



Alaska Board of Physical Therapy and Occupational Therapy Meeting - Day 2 - October 25, 2024

Alaska Division of Corporations, Business and Professional Licensing
Robert B. Atwood Bldg., 550 W. 7th Ave., Ste. 1535, Anchorage, AK 99501 + Zoom

2024-10-25 09:00 - 2024-10-25 16:30 AKDT

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A. Roll Call

Board members: Tina McLean, Chair Enlow Walker, Secretary Rebecca Dean, Public Member Valerie Phelps Victoria "Tori" Daugherty Jonathan Gates Staff members: Reid Bowman, Program Coordinate 2 Shane Bannarbie, Program Coordinator I Sheri Ryan, Licensing Examiner 3 Guests: Francielle Pineda, NBCOT Assistant Director

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Alaska Board of Physical Therapy and Occupational Therapy Meeting - Day 2 - October 25, 2024

Alaska Division of Corporations, Business and Professional Licensing
Friday, October 25, 2024 at 9:00 AM AKDT to 4:30 PM AKDT

Robert B. Atwood Bldg., 550 W. 7th Ave., Ste. 1535, Anchorage, AK 99501 + Zoom

Meeting Details:

<https://us02web.zoom.us/j/83698033365?pwd=aVRTQzNYMWNvVk85NWywbkxueDFLUT09>

Meeting ID: 836 9803 3365

Passcode: 724448

Call-in: +1 253 205 0468 US

Agenda

1. Call to Order

A. Roll Call

9:00 AM

Board members:

- Tina McLean, Chair
- Enlow Walker, Secretary
- Rebecca Dean, Public Member
- Valerie Phelps
- Victoria "Tori" Daugherty
- Jonathan Gates

Staff members:

- Reid Bowman, Program Coordinate 2
- Shane Bannarbie, Program Coordinator I
- Sheri Ryan, Licensing Examiner 3

Guests: Francielle Pineda, NBCOT Assistant Director

B. Review/Approve Agenda Day 2

9:05 AM

2. NBCOT Update + Q/A

9:10 AM

Presenter: Francielle Pineda, MPA, MS, OTR

Francielle Pineda, MPA, MS, OTR, Assistant Director, External and Regulatory Affairs, NBCOT

3. Renewal vs. Reinstatement - Discussion - Statutory Change and/or Regulation Project 10:10 AM

4. Disciplinary Matrix Project

11:00 AM

See PHY Resources folder - Disciplinary Matrix Project for background information:

- Disciplinary Matrix Guidance from Law
- FSBPT Board Action Guidelines 2018 + 2022
- Other state examples

5. Lunch	12:00 PM
6. Investigative Report Presenter: Chace Evans	1:00 PM
7. Investigative Training Presenter: Chace Evans	1:15 PM
Executive Session required for investigative Training. See executive motion.	
8. Association Update - APTA-AK Presenter: Alec Kay, PT, DMT, OCS, FAAOMPT, ATC	2:15 PM
9. Athletic Trainer Bill - HB 336	2:30 PM
10. AK PT Compact Update	3:00 PM
<ul style="list-style-type: none"> • Data Transfer Set up • Division Regulations Project - Compact Privilege Fees • Elect PT Compact Commission Representative • JP Questionnaire <ul style="list-style-type: none"> ○ https://ptcompact.org/Compact-Privilege-Fee-Jurisprudence-and-Waiver-Table 	
11. Regulation Projects Motions	3:30 PM
<ol style="list-style-type: none"> 1. PT + OT Dry Needling Regulations Project 2. Remove 6-month Post Graduate for Foreign Educated applicant - Internship 3. 12 AAC 54.600 - OT Licensure by Examination and OT Licensure by Credentials 4. Supervised Service Delivery - 12 AAC 54.600(c); 12 AAC 54.100(5)(C) and 12 AAC 54.950(e) - previously 150-hour internship 5. SB74 Regulations Project 6. Examiner Recommendations + Audit + NPTE Testing Prior to 1996 + NBCOT exam not provided by NBCOT 	
12. Election - Vice-Chair Role	4:00 PM
<ul style="list-style-type: none"> • Succession Planning <ul style="list-style-type: none"> ○ Chair ○ Vice Chair ○ Secretary 	
13. Meeting Summary - Action Items	4:15 PM
14. Adjourn	4:30 PM

From: missy.anthony@otptat.ohio.gov

Date: February 21, 2024 at 8:07:21 AM AKST

To: "Rebecca S. Dean" <rsdean@att.net>

Subject: RE: Hello from Alaska and Discussion Question about Ohio Disciplinary Matrix Development

1. Has the Disciplinary Matrix been effective for the Board and Administrator?

THAT DEPENDS ON WHO YOU ASK. HAHA. NOT EVERYONE HAS AN EASY TIME READING THE MATRIX. IT KIND OF DEPENDS ON HOW YOUR BRAIN WORKS. IT IS A VERY VISUAL TOOL. SO IT HAS BEEN VERY HELPFUL FOR SOME OF THE TEAM, CONFUSING FOR OTHERS.

