

STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY
AND ECONOMIC DEVELOPMENT
BOARD OF PHYSICAL THERAPY AND OCCUPATIONAL THERAPY
333 Willoughby Ave.
Conference Room A
Juneau, AK

February 4-5, 2010

By authority of AS 08.01.070(2) and in compliance with the provisions of AS 44.62, Article 6, a board meeting of the State Physical Therapy and Occupational Therapy Board was held on February 4-5, 2010 at the State Office Building, Conference Room A, Juneau, Alaska.

February 4, 2010

Agenda Item 1 Call to Order/Roll Call

Mary Ann Paul called the meeting to order at 9:05 a.m. This board meeting was public noticed on January 15, 2010 and published in the Anchorage Daily News.

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

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

Approved absence: Jay McDiarmid, PT, Secretary
Staff present: Connie Petz, Licensing Examiner
Public present: Jeff LePage

Agenda Item 2 Review/Approve Agenda

Agenda was amended to include additional CE review and to cover unfinished items from September board meeting at the end of this board meeting.

**On a motion made by Joyce Barnett, seconded by Gary Burleson
it was RESOLVED TO APPROVE THE AGENDA as amended.
All in favor, carried unanimously.**

Agenda Item 3 Ethics Reporting

There were no ethics violations to report by any board members or staff. Gary Burleson disclosed his wife is a teacher in the Anchorage School District.

Agenda Item 4 Review/Approve Minutes

September 14-15, 2009 minutes had grammatical and typographical errors only; there were no substantive changes to the minutes.

On a motion made by Gary Burleson, seconded by Jo Boehme it was RESOLVED TO APPROVE September 14-15, 2009 MINUTES as amended. All in favor, carried unanimously.

Agenda Item 5 Investigative Report

Staff introduced paralegal: Karen Wilke who answered prior board questions and explained the process for continuing competency and disciplinary sanctions.

The board discussed 'voluntary' surrender is not in our professional fitness questions and determined they want wording voluntary or involuntary added after surrender on the application.

On a motion made by Darin Bell, seconded by Gary Burleson it was RESOLVED TO AMEND the application to now clarify licensing actions include surrendered (voluntary or involuntary) under professional fitness question number 2. All in favor, carried unanimously.

Staff explained when voluntary surrender then the consent agreement is not in place and there is no fine so there is nothing for the licensee to pay. In the event they seek re-licensure in our state the consent agreement, including a fine would be enacted prior to licensure. Surrender is a reportable action for the licensee for any future state licensing.

Break, off the record at 10:15 a.m., back on the record at 10:27 a.m.

Karen Wilke advised the board they will need to review 4 consent agreements: Case # 2700-09-003; Case # 2700-09-004; Case # 2702-09-001; Case # 2700-10-001

Mary Ann called for Executive Session according to A.S. 44.62.310 (c)(2) and (3) and the Alaska Constitutional Right to Privacy Provisions, for the purpose of discussion of (2) subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion and (3) matters which by law, municipal charter, or ordinance are required to be confidential.

On a motion by Gary Burleson, 2nd by Joyce Barnett; it was RESOLVED to enter into executive session in order to discuss consent agreements.

Roll call vote: Joyce Barnett, Darin Bell, Kathleen Lind, Jo Boehme, Gary Burleson and Mary Ann Paul all voted 'yes' to enter Executive Session. All in favor, carried unanimously.

Board entered executive session, off record at 10:30 a.m. back on record at 11:55 a.m.

Chair explained the 4 consent agreements will be voted on individually.

Mary Ann called for a Motion on case # 2700-09-003 Cole Carson. The board reviewed the CE's provided and determined he lacks 7 hours as these CE's do not contribute directly to the practice of physical therapy. The board would like him to either

document learning objectives for the courses that he took or within 30 days provide an additional 7 hours of qualifying CE's to satisfy the consent agreement.

On a motion by Gary Burleson, seconded by Kathleen Lind it was RESOLVED that the board accept the consent agreement for 2700-09-003 as clarified by board chair. All in Favor, no nays.

Case No. 2702-09-001 Mari-Margaret Tydingco was lacking 12.5 hours and has submitted 13 hours of CE's. Chair called for a motion to accept these hours and the fine of 1750.00.

On a motion by Gary Burleson, seconded by Kathleen Lind it was RESOLVED to accept the consent agreement as written for 2702-09-001. All in Favor, no nays.

Case No. 2700-09-004 Michele Gill had not submitted any CE's. She has since provided the 24 CE's she was lacking. Chair called for a motion to accept the CE's and the \$2700.00 fine.

On a motion by Gary Burleson, seconded by Kathleen Lind it was RESOLVED to accept the consent agreement for 2700-09-004. All in Favor, no nays.

