

LOUISIANA PHYSICAL THERAPY BOARD

February 25 & 26, 2015

Approved

Proceedings for the Louisiana Physical Therapy Board, taken in regular session on Wednesday, February 25, 2015 at 104 Fairlane Drive, Lafayette, LA 70507. A quorum of members was present. Board members present were: Chairman Al Moreau, III, Secretary/Treasurer Danny P. Landry, Don Cassano, Jr., Kristina Lounsberry, Elizabeth “Beth” Austin, and Dr. Gerald Leglue, MD. Advisory committee members present were Althea Jones, Eugene Noel and Wayne Campbell. Charlotte Martin, Executive Director; Sirwana Granger, Assistant Executive Director; George Papale, General Counsel; and Courtney P. Newton, Attorney were also present.

The meeting was called to order at 6:45 p.m.

Chairman Al Moreau welcomed members of the public and members of the LPTA who were present.

Review of the Agenda

Chairman Moreau asked the members of the board to review the agenda. The agenda was accepted as written.

Approval of Minutes

Secretary/Treasurer Landry reported on the minutes from the January 2015 board meeting. The board reviewed the minutes and voted to approve them as written. The vote was unanimously approved.

Special Programs

George Lovecchio, Executive Director of the Wholesale Drug Distributor Board presented to the Board on drug supply chain integrity, including counterfeit medicine and devices, regulation, Title II Drug Supply Chain Security (DSCS), and 21st Century Cures. The board agreed to post information on the Board’s website and include a slide in the traveling Jurisprudence seminar presentation regarding drug supply chain integrity to provide information to physical therapy licensees on the matter.

Reports of Officers and the Board Office

Chairman’s Report

Chairman Al Moreau, III reported to the Board that Susan Bartol resigned from her position as Board Member effective January 20, 2015. He expressed regret of her departure and board members agreed.

Mr. Moreau reported on the Board of Elementary and Secondary Education (BESE) Serious Sports Injury Rule. Chairman Moreau, Executive Director Charlotte Martin and Attorney Courtney Newton met with the Louisiana State Board of Medical Examiners (LSBME) President Dr. Dawson, Executive Director Dr. Mouton and Attorney Philip Bergeron. Chairman Moreau reported that at the conclusion of the meeting, it was the opinion of both parties that physical therapists have a place on the sidelines. It is also the opinion of both parties that physical therapists should not practice outside the scope of their practice on the sidelines or in any setting.

It is within the scope of practice for physical therapists to perform an evaluation to determine whether an individual has an injury or can return to play; if an injury needs to be treated with physical therapy intervention; or if the individual is in need of medical attention. If the injury is serious and in need of medical attention outside the scope of practice of the physical therapist, the physical therapist is to refer that individual to a medical doctor. Cristina Faucheax, Louisiana Physical Therapy Association's (LPTA) Government Affairs Chairperson reported that the LPTA received a statement in writing from BESE stating that the rule should not exclude Physical Therapists.

Chairman Moreau updated the board on jurisprudence seminars since the last board meeting. The Jurisprudences were held in Lafayette on January 15, 2015 with 122 attendees and in Mandeville/Covington on February 12, 2015 with 49 attendees.

Treasurer's Report

Secretary/Treasurer Landry reported the cash in the bank for the month of January 2015 totaled \$26,275.42. He reported that the income for January 2015 totaled \$15,981.89 and expenses totaled \$43,454.01. The two Certificates of Deposit at the Bank of Montgomery totaled \$714,666.24 at the end of January. One Certificate of Deposit totaled \$200,794.64 in January and did mature on December 18, 2014 but was automatically renewed. The other Certificate of Deposit totaled \$513,871.60 at the end of January and will mature on March 27, 2015. The CD totaling \$200,794.64 will be transferred to Lakeside Bank (with a small early withdrawal fee) where the interest rate is 0.45% as compared to the 0.25% interest rate at the Bank of Montgomery. The \$513,871.60 CD will also be moved to Lakeside for a better interest when it matures in March. The Business Savings account at Chase Bank was \$202,544.49 at the end of January.