2. Have you made updates since 2021 published document?

I THINK WE HAVE ADDED A FEW NOTES, BUT WE HAVEN'T MADE ANY SUBSTANTIVE CHANGES.

3. Do your Board members use the tool regularly?

IT IS VERY HELPFUL FOR NEW MEMBERS ASSIGNED WITH ENFORCEMENT REVIEW. THEN ONCE THEY GET USED TO THE FLOW, THEY DON'T NEED IT ANYMORE. IT IS ALSO HELPFUL WITH DECIDING COMPLICATED CASES.

4. Does the legal/investigative staff department find the tool consistent with their recommendations?

USUALLY, YES FOR THE INVESTIGATIVE STAFF. OUR ATTORNEYS SOMETIMES DON'T - BUT THAT IS ANOTHER COMPLICATED MATTER.

5. What pearls have you learned or implemented for future success of the Disciplinary Matrix?

I THINK THE DISCIPLINARY MATRIX - SOME VERSION OF IT - IS VERY IMPORTANT TO HELP BRIDGE THE KNOWLEDGE GAP OVER TIME. I THINK MOST OF MY BOARD WOULD AGREE THAT IT IS THE ENFORCEMENT REVIEW PROCESS IS THE HARDEST, MOST FOREIGN THING FOR THEM. THERE IS COMFORT TO BE FOUND IN HAVING A TOOL TO MAKE SURE THINGS LINE UP AND YOU'RE NOT JUST MAKING SOMETHING UP.

-Missy

614-256-8015 – cell

614-466-3474 – office

Updated 7/17/21

Board Action Guidelines Matrix	Type I		Type II		Type III	
	<ul style="list-style-type: none"> •Unintentional error •Licensee believes acting in patient's best interest; no self-serving intent •Honest mistake •Safety not compromised •Little to no intended risk 		<ul style="list-style-type: none"> •Poor judgement demonstrated •Acting in licensee's own best interest •Conscious awareness act is improper •Faulty decision-making is evident •Potentially unsafe choice •Risk believed to be insignificant or justified 		<ul style="list-style-type: none"> • Harmful intent with or without direct harm to the patient including but not limited to: financial, emotional, physical •Acted with recklessness •Disregard for interest of patient or others •Dangerous or unsafe choice •Decision with conscious disregard of substantial and unjustifiable risk to the patient, others, or licensee 	
Grounds for Disciplinary Action	Isolated	Multiple	Isolated	Multiple	Isolated	Multiple
<p>Blue: An offence of failing to act</p> <ul style="list-style-type: none"> -ethics violation -CE completion -documentation/inadequate records; -confidentiality breach -failing to report to the board -failing to supervise; Safety failure Non-sexual boundary violation -expired license practice 	A	B	1 & A	2 & A	2 & A	2 & B
<p>Green: An offense of action– potential for human harm is expected to be primarily financial or ethical</p> <p>Failure to respond/cooperate with the Board</p> <ul style="list-style-type: none"> -cheating on exam -fraud for service -unearned fee profit; - drug screening violation; -other license revocation; -failure to cooperate with investigation; -fraud in practice; - misappropriation of property; -obtaining a license by fraud; - under or over utilization of service for financial gain; - promoting unwarranted treatment for financial gain; - providing unwarranted treatment beyond reasonable benefit - violating board order or laws/rules 	1 & A	2 & A	2 & B	3 & B	3 & B	3 & C
<p>Yellow: An offense of action--potential for harm is expected to be related to clinical issue</p> <ul style="list-style-type: none"> -violate standard of practice; -negligence; -Patient abandonment; -beyond scope of practice; -practice without a license 	1 & B	2 & B	2 & C	3 & C	3 & C	4 & C
<p>Red: An offense of action--implications or consequences of licensee action potentially extend beyond limits of the practice setting</p> <ul style="list-style-type: none"> -diversion of controlled substance; -sexual misconduct; - felony conviction or plea; -narcotic violation; -pt abuse; - practice while incompetent or impaired; -violation of federal or state laws/rules 	2 & C	2 & C	3 & B	3 & C	3 & C	4 & C

Punitive Actions – Step 3		
	Least Severe in Class	Most Severe in Class
Class 1	Conditional denial of a License; Employer notification; Reprimand; Fine	Probation Employer notification Fine
Class 2	Reprimand; Employer notification; Fine; Probation	Suspension Employer notification
Class 3	Fine Employer notification Suspension	Non-disciplinary Voluntary Surrender Voluntary surrender/Simultaneous Revocation Restriction of practice; Employer notification
Class 4	CPEP (practice monitoring) Employer notification; Fine	Summary Suspension Revocation Employer notification