Case No. 2700-10-001 Raymond Popp - Voluntary Surrender.

On a motion by Gary Burleson, seconded by Kathleen Lind it was RESOLVED to ADOPT the voluntary surrender agreement for case 2700-10-001. All in Favor, no nays.

Agenda Item 6 FY10 Annual Report was tabled

Agenda Item 7 Budget Report: Tabled to later in meeting or Friday

Agenda Item 8 Liaison Reports

Liaisons provided written reports for board packet - brief recap. Staff explained civil cases which become criminal cases become an immediate investigative priority.

Lunch OFF record 12:20 p.m. Back on record 1:00 p.m. All present, roll call: Joyce, Gary, Jo, Kathy, Darin, Mary Ann and staff Connie, Gayle Horetski and Ann Marie Puustine

Agenda Item 9 Discussion: tabled to later in the board meeting or Friday

Agenda Item 10 Statute Project Sec. 08.84.150

The board is working to repeal the exceptions to license requirements in the schools. Staff from Department of Law, Gayle Horetski - Assistant Attorney General and Ann Marie Puustinen - Para legal/Associate Attorney, researched the background of Statute 08.84.150 for the board meeting. Regulations specialist Jun Maiquis in attendance.

Ms. Horetski offered history of statute; adopted originally in 1957, amended in 1969 and 1980. In 1987 the occupational therapy part of the statute was added to the physical therapy statutes and regulations. It passed in the last days of the legislative session but did not have any public hearings and was attached to other legislative items. Governor

Cooper vetoed the bill citing problems with the definition, stating it was too broad and lacked committee hearings and consideration.

A special session was called and the legislature overturned most of the vetoes that had occurred. The bill became law with a vote of over two thirds of the legislature. In 1988 the governor introduced a bill to fix what appeared to be problems with the 1987 legislature. The 1988 bill was adopted and included wording "for compensation" in the exemption in the statute. There was also a non-related amendment in 1997.

Ms. Puustinen explained the rationale for HB 205 which defined occupational therapy and the duties required to be performed by the occupational therapist so broadly that it prohibited anyone other than a licensed OT to perform or adapt an environment for the disabled in the schools. Historical discussion relayed that leaving the definition as is, without any exemptions, was not appropriate or feasible for the school districts to comply with; especially rural school districts where occupational therapists weren't living.

The governor introduced the bill for the exemption in the schools and provided a letter explaining the bill. The 1988 bill passed in both the House and Senate with only one vote against it in both houses combined. Position papers were submitted in favor of the bill from the Alaska Council of Schools Administrators and the Department of Health and Social Services. Comments both negative and positive were received from other interested parties some of whom were occupational therapists and physical therapists.

Minutes of the committee meetings from the session also discussed it was cost effective to allow teachers and aides to perform the services designed by occupational therapists and carried out by in-school personnel who had received the training on how to do it.

Another piece of this legislative history was the governor's transmittal letter. Section three of the bill adds the following to the list those that are exempt from the licensing requirements AS 08.84.150. A person employed by a governmental unit or educational institution which is required to engage in some phase of occupational therapy work, so long as the person does not offer to render occupational therapy services to the public for compensation, in addition to the salary received from his or her employer. They were focusing on compensation with the definition of occupational therapy services but they did not envision the compensation including the salary paid to the person by his or her employer in the context of the exemption for schools.

Board member Jo clarified compensation was not the issue but billing Medicaid for occupational therapy services when a person was not a licensed occupational therapist. Gayle explained Medicaid billing is regulated by federal and state laws and not relevant to our issue in relation to this statute. Also, the schools are required to be registered as a Medicaid provider in order to be reimbursed for some services and the money goes to the school district and not the individual employee.

Board member Kathy asked if the exemption provides a loophole in which the schools can bill for OT services for Medicaid reimbursement? Gayle said the board's oversight/authority is over PT's and OT's licensed in the state and how they carry out their duties. The board has no jurisdiction over Medicaid issues and it is completely irrelevant to the interpretation of the exemption.

Mary Ann asked for clarity on the initial bill's background. What was meant by saying the definition was so broad. Ann Marie cited one example, a janitor would not be able to

install an adaptive handrail in a rest room, only an OT would be able to. Besides the adaptive environment, it was a long standing practice that teachers could implement the programs provided by OT's and under this definition teachers could no longer administer occupational therapy skills without being in violation of the law. Past discussion had been about teachers administering the occupational therapy skills and as a result HB 368 which created the exemption was introduced.

