

STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY
AND ECONOMIC DEVELOPMENT
BOARD OF PHYSICAL THERAPY AND OCCUPATIONAL THERAPY
550 West 7th
Anchorage, AK

By authority of AS 08.065.020 and in compliance with the provision of AS 44.62, Article 6,
a scheduled meeting of the Board of Physical and Occupational Therapy was held
September 26-28, 2012 at 550 West 7th, Suite 1860, Anchorage, AK

Sept 26, 2012

Agenda Item 1 - Call to Order/Roll Call

Kathy Lind, Chair of the Board of Physical Therapy and Occupational Therapy called the meeting to order at 1:05 p.m.

This board meeting was public noticed on August 15, 2012 and was published in the Anchorage Daily News.

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

Kathleen Lind, Chair, OT
Valerie Phelps, PT
Mary Melissa Robinson, OTL
Judy Bogard, Secretary, PT

Approved Absence – Darin Bell, MD and James Parietti, PT.

Public Member - David Carey has resigned his position on the board. He will notify Boards and Commissions.

Present from the Division of Corporations, Business & Professional Licensing

Connie Petz, Licensing Examiner
Michele Wall-Rood, Investigator

Public Members present September 27th: Susan Kaplan, Katy Kerris and Jean Keckhut.

Agenda Item 2 - Review/Approve Agenda

ON A MOTION MADE BY JUDY BOGARD, SECONDED BY VALERIE PHELPS IT WAS RESOLVED TO APPROVE THE AGENDA. IN FAVOR: JUDY BOGARD, VALERIE PHELPS AND KATHY LIND. NOT IN FAVOR OF AGENDA: MELISSA ROBINSON. AGENDA STANDS AS DRAFTED.

Agenda Item 3 – Review/Approve Minutes

ON A MOTION MADE BY MELISSA ROBINSON, SECONDED BY JUDY BOGARD, IT WAS RESOLVED TO APPROVE MARCH 28-30, 2012 MINUTES AS WRITTEN. ALL IN FAVOR, CARRIED UNANIMOUSLY.

**ON A MOTION MADE BY JUDY BOGARD, SECONDED BY VALERIE PHELPS
IT WAS RESOLVED TO APPROVE MAY 31, 2012 TELECONFERENCE MINUTES WITH
CORRECTION TO REMOVE DUPLICATED NAME FOR JUDY BOGARD ON PAGE ONE.
ALL IN FAVOR, CARRIED UNANIMOUSLY.**

**ON A MOTION MADE BY MELISSA ROBINSON, SECONDED BY JUDY BOGARD
IT WAS RESOLVED TO APPROVE JULY 12, 2012 TELECONFERENCE MINUTES AS
WRITTEN. ALL IN FAVOR, CARRIED UNANIMOUSLY.**

No further discussion. Kathy Lind will sign final minutes for staff to post to website.

Agenda Item 4 – Ethics Reporting

Staff directed the board to a document under the ethics tab dated August 17, 1981. This was crafted by the Attorney General in recommendations by legislative audit offering principles and guidelines for future conduct of board meetings. This document stressed the duty of the board, as officers of the state, to represent the public interest and not the interest of the profession.

Melissa Robinson, Valerie Phelps and Kathy Lind had all been contacted by people with questions. No ethical violations as all parties were referred to staff or sent letters via the Board from the division.

Ms. Robinson received an e-mail from a licensee asking how to go about approval for continuing education. Staff explained that she responded to this same licensee per prior board direction; the board does not approve courses and staff referred the licensee to the state and national associations. Kathy Lind also drafted a response reinforcing staff's explanation. Staff will put letter on state letterhead and forward to licensee.

Melissa Robinson also asked for a response from a prior ethics disclosure form submitted after the last board meeting. She was concerned because she was on a mailing list for committee for statutory change. Staff explained the disclosure was vague and did not identify what she was concerned about. TASK: Staff will follow up with this past written disclosure with a written response to Melissa Robinson.