Remedial/Administrative Actions – Step 3		
	Least Severe in Class	Most Severe in Class
Class A	Non-disciplinary Warning Letter CE disciplinary audit Complete CE Personal plan of action	Periodic monitoring Supervised clinical practice Treatment program PROBE CE disciplinary audit Complete CE
Class B	Continuing education Treatment program APTA documentation course	Examination of a fitness to practice PROBE Treatment program Supervised clinical practice
Class C	APTA documentation	Fit for Practice exam

	course APTA ethics course ; PBI	PROBE or equivalent course CPEP Supervised clinical practice
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Mitigating and Aggravating Factors—Step 4

*Aggravating and mitigating circumstances are specific to the individual case, but factors that may influence Board decisions can include such things as (not all-inclusive list):

Mitigating:

- Absence of a prior disciplinary record
- Isolated incident, unlikely to recur, limited violations within the act/episode
- Full and free disclosure to the Board
- Licensee implemented interim rehabilitation or remedial measures on their own- from knowledge of infraction up to prior to Board action
- Absence of adverse impact of misconduct on others
- Absence of willful or reckless misconduct
- Personal circumstances
- Age of the applicant at the time of the conduct
- Factors underlying the conduct
- Remorseful and cooperative
- Self-reporting- prior to a complaint
- Voluntary admission of misconduct-post complaint
- Public confidence in the profession if the applicant is licensed
- Positive social contributions of the applicant since the conduct
- Recency of the conduct
- Evidence of rehabilitation for physical, mental, and chemical dependency health illness
- If other entities are issuing actions (Medicare/Medicaid)

Aggravating:

- Prior disciplinary actions
- A pattern of misconduct
- Multiple violations; violations leading to other areas of violations
- A pattern of escalation
- Obstruction, submission of false statements, false evidence or other deceptive practices during the investigation/disciplinary process
- Refusal to acknowledge wrongful nature of conduct
- Age and vulnerability of the patient
- Willful or reckless misconduct
- Recency of the conduct
- Failure to respond to Board contact
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Notes:

*The Board Actions are simply guidelines. The Board always has final jurisdiction in all disciplinary matters and can modify these recommendations at any time.

**Note that multiple events, recidivism, and harm to the patient are somewhat accounted for in the matrix

***Mitigating and Aggravating Factors should be considered and influence the assessment of the remediation or disciplinary action. The Board may consider the mitigating and aggravating factors and determine whether or not these should influence the severity of the remediation or disciplinary action. Application of mitigating/aggravating factors: Influences the severity of the action (within Class 1-4 and Class A-C) or number of actions applied; the class does not change.

****Historical CE discipline:

Failure to complete the continuing education required for renewal (typically discovered during a ceu audit).

STANDARD CONSENT AGREEMENT TERMS:

◆ Written Reprimand.

◆ Fine to be paid within (60) days of the effective date of the agreement.

Deficient Number of Hours	First Offense Fine Per Hour	Second Offense Fine Per Hour
Deficient up to 8 hours	\$25	\$50
Deficient 9-16 hours	\$50	\$100
Deficient 17-24 hours	\$75	\$150

***The most a PTA will pay is \$50 an hour, as their wages are less, and they only require 12 hours. Deficient up to 4: \$25; Deficient 5 and up: \$50. FOR SECOND OFFENSE, FINES ARE DOUBLED.**

◆ Complete the number of continuing education hours they was deficient within thirty (30) days of the consent agreement effective date; proof of CE completion must be sent to the Board within forty-five (45) days of the consent agreement effective date. These hours shall not be counted toward his/her next renewal.

◆ Agrees to be audit for continuing education the next time they renews their license.

◆ Develop a Personal Plan of Action to ensure future compliance with the continuing education requirements for a physical therapist or physical therapist assistant license. This plan shall address how they will ensure that they obtain the required number of CEUs for future renewals and describe a system to monitor the hours as they are completed. Submit plan within forty-five (45) days of this consent agreement effective date. They must submit quarterly progress updates of his/her continuing education activities.

◆ Provide a copy of the consent agreement to any current and future employers during the term of the agreement. Employer must send written notification to the Enforcement Division indicating that they were provided a copy of the agreement. The licensee shall ensure that this notification by his/her employer is received within (30) days of the effective date of the agreement.

*****DO NOT DISCIPLINE for 1st offense; SEND NON-DISCIPLINARY WARNING LETTER (must make up ceu, and advise them they will be audited next renewal:**

-PT's deficient 2 hours or less

-PTA's deficient 1 hour or less

-PT's & PTA's deficient 1 hour or less for a 1-year renewal

Place a copy of the warning letter in their licensure file.

