

**STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY
AND ECONOMIC DEVELOPMENT
BOARD OF PHYSICAL THERAPY AND OCCUPATIONAL THERAPY**

**Meeting Minutes
September 14-15, 2009**

By authority of AS 08.01.070(2) and in compliance with the provisions of AS 44.62, Article 6, a scheduled meeting of the State Physical Therapy and Occupational Therapy Board was held on September 14-15, at 1850 Hoselton Rd., Fairbanks, AK.

Monday September 14, 2009

Agenda Item 1 Call to Order/Roll Call

The meeting was called to order by Mary Ann Paul, PT, and Chair at 9:03 a.m. and the board welcomed new board member Dr. Darin Bell.

Those present, constituting a quorum of the Board, were:

Mary Ann Paul, PT, Chair
Jay McDiarmid, PT, Secretary
Gary Burleson, Public Member
Jo Boehme, OT/L
Kathleen Lind, OT
Darin Bell, MD
Joyce Barnett, PT

Staff present: Connie Petz, Licensing Examiner

Public: Sundi Hondl

Agenda Item 2 Review/Approve Agenda

Add to agenda under item 18: Discuss how the board reviews/approves licensing applications and discuss how the board determines who will be the next chair of the board, liaisons, and dates of next meeting.

Add to agenda, before agenda item #17: Time for Kathleen to share the data she had collected related to occupational therapy educators and how they can meet CE requirements for licensure.

In order to allow time for added agenda discussion time it was agreed by all board members to change meeting to start at 8:00 a.m. on Tuesday, no decisions will be made, discussion only.

Jo Boehme made a MOTION to approve agenda as amended, seconded by Gary Burleson. All in favor – No nays.

Agenda Item 3 Ethics Reporting

Joyce Barnett asked to refrain from the agenda investigation matter due to a conflict of interest. No ethics violations to report from rest of board or staff.

The State Ethics video or Self-Guided Ethics Training can be viewed from the web:
<http://www.law.state.ak.us/doclibrary/ethics.html>

Agenda Item 4 Review/Approve Minutes

April 16-17, 2009 minutes: Staff asked the Board to state on the record by re-wording the vote for both applicants MAURI and SILVA from the April board meeting by correcting the use of the word “deny” to the word “pending” for both Mauri and Silva.

Jo Boehme made a MOTION foreign trained applications for Manual Mauri and Maria Silva as approved for internship pending educational requirements being met. Seconded by Gary Burleson. All in favor – No nays.

Minutes to be amended as discussed for typos, grammar and write complete names with first and last (Heather Agustines, Elaine Armantrout, Senator Joe Paskvan and Senator Joe Thomas). Expand the description of the ethics in billing seminar course, staff to complete the thought for clarity of reading in the minutes.

Joyce Barnett made a MOTION to approve minutes as amended for the April 16-17, 2009 board meeting, seconded by Gary Burleson. All in favor – No nays.

July 9, 2009 Teleconference: Staff to amend for typos, grammar, correct spelling of the word ‘Role’ call to ‘Roll’ call. Change wording for Gary from “motion” to “moved” under agenda item #10. Correct wording for speech pathologists in relation to licensed and non-licensed speech implementers.

Joyce Barnett made a MOTION to approve minutes as amended, for the July 9, 2009 teleconference, seconded by Kathleen Lind. All in favor – No nays.

Agenda Item 5 Public Comment

Public present: Sundi Hondl, Judy Bogard and Pauline Bennett-Gannon

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The board received written comments from Gretchen Chamberlain; President of the Alaska Occupational Therapy Association and Mary Melissa Robinson both in support of the repeal of AS 08-841-150 (b) and (c) related to "Aides in schools".

Occupational Therapist Pauline Bennett-Gannon spoke to the board on the issue of how occupational therapy is being practiced in the schools. Pauline believes there is pressure being put on all Alaska schools to look for more federal funding from Medicaid. She is concerned there is potential for more abuse of the system.

Pauline wanted to point out teachers and other educational support groups are not able to use occupational therapy skills because they do not have the training. The problems come when some of the same modalities or same outcomes may be shared by educators and therapists.

Pauline said the nature of the federal public law that put therapists in the schools says that the related services in schools is supposed to provide something different than what the educational system can provide. This law came about in the 70's when they took special need students out of private homes or school situations and placed those students in the public schools. Public school teachers did not know how to work with students with special needs so occupational and physical therapists began working in the schools.

Pauline explained the department of education doesn't allow a type C certificate holder (therapist) to work as an educator – as they are not trained in the field of education. One thing a type C certification says is they are not going to be assigned or hired to take on the education of a classroom as they do not have the skills to do that. In the same way you can't expect a Type A certificate holder (regular teacher or special education teacher) to say that they are providing therapy services because they do not have the same training and background as an occupational therapist.

Pauline said many times in working with students and trying to get the best for them and following another part of the federal law that says we will try to provide the free public education within their least restrictive environment, we may be asking them (teachers) to practice something we (therapists) have started with the student in a program within a school day. This "practice" can occur when the therapist is not even in the building. This plan is part of following an evaluation or may be part of an individual education plan (IEP).

Pauline said one of the problems is how it is written into their educational plan. If it's written that the intervention is occupational therapy or physical therapy then it lends itself to abuse because if a 3rd party biller is billing for Medicaid services, they are not going to know any difference as they will create the bill from the notes on the plan. She said in their school district they are trying to make sure any "types" of programs are labeled for the type of goal outcome they are looking for. For instance; fine motor program, lower extremity, upper extremity, exercise program etc... and it may be supervised by the therapist on an intermittent basis but it is not called "therapy". Pauline said they see IEP's from other districts and from other states which do not differentiate. There is

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potential for a parent and other people in an IEP meeting to think they are actually receiving therapy when they are not.