Melissa Robinson also said as a member of the AKOTA she has received correspondence from AKOTA on a statutory change they are working on. She has not responded to them.

Valerie wanted it on the record that she had received an email from someone from the Alaska Dietetic Association stating they are creating a licensure liaison position. They asked if they could have the physical therapy and occupational therapy boards' liaison job description. Valerie had drafted general guidelines during a prior board meeting. She will refer the person to staff and staff will send the liaison description to the dietetic representative to avoid any ethical concerns.

Kathy Lind reported she receives state wide emails from the AKOTA regarding statutory changes. She was also contacted by a licensee who had received a DWI. Kathy did not advise her, only told her to answer all the questions fully on her renewal application. Staff explained that Kathy Lind would need to recuse herself if the 'yes' answer requires a consent agreement as she now knew her name and now had knowledge of the DWI. There were no ethics violations to report by board members or staff.

Agenda Item 5 - REVIEW CONTINUING EDUCATION AUDITS

The board reviewed all documentation submitted for random audits for the July 1, 2010 to June 30, 2012 period. There were 93 audit letters sent to licensees and 5 mandatory audits for prior continuing education audit violations.

It was noted that any licensee who did not appear to meet the continuing competency or continuing education requirements will be sent a letter advising what is missing and given 60 days to submit complete documentation to the department. They will also be informed that if requirements are not met by the deadline, their renewal application and audit documentation will be forwarded to the paralegal for disciplinary action.

The board determined how they would follow up for Continuing Education certificates. Submission for complete CE's will be reviewed by staff and compared to board member notes on each file. Staff will then send letters to the licensees. Course content which needs board approval will be provided to the board for review.

At least two board members will review each submission and determine if the 60 hours of competency is complete and if 24 qualifying continuing education certificates are complete. Board members will place their initials directly on the documentation.

All audit documentation which is incomplete, will be identified in writing by the board regarding what is needed to complete the audit. This will assist staff in follow up correspondence to all audited license holders. If any course content needs board approval it will be provided to the board via e-mail for the entire board to review.

Of all CE audits reviewed 57 were complete.

TASK: Staff will send letters to licensees whose audit submissions were approved. Staff will send follow-up letters to all others requesting additional information, if no response, or if they do not meet requirements, then the files will be forwarded to the paralegal.

TASK: Staff will draft and post a mandatory audit worksheet on the disciplinary action link to assist future licensees during renewal for their mandatory audit. This will improve the license renewal process and provide a tool for those with consent agreements.

RECESS 4:51 p.m. Reconvene 8:30 a.m. on September 27, 2012

Thursday, September 27, 2012

Agenda Item 6 - Call to Order/Roll Call

Kathy Lind, Chair of the Board called the meeting to order at 8:07 a.m. Board members present: Kathleen Lind - Chair, Judy Bogard, Secretary, Valerie Phelps, Mary Melissa Robinson, James Parietti. Staff – Connie Petz

Agenda Item 7 - Reports: Liaisons & Conferences

Melissa Robinson, board liaison reminded the Alaska Occupational Therapy Association that licensees continue to rely on the association to approve courses. The AKOTA continues to work towards occupational therapy statutory changes. Ms. Robinson will

inform the AKOTA that incomplete certificate holders will be contacted and reminded what is required to be a 'complete' certificate.

Valerie Phelps, board liaison to the Alaska Physical Therapy Association unable to attend any state meetings since the last board meeting.

James Parietti – FSBPT conference was very educational and worthwhile for him. Due to the exam cheating issues, questions are now only used one time for the national exams.

Council on Licensure Enforcement and Regulation (CLEAR) conference was attended by two board members in June 2012.

Melissa Robinson thought the CLEAR conference was very helpful and she learned the board should stay proactive for the future of the Board and regulatory processes. She thought the self evaluation tool was very useful to consider how the board is fulfilling its' role along with consideration of other topics or goals to keep in the forefront.

Kathy Lind found the conference was very educational and interesting. The conference was built around the ten pillars of the Board. She thought overall, it was too broad and would have liked a narrower focus. Specifically, focus towards what is expected of a board member, specific to ethics or other roles on how a board member is to focus on protecting the public.