*****ADD these individuals to the next CE audit.**

Steps to Use Board Action Guidelines:

Step 1: Determine Grounds for Disciplinary Action (color category)

Step 2: Determine if type I, type II, or type III infraction

Step 3: Use matrix to determine the action. (Assign class of punitive and/or remedial action)

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Step 5: Repeat with any additional ground for disciplinary action

Step 6: Determine final punitive and/or remedial actions to be taken. Report to NPDB/ELDD

Term Definitions

Revocation – termination of license

Suspension – temporarily unable to use license for a period of time

Probation – period of time where license is subject to board terms and monitoring

Fine – monetary charges due to violation

Corrective Action Courses – courses assigned to teach, correct, and prevent further violations

Written Reprimand – to document wrongful actions on record

Ohio Template to Modify for Alaska Use

Alaska Board Action Guidelines Matrix	Type I		Type II		Type III	
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Step 3: Use matrix to determine the action. (Assign class of punitive and/or remedial action)

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Probation – period of time where license is subject to board terms and monitoring

Fine – monetary charges due to violation

Corrective Action Courses – courses assigned to teach, correct, and prevent further violations

Written Reprimand – to document wrongful actions on record



MEMORANDUM

DATE: October 16, 2024
TO: Board of Physical Therapy & Occupational Therapy
THRU: Erika Prieksat, Chief Investigator
FROM: Jasmin Bautista, Investigator
RE: Investigative Report for the October 25, 2024 Meeting

The following information was compiled as an investigative report to the Board for the period of February 02, 2024 thru October 16, 2024; this report includes cases, complaints, and intake matters handled since the last report.

Matters opened by the Paralegals in Anchorage and Juneau, regarding continuing education audits and license action resulting from those matters are covered in this report.

OPEN - 2

<u>Case Number</u>	<u>Violation Type</u>	<u>Case Status</u>	<u>Status Date</u>
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OCCUPATIONAL THERAPIST

2024-000748	License Application Review/Referral	Complaint	09/20/2024
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PHYSICAL THERAPIST

2024-000881	Violating professional ethics	Intake	09/18/2024
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Closed - 12

<u>Case #</u>	<u>Violation Type</u>	<u>Case Status</u>	<u>Closed</u>	<u>Closure</u>
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OCCUPATIONAL THERAPIST

2024-000565	License Application Review/Referral	Closed-Intake	06/25/2024	Review Complete
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**OCCUPATIONAL THERAPY
ASSISTANT**

2024-000628	License Application Review/Referral	Closed-Intake	07/15/2024	Review Complete
2023-001050	Continuing education	Closed-Complaint	02/12/2024	No Action - No Violation

PHYSICAL THERAPIST

2024-000406	Unethical conduct	Closed-Intake	06/03/2024	Incomplete Complaint
2024-000474	License Application Review/Referral	Closed-Intake	06/20/2024	Review Complete
2024-000559	License Application Review/Referral	Closed-Intake	06/20/2024	Review Complete
2023-001114	Continuing education	Closed-Complaint	03/27/2024	No Action - No Violation
2024-000455	Fraud or misrepresentation	Closed-Complaint	08/26/2024	No Action - No Violation
2024-000465	Unprofessional conduct	Closed-Complaint	08/12/2024	No Action - No Violation
2023-000727	Continuing education	Closed-Investigation	03/21/2024	No Action - No Violation
2024-000715	Unlicensed practice or activity	Closed-Investigation	09/10/2024	Advisement Letter

PHYSICAL THERAPY ASSISTANT

2024-000306	License Application Problem	Closed-Intake	04/03/2024	Application Withdrawn
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END OF REPORT

EXECUTIVE SESSION MOTION TEMPLATE

Authority

Only topics authorized in the list below can be discussed in executive session.

AS 44.62.310. Government meetings public.

(c) The following subject may be considered in an executive session:

- (1) matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the public entity;
- (2) subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion;
- (3) matters which by law, municipal charter, or ordinance are required to be confidential;
- (4) matters involving consideration of government records that by law are not subject to public disclosure.

Motion Wording

Use this script to craft the motion to enter executive session by selecting one item from the statutory citation list and then adding all the people who the board would like to include. When meeting with an Administrative Law Judge, only the board can be present. The board member making this motion will read the parts in **bold** on the record.

"In accordance with the provisions of Alaska Statute 44.62.310 (c), I move that the Alaska State Physical Therapy and Occupational Therapy Board go into executive session for the purpose of discussing

Select one item from this list:

- matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the public entity.**
- subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion.**
- matters which by law, municipal charter, or ordinance are required to be confidential.**
- matters involving consideration of government records that by law are not subject to public disclosure.**

If applicable, select who should be included in the executive session with the board and include them in the motion:

- Board staff**
- The board's attorney**
- The applicant**
- _____

Off record: _____

On record: _____

to remain during session."