Executive Director's Report

Executive Director Charlotte Martin met with a CPA in Lafayette to discuss assisting the Board with the creation of a 5 year budget. He reviewed the financials and recommended that the Board amend the current budget, then Mrs. Martin will work with Secretary/Treasurer Danny Landry to create a one year budget for 2016. At that time, his firm would be able to use next year's budget to project a five year plan.

There is a mandatory training required for board members and state staff: Sexual Harassment. The Board will complete this training at a board meeting in calendar year 2015. Mrs. Martin reminded the Board that the other two mandatory requirements are Ethics training and Personal Financial Disclosures.

The Board Office has received 374 Renewals to date. There are some renewal applications with CEU issues that are being resolved prior to processing. The office staff has confirmed that licensees are not delinquent on student loans prior to processing applications. The office staff has also been working with Department of Child and Family Services (DCFS) to confirm that licensees are not delinquent on child support, but this process is slowing the renewal processing time. The office staff hopes to be able to process applications much more quickly in the month of March, now that the DCFS process is in place.

Charlotte Martin and Courtney Newton attended a CLE offering of the BAR to learn about the rules-making process for the state of Louisiana. The presenter was State Register Editor, Catherine Brindley.

Charlotte Martin, Courtney Newton, Danny Landry and Elizabeth “Beth” Austin attended the FARB training in Tucson, AZ and were able to bring information back to the board regarding national topics in regulation and in physical therapy. Mrs. Martin reminded the Board that FARB is offering a training in Louisiana for \$300 per person, but they will need a minimum of 20 individuals to attend. The LPTB is one of three boards that is currently interested in bringing the FARB training to Louisiana.

The state issued a purchase order number for the purchase of the website upgrade. The order will need the Board’s signature, since the Chief Information Officer of the Office of Technology Services (OTS) of the Department of Administration in the State of Louisiana, Richard “Dickie” Howze has delegated to the Louisiana Physical Therapy Board the authority to serve for and act on behalf of the CIO as his duly appointed designee as the procuring authority for all Information Technology related procurements. The board will move forward with creating a timeline with Covalent Logic for 3 to 6 months for completion. The need for a website is now an emergency situation because the company that hosts the website informed the Board that they are retiring the server where the website is housed and Microsoft no longer supports the most recent operating system for compatibility with the website. Additionally, the renewal form is built on an Access database, which is not meant for multiple entries, which is causing the website to not function during the renewal period.

Don Cassano moved for the board to authorize signatures of the purchase order or for the purchase of software and maintenance services from Covalent Logic upon approval by Covalent Logic of the inclusion of terms and agreements into the contract. Dr. Leglue seconded the motion. The board voted and the motion was unanimously approved.

Peak Media is working on a professional services contract for less than \$50,000 for the creative portion of the project. The additional \$200,000 will be billable directly to the Board for media buys. This will allow the Board to move forward with the PSA in a timely manner.

Kristina Lounsberry moved to request a legal opinion from the Attorney General if the profession of physical therapy falls under the definition of “industry” as it applies to La R.S. 39:1554.D.(8)¹. Elizabeth Austin seconded the motion. The board voted and the motion was unanimously approved.

The board received a quote for offsite storage to store licensee files. The storage will provide a solution to the Board’s current dilemma of filing space, as well as the need for all files to be

¹ La.R.S. 39:1554D(8) provides that contracts awarded by an agency for the benefit of an industry, payment of which comes from that industry, are exempt from the requirements of this chapter provided that any such contract is awarded through a competitive process. The “requirements of this chapter” reference is related to the RFP requirements for contracts above the amount of \$50,000. A competitive process is not defined, but an AG opinion states that in a competitive process an organization must receive at least two quotes for service.

stored in a fireproof, flood-proof and confidential space. The group provides space for LHC home health, PHI, Inc., and Laborde law firm. The staff has called references for the company to ensure that they are satisfactory.

