Farr arrived at 8:49 a.m.

## Agenda Item 10 - Investigative Report

Investigator Michelle Wall Rood introduced the board to their new investigator Sonia Lipker. The investigative report was discussed. For the period of March 2, 2015 through August 26, 2015 the division opened 21 matters and closed 22 matters. A total of Zero (0) matters remain ongoing and under review. Regarding probation matters, 2 cases are still open.

Ms. Lind called for a motion to enter executive session per AS 44.62.310(c)(2) for case # 2015-000855.

ON A MOTION BY PHELPS, SECONDED BY ROBINSON, THE ALASKA BOARD OF PHYSICAL THERAPY AND OCCUPATIONAL THERAPY IS RESOLVED TO ENTER EXECUTIVE SESSION IN ACCORDANCE WITH AS 44.62.310(C)(2) AND (3), AND THE ALASKA CONSTITUTIONAL RIGHT TO PRIVACY PROVISIONS, FOR THE PURPOSE OF DISCUSSION OF CASE NUMBER 2015-000855. ROLL CALL VOTE: ROBINSON, FARR, PHELPS, KENNEDY, KOSTIK AND LIND. ALL VOTED YES. MOTION PASSED.

Ms. Lind stated all board members and staff Wall Rood, Lipker and Petz to stay in the meeting.

Off record at 8:53 a.m. Back on record at 10:21 a.m.

The board determined the investigator will follow up on this case and inform the board at a future date.

#### Agenda Item 11 - Continuing Education Audit

Charles Ward spoke with the board telephonically and gave a status of the current continuing education files and case # 2015-001053.

Ms. Lind called for a motion to enter executive session per AS 44.62.310(c)(2) for case # 2015-001053.

 ON A MOTION BY PHELPS, SECONDED BY ROBINSON, THE ALASKA BOARD OF PHYSICAL THERAPY AND OCCUPATIONAL THERAPY IS RESOLVED TO ENTER EXECUTIVE SESSION IN ACCORDANCE WITH AS 44.62.310(C)(2) AND (3), AND THE ALASKA CONSTITUTIONAL RIGHT TO PRIVACY PROVISIONS, FOR THE PURPOSE OF DISCUSSION OF CASE NUMBER 2015-001053. ROLL CALL VOTE: ROBINSON, FARR, PHELPS, KENNEDY, KOSTIK AND LIND. ALL VOTED YES. MOTION PASSED.

Ms. Lind stated all board members and staff, Petz and Ward (telephonically) to stay in the meeting.

Off record at 10:36 a.m. Back on record at 11:06 a.m.

ON A MOTION BY PHELPS, SECONDED BY KOSTIK FOR THE BOARD TO REJECT THE CONSENT AGREEMENT IN CASE 2015-001053 AS THE IMPOSED DISCIPLINE IS TOO HARSH GIVEN THE CIRCUMSTANCES OF THE CASE IN WHICH THERE WAS A CONTINUING EDUCATION INFRACTION DURING RENEWAL AUDIT DUE TO A MINOR ERROR WITHOUT INTENTION TO DECEIVE. ROLL CALL VOTE: ROBINSON, FARR, PHELPS, KENNEDY, KOSTIK AND LIND. ALL VOTED YES. MOTION PASSED.

Break 11:08 a.m. and back on record at 11:10 a.m.

Mr. Ward presented a second case and Ms. Lind called for a motion to enter executive session per AS 44.62.310(c)(2) for case # 2015-001039.

ON A MOTION BY PHELPS, SECONDED BY KENNEDY THE ALASKA BOARD OF PHYSICAL THERAPY AND OCCUPATIONAL THERAPY IS RESOLVED TO ENTER EXECUTIVE SESSION IN ACCORDANCE WITH AS 44.62.310(C) (2) AND (3), AND THE ALASKA CONSTITUTIONAL RIGHT TO PRIVACY PROVISIONS, FOR THE PURPOSE OF DISCUSSION OF CASE NUMBER 2015-001039. ROLL CALL VOTE: ROBINSON, FARR, PHELPS, KENNEDY, KOSTIK AND LIND. ALL VOTED YES. MOTION PASSED.

Ms. Lind stated all board members and staff, Petz and Ward (telephonically) to stay in the meeting.

Off record at 11:12 a.m. and back on record at 11:27 a.m.

Ms. Lind stated the board has determined to refer this case back to Mr. Ward for further action.

#### Agenda Item 12 - Budget Report/Annual Report

Sara Chambers, Operations Manager and Martha Hewlett, Administrative Officer telephonically discussed the third quarter budget with the Board. To date, the cost for the regulation project was \$1372.00 and \$3394.00 for investigations.

There was discussion as to the upcoming cost analysis for renewal fees for all licensees. The costs incurred for the initial license application process does not seem to be covered in the non-refundable application fee. The board determined they would send a letter in support of higher non-refundable application fees to cover the cost of doing business.