Agenda Item 8 - FY12 Annual Report/Budget Report

The FY12 Annual Report was completed on time. In future, legislative goals should be fully completed during the board meeting. This allows the board members time to address all aspects of each item, the benefits and to address concerns of whom and what may be directly affected if any change in a law occurs.

Kathy Lind stated proposed legislation goal # 3 related to AS 08.84.030 needs to be corrected for future records from the current wording where it states the council 'no longer exists'. This council does exist but it no longer has any oversight over physical therapy education. Goal # 3 will now read: The Alaska Board of Physical Therapy and Occupational Therapy recommends that the phrase in AK statute 08.84.030 "Council on Medical Education and Hospitals of the American Medical Association" be removed as this council **no longer is an oversight body for the education of physical therapists**. Staff will revise on draft FY13 annual report in 3 places on page 9 for next board meeting.

Annual reports are available on the website under Quick Links called FY 2012 Annual Performance Reports: <http://www.commerce.state.ak.us/occ/home.htm> Staff gave a brief overview of the process of sunset audit review which will begin June 30, 2013. The board should know the status of the Legislative Audit by June 30, 2014.

Break – off record at 10:17 a.m. - back on record at 10:34 a.m.

Agenda Item 9 - Ethics Project

The history of the ethics project has been to adopt a code of ethics which focuses on the protection of the public. The Board has current regulations which reference the national codes of ethics developed by the professional organizations, American Physical Therapy Association and American Occupational Therapy Association.

The Board recognized the current makeup of the board is not unified in the actual reason of why there is an ethics project. There was extensive discussion to clarify exactly what the goal or purpose was in development of an ethics document.

The Board will continue to work towards creation of an ethics document which would encompass both the physical therapy and occupational therapy professions. They would like to condense the ethics into a document which will eventually be incorporated into the regulations. Their intent is to replace the national standards and codes of ethics with an Alaska code of ethics from the Boards perspective in relation to protection of the public.

The Ethics Project will be an item on the 2013 spring agenda.

The Board wants to ask the investigative unit, "In the event there was an investigation which may be related to a professional conduct issue, does the investigative unit have the authority to hold a person accountable to the national standards of practice within the profession when it is not referred to or identified specifically within the Alaska statutes and regulations"?

TASK, Send a letter to Michelle Wall-Rood asking the above question, she wants to research it?

The Board wants to ask the regulations specialist if the board has the authority to include within the regulations a reference to national standards of practice without referencing a specific document.

Task: Staff to compile the revised ethics drafts based on board discussion and forward to all board members once completed.

Lunch Off record at 12:18 p.m.

Agenda Item 10 – Call to Order/Roll Call

Kathy Lind called the meeting to order at 1:25 p.m. A quorum of board was present. Judy Bogard, Mary Melissa Robinson, James Parietti, Valerie Phelps, and Kathleen Lind. Staff present, Connie Petz.

Agenda Item 11 - Public Comment

Susan Kaplan, President of the Alaska Occupational Therapy Association had questions for the Board. She asked when the licensure board comes up for sunset in 2014, does the board submit a report and if there is no one who wants to open up the licensure law and try to make changes, how does it role over or be renewed for further years?

Staff was asked to respond to Ms. Kaplan questions. The sunset audit appears to create confusion as to what actually happens during this process. Some people seem to think that the law is opened by the legislature but the purpose of the sunset audit is a period in time in which legislative auditors evaluate the Board to see if the Board has been doing its job or not. The role of the board is outlined in the statute 08.84.010 such as, license professionals, discipline licensees who violate the law, and make regulations to help clarify the statutes as they exist. During sunset, documentation related to this licensing group will be scrutinized by the auditors; application files, board packets and other

related items. The auditors will create a report which could include recommendations for the Board. It is up to the legislature to determine if the Board has been functioning effectively and they will determine if the Board will continue or not.