Gayle said statements from those in support of the bill said there were not enough therapists to service these children on a regular basis. Therefore to address an urgent need for special education services to all children they must have the authority to use school personal to conduct limited therapy as outlined in the language of the bill. The focus was on the shortage of licensed occupational therapists. Statements made by the department of HSS said the most efficient way to provide services is to use other personal for the provision of the less complex activities falling under the definition of occupational therapy. Gail said they were squarely looking at; can we let teachers and classroom aides do this and the legislature squarely voted 'Yes' in 1988.

The board asks; if this exemption was based on a shortage of therapists, how do you prove we no longer have a shortage of occupational therapists? Home programs or school programs are not occupational therapy or physical therapy. It should not be called the practice of OT or PT.

Gayle said the legislative approach could have been to narrow the definition but instead the approach was to put in a blanket exemption and it was deliberately placed to allow school personnel to provide these services.

Gayle said if the concerns of this board are that the current system is not working well; that somehow children are being damaged or disadvantaged by the current system then the only option she can suggest for the board is to go to the legislature to repeal or amend the statute in some way.

Gayle guided the board through the steps to change a bill. If consensus of the board is to repeal or amend the statute then plan for a 2 year process. Try to be ready to begin repeal efforts with the 2011 legislative session.

Mary Ann asked Gayle, when a teacher marks the drop down box with either physical therapy or occupational therapy on an IEP, are they stating they are providing physical therapy or occupational therapy. Gayle said 'the exemption says that someone who is employed as a teacher's aide or who is a teacher who uses these skills under a program implemented by the employer and developed by a licensed occupational therapist, then no, she does not believe they are saying they are an occupational therapist nor are they representing themselves to be. They are practicing under the exemption that was passed by the legislature. The lead in language "unlawful to practice unless..." if you fall under that exemption then it is not unlawful for you to do what the exemption allows you to do.

Jo pointed out that over the years feedback is that when parents see fifteen hours occupational therapy on their child's IEP they believe their child is receiving 'occupational therapy'. When it is not performed by a licensed occupational therapist or occupational therapy assistant but provided by a classroom aide, then the student is not receiving 'occupational therapy'. The board's concern is that the exemption seems to support that the child is receiving occupational therapy. Additional concern is that

from a lay person's eye, reading the statute leads to this misunderstanding. Parents and even school professionals think the student is receiving occupational therapy services when on the IEP it says they have 20 hours of OT in a month when in fact they may have been seen by an occupational therapist for only 45 minutes that month.

Gayle explained the statute provides for anyone employed by an educational institution and who is required to use occupational therapy skills (which are developed by a licensed occupational therapist they then meet the requirements in the statute and therefore are not violating the law.

The board can proceed in seeking to repeal the statute or rewrite it but they should have a convincing list of all the reasons as to how the current statute is harming the students. Be honest about who will resist the change so you can be prepared for the arguments to repeal the statute.

Another point to consider is in the statutes definition which says occupational therapy means, for compensation. The salary of the teacher or teacher's aide is their wages for employment and not considered compensation for 'occupational therapy' services.

How will the court interpret this? They will review the history we are looking at today and see the legislature intended to allow the teachers to provide the services to the students. Darin recapped the exemption is serving the purpose which it was designed to serve. Unless we (the board) decide we no longer want the exemption available.

Jo stressed there is a misunderstanding that we (the board) want to reduce the services students receive and that is NOT the boards intention. The board's intent it that the teachers and teacher's aides will still continue to support what occupational therapists are doing. If an OT does an evaluation and a child has a problem, the teacher's aide will still work with the child on say hand strength...

The entire issue is the board wants to change how the ancillary services are "named" to avoid misinterpretation for the services provided to the student as being identified as occupational therapy when it is NOT occupational therapy.

Gayle suggested subsection 6 could be reworded to say something such as, school personnel can offer: and then pick the terms which would identify what they would provide; ancillary support services or whatever term the board would like to use. Then define in the statute what the ancillary support services include... following what the OT told them to do at home or in school.

If the board sees what an occupational therapist does and what support staff can do as different then draft definitions which tease the two apart. Saying only OT's can do therapy and would do X because they are licensed and a non licensed person can do XYZ. This is another way to allow the current behavior in the schools to continue and clarify what non-licensed personnel can and cannot do under the exemption.

Jo asked if our board were to move forward using the national American Occupational Therapy Model Practice Act language, would that be an easier route to take to make a statute change. Gayle said many professions have a model act and she knows when boards' attempt to modernize their statutes it does seem to add some weight to their request with the legislature and they may view the proposed change more favorably knowing it is not some idea that has not been studied out.

The board recognizes that physical therapy is being implemented in the schools in the same way as occupational therapy so what is the issue of repealing this statute? Gayle speculated that when the 1987 law was passed, then the focus of the 1988 law was to prevent what appeared to be the elimination of programs in the schools. Physical Therapy had been regulated since 1957 so perhaps there was no focus on it.