Two policies were presented to the board for review: Dry Needling and Continuing Education. In the continuing education policy, it is clearly stated that board members can receive 2 hours credit for attending or presenting a jurisprudence seminar if they do not receive a per diem.

Legal Report

Secretary/Treasurer Danny Landry presented the language of the draft Rule on Telehealth. He reported to the Board that he has been in discussion with the national American Telehealth Association and American Physical Therapy Association for appropriate language. He has also included the Louisiana Physical Therapy Association's Rules and Regulations task force members in the discussion. The Board was impressed with the language and determined that Mr. Landry will review additional information and bring a revised Rule draft to the board meeting in March 2015 for further review.

The Board closed for Executive Session to discuss the Consent Orders from Investigative Case #s 2014I009, Art Prado and 2014I011, Robyn Alleman.

The Board exited Executive Session.

The board voted to approve Art Prado's Consent Order if the licensees agree to amendments discussed in Executive Session. Kristina Lounsberry was opposed. All other board members were in favor. Courtney Newton will present the amended Consent Orders to Mr. Prado to obtain a signature prior to obtaining a Board signature.

The board voted to approve Robyn Alleman's Consent Order if the licensees agree to amendments discussed in Executive Session. The board voted and unanimously approved. Courtney Newton will present the amended Consent Orders to Mr. Prado to obtain a signature prior to obtaining a Board signature.

Special Committees

CEU Committee

Executive Director Charlotte Martin reported that there were 56 continuing education courses approved since last board meeting. Of the approved courses, 33 were traditional "live" clinical courses and 23 were web-based clinical courses.

Mrs. Martin presented a CEU request for consideration of courses taken over 90 days ago from licensee Pam Janssen. The request was denied. Mrs. Martin presented a CEU exemption for personal hardship from licensee Jason Bland. The Board asked for more information before making a determination. Mrs. Martin presented a CEU exemption request for one credit hour of dry needling from licensee Jessica Yanta Huffman. The request was denied, Mrs. Huffman needs 50 hours of dry needling coursework to practice in Louisiana. Mrs. Martin presented a CEU request for exemption from the live coursework requirement due to personal hardship from licensee Kristen Shelton. The request was granted. Mrs. Martin presented a request to consider

APTA coursework taken between January and March in 2013 for the purposes of renewing in 2015 from licensee Ronnie Wagley. The board denied the request. All continuing education must have been taken between April 1, 2013 and March 31, 2015 for renewing in 2015.

Declaratory Statement Review

The board discussed revised responses to the following two Declaratory Statements on the topic of "Practice Issues"

Statement 1: Initial evaluation and treatment - *Can a supervising PT come into a SNF, evaluate a patient (part A or B), then have the PTA complete the remainder of the treatment?*

The board voted unanimously to revise the original answer to this question, which read, *"The PT must perform the first visit in its entirety to include the evaluation and treatment. The PT must also perform the entire treatment on re-evaluation."*

The board will need to get a legal opinion prior to publishing the revised answer to statement 1 above. The board moved to add this item to "Old Business" on the March 2015 agenda.

Statement 2: Direct Access - *Patient diagnosis and subsequent treatment* - *With regards to the use of limited direct access in an outpatient private practice setting, what documentation is required as proof of previous diagnosis to treat the patient?*

The board voted unanimously to revise the original answer to this question, which read, *"The patient's diagnosis can be established by a number of methods, but must have been made by a Health Care Provider (physician) within the previous 90 days. Bills, copies of the physicians note stating the diagnosis, and insurance papers with associated diagnosis codes from the physician's office are all acceptable means of establishing a diagnosis. Please note that once a plan of care has been established, this must be provided to the Health Care Provider within 15 days of initiation of treatment. Please refer to section 2410 D of the Louisiana Physical Therapy Practice Act for a full explanation."*

The board voted unanimously to update the answer to statement 2 above with revised language as follows, *"The Board's Opinion is that the patient's diagnosis can be established by a number of methods, but must have been made by a Health Care Provider within the previous 90 days. Please note that once a plan of care has been established, this must be provided to the Health Care Provider within 15 days of initiation of treatment."* And the board will include references to the applicable PT Board Rules.