"In accordance with the provisions of Alaska Statute 44.62.310(c), I, [state your name], move that the Alaska State Physical Therapy and Occupational Therapy Board go into executive session for the purpose of discussing matters which by law, municipal charter, or ordinance are required to be confidential. Board staff Jasmin Bautista, Jennifer Summers, Sheri Ryan, Shane Bannarbie and Reid Bowman to remain during session."

HOUSE BILL NO. 336

IN THE LEGISLATURE OF THE STATE OF ALASKA
THIRTY-THIRD LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE FIELDS

Introduced: 2/20/24

Referred: Health and Social Services, Labor and Commerce

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to athletic trainers; and providing for an effective date."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 * **Section 1.** AS 08.07.030(b) is amended to read:

4 (b) An athletic trainer shall immediately refer **an individual** [AN ATHLETE]
5 to an appropriate licensed health care professional if the athletic trainer determines
6 that athletic training is contraindicated or the symptoms or conditions present require
7 treatment outside the scope of practice of an athletic trainer.

8 * **Sec. 2.** AS 08.07.030(c) is amended to read:

9 (c) The practice of an athletic trainer includes

10 (1) the treatment of **an individual to prevent** [AN ATHLETE FOR]
11 an [ATHLETIC] injury, [OR] illness, **or condition** [PREVENTION];

12 (2) the clinical evaluation, **diagnosis**, and assessment of **an individual**
13 [AN ATHLETE] for an [ATHLETIC] injury, [OR] illness, **or condition**
14 [SUSTAINED OR EXACERBATED WHILE PARTICIPATING IN AN ATHLETIC
15 OR SPORT-RELATED EXERCISE OR ACTIVITY];

1 (3) the immediate care and treatment of **an individual** [AN
2 ATHLETE] for an [ATHLETIC] injury, [OR] illness, **or condition** [SUSTAINED OR
3 EXACERBATED WHILE PARTICIPATING IN AN ATHLETIC OR SPORT-
4 RELATED EXERCISE OR ACTIVITY]; and

5 (4) the rehabilitation and reconditioning of **an individual** [AN
6 ATHLETE] from an [ATHLETIC] injury, [OR] illness, **or condition** [SUSTAINED
7 OR EXACERBATED WHILE PARTICIPATING IN AN ATHLETIC OR SPORT-
8 RELATED EXERCISE OR ACTIVITY].

9 * **Sec. 3.** AS 08.07.090(4) is amended to read:

10 (4) "athletic training" means injury and illness prevention and the
11 evaluation, **diagnosis**, assessment, immediate care, treatment, rehabilitation, and
12 reconditioning of an [ATHLETIC] injury, [OR] illness, **or condition**.

13 * **Sec. 4.** AS 08.07.090(1) and 08.07.090(2) are repealed.

14 * **Sec. 5.** This Act takes effect immediately under AS 01.10.070(c).

Athletic training testimony for PT legislative committee 5/9/2024

Ms. McLean and Dr. Walker

I would like to speak to you about the letter and opposition to HB 336 which she wrote on behalf of the PT OT board. I think that it is ill-informed and that you should reconsider it.

The existing statutes describe athletic trainers taking care of athletes who have been injured in an athletic environment. Your letter appears to object to athletic trainers providing care for anyone who is not a traditional athlete. For decades, in Alaska and internationally, the words "athlete" and "athletic environment" have been broadly defined. House bill 336 is an attempt to edit the language in the existing statutes so as to avoid any confusion about the breadth of care which athletic trainers provide.

I am an orthopedic surgeon with fellowship training in sports medicine. I have been working with athletic trainers literally every day for the last 45 years. Much of that time has been in traditional athletic settings: Division 1 2 and 3 universities and high schools. But the greater part of the 45 years has been supervising athletic trainers as they cared for patients in hospitals and medical offices, cared for workers at their place of work, and cared for individuals injured at work and at play in Alaska: Smoke jumpers, firefighters, state troopers, Gold miners, oilfield workers, military troops, commercial fisherman, loggers, hikers, bicyclist, kayaker's, dancers. The sports medicine revolution over the last 45 years has been based on the realization that everyone benefits from the principles of care and rehabilitation that we found worked so well for traditional athletes. So, for at least 40 years, athletic trainers in Alaska have been caring for individuals who are traditional athletes but also caring for individuals who are industrial athletes, recreational athletes, and anyone involved in any level of physical performance. That is what their Masters level training prepares athletic trainers to do. And it works well, because, as you know, the principles of evaluating and treating an injured shoulder, for example in a college baseball player are the same as in a Caribou Hunter.

Repeatedly, in your letter, you state that the public safety is threatened because house bill 336 would make it legal for an athletic trainer to treat any person regardless of age, the nature of the condition, or the treatment setting. It is important that you understand that existing statutes and regulations put no restriction on age, the nature of the condition, or the treatment setting when it comes to the practice of athletic training. And house bill 336 makes no change to that language. Furthermore, the Public Safety is respected and preserved to a greater extent in the statutes regarding athletic training than it is in the statutes pertaining to other health professions.