The board is seeking to change policy. Therefore decide on policy grounds. State the reason for the change. What will happen if it goes away? What will be better or how will this improve that policy. We must defend it on the merits.

Occupational therapy skills and occupational therapy practice are two ways in which the wording is used in our statutes and regulations. Gary asked if one avenue could be to define occupational therapy skills in the context of this statute. We have a definition of occupational therapy and occupational therapist, Gayle said she doesn't see the need to define the skills. Mary Ann said the model practice act defines the "practice of" occupational therapy or physical therapy. How can we make our point without causing conflict?

Gayle said once the board is given permission to present a bill it goes to department of law for drafting. The board should seek a friendly legislator to carry the bill. She said in the state of Alaska there is judicial doctrine, the legislative enactment is interpreted in a way that gives force to the body who adopted it. Every time a statute is challenged, the legislature reviews the history to identify the intent and how they adopted it.

The board thanked Gayle, Ann Marie, and Jun for their input and they left the meeting.

The board discussed the statute history from a new perspective with understanding the legislative intent.

1. Should we leave the statute alone? What direction should the board take?
2. Is the public is being misled due to terminology? Does it cause harm to anyone?
3. How do we relay the understanding that occupational therapy is only done by the "licensed OT/OTA" and non licensed staff is only implementing the prescribed skills?
4. If original reason for the exemption was based on a shortage of OT's in the state; per capita, what did that look like in 1988 versus today and is this still a valid point?
5. If the act is opened up, would this expose physical therapists to a push for an exemption too?
6. What would change in the event the law was repealed in how the students receive services?
7. How do we want the statute to meet the needs of the licensees and the state associations?

8. We can see the intent of the law is fulfilling the purpose of the intent. Do we need to pursue repealing the statute?

Can we look at the requests and concerns' of those who have presented them and identify for them that the statute is meeting the intent and there is nothing wrong in how it is being implemented?

There is no current harm being done to the children, they are getting the services they need by ancillary people?

We still have the terminology issue as the public believes they are receiving occupational therapy and physical therapy while the actual practice of physical therapy or occupational therapy is different than doing the prescribed exercises.

Is there a concern for public protection? Unskilled providers saying they are doing occupational therapy, are they actually harming the patient? Coaching a student with a required skill such as hand dexterity is not likely to cause future harm to the patient. But if the community believes that this is what occupational therapy is, then as per the AOTA that degrades, deludes or misinforms the public about what occupational therapy actually is. When someone believes they are receiving occupational therapy when it is actually exercising skills then we do have a problem. This is where public protection of the profession becomes the issue.

Jo shared that Art Arnold expressed interest in working with the state association in order to have the wording cleared up to eliminate ambiguity on the IEP. The discussion revolved around the appropriate use of terminology. Complaints have been about how do we protect the public so the term occupational therapy is used only by the professional? We want the public to understand what they are receiving is NOT occupational therapy and what it means in terms of receiving occupational therapy from a licensed professional.

Maybe the board should not work towards repeal of the exception in the statute but add language which makes it clear what is NOT the 'practice' of occupational therapy. Work on language to have our intent clear using the AOTA model practice act which is about what occupational therapy is when implemented by a licensed occupational therapist or an occupational therapy assistant and what it means when the teachers or teachers aides support the program designed by the occupational therapist.

It is the occupational therapist who writes a prescription (treatment plan) with goals and objectives on the IEP for what the student needs. Who says they can change anything on the IEP?

If the statute exception is not providing a disservice and the point is to clean it up and clarify things, then is the political battle worth the time and effort of the board to pursue this battle?

The board says yes, we need to explore the reasonable options for the good of the public. We can't just say it's too hard and we must proceed with this project.

Break 2:30 p.m. back on the record 2:40 p.m.

Jo gave a recap of the three teleconferences held by the working group.

Goal - collaborate on how to change language in the statute and not reduce services to the students. The statute revision should not diminish special education services nor reduce quality or quantity of related services, including OT, as aides are not practicing occupational therapy.

AKOTA president Gretchen Chamberlain said they are willing to work with the districts on revision of how IEP's are designed and training for employees in the school district for activities in the OT plan as this was not a role of the PTOT board.

AS 08-84-150(b)(1-6) should be replaced with the AOTA Model Practice Act Article 3.02. This change would remove ambiguity related to the exception to license requirements.

Mary Ann suggested the board all work on clarification using the legislative proposal form to address what all the concerns could be. Lay out benefits and consequences in order to have a clear understanding of where we are going with the project.

Primary complaint - service is being called occupational therapy and physical therapy when it is not being provided by a licensed physical therapist or occupational therapist. We need to make sure there is a clear understanding that this is a protected term and teachers or aides provide exercise practice not therapy.