Christopher L. Moore, MOT, LOT asked the Board if the following Declaratory Statement (#25) is still current,

"Skilled Nursing Facility - PTA Supervision - 1) Is a nursing home with skilled beds considered a skilled nursing facility? 2) If a nursing home with skilled beds is licensed as a skilled nursing facility, what level of supervision is required for the PTA by supervising PT for Part (B) Medicare patients?" 1) A nursing home with skilled beds is

not considered a skilled nursing home facility except for the skilled beds. For physical therapy supervision purposes, the skilled beds would require the periodic supervision of a physical therapist assistant as set forth in 321.A (2) of the Boards Rule. The non-skilled beds would require the periodic supervision set forth in Rule 321.A (3)

2) With regards to the level of supervision, please refer to the Boards Response to Question #1 above. Again, periodic supervision regarding skilled beds is set forth in 321.A (2). In comparison, the supervision for non-skilled beds is set forth in Rule 321.A (3). Additionally, it is the Boards understanding that skilled facilities do not have Part (B) Medicare as skilled beds.”

The board determined that the Declaratory Statement (#25) is not current. The board staff will remove this Declaratory Statement from the website.

The Board recommended identifying all Declaratory Statements with the statement, “this is the exception, not the Rule” and have those removed. They decided that Rules should be followed or Rules should be revised. There are no exceptions to the Rules.

Legislative Task Force

Chairman Moreau provided an update to the Board on the meetings that he has attended in relation to the Patient Access Resolution that Senator Mills is authoring this legislative session. The Board reviewed the language and voted unanimously to approve sending the Resolution Draft to Senator Mills’ office. The Board will finalize the list of committee members for the Resolution at the next board meeting.

Al Moreau, III moved to allow the Legislative Task Force to be able to complete and choose a committee for the study resolution on patient access and to move forward with the final Resolution language. Elizabeth Austin seconded the motion. The board voted and the motion was approved unanimously.

Representative Mike Huval has expressed interest in authoring a Bill for the Louisiana Physical Therapy Board to be added to the list of exempted organizations included on La.R.S. 37:21, which creates a statute of limitations for the prescriptive period on investigating complaints.

Mr. Moreau informed the Board of the upcoming public hearing on Recreational Therapy that will be held March 31, 2015 and recommended that a member of the LPTB Legislative Task Force, a LPTB board member, or a LPTB advisory committee member who is a practitioner of physical therapy attend. Cristina Fauchaux, LPTA Government Affairs chairperson and practitioner of physical therapy informed the board members that she will be attending the hearing.

Mr. Moreau informed the board of a software that is available, which would drastically reduce the time that the Legislative Taskforce takes in reviewing legislative activity that can potentially impact the regulation of the practice of physical therapy. The board reviewed the quote from the vendor and approved the purchase for a one year subscription for one user.

New Business

Correspondences

Judd Patterson asked, "The question that I would like to pose to the board at the February meeting deals with Physical Therapists being able to take evaluate and treat referrals / orders from LIP's including MD's, PA's, DO's and NP's. Once the "PT eval and treat" referral / order is received that the PT is within his scope of practice to evaluate the patient, establish a plan of care and begin treatment without any further orders from the LIP. This question primarily deals with the acute care / inpatient setting."

The Board suggested that Mr. Patterson submit an official request for a Declaratory Statement and they will issue a response.

Eric Cedor asked, "Our clinic is inside of a health club, and we have members that would prefer to pay us a cash fee for services rendered (specifically manual therapy and dry needling). Are we still required to have a physician referral to provide these services in a cash-based system? If so, is this a restriction imposed by the board or by state law?"

Don Cassano will draft a response.

Christian Bourgeois asked, "I am opening my own outpatient physical therapist clinic and I am trying to determine what agency has jurisdiction over outpatient physical therapy clinics to see what type of inspections and licenses I need to open the doors. I already have an occupational license with Ascension Parish, but I'm not sure if I need some type of state license above and beyond my occupational license and my state PT license. Any help would be greatly appreciated.

