

LOUISIANA PHYSICAL THERAPY BOARD

March 25 & 26, 2015

DRAFT

Proceedings for the Louisiana Physical Therapy Board, taken in regular session on Wednesday, March 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 Armafe Veneracion and Wayne Campbell. Charlotte Martin, Executive Director; George Papale, General Counsel; and Courtney P. Newton, Attorney were also present.

The meeting was called to order at 4:00pm by Chairman Al Moreau.

Chairman Moreau welcomed members of the public, members of the LPTA and those who would be interviewing for the Advisory Committee positions during the meeting.

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 February 2015 board meeting. The board reviewed the minutes and Chairman Moreau moved to approve the minutes as written. The Board voted and the minutes were approved.

Reports of Officers and the Board Office

Chairman’s Report

Chairman Moreau reported that the Attorney General’s Office released an AG opinion that dry needling is within the scope of practice for physical therapy. The board asked Mrs. Martin to post a link to the AG Opinion on the board website and to send an email blast to all licensees notifying them that this opinion has been released. The board asked the LPTA representatives to add a link of the AG Opinion to their website.

Chairman Moreau updated the board on a meeting that he, Executive Director Charlotte Martin and Attorney Courtney Newton attended with representatives of LPTA, BESE and the Louisiana Department of Education regarding physical therapists practicing at school sponsored athletic events. The Department of Education and BESE agree that physical therapists should not be excluded from practicing on the sidelines. They informed the representatives of the Board and LPTA that they would appreciate input from healthcare professionals when writing policy, since they are experts in education and not in healthcare. The Board determined that they will move forward with meetings with LHSAA regarding changes to the serious sports injury definition and will continue meetings with the Department of Education and BESE after the language is finalized for that definition.

Treasurer's Report

Secretary/Treasurer Landry reported the cash in the bank for the month of February 2015 totaled \$32,646.34. He reported that the income for February 2015 totaled \$99,009.50 and expenses totaled \$61,369.00. The two Certificates of Deposit at the Bank of Montgomery totaled \$714,927.09 at the end of February. One Certificate of Deposit totaled \$200,837.27 in February and did mature on December 18, 2014 but was automatically renewed. The other Certificate of Deposit totaled \$514,089.82 at the end of February and will mature on March 27, 2015. The Business Savings account at Chase Bank was \$202,549.14 at the end of February.

Executive Director's Report

Executive Director Charlotte Martin reported that Sirwana Granger attended the State Civil Service HR Training Workshop on 3/9/2015 in Baton Rouge.

Mrs. Martin reported that the Board had a booth at the LPTA Spring Symposium and Mrs. Granger and Mrs. Linzer from the board office were both present at the conference. The licensees had a positive response to the board's customer service and the direction that the board is headed overall.

Mrs. Martin reported to the board that performance evaluations for all contracts of fiscal year 2013 – 2014 are overdue. She was made aware of this and is working to remedy the situation with the office of state procurement as soon as possible.

Mrs. Martin updated the board that the architecture firm who produced the architectural plans on the new proposed office building has sent their invoice to the board office. The board attorney, Courtney Newton, will work with Mrs. Martin, to confirm that the percentage of the project that is being invoiced is accurate and completed. The confirmation will then allow the board office to issue a check to be signed by the Secretary/Treasurer and sent to the architecture firm for final payment of the invoice.

Mrs. Martin updated the Board that the Department of Health and Hospitals hosted a training for the new e-system for filing contracts. The training was held on 3/25. Mrs. Martin was unable to attend due to a conflict with the board meeting. She will attend the makeup session and will begin entering contracts in the online system as soon as possible for next fiscal year.

Mrs. Martin updated the board on the contract for the Public Service Announcement. Submitting a contract for \$50,000 for professional services and the remaining amount to be invoiced directly to the board is no longer going to be an option for the board because it would be considered an attempt to avoid the RFP process with the state. Mrs. Martin will work with attorney Courtney Newton to submit an Attorney General's Opinion on whether or not physical therapy is an "industry" according to the applicable law that exempts those with self-generated funds from the RFP process.