Task: Jo will write a follow-up letter to summarize the working group. Explain we look forward to continuing to work with them and ask for suggestions or comments on how repeal would affect them negatively or consequences/negative impacts. Share the areas of agreement and where they disagreed. Share the good ideas and ask what the negative impacts would be for them in changing the statute. State the intention is not to change the way in which service in the schools is delivered or impact them negatively. Therefore we do not see that this is an issue. Reiterate the complaint as we see it is, the term occupational therapy is being used and is misleading to the public and to the people who receive the services.

We would like to propose to:

1. Repeal the statute
2. Change the language
3. Adopt the model practice act

The board needs to state the issues; we all need to know how this impacts both the schools and the profession. What you would like to address – put it in writing. This is what we want to talk about at the next meeting. We need to provide specific reasons as to why we want to change this statute.

The board's role is to protect the public. The board wants the way IEP's are written to be structured to identify that the service provided to the student, when not done by the OT or OTA is NOT called occupational therapy. The schools do not see the exemption as a problem. Are there others who have complaints which are not being voiced? Go back to those who have filed complaints, we know they have voiced concerns on the behalf of others. The board wants the exemption to be followed as written in (C) **the person does not represent** to (i) be an occupational therapist or occupational therapy assistant; and (ii) practice occupational therapy.

Identify how the way an IEP is written is impacting the public? What is the harm that we see occurring to the public because of the way documentation is being presented to parents and others? How is this misunderstanding of the professional therapist versus the school staff and implementation/documentation creating the harm?

Sec. 08.84.190. Definitions

(2) "occupational therapist" means a person who practices occupational therapy;

(3) "occupational therapy" means, for compensation, the use of purposeful activity, evaluation, treatment, and consultation with human beings whose...

Discussion ensued as to the wording "for compensation" in the definition of occupational therapy. AS 08.84.190 (3)

The board would like to have the wording "for compensation" removed. Add this to our legislative recommendations list.

Repeal of 08.84.150, the exception to licensure continues to need research and will remain a project for the board. Do we ask other interested parties to provide how this is negatively impacting them? Can the board ask outside sources to inform the board of issues they may see in relation to this concern? The public needs to know they can voice their concerns to the board. This enables the board to gather more info.

Once the public brings a concern to the board, it is the duty of the board to follow up and find out what their concern is. How do we help find the answers for them?

TASK: Joyce and Jo to put a request to the state associations, asking how the statute as written negatively impacts public protection.

On a motion by Gary Burleson, Seconded by Joyce Barnett to repeal from 08.84.190. Definitions (3) the phrase "for compensation". All approved - No nays.

Staff advised the board that our legislative recommendation list should be provided to the division director and she will provide this list to Tyson Fick. This is so if anyone from the public calls about the list (which the board may be passing out to legislators), then there is some familiarity within our division as to what the board is working on. Board agreed it was good to provide the list.

Agenda item 9 Discussion – Website Redesign – Application revisions (Tabled from earlier in meeting)

Staff recapped and displayed the new website features and links. Disciplinary actions will be posted without names. Applications will be revised per discussion.

Mary Ann called to adjourn the meeting at 4:45 p.m.

Feb 5: Call to Order/Roll Call

Mary Ann called the meeting to order at 9:00 a.m. Roll call - all board members were present, except Jay McDiarmid (excused absence).

Agenda Item 11 Public Comment

Jeff Le Page, President of AKPTA Alaska Physical Therapy Association shared the AKPTA goes to considerable lengths to make continuing education classes available to PT's in AK. There is a spring conference in Anchorage and the courses are open to all licensees. Members of AKPTA have lower fees than non members. Jeff will look at sending a letter to advise all Alaska licensees of the conference.

Jeff is watching HB 139 which offers incentives for certain medical providers for loan education repayments. Tier two of the bill includes therapists and this allows students who would apply for the incentive to pay back their tuition while they work in Alaska.

He has received complaints from therapists regarding chiropractors and naturopaths advertising physical therapy and occupational therapy services when they are not licensed in either profession. The board explained that anyone who has a complaint should report it directly to investigations@alaska.gov

Agenda Item 12 Proposed Regulations

The board considered all public comment. For the record, this is the second time these regulation changes were offered to the public for comment. Gayle Horetski and Jun Maiquis joined the discussion. The board recognized some comments revolved around concern that school staff would not be able to work with students. The intent of the board is not that the definition of non licensed personnel be limited but that the practice of physical therapy and occupational therapy; the examination, evaluation, testing... of the patient be clearly understood. The goal of the current regulation change is specifically to improve the regulations.

Break: Off Record at 10:45 a.m. and back on record 10:54 a.m.