The board determined that no additional paperwork is needed to provide to the board for businesses. Mrs. Martin will respond.

Aliza Rudavsky asked, "1. I am a licensed PT in good standing in the state of Washington since 2012 however this past September I put my license on "inactive" status as I am living in Australia temporarily. I will be moving to Louisiana in August and wanted to know what the best way is to get my license to practice there? Is there any reciprocity because of my good standing in WA? Do I have to activate my WA license in order to get the reciprocity? I won't be practicing in WA, just in LA. 2. In Australia I have my license as a physiotherapist and have been practicing here. I have been able to do on-site treatment for performing artists at musical theater shows (backstage before the show) and am contracted out by the theater company. I know a lot of ATCs and PTs do side-line treatment at sporting events and in my mind, backstage treatment is similar. What are the laws about backstage and side-line evaluation and treatment in LA? My understanding is evaluation is OK without a referral but treatment requires a referral from an MD, are there any specific rules or exceptions for side-line or backstage treatment?" The Board asked Mrs. Martin to reply to her first question stating that there is no issue with her applying through Reciprocity as long as her license in WA is in good standing.

The board asked Mrs. Martin to forward Ms. Rudavsky the declaratory statement pertaining to PT and sports to her second question.

Advisory Committee Nominees

The Board reviewed resumes of nominees to the Advisory Committee that will serve the southwest and northwest regions of the state, replacing outgoing committee members Kevin Touchet and Armafe Veneracion, respectively. The Board also reviewed the resumes of nominees to the Advisory Committee that will serve as the foreign trained positions on the committee. The Board requested to interview the applicants at the next board meeting. The Board reviewed the resume of Ryan Usner, PTA who was the sole contender for the PTA position on the committee and who the board members met at the January board meeting, and again as he volunteered at the Mandeville/Covington traveling jurisprudence seminar. The Board voted unanimously to appoint him to the committee.

Board Meeting Recommendations

Secretary/Treasurer Landry recommended to the Board to add board meetings throughout the year to get more business completed. He recommended traveling hearings, so they do not coincide with board meetings and reduce the amount of time allowed for monthly board meetings. He also recommended a board retreat in the coming year to discuss important issues facing the practice of physical therapy that can be harmful to the public and/or cause issue for the regulation of the practice of physical therapy.

Old Business

Monitoring Consent Orders

The Board reviewed Emmanuel Adeyanju's essay that was submitted by the deadline specified in his Consent Order. The Board approved his essay as it is written. The Board office will send him notice of approval.

The Board voted unanimously to go into Executive Session to discuss sensitive information pertaining to monitoring licensees.

The Board recessed at 1:30am.

The board meeting reconvened at 8:00am on Thursday, February 26, 2015. A quorum of members was present. Chairman Al Moreau, Treasurer/Secretary Danny Landry, Kristina Lounsberry, Elizabeth "Beth" Austin, Dr. Gerald Leglue and Don Cassano. Charlotte Martin, Executive Director, George Papale, General Counsel, Courtney P. Newton, Attorney, Assistant Attorney General John Morris and Certified Court Reporter Kim Taylor were also present.

Old Business (continued)

The Board voted unanimously to go into Executive Session to discuss sensitive information pertaining to the findings of fact from the hearing in January for licensee Rebecca Seymour. John Morris, Assistant Attorney General was present in Executive Session to provide legal advice to the Board.

The Board exited Executive Session. Chairman Moreau moved to accept the findings of fact as stated with the revisions made through executive session to accurately reflect the record. The board voted and unanimously approved.

The board meeting was adjourned at 10:00am.

Recap of motions:

Don Cassano moved for the board to authorize signatures of the purchase order or for the purchase of software and maintenance services from Covalent Logic upon approval by Covalent Logic of the inclusion of terms and agreements into the contract. Dr. Leglue seconded the motion. The board voted and the motion was unanimously approved.

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