Fees were discussed in comparison to the current budget. Mr. Kennedy asked if licensure compacting is being considered in the fee analysis.

Legislature has asked that the division have fees ready by December 1st. Also, they discussed giving all licensing programs the ability to recover fines to offset the costs in their programs.

Ms. Lind asked about the ability of the board to have access to the internet for paperless board meetings. Ms. Chambers said the board packet could be downloaded to the personal device from the

secure website. It was noted that a chrome book and iPad requires internet access. The division is looking at purchasing tablets that would be shared between boards or having a mobile hotspot available during meetings.

TASK: Kathy Lind will forward letter for staff to send to Sara Chambers

LUNCH off record at 12:20 p.m. and back on the record at 1:10 p.m.

All board members except Dr. Farr were present.

The board had looked at the Olga Grimsby certificate and discussed the letter to be sent to Alec Kay. They only reflect approval from the BOC. Ms. Lind crafted a letter and staff will forward to Mr. Kay, Olga Grimsby and the AKPTA.

In the future the budget will again reflect the NBCOT annual meeting which is now again an option for the Board to attend.

Page 6 Term Physiotherapy/Next meeting - New Business to expand the definition of physical therapy.

The Board reviewed the goals and objectives, re-phrased Goals 8, 9 and 10. Goal 11 was added.

# Goal #8: Repeal Reference to National Codes of Ethics and Add Alaska Principles of Practice

Objective #1: Regulation project in process seeking to enact an Alaska Physical Therapy and Occupational Therapy Principals of Practice as part of the Physical Therapy Standards 12 AAC 54.500 and Occupational Therapy Standards 12 AAC 54.800 and to remove references to professional organizations code of ethics.

# Goal #9: Review continuing education competency

- Objective # 1: Continue to track FSBPT and NBCOT continuing competency model.
- Objective # 2: Encourage licensees to utilize FSBPT/aPTitude and NBCOT/Navigator.
- Objective # 3: Update continuing competence requirements to reflect national trends.

## Goal #10: Continue to support technology advances

- Objective # 1: Keep up with national trends of transmission of documentation.
- Objective # 2: Continue to accept educational continuing education units electronically.
- Objective # 3: Accept online applications and online renewal applications.
- Objective # 4: Support electronic document storage.

#### Add Goal #11: Determine if fees cover costs

Objective #1: Take a proactive role in the fee analysis.

Staff will amend goals and objectives for the February board packet.

#### Agenda Item 13 - Application Review

The board reviewed two applications.

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ON A MOTION BY KOSTIK, SECONDED BY KENNEDY, APPROVE THE APPLICATIONS FOR LICENSURE FOR PHYSICAL THERAPIST BY CREDENTIAL FOR MIQUEL LANDRON AND PHYSICAL THERAPIST BY EXAM PENDING PASSING OF THE EXAM FOR JOHN GALBREATH. ALL IN FAVOR. NO NAYS, MOTION PASSED

Dr. Farr was not present for this vote.

## Deviated to Agenda Item 15 - Correspondence

No correspondence.

Dr. Farr arrived at 2:40 p.m.

Break at 2:46 p.m. and back on at 3:02 p.m.

All board members were present.

# Agenda Item 16 - Schedule Meetings

February 11-12, 2016 Juneau

October 6-7, 2016 Anchorage

Tentative quasi-judicial noon teleconference dates for October 5th or 12th.

The board discussed Ms. Lind will term out on March 1, 2016. This practice has been to alternate between the professions of physical therapy and occupational therapy for the chair. It is unknown if James will seek reappointment. Valerie's term will end in 2017. Joe Kennedy has the longest term available if the board wants to consider him, he said he would consider accepting the role of chair if the board would like him to. This will be discussed at the next board meeting.

Task: Ms. Lind - Craft letters to:

- FSBPT and CC Sara Chambers to ask for assistance with wording for legislative goals
- Letter to Sara Chambers supporting non-refundable license fee be part of the fee analysis
- Letter to Alex Kay and cc Olga Grimsby regarding course certificate requirements; cc AKPTA

Task: Ms. Robinson - draft of board meeting "news" and staff will post it to the website instead of any board reports to state associations.

# Task: Staff:

- Issue license to approved applicants
- Find out why Ms. Phelps is not getting electronic reimbursement
- Forward adopted regulations to Regulations Specialist
- Forward letters crafted by board members to appointed parties
- Speak with Charles on NBCOT navigator
- Change meeting dates and post schedule on web
- Add link on website to the FY15 annual report

#### Agenda Item 17 - Adjourn Meeting

ON A MOTION BY PHELPS, SECONDED BY KENNEDY TO ADJOURN MEETING. ALL IN FAVOR, NO NAYS.

The Board having no further business to discuss adjourned the meeting at 3:49 p.m.

467	Respectfully Submitted:
468	Connie Pots
469	Connie Petz, Licensing Examiner
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471	Approved:
472	Kathlean Race
473	Kathleen Lind, Chair
474	2/11/16
475	Date