Pauline said it is appropriate that those students do have the opportunity to practice their skills, because we all know the more we practice, the sooner we make progress. However, in her opinion this should not be an exception to our laws. To her, practice is no different than doing your homework or having a tutor to help you. It is not therapy; she believes referring to additional opportunities to practice as “occupational therapy” is very erroneous and should not be part of the bill.

Gary responded to Pauline advising that the board is being approached from many directions as other parties have a differing viewpoint on how to address the proposed statute change. He asked Pauline what ideas she might have on how to address the need for our state; what is the solution and how do we meet the students need for the therapy?

Gary explained the board recognizes there is a shortage of therapists and lack of funding to meet the students needs for therapists. The board is challenged with the proposed statute change and trying to understand how to protect the public. Pauline said at a past OT association meeting a subgroup of occupational therapists discussed ways to “define” the actual practice of occupational therapy versus programs carried out by any teacher / teacher aide in the classroom. If this can be defined for everyone it may solve the problem.

Jo asked Pauline if she would research and provide the board a time line which identifies at what point this exemption was added in statute, could she provide a history for the board of how and why the law changed regarding the exemption for aides in the schools.

Off the record 10:00 a.m. back on the record at 10:11 a.m.; Agenda Item 6 moved to 11:00 a.m. to allow for agenda item 7 at this time.

Agenda Item 7 Discussion of proposed statute changes and correspondence to/from: Larry LeDoux and Teresa Holt

Teresa Holt called in to the meeting at 10:00 a.m. and explained how special education funding is provided to the state by the federal government. It is not a per service kind of funding. The federal government asks the state if they would be willing to provide education to students ages 3 thru 22 who would be eligible for special education. If the state agrees then each district also makes that same agreement and they get a percent of funding. Funding is not based on how many students they have.

The Alaska funding formula is complex. Teresa provided a simple version for the board. For every student that is in a district, regular education or special education, the district gets a certain amount of funding for the students. They get an additional percent of money for special education students. Then they get an additional amount of funding for students who are “intensive needs” and that is actually the only amount of funding that is “per student”. The funding all goes into the general education budget in each district.

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Districts often report that the money they have to spend to support special education exceeds the amount of money they actually receive from the state for special education.

A couple of districts in Alaska recently started “billing” for Medicaid purposes and they are allowed to. This includes occupational therapy, speech therapy and a couple of other services. A small number of students in districts are getting federal funding and also billing Medicaid for services (as allowed by federal law).

The board asked Ms. Holt if they were billing per treatment or if they are billing for a lump sum to Medicaid. Ms. Holt said under Medicaid billing you have to bill “per time spent” with the student. Mary Ann asked if districts were calling a 15 or 20 minute time that a teacher’s aide or motor aide is working with the student as occupational therapy and billing as such. Teresa said she did not know how it actually bills out. Jo told Teresa that it is how the billing is occurring that is the boards’ specific concern and the board would appreciate clarification.

Teresa told Jo that the board would need to contact the Department of Education or one of the districts that currently bill for Medicaid for services for the answer. Teresa said at this point it is a minimal amount of funding in Alaska point. Jo asked which districts were currently billing Medicaid, was it Juneau and Kenai?

Arthur Arnold, Director of Special Education with Education and Early Development (EED) and Christian Wilkens, Special Education Program Manager with EED joined via teleconference at 10:18 a.m.

Mary Ann asked Mr. Arnold how Medicaid was being billed. If a child is seen in a classroom by someone who is NOT an occupational therapist or occupational therapist assistant, for a 15 minute treatment, how is that billed to Medicaid? Is it billed as occupational therapy? Art said he doubted that they would bill that way but he could not answer the question, he said we would need to contact the superintendent. In order for a district to bill Medicaid they need to be an enrolled provider. The division of medical assistance should have a list of districts which are enrolled as providers of Medicaid services and the board should be able to find the answer from them.

Joyce asked Mr. Arnold how the federal funding is passed on to the state for those children deemed to have intensive needs and how the intensive level is determined that allows federal funding? Is one component of that whether or not that child has occupational or physical therapy services of a certain number hours of occupational therapy or physical therapy on their IEP? Art said there is no federal funding that provides for intensive service. The intensive services are funded per state law 4 AAC 52.700. This law requires students meet a set of specific criteria, one requirement it that the student meet “more than one related service”. It could be OT or PT as one of those services. Joyce asked Art if this criterion is met, does this allow extra state money to go to the district in which the student is housed and Art said that is correct. Joyce asked if the level of service could creep up to a level that would have the district receive some money from the state. Can an intensive need be for the student who has a learning

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disability, special education resource help and then has the addition of occupational therapy service on their IEP, can that level of service produce the extra state funding provided to a district? She wanted to understand how these sorts of children generate state funds for the districts?

Art explained 4 AAC 52.700 was lengthy and laid out requirements to qualify for the state funding. This law is extensive as it has significant and specific criteria intended for the children who have the most substantial needs.

Joyce asked how the proposed statute change would affect life as it is for children in the rural school districts. An Occupational Therapist may visit a rural school district 3 or 4 times a year now and the required practice activities would be carried out by a teacher in that school. As that sort of carry over skills practice or carry out of program recommendation is expected and the therapist would encourage these be conducted in the classroom. The statute change would not affect this sort of practice. How does the EED think this sort of carryover would be any different if this statute changes?