Based on board discussion, there were no substantive changes in accordance with the intent of the proposed regulations only a need to craft language for clarity to meet the goals of the board, protect the public and incorporate change per the written public comment. The board decided to hold a teleconference on February 17th to review the final regulation draft and tabled the vote for the regulations until then.

Board meeting was running long; agenda items 13 – 16 tabled to address item 17.

Agenda Item 17 Review Correspondence

Licensee Mervine submitted written request asking the board to consider a CE certificate for Sexual Harassment Training with 1.5 contact hours for her audit (she was short .5 hrs).

The board discussed the course content in light of 12 AAC 54.420 (c), 12 AAC 54.410(e)(3). Mary Ann asked the board for a consensus if the course was directly related to patient care. All board members agreed that the 1.5 hours do not contribute to the total of the continuing education requirements for the 2006-2008 licensing period. Therefore she still needs to meet the required .5 hours.

Mary Ann explained whenever an applicant has a question about courses they can apply to the board prior to taking a course for the board's approval before claiming them. They could provide a course syllabus or a narrative of learning objectives so the board can determine if the course would be accepted.

Mary Ann called for an official vote on the continuing education for Lucrecia Mervine and all board members voted NOT to accept the 1.5 hours as submitted. All in favor, no nays.

Staff will relay this decision to the paralegal who will respond formally to Ms. Mervine.

Break 1:45 p.m. Off record and 2:06 p.m. Back on the record

Mary Ann advised the board they would readdress case # 2700-09-004 and read on the record the wording as provided by paralegal Karen Wilke.

Mary Ann read:

Motion: Move that in Case # 2700-09-004, the continuing education hours completed by the licensee which we were presented by the paralegal as part of the Consent Agreement, proposed decision and Order, and which were reviewed by the Board in executive session, are approved as meeting the requirements of 12 AAC 54.420(c), and 24 of those hours, which were completed after June 30, 2008, be accepted to meet the requirements to renew this license for the July 1, 2008 through June 30, 2010 licensing period.

On a motion by Gary Burleson, Seconded by Kathy Lind to accept the CE's for case # 2700-09-004. All approved - No nays.

ORDER: IT IS ORDERED THAT IN CASE NUMBER 2700-09-004, MICHELLE GILL, 24 CONTINUING EDUCATION HOURS COMPLETED AFTER JUNE 30, 2008 ARE APPROVED AS MEETING THE REQUIREMENTS OF 12 AAC 54.420(C) AND ARE ACCEPTED TO MEET REQUIREMENTS TO RENEW THIS LICENSE FOR THE JULY 1, 2008 THROUGH JUNE 30, 2010 LICENSING PERIOD.

Agenda item 17 Continuation of correspondence

Documentation submitted for CE approval by Vanessa Halstead. Some certificates were incomplete and the board could not determine which strands she attended. Joyce added there is a trend in infant learning programs for PT's to become more generalists and less specific which contributes to her close review of the request.

Task: Staff to send a letter to Vanessa per board directions asking more details.

The board asked if it were possible to post the regulations on the Physical Therapy website page. This could save postage costs the last regulations were mailed to every licensee and many were returned due to obsolete addresses. Liaisons will remind licensees to keep their addresses current in there newsletters as this is a renewal year.

Task: Staff to ask if we can have them posted online in the future.

Request for board to review/approve CE courses completed by licensee Ellen Americus for a Batelle Development course. Is this directly related to the practice? It can be useful in the work and the board will allow 5.5 CE's for this course.

Discussion was lengthy on this CE review and has been in other meetings. Guidelines in the statute and regulations can be used by applicants to determine if courses meet the

requirements. Staff told the board that we could consider a future regulation project to charge a fee when a licensee asks the board to review CE's. Perhaps instead of a fee, create a form which an applicant could work from to provide the information to assist the board in their review. This may encourage the licensee to determine if the courses meet the requirements.

The board meeting was running very long and we are behind schedule. As a side note, Mary Ann stated the reason the board comes to Juneau is to be able to make appointments with legislators during session. Mary Ann suggested that in the future board members plan to come to Juneau one day ahead of the board meeting. This will allow time for board members to meet with legislators to discuss issues with them.

Agenda Item 7 Budget Report (tabled earlier in meeting)

Budget Report presented by Cathy Mason. Due to current funds she proposed licensing fees to be reduced for the upcoming fiscal year. Physical therapists/occupational therapists reduced to \$180.00 and physical therapy assistants/occupational therapy assistants to \$130.00. The board has the option to request the fee stay at the current level but must state any reasons which back the need to keep current fees. The board was concerned that current legal expenses and higher travel costs will eat up existing funds. The board has the option to do a proposal to the director to request fees not be reduced.