By statute, athletic trainers can only work under the supervision of the physician. Athletic trainers only see individuals who are referred by the physician. The care and the individual's progress are monitored by the physician. We write a memorandum of understanding that describes how we will work together. We write standing orders and treatment protocols that specify what I authorize and expect the athletic trainer to do in response to each medical challenge, and when I expect to be notified of medical progress or difficulty. We rehearse emergency procedures. In practice, we are often side-by-side, and there is constant informal exchange of information. It is a tremendously collaborative team approach to medicine. The constant direction and supervision of care by the physician represents a high level of safeguard for the public. The statutes do not provide the same level of safeguards for physical therapists.

Frankly, the collaborative team approach to caring for an individual is even better when we can include other specialists, like physical therapist, on the team. But in most Alaskan communities, specialist do not exist or are unavailable for weeks. It is 3-4 weeks before one can get a PT appointment in Fairbanks, for example. When an individual needs help now, the physician marshals whatever resources that the community has to offer. If the teenager injured his shoulder harpooning the bowhead whale and no physical therapist is available, but the high school athletic trainer is, then that is what the physician will arrange and that is what the Statutes should allow. When the commercial fisherman sprains his ankle and the King Salmon opening is tomorrow, then he needs protection that will fit inside his rubber boot and allow him to return to work. He needs an expert ankle tape job by an Athletic Trainer. The Statutes should allow the Physician to make that prescription. These are industrial athletes, injured while performing athletic activity.

Your letter objected to the word "diagnosis" in HB 336. Honestly, it seems like a poor choice to me as well. I understand that the athletic trainers chose to use this word because the certified curriculum for all of the Masters athletic training programs includes multiple courses in evaluation and diagnosis. In addition, the athletic trainers model practice ACT includes the word diagnosis. But traditionally, in Alaska, the medical board has held that only physicians may diagnose. Thus, it is a sufficiently contentious word that I personally agree it should not be included in any revision of the statutes. But more importantly, understand the athletic trainers' intent. All healthcare providers evaluate the individual for whom they are caring within the limits of their scope of practice. Having performed that evaluation, they come to conclusions which guide their treatment. Those conclusions might be called an assessment or diagnosis. The words "evaluation" and "assessment" are already part of the statutes, and it is sufficient to make no change in that. It was not the intent of the athletic trainers to propose that they should make medical diagnoses outside of their scope of practice. It was unnecessary for you to act as if that was their intent.

Your letter was critical of the transition that athletic training curriculum nationally have made from bachelors level to masters level programs. Of course physical therapy has also undergone a similar transition from bachelors and masters level training to doctorate level programs. These are useful evolutions in both professions and it is appropriate for you to applaud, not criticize, these changes. Your letter denigrates the value of Athletic Training education and incompletely describes its breadth. Your letter states that the absence of a state regulatory board for athletic trainers is evidence of insufficient evolution of the profession to accomplish Public Safety. You should be aware that it was the state's choice not to create a regulatory Board because the BOC already performs that regulatory function nationally. None of these complaints on your part has any relevance to the wording changes proposed in HB 336.

In a state of diverse medical needs and practice situations, the laws need to broadly define the individuals for whom athletic trainers provide care, and broadly define the care that athletic trainers can provide, so that the law maximizes access to the care which Alaskans need. HB 336 is an attempt to do simply that. This is especially safe for the public because it is all based on the referral from and the constant supervision by a physician.

Thank you for the opportunity to speak with you.



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Commerce, Community,
and Economic Development

BOARD OF PHYSICAL THERAPY AND
OCCUPATIONAL THERAPY

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April 4, 2024

The Honorable Mike Prax
Chair, House Health and Social Services Committee
Alaska State Capitol, Room 108
Juneau, Alaska 99801

RE: Opposition for HB 336 – Athletic Trainer Scope of Practice

Dear Chair Prax,

The Board of Physical Therapy and Occupational Therapy (PTOT board) has become aware of HB 336 related to the change in the scope of practice for athletic trainers.

In the interest of public safety, the PTOT board would like to express our concerns and opposition to HB 336 as it is currently written. Particularly, we have concerns related to the deletion of the words “[AN ATHLETE]” and the insertion of the words “**an individual**” in Section 1.AS 08.07.030(b). This change would make it legal for an athletic trainer to treat any person regardless of age, the nature of the condition or the treatment setting.

For the same reasons, the PTOT board does not support the bill as written in Sec. 2 AS 08.07.030 to amend the practice of an athletic trainer by deleting the word(s) “[AN ATHLETE]” and “[ATHLETIC]” to describe an injury, or the inclusion of the words “**or condition**” while deleting the words “[SUSTAINED OR EXACERBATED WHILE PARTICIPATING IN AN ATHLETIC OR SPORT RELATED EXERCISE OR ACTIVITY].” Again, this change would make it legal for an athletic trainer to treat any person regardless of age, the nature of the condition or the treatment setting.