Teresa said concern of the Governors Councils is based on what they have heard. That being, if the statute changes, teachers and teachers assistants would not be able to continue to perform these services and this would have a detrimental impact on the students with disabilities and those who need the special services.

Teresa asked the board what the statute change would look like and how this change would be implemented. Mary Ann explained the goal is to make sure everyone understands that occupational therapists and occupational therapy assistants “practice occupational therapy” and physical therapists and physical therapy assistants “practice physical therapy” and that no other practice by any other non licensed person is called “occupational therapy or physical therapy services”. This is what the board envisions, because the statute as it is currently written and in that particular aspect, there is an exemption to that rule in the school system and that is what the board wants to change.

The board believes it should be across the board no matter where you are; private practice, acute care or in the school district; that it is the physical therapist who supervises a physical therapy assistant and that is called physical therapy and that an occupational therapist supervises an occupational therapy assistant and that is called occupational therapy.

Art said there are 18000 special education students in the state of Alaska. Of this number 4300 of them could utilize physical therapy and occupational therapy services. There are 9 of 13 categories with eligibility for special education, they are: multiple disabilities, autism, traumatic brain injury, developmental disabilities, blind/deafness, orthopedic impairment, visual impairment, hearing impairment, and mental retardation (now called cognitive impairment). This group of children can benefit from the occupational therapy and physical therapy services working on fine motor/gross motor skills and activities of daily living.

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Art said he understands the boards concern that the person who provides the service is someone licensed as a physical therapist or occupational therapist. Art said it may be that it's the function of the teacher or aide who carries out the orders of the occupational therapist or physical therapist. Maybe what they need to do is train teachers to make certain that they put down the definition of the services, which need to be written/defined in the IEP to state: fine motor skills, gross motor skill development, activities of daily living, rather than just putting down occupational therapy or physical therapy services on the IEP. He said they recognize that the therapy can only be provided by a licensed therapist.

Joyce said Mr. Arnold stated exactly what the board would like to see; which is that the recommended program; fine motor or gross motor skills etc... which may be carried out by school staff, who are NOT licensed and specifically that they do not call it physical therapy or occupational therapy but that they are carrying out the recommendations of the physical therapist or occupational therapist.

Mary Ann said it may be terminology and/or what we call it that this is all about. This is what the PTOT board and what the public comment concerns have been about. It has to do with the IEP, the drop down boxes and what the services are called that is the issue. Mary Ann asked Art if it is possible to make a change on the drop down lists on IEP. Art said he thinks they can work on defining this better in the IEP.

Art is still concerned that the proposed change in the statute will "change the intent" and he knows there is a shortage of occupational therapists and physical therapists both in Alaska and nationally. Art asked that instead of narrowing who can provide the service his view point is that we need to broaden the services.

Jo told Art that he has clarified some concerns and she sees where the misunderstanding may have come from. She also referred him to the August 5, 2009 letter the board received from Mr. LeDoux which stated he was concerned that the proposed changes would have a negative effect and would be eliminating teachers and teacher's aides from carrying out supervised activities directed by a licensed occupational therapist. Jo stressed this is not the boards intent and the board is in support of continuing with the teachers and teachers aides being able to carry out the supervised activities as defined by the licensed occupational therapist.

What the board wants to do is to help make sure that all parties; parents, therapists, school administrators and the teachers clearly understand that teachers and teacher aides DO NOT perform occupational therapy and the board is very much in support of them continuing in the function of working and implementing the skills with the students.

Jo also told Art of the telerehabilitation regulations 12 AAC 54.530 and 12 AAC 54.825 that the board developed in order to improve PT/OT services in Alaska. This internet based service (video and audio technology) provides distance therapy evaluations and treatments to areas which are not in close proximity of a therapist. This new regulation

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may increase both occupational therapy and physical therapy services without increasing costs to the districts.

Art told about a past state improvement grant his department had received in which they did research through SERRC (South East Regional Resource Center) and who provides contracted workers in districts across the state. They tried to come up with a set of professional protocols with a standard in which to provide telehealth services. One difficulty was that many districts are not well connected with technical capabilities, bandwidths etc... in order to provide the services.

Art cited a recent BOE (Board of Education) regulation change 4 AAC 52.252 Program Supervision. This change was implemented as they also recognized it did not make sense to provide one visit to a student, drop off recommendations and then not see that student again. They determined it was important to have related services reviewed onsite by the certificated or licensed related services provider responsible for the child's program. A district must provide for on-site supervision at least once every month unless the IEP team, after consideration of all the evidence, determines that less frequent on-site supervision for that related service is sufficient to provide a FAPE (Free Appropriate Public Education) to the child. However, a district may not provide on-site supervision less frequently than once every three months.

Art said that even though an occupational therapist or physical therapist may try to get out to a student at least once every quarter of the school year, they recognize this can be very tough standard to meet. The children who have these services, even though on a day to day basis parents, teachers or para-educators can do exactly as they have been directed by following the instructions of the licensed practitioner; it's still critical for the licensed therapist to meet with the child to have the appropriate supervision of the licensed PT or OT. Art said they, the EED/BOE think the proposed statute change takes away the ability for the parents, teachers or para-educators to do as instructed by the licensed practitioner.

Mary Ann Paul asked Art if he would be open to amending an IEP and working with a group of clinicians to offer some other drop down boxes. Instead of calling it OT to calling it motor learning or fine motor program or upper extremity dexterity, etc... Art said that they could work this out and he believes that this is the training they provide to districts when they do write the IEP's.

Gary asked Art who sets the IEP process standards, who writes it? Art said the department does and he directed the board to the special education handbook (on Line). <http://www.eed.state.ak.us/tls/sped/Handbook.html> Art thought it would be a good place to understand the IEP and to lay out some of the specific directions for OT and PT in terms of related services.