Agenda Item 5 Investigations

Karen Wilke returned to the meeting to present Case # 2700-09-003 for Cole Carson and the consent agreement the board adopted on February 4, 2010. Mr. Carson was required to provide 7 more CE's for his consent agreement and he provided 21 CE's. Karen presented these to the board for an in person vote.

Mary Ann read the Motion: Move in case # 2700-09-003 to approve the continuing education hours presented by the licensee for the course Treatment Techniques For Hemiplegia as acceptable under 12 AAC 54.420(C), and further to accept 7 of the 21 hours completed after June 30, 2008 to satisfy the continuing education requirements to renew this license for the 2008-2010 licensing period in accordance with the consent agreement, decision and order adopted on February 4, 2010.

On a motion by Gary Burleson, seconded by Jo Boehme to accept the continuing education hours. All approved - No nays.

Mary Ann read the ORDER: IT IS ORDERED THAT UNDER CASE NUMBER 2700-09-003, THE CONTINUING EDUCATION HOURS PRESENTED BY COLE CARSON FOR **TREATMENT TECHNIQUES FOR HEMIPLEGIA** IS ACCEPTABLE UNDER 12 AAC 54.420(C), AND 7 OF THE 21 HOURS SHALL BE USED TO SATISFY THE CONTINUING EDUCATION REQUIREMENTS OF HIS LICENSE FOR THE 2008-2010 LICENSING PERIOD IN ACCORDANCE WITH THE CONSENT AGREEMENT, DECISION AND ORDER ADOPTED ON FEBRUARY 4, 2010.

Mr. Carson will have a future mandatory audit and can use the remaining 14 CE's for a future requirement.

Meeting continued with a working lunch.

Agenda Item 13 Review Applications

In reviewing applications the board held discussion stating that applications which have inconsistencies and produce extensive layers of documents makes it very difficult for the board members to review and make decisions. Staff was directed to request the applicant provide a new and complete history in an order which the board can review.

Heather Ann McLain - Physical Therapy by Credentials

On a motion by Kathleen Lind, Seconded Gary Burleson, to approve the applicant for licensure as applied. All approved - No nays.

Elizabeth DeKreon Sturdevant - Occupational Therapist by Exam

On a motion by Kathleen Lind, Seconded Gary Burleson, to approve the applicant for licensure as applied. All approved - No nays.

Maria G. Wade Physical Therapy by EXAM

On a motion by Kathleen Lind, Seconded Gary Burleson, to approve the applicant for licensure as applied. All approved - No nays.

April F. Domingue - Occupational Therapist by Credentials

On a motion by Kathleen Lind, Seconded Gary Burleson, to approve the applicant for licensure as applied. All approved - No nays.

Kathy J. Barnhart - Occupational Therapy Assistant by Credentials

On a motion by Kathleen Lind, Seconded Gary Burleson, to approve the applicant for licensure as applied. All approved - No nays.

Agenda Item 14 Review Foreign Credentialing

Review requests to accept Foreign Credentialing Agencies. The boards' current practice is to accept reports from FCCPT. Included in the board packet was a list of agencies who are licensed to use the FSBPT's coursework tool for assessing educational credentials of foreign-educated PT's and PTA's.

Staff explained the CWT (course work tool) evaluates foreign transcripts and is used to determine if the education was equivalent as required at the time in which they received their education. Comparing their education at the time they earned their degree is a fair evaluation and allows' us to accept their education without the applicant having to return to school to meet current educational requirements.

The board agreed at this time we would accept agencies who are licensed to use the course work tool.

Task: Staff to write a letter to Mark Lane asking what other features we should be looking for in our understanding of a credentialing agency in this process. Ask for his guidance on how to select credentialing agencies. From his response, craft questions to send to other jurisdictions asking how they review the credentials of foreign educated.

Agenda Item 15 TOEFL – exam scores

Staff had researched wording to clarify TOEFL exam scores in 12 AAC 54.040(j). The boards intent is the applicant pass all 4 sections in one testing session. This will be a regulation project to include wording for the applicant to pass their TOEFL in one sitting.

On a motion by Jo Boehme, to draft a regulation for 12 AAC 54.040(j) To meet the requirements of AS 08.84.032(a)(3), To meet the requirements of AS

08.84.032(a)(3), a foreign-trained physical therapist or physical therapy assistant applicant must pass the examinations listed in this subsection. An applicant must obtain at least the following minimum scores: in one testing session; scores for the four sections must be reported on one official score report. Seconded Darin Bell, All approved - No nays.