Mrs. Martin updated the board on the website upgrade. Covalent Logic estimates that the project will be completed by the end of May 2015.

The board is adopting a policy regarding those who wish to have a refund on their renewal application after they submit the fee. The board determined that if the staff has reviewed the renewal packet, the licensee will receive a 75% refund upon request to rescind the renewal application. If the renewal packet has not been reviewed by staff, the licensee will receive a 100% refund upon request to rescind the renewal application.

Mrs. Martin reminded the Board that the FSBPT 2015 Board Member and Administrator Training will be held from 6/12 – 6/14/2015. The Chairman and Secretary/Treasurer expressed interest in attending.

Mrs. Martin reported the following upcoming events, to occur prior to the next board meeting:

- Mrs. Martin and Chairman Moreau will be meeting with the Speaker of the House of Representatives Chuck Kleckley for the state of Louisiana as an introductory meeting and to inform him of the Resolution that will be filed this year.
- New Orleans Jurisprudence will be held 4/23/2015 from 6pm – 8pm in Metairie
- LSU New Orleans Interviews for the graduating class will be held 4/24/2015

Our Lady of the Lake Interviews for the graduating class will be held 4/27/2015

Legal Report

Secretary/Treasurer reviewed the revised language of the Telehealth Rule draft with the Board. The board noted that it is **GREAT!** However it needs more information regarding the jurisdiction of licensees practicing via Telehealth. Secretary/Treasurer Landry will consider the comments of the board and revise the Rule draft to be reviewed at the April board meeting.

Executive Director Martin discussed the DHH Rule for Home Health Minimum Standards and how it is much more restrictive to licensees than the Board's current language of the Practice Act and Rules. Specifically, it states that the PT/PTA face-to-face conference must occur every 6th visit or once a week, whichever occurs first. The Board Rules state that the patient care conference must occur every 6th visit or every 30 days, whichever occurs first. Chairman Moreau moved to have the board attorney Courtney Newton write a letter to DHH informing them of the Board Rules and formally asking them to change their Rule. The board voted and approved unanimously.

Board Attorney, Courtney Newton presented a draft letter for the board to send out to licensees who failed to renew their license in 2015. The board reviewed the letter and unanimously approved it as written. The letter will be sent on May 1, 2015 to all licensees who did not renew their license with an expiration date of April 30, 2015.

Mrs. Newton provided a draft response to Judd Patterson's Declaratory Statement request regarding a physician's order for "eval and treat." Chairman Moreau moved to accept the response as written. The board voted and unanimously approved. Mrs. Newton will work with the Declaratory Statement Committee (Danny Landry, Kristina Lounsberry and Beth Austin) to combine this declaratory statement with an existing declaratory statement on the website, in an effort to reduce duplication and possible confusion.

Mrs. Newton reported that Robyn Alleman signed the amended Consent Order. Art Prado has not signed the amended Consent Order and Mrs. Martin is having a difficult time reaching him. It appears that he is being cooperative, but Mrs. Martin and Mrs. Newton will work together to get a signature from him as quickly as possible or to move in emergency action.

Mrs. Newton stated that she will be reporting on North Carolina State Board of Dental Examiners verses the Federal Trade Commission in detail at the April board meeting. She provided a brief overview for the board in terms of what the case was about and why the ruling may be of interest to the LPTB. She recommended that the Board create a policy on all cease and desist letters, so that prior to submitting a letter they must ask for a neutral party opinion as to whether or not a cease and desist would be appropriate.

Mrs. Newton provided two standard clause drafts for the Board to use for consistency when writing Consent Orders and Board Orders. The clauses cover supervision and drug/alcohol abuse terms and are meant to be stock language that can be revised at the time of the Order. The board accepted the language and asked that it be added to the hearing binder reference guide.

Chairman Al Moreau presented a correspondence from licensee Susan Bartol, PT asking for a legal opinion on licensee's privacy rights in sharing email addresses. The legal team asked that we move this item to the April meeting agenda. The board voted and unanimously approved to readdress this question in April. They also advised the board to include a "preferred mail" and "mailing list" and "email list" option on the new website for better documentation of what licensees want in terms of where mail should be delivered.