The PTOT board does not support the bill as written in Sec. 3. AS 08.07.090(4) to be amended to include the use of the word “**diagnosis**” while deleting the word(s) [ATHLETIC] and [OR] in order to allow for treatment and diagnosis of any injury, illness, or condition. Not only does this change make it legal for an athletic trainer to treat any person regardless of age, the nature of the condition or the treatment setting, it makes it legal for the athletic trainer to diagnose any condition, illness, or injury regardless of the cause.

The Board of PTOT does not believe that the level of education of an athletic trainer as evidenced in the curriculum of several prominent universities (College of St Scholastica, Texas

Tech University, and the University of Alabama) supports the broadening of the scope of practice in a manner as to make it legal to treat populations beyond the athlete nor does it support the ability to make a medical diagnosis of any condition.

While the board acknowledges the depth of knowledge of an athletic trainer and their integral role as a valuable member of today's healthcare team, many athletic trainer programs only recently began upgrading their curricula to a master level degree with many remaining bachelor's degree programs throughout the United States. For example, most programs are not educating athletic trainers specifically in pediatric, geriatric, or chronic pain populations.

All athletic training programs including, master's programs, continue to emphasize treatment and management of athletic populations as compared to other professions with educational backgrounds allowing for practice privileges to treat individuals across the lifespan.

According to the Alaska.gov website for professional licenses there are fifty-two licensed athletic trainers in the state for which no regulatory board exists. In Alaska, the profession has not evolved to allow for public safety in the broadening of the scope of practice as HB 336 is currently written.

Thank you for your consideration of our concerns.

Sincerely,

Alaska Board of Physical Therapy and Occupational Therapy



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Commerce, Community,
and Economic Development

BOARD OF PHYSICAL THERAPY AND
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May 10, 2024

The Honorable Representative Jesse Sumner
Chair, House Labor & Commerce
State Capitol Room 421
Juneau, AK 99801

The Honorable Representative Justin Ruffridge
Vice-Chair, House Labor & Commerce
State Capital Room 104
Juneau, AK 99801

RE: HB 336 – Athletic Trainer Scope of Practice Language Change Recommendations

Dear Chair Sumner and Vice Chair Ruffridge,

The Alaska Board of Physical Therapy and Occupational Therapy (PTOT Board) is dedicated to assuring Alaskans receive warranted and much deserved healthcare from a broad spectrum of healthcare providers with overlapping skill sets and expertise.

We recently submitted a letter of opposition to SB 336 due to a broadened scope of practice allowance as the proposed bill is written. We continue to stand by our reasoning for that opposition.

In further discussions with stakeholders in public testimony by Dr. Cary Keller, an orthopedic surgeon, from Fairbanks, the PTOT Board, feels there is opportunity to amend the language of the bill to meet the needs of the people of Alaska in a safe and appropriate way through the simple revision of the definition of athletic training in the current statutes any necessary change to any other section of the bill as follows:

Sec. 08.07.090. Definitions. In this chapter,

(1) "athlete" means an individual who participates in an athletic or sport-related exercise or activity, **including but not limited to,** interscholastic, intercollegiate, intramural, semiprofessional, professional sports activities, **recreational sports activities, and occupations in which participation requires elevated fitness levels and physical capabilities.**

(2) "athletic injury or illness" means an injury [OR], illness **or condition** sustained or exacerbated through participation in an activity, exercise, recreation, sport, [OR] game, **or employment** requiring physical strength, range of motion, flexibility, body awareness and control, speed, stamina, or agility of a type sustained in association with sports participation as part of an educational institution, professional sports [CLUB], amateur sports [CLUB], recreational sports [CLUB], **employment** or organization;

New Text Underlined [DELETED TEXT BRACKETED]

With these suggested language changes to Sec 08.07.090 above, and *no changes to Sec. 1. AS 08.07.030(b), Sec 2. AS 08.07.030 (c) or Sec 3. AS 08.07.090 (4), the PTOT Board would offer our support of the bill.*

Thank you for your consideration of this bill with recommended amendments to assist in accomplishing the intent of the bill which as testimony has supported is allowance of the skills of the athletic trainer to be offered to a broader population of individuals within their intended scope of practice and skill sets.

Sincerely,

The Alaska Board of Physical Therapy and Occupational Therapy

Chapter 54. State Physical Therapy and Occupational Therapy Board.

(Words in **boldface and underlined** indicate language being added; words [CAPITALIZED AND BRACKETED] indicate language being deleted.)