Art said when they are out monitoring any services; they always look for who's providing the service and on what frequency. They have been very diligent to make certain that even though the teacher/parent/para-educator/volunteer is providing the day to day work

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with the student; they make certain that if it's an OT or PT service, the important link is who is providing the supervision and that person's name has to be on all the documentation through all of their compliance monitoring. This requirement has been consistent for the past five years.

Art wanted the board to know that the document (IEP) may have the para-professional's name on it but right under that name is the name of the professional who is supervising the service. This allows the parent to know who is giving the instruction, the kind of supervision given by the licensed professional and who is providing the service on a daily basis.

Kathy asked if the service provided was defined in the IEP as consultative, collaborative, or monitored status rather than a direct service. If not, how is it delineated on an IEP? If it were done this way it would make certain they (districts) were not billing for direct OT services and that is part of the concern.

Jo said if other school districts are considering billing Medicaid for occupational therapy services, one of the boards' primary concerns is to help protect the public in knowing that when a service is billed to Medicaid as occupational therapy it is only billed when it is being provided by a licensed OT. Art said he agreed with this.

Teresa asked if the board had looked at Medicaid regulations to see if you could bill for a service under Medicaid and not be a licensed therapist. Joyce confirmed, Medicaid regulations required in order to bill for services you must be a licensed therapist. Joyce said the board's concern is that there is an exemption in the Alaska licensing statutes for occupational therapists that allows for that service (occupational therapy) to be provided by a non licensed person in an educational setting.

Jo explained that we are talking about statute change not regulation. It is the goal of the board to work with all interested parties to discuss all the issues (differences) so when this goes before the legislature that all parties will have come to an agreement for the statute change.

Mary Ann added that in our regulations as far as working with non licensed personnel, techs or aides in any kind of setting we call supervision as needing to be on site. Therefore with the word supervision in a classroom setting, when you say they are supervising but you are not in the room then that is a misuse of the term supervision that we have defined in our regulations. There is a difference in the way these people are used out in the public sector compared to the school system. PT's supervise PTA's and OT's supervise OTA's, but when it comes to a tech or an aide then they have to be onsite.

Teresa asked if there is something which defines what the difference is in the services an OT/OTA can provide versus what services an aide/teacher/teacher assistant can provide. In providing the activities recommended by the therapist, is there a distinction between what can be provided by aide/teacher/teacher assistant compared to what a licensed professional can provide? Gary clarified that when it comes to teacher or teachers aides in relation to occupational therapy there is a gray area in what they can do and this is

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where the Board thinks there are discrepancies between what regulation says you have to do to be an occupational therapist and what statutes says you have to do to be an occupational therapist. Currently a teacher or aide can practice occupational therapy services in the schools but it is against the law to provide physical therapy services.

Teresa said currently there are people in the school districts providing activities suggested by a physical therapist just as they are providing activities recommended by an occupational therapist. Teresa said that in practicality there isn't any difference. Gary told her that there probably isn't any difference in the way that program is carried out in the school district but based on how the statute is currently written it is clearly illegal if they are calling it physical therapy. If they are calling it occupational therapy then there is this gray area and this is what the board is working on.

Teresa said they (the council) had a committee working on addressing the lack of services in rural communities, due to the shortage of providers. One suggestion was to work to promote two things. One being for physical therapy, occupational therapy, speech therapy, special education etc... Tele-practice tied directly to some type of certified assistance, so if someone is providing occupational therapy in the school, they could get some training via distance learning which would potentially include hands on training, to improve actual services being given in the schools.

Jo said if the services are not; considered or called or billed as occupational therapy or physical therapy then it may be a way to expand services. If they are called or billed as occupational therapy or physical therapy without being provided by a licensed PT or OT, then that is the point the board is trying to clarify. Jo provided the Boards regulations for Standards of Practice for Telerehabilitation; 12 AAC 54.530 by physical therapists and 12 AAC 54.825 by occupational therapists.

Teresa said the push for more training 'for services' comes from parents, special education teachers and others who said they feel uncomfortable as they don't get enough training and direction from the certified therapist just due to lack of time.

Art said it might be helpful for the board to provide training to PT/OT's specifically on how to 'define' the service they are recommending. The service can still be laid out as OT because the service is being directed by the OT but the actual service is being provided by the aide or teacher; fine motor, gross motor, upper body... could be put down on the service page on the IEP.

Mary Ann agreed and directed Art to a letter written by Mary Olsen in 2006 which addressed the difficulty for the teachers/aides as their computer program drop down boxes are not user friendly. Not having an appropriate place for the service teachers just pick physical therapy or occupational therapy as they don't know what to put in the other box on the IEP. Getting both professions to work together could help clear this up and provide a place by clarifying some of the issues. Joyce suggested a working group that the department of education and the PTOT licensing board and representatives of the PTOT associations to come to some common ground on the terminology that is used in

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the IEP's. We don't have disagreement to the service delivery but disagreement as to what is written on the IEP.

Jo told Mr. Arnold a letter was sent May 9, 2007 with our board addressing the same issue as today. Art said there are 54 school districts and all are their own political entities, they do not have control over them but he thinks they should be included in this process. He offered to provide the information to all the districts to keep them informed and volunteered Chris Wilkens to work with the board too.