Agenda Item 16 **Discussion for Continuing Education** - tabled to next meeting

Agenda Item 18 **OT Instructors**

Keeping current in "practice" while teaching has been discussion for past board business. This included what educators of physical therapy or occupational therapy can do to meet the 60 hours for license renewal requirements. Kathy researched past history of the renewal process and alternatives required 60 hours 'services' to meet the requirements. She spoke with Laura McDonough who said the board years ago held discussion regarding the 60 hours required for licensure. The board at that time explained the word 'services' was used because it's not necessarily direct patient contact services/direct treatment. Services could be anywhere from attending business meetings, student field work, competencies, working in the state OT/PT associations, supervisor of regulations, internships, working on federal level being a delegate. She told Kathy that she does her 60 hours of service by working with setting up continuing education with the state physical therapy association.

Kathy spoke with several therapists who are not clinically based. Since the board is currently working on the competencies and definitions; another licensee/instructor who is no longer working directly with students has asked the board to consider this wording; "occupational therapy services including work or volunteer service under a position title other than occupational therapist and occupational therapy assistant if the applicant documents that the position requires the use of occupational therapy skills recognized by the board. Such services may include: administration of an occupational therapy clinical or educational program, teaching in an occupational therapy educational program, or consultation related to occupational therapy.

The board recognized it was a valid point to bring up the word used is 'services' for 60 hours and not 60 clinical work hours/practice. Allowing the therapist to have multiple roles as stated in the code of ethics the board should note that our professions take a variety of settings. Regulations 12 AAC 54.405 and 12 AAC 54.705 both state 'services'.

How do we define service hours? Put this on the next meeting agenda. Find out the history, make the definition of services a regulation project to along with our plan to have further delineation of continuing education.

Statute trumps regulations and the definition of occupational therapy states 'for compensation'. This is another reason to remove the words 'for compensation' from the statute. How can someone even volunteer hours and call it occupational therapy?

The wording is 'services' – if they are being paid as a professor but they are not teaching OT then how does she keep her license.

Current statutory definitions are archaic and the board has another reason to work on them.

Agenda Item 19 Returning to work force - out of practice

Discussion of correspondence from AOTA guidelines for OT's returning to service after extended absence. The board was pleased to see other organizations are working on reentry to the profession. Perhaps this is where we should direct applicants.

Discussion evolved to the jurisprudence exam and how to rewrite it. Past practice was to divide it up between board members to rewrite some of the questions. Should we make this a project for the next board meeting? We can also ask FSBPT to write the exam. There could be a cost to the licensees. One advantage is they use our laws and ethics questions are incorporated into the jurisprudence exam. Perhaps we could even offer this as CE's.

Darin asked for the specific to why we do not grade the exam? Staff will research the history of this topic.

Agenda Item 20. Planning session for statute repeal - completed during Item 10

Agenda Item 21. Other discussion

Joyce and Kathy will be the liaisons and provide meeting recap for the newsletters.

Outgoing members, Chair Mary Ann Paul who provided 8 years of service and Jo Boehme who provided 5 years were given certificates of appreciation and thanked for all their years of work on the board.

On a motion by Burlison, seconded by Barnett, Elect Jay McDiarmid a chairman for the State Board of Physical Therapy and Occupational Therapy. All in favor - No nays.

On a motion by Boheme, seconded by Lind, in Jay's absence elect Gary Burlison to be acting chair of the board, beginning March 1, 2010 through the time of Jay's return. All in favor - No nays.

On a motion by Barnett, seconded by Paul, elect Kathy Lind as secretary for the State Board of Physical Therapy and Occupational Therapy. All In favor - No nays.

Recap of assigned tasks:

Connie -

- Look for the ethics form for recusal in board packets
- Change application under professional fitness #2 to change the wording after surrender to include voluntary or involuntary
- Clean up the typos in the September minutes
- Ask supervisor if we are allowed to request only the last 4 digits of a social security number on renewal application
- Send letter to licensee who requested CE approval, ask for more details on the 14.5 hour course so the board can determine and approve by mail vote.

- Letter to Mark Lane asking for his guidance on other features of agencies and what we should be looking for from credentialing course providers
- Follow up Mr. Lanes response with a question to all states on CBA message board
- Find out why we do not require 'passing' the jurisprudence exam
- Follow up to see if the board can mandate violators who have been disciplined to take an ethics course and then if this could be written in the consent agreement.

Jo: recap letter to Art Arnold for working group, ask what his concerns are for negative impact and respond to the board so we can work on it.

Joyce: Contact AKPTA re: the statutes and how it impacts negative/positive in the districts and an appeal for public comment on how children and families might be affected.

The board discussed and were in agreement that staff could shorten minutes agreed it was ok to have a recap of meeting as they do not need to have verbatim details of the meeting.

The Board having no further business to discuss adjourned the meeting at 5:02 p.m.

Respectfully Submitted:



Connie Petz, Licensing Examiner

Approved:



Mary Ann Paul, PT, Chair

Date: 9-23-10