Chairman Al Moreau asked for a legal opinion on Rule 335.A.2. Legal reviewed the Rule and stated that if the physical therapist states that the Tech is to do what the PTA tells the Tech to do that day, then the Tech is following orders of the physical therapist. Chairman Moreau asked if the physical therapist must be on the premises. It is the opinion of the legal counsel that the physical therapist must be on the premises unless the tech is assisting the PTA for safety purposes.

Advisory Committee Nominee Interviews

The board interviewed nominees for the **vacant** Advisory Committee positions. The Advisory Committee can consist of up to nine members. Currently the Board wishes to fill a position with a foreign trained licensee, as well as to have representation in the northwest and southwest regions of Louisiana to fill vacancies. Nominees include the following licensees: foreign-trained nominees are Jeroen Staarman and Robert Montanaro; northwest region nominees are Jeremy Dye and Steve Allison; and the southwest region nominees are Chris Franks, Scott Duplechin, Raymond Prince and Tad Landry. Scott Duplechin was not present.

Chairman Al Moreau moved to enter into Executive Session for individual interviews of each nominee of the Advisory Committee. Dr. Gerald Leglue seconded the motion. The board voted and unanimously approved to go into Executive Session.

EXECUTIVE SESSION

Chairman Al Moreau moved to exit Executive Session for individual interviews of each nominee of the Advisory Committee. Dr. Gerald Leglue seconded the motion. The board voted and unanimously approved to exit Executive Session.

Reports of Special Committees

CEU Committee

Mrs. Martin suggested that licensees may not understand fully how to know if a course is board-approved by the LPTB. The board asked that the staff send out a mass email to all licensees notifying them that all board-approved courses are listed on the board website.

Mrs. Martin asked the board for clarification on the CEU Course review process and for an interpretation of Rule 193.C., “proposed continuing education courses shall be submitted to the board for approval in advance of presentation.” The Board ruled that if a course has been approved by the LPTB in prior years (i.e.; 2010, 2011, 2012) and then the course sponsor failed to submit an application in a subsequent year (i.e. 2013, 2014) then it would be reasonable to assume that the board would have approved the course in the subsequent years had an application been submitted with the same course content and speaker qualification. The legal team had an opinion that corroborated this thought process. However, if a course sponsor has never submitted for approval in the state of Louisiana, the board staff and CEU committee should only review applications in the current calendar year (January – December). Course applications that are currently being submitted by course sponsors for licensees who took courses during the renewal cycle (years 2013 and 2014) for courses that were never approved by the board will not be reviewed.

Mrs. Martin presented information from Course Sponsor, “Lone Star” with a supporting letter to the board and supporting documentation. The course sponsor stated that a 2013 course application was submitted to the Board but was never processed. The board stated that if he can produce a canceled check to show proof of this, then he will be permitted to submit a new application to be processed by the CEU committee.

Mrs. Martin presented a CEU Exemption Request and Email Exchange from licensee Sharon Toups, PT. The board reviewed the request of the licensee and determined that she was not in compliance with her CEUs and does not qualify for an exemption under Rule 198.

Declaratory Statement Review Committee

The board reviewed and approved language of the answer to the question in the declaratory statement in the category “Practice Issues” as it was discussed at the February Meeting, “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 reviewed the revisions to the Declaratory Statements found in “Scope of Practice” listed as item #26¹ and #53². The board voted and unanimously approved the answer to the

declaratory statement question #26 as revised. The board asked the Mrs. Newton combine her declaratory statement draft for Judd Patterson and the statement #53 under “Scope of Practice” to prevent duplication and confusion.