Agenda Item 6 Investigative Report

Jasmin Bautista called in at 11:00 a.m. for the board to vote on the Consent Agreement for case # 2700-09-001 for practicing on a lapsed license. This case is for unlicensed practice. Respondent, Gail French worked with a lapsed license for 3 months and she admitted she was practicing without license from July 1, 2008 until September 2, 2008. The investigative office proposed a civil fine of \$500 and a reprimand which respondent agreed to accept and licensee signed the consent agreement.

The board questioned why the fine was low? Staff stated this was the usual fine based on unlicensed practice of less than one year; the \$500.00 fine was based on prior fines. Board did not want to change the fine now but in the future they want to be sure there is a higher fine which they believe is actually \$5000.00.

Gary Burleson made a MOTION to approve case # 2700-09-001, seconded by Jay McDiarmid. Jo Boehme and Joyce Barnett abstained from voting and the rest of the board; Jay, Gary, Kathleen, Darin and Mary Ann voted to approve the consent agreement.

Break at 11:10 a.m. - Back on record at 11:16 a.m.

Mary Ann asked for comments from the board on the phone call with Holt/Arnold and Wilkens. Gary said that neither side, the PTOT board or the EED/HSS has a clear understanding of what the other side is looking for or what the other side is actually doing. We need to set aside the entire afternoon for day one of next board meeting and have an entire outline of what the board is hoping to achieve during that time. Also, provide the outline in advance of the meeting to Mr. Wilkens. Mary Ann suggested Pauline might head up the group to work on the IEP and the documentation issue and the way the drop down boxes work.

Joyce proposed a working group meet with Department of Education before our January meeting. So the process gets moving ahead and we can come to common ground. Kathy suggested a letter which addresses the areas in which both our Board and EED/HSS and DOE have come to an understanding would be beneficial for all parties. The board wants to identify areas in which we agree on the issues. Jo and Kathleen agreed to draft the letter and participate in the working group.

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Standardization for the IEP would be helpful across all districts but our board has no control over this. Joyce feels the letter should not address the IEP but the working group should be working on it.

Darin suggested that direction from the DOE as to what should be contained in the IEP could be useful to all districts. Kathy said the DOE monitors the IEPs and even though they do not dictate the outline they do have the power to control what's in the IEP.

Jay said we should see how much money is going out to the districts. This was a big issue at the BOE board meeting.

The board does not want the "implementation" of occupational therapy to be called occupational therapy. A third party biller would not know any difference in who performs the service, they are only billing according to the IEP.

Mary Ann agrees the statute needs to be repealed and the other issue is the IEP needs revision. All the board agreed that we should have someone from Department of Law or the regulation specialist talk about the statute during the meeting.

Agenda item for January meeting: to have a report from the working group. Need to make sure we have all parties identified who will attend the next board meeting and set aside the entire afternoon of the first day of the board meeting for this topic.

The board addressed a letter received from Mary Melissa Robinson which expressed her concern over the exemption to licensing AS 08.84.150 (b) (6) which allows the practice of occupational therapy by teacher's aides and teachers. She stated the importance to protect the public from being misled by school districts in having school programs call skill practice by the name occupational therapy.

Gretchen Chamberlain, president of AKOTA also submitted a letter for the board meeting. She shared the same concerns as Ms. Robinson's letter. She also stated if teachers and aides are being used to implement programs established by an occupational therapist these programs should be referred to as the skill area that they address (self-help, fine motor, etc), not occupational therapy services. AKOTA is also in favor of repealing AS 08.84.150 (b) (6) as they do not believe that allowing teachers and aides to provide services described as occupational therapy is authentic occupational therapy.

Lunch Off record at 11:49 a.m. Back on record at 1:12 p.m.

All board members were in attendance.

Agenda Item 8 Regulation Projects

The board began a regulation project draft at the April 2009 board meeting and it was provided to the regulation specialist. He crafted a draft for the board to review at their

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July 9th 2009 teleconference. The board tabled reviewing regulation specialists 07/07/09 draft to the September board meeting and the board has taken action on the draft with the below changes:

1. Supervision of non-licensed personnel: 12 AAC 54.520 and 12 AAC 54.815

On a motion by Burleson, seconded by McDiarmid and carried unanimously, it was RESOLVED to approve 12 AAC 54.520 and 12 AAC 54.815 for public notice as amended with grammatical changes in 12 AAC 54.520 (b) and 12 AAC 54.815(b) changing the word “is” to “are” and in 12 AAC 54.520(d) and 12 AAC 54.815(d) changing the word “that” to “who”.

Regarding 12 AAC 54.520 and 12 AAC 54.815 the board wanted it on the record that it is the supervising therapist who is “practicing” physical therapy or occupational therapy, while the aide is “providing” an extension of the patient related duties.

2. Definitions related to physical therapy and occupational therapy: 12 AAC 54.590 and 12 AAC 54.835

On a motion by Burleson, seconded by Lind and carried unanimously, it was RESOLVED to approve 12 AAC 54.590 and 12 AAC 54.835 for public notice to include wording in 12 AAC 54.590 (3) (B) and 12 AAC 54.835 (3) (B) “includes but is not limited to personnel who are referred to as an aide, technician, or tech;”

3. Set standards for 150 hour internship – non foreign-trained: 12 AAC 54.535 and 12 AAC 54.830

On a motion by Barnett, seconded by Burleson and carried unanimously, it was RESOLVED to approve for 12 AAC 54.535 and 12 AAC 54.830 for public notice as amended by deleting the last half of the sentence from 12 AAC 54.535(c) (3) and 12 AAC 54.830(c) (3) [; a government service hospital may be an approved setting if it meets the requirements of this section].

Jo asked what the process is for public notice – do all licensees get notified of any public notice. Staff confirmed, yes, every licensee is mailed a notification of any proposed public notice changes.