12 AAC 54.is amended by adding a new section to Article 1:

12 AAC 54.505 Standards of practice for dry needling for physical therapists. (a) To perform dry needling, a licensed physical therapist shall

(1) be able to demonstrate to the board that the physical therapist has completed ~~graduate or~~ post graduate training in dry needling that must meet either the American Physical Therapy Association (APTA) ~~Guidelines~~, or the Federation of State Boards of Physical Therapists (FSBPT) ~~Standards~~ or other state physical therapy boards Guidelines and must include

(A) didactic instructions and courses in ~~indications~~, contraindications, emergency preparedness and response, potential risks, proper hygiene, proper use and disposal of needles by current relevant standards, and appropriate selection of patients;

(B) a written examination; and

(C) supervised, face-to-face, hands-on training with patients and a practical examination;

(2) perform a physical therapy examination of the patient and provide a diagnosis for each technique and physical therapy session; and

(3) obtain informed consent from the patient or the patient's representative as set out in Principle 2 of the *State Physical Therapy and Occupational Therapy Board Principles of Practice*, dated March 2015. The informed consent shall include the risks and benefits of the dry needling technique, and the patient's understanding and acceptance of the technique.

Commented [SR1]: <https://www.apta.org/for-educators/quick-reference-guide-continuing-education-course-quality-standards>

<https://www.apta.org/siteassets/pdfs/policies/professional-development-lifelong-learning.pdf>

Commented [SR2]: <https://www.fsbpt.org/Free-Resources/Continuing-Competence/Continuing-Competence-Activity-Standards>

Commented [SR3]: The board added the ability for dry needling courses to be approved according to other state licensing board criteria so as not to limit availability on 03-19-2024

Commented [SR4]: https://www.commerce.alaska.gov/web/Portals/5/pub/PHY_PrinciplesPractice.pdf

~~(b) A licensed physical therapist must perform dry needling in a manner consistent with generally accepted standards of practice, including the relevant standards of the Center for Disease Control and Prevention, and Occupational Safety and Health Administration blood borne pathogen standards as per 29 CFR 1910.1030.~~

Commented [SR5]: <https://www.osha.gov/laws-regs/interlinking/standards/1910.1030>

(c) A licensed physical therapist performing dry needling must be able to provide written documentation, upon request by the board, which substantiates appropriate training as required by this section. Failure to provide written documentation may result in disciplinary action.

(d) A licensed physical therapist shall not perform dry needling beyond the scope of the highest level of the physical therapist's training.

~~(e) For the purposes of this section, "dry needling" means a skilled technique performed by an occupational physical therapist using a mechanical device or filiform needles to penetrate the skin or underlying tissues to affect a change in a patient's body structure and functions for the evaluation and management of neuromusculoskeletal conditions, pain, movement impairments, and disability.~~

12 AAC 54.is amended by adding a new section to Article 5:

12 AAC 54.805 Scope of practice relating to dry needling for occupational therapists. (a) To perform dry needling, a licensed occupational therapist shall

(1) have obtained a graduate or post graduate didactic education specializing in dry needling that must include:

(A) training courses approved by the American Occupational Therapy Association (AOTA) and designated as AOTA approved provider programs in indications, contraindications, emergency preparedness and response, potential risks,

proper hygiene, proper use and disposal of needles by current relevant standards, and appropriate selection of patients;

(B) a written examination; and

(C) supervised, face-to-face, hands-on training with patients and a practical examination;

(2) perform an occupational therapy examination of the patient and provide a diagnosis for each technique and occupational therapy session; and

(3) obtain informed consent from the patient or the patient's representative as set out in Principle 2 of the *State Physical Therapy and Occupational Therapy Board Principles of Practice*, dated March 2015. The informed consent shall include the risks and benefits of the dry needling technique, and the patient's understanding and acceptance of the technique.

~~(b) A licensed occupational therapist must perform dry needling in a manner consistent with generally accepted standards of practice, including the relevant standards of the Center for Disease Control and Prevention, and Occupational Safety and Health Administration blood borne pathogen standards as per 29 CFR 1910.1030.~~

(c) A licensed occupational therapist performing dry needling must be able to provide written documentation, upon request by the board, which substantiates appropriate training as required by this section. Failure to provide written documentation may result in disciplinary action.

(d) A licensed occupational therapist shall not perform dry needling beyond the scope of the highest level of the occupational therapist's training.

~~(e) For the purposes of this section, "dry needling" means a skilled technique performed by an occupational therapist using a mechanical device or filiform needles to penetrate the skin~~

Commented [SR6]:

https://www.commerce.alaska.gov/web/Portals/5/pub/PHY_PrinciplesPractice.pdf

Commented [SR7]: <https://www.osha.gov/laws-regs/interlinking/standards/1910.1030>

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~~or underlying tissues to affect a change in a patient's body structure and functions for the evaluation and management of neuromusculoskeletal conditions, pain, movement impairments, and disability.~~

DRAFT