Legislative Task Force (LTF) Update

Chairman Moreau provided to the board an update on the meetings that he and Executive Director Charlotte Martin have been attending on the upcoming Patient Access Resolution Meetings. He informed the Board that the Board has provided Senator Mills’ office with a draft of the Resolution and the LTF is working on the final edits, including the final list of committee members. The meetings that were attended since the last board meeting include meetings with representatives from BlueCross BlueShield of Louisiana, the Louisiana Department of Insurance, the Louisiana State Board of Chiropractic Examiners, and Medicaid. Secretary/Treasurer Danny Landry, Mrs. Martin and Advisory Committee member Patrick Cook also met with the Chairman of the House of Representatives Health and Welfare Committee Scott Simon. Chairman Moreau and Mrs. Martin have meetings scheduled prior to the next board meeting with the Commissioner of Insurance, the Speaker of the House Chuck Kleckley, and the Chairman of the Senate Health and Welfare Committee David Heitmeier.

Mrs. Martin notified the Board that she and Advisory Committee Member Patrick Cook have both completed the Legiscon Training. The LTF members will also receive training and login access to the website.

Chairman Moreau updated the board on the Bill that will be submitted to the legislature this session by Representative Huval to add the LPTB to a list of boards exempt under La. R.S. 37:21 to remove the statute of limitations on the Board for investigating complaints that could potentially prevent the Board from protecting the public.

Chairman Moreau reviewed the draft of the midterm Governor’s Report to be submitted to the legislature by the board. Mr. Moreau moved to accept the midterm Governor’s Report with changes that will be completed and approved by the Legislative Task Force. The board voted and unanimously approved.

New Business

Secretary/Treasurer Danny Landry shared information regarding the Medicare HHC Star Rating Methodology with the Board.

Mr. Landry presented the motions for the House of Delegates for the American Physical Therapy Association so the Board is informed of what will be discussed and debated upon the floor of the House of Delegates at this year’s APTA’s HOD Conference.

Correspondences

Steve Allison, PT asked the board to reconsider his request to allow PTs licensed in Louisiana to be allowed to sit for the National Registry Exam in order to perform physical exams for the U.S. Department of Transportation. Mr. Allison brought detailed information for the board to review, including peer state board approvals in Texas and Arkansas for PTs to perform these physicals. The board asked for a legal opinion on the matter. The legal team advised the board that it would

be within the scope of physical therapists' practice to perform physical exams for the Department of Transportation. The board asked legal to issue a letter be reviewed at the last board meeting and distributed to Elaine Papp at the Department of Transportation in response to their previous request for a board opinion on the matter. The board voted to change the board's opinion of physical therapists being able to perform DOT physicals, as long as the delegation of certain tasks would be prohibited and clearly indicated. The board voted and unanimously approved.

Tanyia Tregre, PT asked if the board has a recommended form for use in the PT/PTA weekly conference. The board advised that they do not have a recommended form. The board asked Mrs. Martin to respond.

Old Business

The board reviewed the draft response to Eric Cedar's question issued in the correspondences during the February 2015 meeting and approved it as it is written. Mrs. Martin will send the response on board letterhead to Mr. Cedar with the board's signature.

Chairman Al Moreau moved to enter into Executive Session to discuss monitoring consent orders. Kristina Lounsberry seconded the motion. The board voted and unanimously approved.

The board voted to exit Executive Session

The board ~~members meeting~~ **meeting was adjourned recessed** at 10:00pm.

The board meeting reconvened at 8:30am on Thursday, March 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. Advisory Committee members Armafe Veneracion and Wayne Campbell were present. 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.

Thursday, February 26, 2015

Election of Advisory Committee Members

The board voted on the nominees who were interviewed for the Advisory Committee positions. The board voted for the foreign-trained Advisory Committee member and accepted Robert Montanaro; the board voted for the northwest region Advisory Committee member and accepted both Jeremy Dye and Steve Allison; and the board voted for the southwest region and accepted Chris Franks. The board also voted to add Raymond Prince to the Legislative Taskforce as a public member.

Hearing

A hearing was held regarding the licensee Stacey Andrus, License Number A6598. Minutes of the hearing were taken by a certified court reporter.

Chairman Al Moreau moved to enter into Executive Session to deliberate on the evidence provided by the Respondent and Counsel. Dr. Leglue seconded the motion. The board closed for Executive Session.

Exit executive session to take a vote on the Hearing Panel decision.