Staff will request webmaster to ADD quick link to things that are public noticed and see if this can become part of our web site. Meeting dates; board meeting dates; etc...

Agenda Item 9 Liaison Reports

Jay McDiarmid: AKPTA has a new president, effective January 2010 - Jeff LaPage. They have put together a small group who wants to work together on the model practice act. The group will address the desired changes and get a general idea of how the group will proceed to keep the momentum going. Perhaps get small groups working in cities

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around the state, maybe each city or group can take sections of the Model Practice Act to help the project move forward in a timely manner. Jay will initiate moving forward with the small groups and he'll put this in The Big Dipper newsletter, which is now only online. So members must go online to read the newsletter.

Jay will include in the newsletter about the consent agreement related to the violation of practicing without a license and a \$500 fine. There will also be a statement which speaks to the fact that future violators would have a substantially higher fine.

Jo Boehme has written a summary newsletter to keep the members informed of recent board events and what's coming up. License renewal, regulations the board is working on, disciplinary actions, audits of continuing education etc... The AKOTA also has established a working group of 6 to 8 occupational therapists from around the state to work on the model practice act. Jo will attend the NBCOT in Baltimore in October 2009.

Agenda Item 10 Review FY 09 Annual Report

Board was advised Fiscal Year 2009 is July 1, 2008 to June 30, 2009. Staff explained the annual report had already been submitted due to the August 1, 2009 deadline. Board needs to review and make revisions as needed and approve it.

Jo asked that a recap of the content of the report Jean Keckhut's presented at the October 2008 board meeting be included in the annual report. She talked about the Model Practice Act and the exception to licensure concerns in the statute.

Page 6, July teleconference needs to be removed from the FY09 annual report and put in FY10 annual report.

Page 5, referencing Karen Robinson, needs her first name spelled correctly it is Carin.

Page 11, goal number 11 "possibility of assimilating all or parts" correct typo.

Pages 13 objective 4, activity 2 and page 14, goal 4 objective 2; both state the same thing "to update and review jurisprudence questionnaire..." do we want to have it duplicated or only in one place? Board agreed to delete it from page 13 and keep it on page 14 under goal 4 objective 2 as it fits under licensing requirements. Staff also reminded the board that the FSBPT has been offering to give jurisprudence exams for states. There is no cost to the board for the exam but it would be an expense for the applicant. The states that are using the FSBPT jurisprudence examination really like how the exam is written and it requires the licensee to really understand the law. The board has the option to have the exam graded. Some states are also offering CE credit for taking the exam with a specified passing score. We could have our goal now state; have FSBPT administer the jurisprudence exam. We can also just have FSBPT write the exam for us but they do not have to administer it for us. Our activity could be that we research having FSBPT write the exam for us. Jo recommends that when the board reviews and updates the

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questionnaire that part of the process be exploring having the PT's take the jurisprudence exam via FSBPT, even if we don't write it in the goals/activities.

Page 14, goal 5 objective 4; board member training, in the future FSBPT may bring it back as part of the annual meeting.

Staff advised that boards and commissions want to have anyone applying for the board or seeking reappointment by October of the year prior to seeking appointment. The link is on the Governor's page: <http://gov.state.ak.us/boards/>

FY2010 Legislative Recommendations changes:

What was number 2 becomes number 1 is now recommending the addition of term protection for "physiotherapy"; and down the line, each moves up. Add in the recommendation to replace the doctor on the board with an OT or public member as the last recommendation.

Break: off record at 2:30 p.m. back at 3:05 p.m.

Staff called Judy for answers to questions.

We can add in the record, that whenever a regulation change is being considered all licensees are notified in writing with a recap of the proposed change and instructions on how to comment on them.

As for the Legislative recommendations which were drafted at a prior meeting, the board had been asked to hold off on dispersing them but we have not been given any direction from our chief and they can be handed out to legislators now.

Recap of annual report: Minor revisions; Typos and corrections to the legislative recommendation list to move number one off the list for now and add goal for the replacement of medical doctor from the board with an occupational therapist or public member.

Jay will revise and hand out to everyone on day 2 of the meeting.

Agenda Item 11 Budget Report

Direct expenses are placed towards the board, indirect are shared by all boards. Revenue goes up and down depending on if it's a licensing renewal year.

Agenda Item 12 Application discussion
• **Discussion of TOEFL score requirement**

Staff asked the board for direction on how TOEFL scores will be accepted from Foreign Educated Physical Therapy applicants. Recent applicants have taken more than one test. On one file, first test was September 27, 2008 and they did not pass the speaking with the required 26 points, they missed the passing score by 2 points. Then on March 27, 2009, a second test, they passed the speaking score but did not pass the writing score by 2 points. The concern is; does the board accept taking the highest scores from more than one exam in order to meet 12 AAC 54.040 (j) minimum requirements for AS 08.84.032(a) (3).

Although statute does not address the test requirements, regulations state the applicant must “obtain at least the following minimum scores”. Board would like to consider clarifying the regulation, perhaps stating “minimum scores on a single test”. Staff will ask the regulations specialist if 12 AAC 54.040 (j) (4) should be clarified. The board would like to know how to determine if the test should be passed in one sitting? Do we have anything historically to work from on this decision? Staff will also look to TOEFL for guidance on how they view the test? What is a passing score and over how many times or in one sitting. The board agreed they would like to have an applicant have passing exam scores in one sitting or one test administration not multiple tests.

Consider future regulation project: 12 AAC 54.040 (j) (4) after minimum scores... add words ... on a single TOEFL-IBT test.

- **FCCPT versus ICD for credentialing**

Staff sent e-mails to both FCCPT and ICD to assist the board in understanding how each agency determines and processes for educational credentialing. As of the board meeting, only FCCPT had responded. The board agreed that FCCPT is the credentialing agency we rely on and since we did not get a response from ICD and the board agrees to continue to use FCCPT for now... until we get more information.

Staff also brought to the boards’ attention a letter received from Mark Lane of FSBPT stating CAPTE (Commission on Accreditation in Physical Therapy Education) proposes to require a doctorate for all future Physical Therapists. Some foreign educated have the BA but not the MA which is why it is difficult for them to meet the requirements. They will need to increase their education for future licensure once a DPA is required.

FCCPT is an independent review agency that was initially developed by the FSBPT to meet the needs of the jurisdictions.

Jo asked staff to send out a request on List Serve to see what providers other states use for credentialing of their foreign educated.

Darin asked if the other firms are established for profit only. Perhaps the FCCPT is set up in the best non biased form.

Now that we have 2 reports on the same applicant evaluated it is difficult to see on what the basis they evaluate the education and how do they determine what is substantially equivalent. FCCPT uses the course work tool (CWT) which evaluates on the education

based on “when they were educated” to determine if their education was equivalent at the time. FCCPT owns the CWT.

DPT requirement will begin 2013 but schools have until 2015 to come up to that level. If they do not then the school will lose all accreditation. 2020 is the year that will require all programs to be DPT. Of the foreign schools who are accredited by CAPTE, if they do not accept the higher standards of a doctoral program then there will be no foreign educated schools which will meet the educational standards.

The board determined they will accept FCCPT credentialing only until we have more information from ICD.

- **Limited Permit – fee project**

Currently the limited permit non refundable application fee is \$50.00 and the permit fee is \$50.00. When applicants apply but do not secure employment, they are currently allowed to request a refund of the permit fee. Processing a refund costs the state about \$35.00. Staff asked the board if they thought it would be appropriate to see about changing the fee to make it “all” non-refundable. Judy suggested we could make it a fee project for the limited permit. Board agreed staff could look into it further.

- **OT – Regulation Project CE wording**

Staff explained that an OT applicant does not have to complete the 24 CE’s ‘prior to applying’ but they must have met all application requirements before the file is sent to the board to review their application. This question came up when an applicant failed to submit any CE’s with their application and then completed 24 CE’s in order to meet our requirements. Judy explained they just need to have taken 24 CE’s in 24 months prior to licensing. Staff recalled that this is where the OT - Regulation Project for CE wording came from. Judy suggested the board work on rewording this to avoid future confusion.

Joyce had a question/suggestion about the current licensing process. She recalled hearing at the model practice act meeting that not all jurisdictions require the board to look at applications for approval of licensing. Joyce would like the board to consider having staff review and approve the application or have board members rotate the review process. Mary Ann said it is the role of the board to review and approve each applicant.

Discussion evolved around incomplete applications. Board agreed that if the applicant does not follow the directions it should not fall on staff to make multiple follow ups on the missing items and staff should not be required to expedite the application for approval. It was suggested that staff develop a standardized checklist for applicants and place the responsibility on the professional to provide the documents.

Gary asked why Occupational Therapists have to provide 24 continuing education certificates but Physical Therapists do not in the initial application process. Staff will research this question.

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Meeting adjourned at 3:40 p.m.

Tuesday, September 15, 2009

The meeting was called to order by Mary Ann Paul, PT, Chair at 8:09 a.m.

Those present, constituting a quorum of the Board, were:

Mary Ann Paul, PT, Chair
Jay McDiarmid, PT, Secretary
Gary Burleson, Public Member
Jo Boehme, OT/L
Kathleen Lind, OT
Darin Bell, MD
Joyce Barnett, PT

Staff present: Connie Petz, Licensing Examiner

At the end of the first day of the meeting the Board had moved the meeting start time from 9:00 a.m. to 8:00 a.m. Staff explained to the board that she was advised by her supervisor, the meeting had been public noticed so we should not have changed the time of the meeting. Therefore... no decisions can be made but we could use this time for the board to read over applications.

Added agenda item for discussion:

The Board had authorized Jo Boehme and Kathleen Lind to draft a letter to be sent to Art Arnold of the Office of Special Education and Early Development with the Department of Education. The goal of the letter is to summarize where the board had come to agreement with EED. The board would like to make steps towards collaboration and understanding of the proposed statute change in relation to aides in the school. The board will also draft a follow up letter to Theresa Holt.

Agenda Item 13 Review Applications

9:00 a.m.

Gary Burleson made a MOTION to approve the applicants reviewed today for licensure as applied; Seconded by Joyce Barnett. All approved - No nays.

Physical Therapy license by Credentials:
Iwona Danuta Klapa
Hope Han
Hsu Huei Ko
Aisha Correa
Garth Ward Danielson

Physical Therapy Assistant license by Credentials:

Sally Ranie Rose Burbank

Jason Rico Perigen

Occupational Therapy license by Exam:

Jocelyn A. Lowe

Occupational Therapy Assistant license by Exam:

Ashley E. Bailey

Agenda Item 14 Review CE audits

Heidi Shinn Aga, Physical Therapist license # 1533

Applicant had late submission for continuing education audit. Board will accept the 27 contact hours for the 'Wound Care Education' as this is a complete certificate. Board wants staff to advise the applicant that the board is unable to accept the other course submitted because it was not a continuing education certificate but a registration for the 2008 AKPTA annual conference in Anchorage.

Jo Boehme made a MOTION to accept the continuing education certificate for Heidi Shinn Aga for the 'Wound Care Education Institute' for 27 hours, seconded by Gary Burleson, All in favor – No nays.

Carrie J. Lewis, Occupational Therapist license # 1766

Board reviewed the 30 hours for Continuing Education and agreed this format would be allowed. The issue is timeliness of the submission of certificates.

Gary Burleson made a MOTION to approve all the contact hours provided by Carrie Lewis, seconded by Jay McDiarmid, All in favor – No nays.

Board again had many questions on the audit process. Staff will provide questions to paralegal who will present at the next board meeting.

Agenda Item 15 CE filing accusations

1. Case No: 2700-09-004
2. Case No: 2702-09-003

The Board reviewed accusation documentation and reviewed statues and regulations to understand more fully the implications of actions on the licensees. Staff informed the Board that the paralegal will be presenting at the next board meeting. The board posed questions for staff to draft and submit to paralegal.

Break at 9:43 a.m.; back on record at 9:56 a.m.

**Agenda Item 16 Discussion for Continuing Education
Review Ohio regulations regarding CE
FSBPT model for continuing competence**

Board held discussion regarding competencies. Mary Ann said this topic had been tabled as the board was going to determine how many CE hours would be allowed for teaching a course, taking a course for college credit and internet course study. The board is looking at how other states are handling the continuing education issue. The board would like to establish a consistency in how they value the courses. This is for the benefit of the board and for the licensees. Our board was trying to set specific requirements. At least 12 hours face to face and less than 12 in other forms, internet and publications. Public comment helped the board decide they should continue researching this issue.

Joyce asked how we allow for educators to receive continuing education credit when they are not actually practicing. These academicians would likely be taking courses on how to teach not courses directly related to patient care.

Kathy stated we now have two educators who are currently working at the new doctorate OT program in Anchorage.

How will our board view the license requirement for an academician in order to meet the required CE's? Does it directly contribute to the practice of OT? Is the issue they are not getting the "practice" hours? Should we be thinking about patient care? Are they teaching and then submitting those hours for continuing education credit and never taking a clinical course / patient care course? We need to require that the academicians are keeping up with current practices because we want to make sure they are teaching the current practices to their students. This requires taking current courses themselves and not just learning theory only but also core content skills.

Gary asked is it we want to make sure they have the courses or is it their 60 hours of therapy services?

Kathy said we are placing educators in the DOT program in a difficult position when they do not have any way to keep current with their practice. Kathy said in other states which she researched the CE's for educators there is no requirement for patient contact hours. Nebraska, Florida and Indiana (IN is new in putting together their requirements).

JO said they can always volunteer at a hospital in order to keep current in practice. The board discussed that 60 hours in 24 month period is still required in order for academicians to keep in touch with the patients. This is only about 2-3 hours per month. It should be encouraged that they keep in practice. Joyce said a volunteer only needs to establish a business associate agreement report for students and volunteers. They are required to keep patient information confidential in order to volunteer. Gary noted that Ohio is leaning towards 500 hours in 5 years or else they would have to retake the exam. But these hours do include teaching.

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Mary Ann asked the board if they want this topic on the January agenda again. Joyce said yes, but suggested we limit the time for discussion. The board wants to keep working on this project. Looking at the FSBPT competency model survey it's the activity portion that our board is looking at and at what weight we will put towards the activity. Are we looking at what activities are acceptable?

Jo and Kathy will work with AOTA and NBCOT to see if they have a continuing education model and present it at the next board meeting.

FSBPT is also designing an ethics course. Our board may want to consider requiring a credit for an ethics course for renewal in our state. We could require it for CE's and/or as a disciplinary action.

Agenda Item 17

Other discussion

1. Correspondence
2. Recap of assigned tasks

Recap of assigned tasks:

Letters to Art Arnold and Teresa Holt, final letters to be sent to all board members to review prior to Mary Ann signing.

Jay will continue to work with Fairbanks on the model practice act. There still needs to be an Anchorage contingent working on the model practice act.

Jo Boehme and Kathleen Lind will work on the continuing education and professional service for the educators.

Liaison reports are to include in their newsletter the importance of the change of address and cite the statute for the reader.

Connie:

Get the web update completed: meeting dates, disciplinary actions
Find out when statutes were added for aides in the school
See if we can get a Quick link on web for regulations

Mary Ann will talk to Sundi about requesting an Ethics and Billing course be presented at the next AK PTA conference and about the upcoming openings in board positions advising interested applicants apply, the earlier the better.

The board changed the date of the next board meeting from January 25-26, 2010 to February 4-5, 2010 so all current members could attend.

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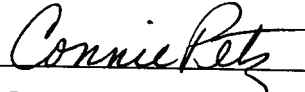
Discussion of how the board appoints positions for chair and secretary. In the past with seasoned staff the board would rotate chairs. Mary Ann will chair the February board meeting. Board asked Jay to consider becoming the next Chairman. Historically, the secretary became the chair and a new secretary would be selected. Board asked Kathy to consider secretary position. Joyce could consider PT liaison and we will need an OT liaison. All positions to be determined at the next board meeting.

Jay requested that any future teleconferences be kept to a one hour maximum and one topic. Specifically keep the meeting to one priority an entire agenda is not needed.

Agenda Item 18 Adjourn Meeting

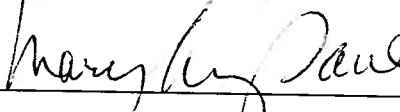
The Board having no further business to discuss adjourned the meeting at 11:06 a.m.

Respectfully Submitted:



Connie Petz, Licensing Examiner

Approved:



Mary Ann Paul, PT, Chair

Date: 2-5-2010