Staff explained the Board will be working with the department of commerce in a department wide statutory project related to statutory changes in areas which are considered housekeeping; meaning items which do not change the intent of the law, such as outdated wording, but need revision for clarity in the law.

Katy Kerris said she now understood that the law can be opened at anytime and they do not have to wait until the sunset to seek statutory change.

Ms. Kaplan thought that it may benefit the AKOTA to wait until health care laws on the federal level are in place prior to working towards Alaska law changes. They want to make sure they are one of the professions covered under health care benefits.

Staff explained it takes two years for a law to change during legislative session. If the AKOTA wants to make changes to the occupational therapy law, they will want to plan accordingly and work with the a legislator of their own choosing.

Ms. Kaplan also wanted it on the record that they (the AKOTA) plan to work towards statutory changes for occupational therapy and they want to work with physical therapists on any changes to be respectful of both professions.

Agenda Item 12 - Investigative Report

Michelle Wall-Rood explained to the Board that the investigative report layout has changed to include all 'yes' answer applications. Their unit is trying to standardize and include all investigative activity on the reports.

Seven new cases related to 'yes' answers on applications were opened, reviewed and closed during this period. Ms. Wall-Rood said that an investigator will call a board member to get a general consult to make sure there is jurisdiction during investigative review. Staff will send an email to Ms. Wall-Rood asking for clarity in writing if the jurisdiction is based only on what is defined in AK state law or if it can include national standards of practice.

Agenda Item 13 - Application review

Denied License/Appealed

Judge Friedman attended the meeting for review of an appealed license denial.

Kathy Lind asked the board to consider entering executive session according to AS 44.62.310(c)(2) and (3) subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion and matters which by law, municipal charter, or ordinance are required to be confidential regarding Seanna Bryson Case # OAH No. 12-0009-POT.

ON A MOTION BY JUDY BOGARD, SECONDED BY MELISSA ROBINSON, THE ALASKA BOARD OF PHYSICAL THERAPY AND OCCUPATIONAL THERAPY IS RESOLVED TO ENTER EXECUTIVE SESSION IN ACCORDANCE WITH AS 44.62.310(C)(2) AND (3),

AND THE ALASKA CONSTITUTIONAL RIGHT TO PRIVACY PROVISIONS, FOR THE PURPOSE OF DISCUSSION OF THE APPLICATION FOR SEANNA BRYSON.

All board members voted in favor of executive session. No nays.

Judge Friedman stated that his department had an ethics opinion that an Administrative Law Judge could not remain in an executive session if any persons, other than Board members stayed. Therefore, staff would need to leave the room or he could not enter into executive session with the Board.

Kathy Lind stated all board members and Judge Friedman would be the only parties in the room during executive session.

Enter into Executive Session and off record at 1:55 p.m.
Out of Executive Session and back on record at 2:24 p.m.

The board held discussion for the application for Seanna Bryson during executive session and they determined the proposed decision needed to be amended. Once amended the board was prepared to make a decision. The board specified which conditions would need to be amended and Judge Friedman prepared the final documents.

THE BOARD REVIEWED THE PROPOSED DECISION ORDER PRESENTED BY JUDGE FRIEDMAN FOR THE APPLICATION FOR A PHYSICAL THERAPY ASSISTANT LICENSE FOR SEANNA E. BRYSON. MS. BRYSON HAD BEEN DENIED A LICENSE FOR NON-DISCLOSURE FOR PRIOR CRIMINAL CONVICTIONS. UPON HER APPEAL, HER CASE WAS FURTHER REVIEWED BY JUDGE FRIEDMAN. THE JUDGE AND THE BOARD REVIEWED THE CASE WITH CONSIDERATION OF ADOPTION OR NON-ADOPTION FOR LICENSURE DURING EXECUTIVE SESSION.

THE BOARD VOTED TO ADOPT THE DECISION AND OFFER SEANNA BRYSON A LICENSE FOR PHYSICAL THERAPY ASSISTANT WITH CONDITIONS ON HER AGREEMENT TO ACCEPT A DISCIPLINARY SANCTION BY AMENDING THE OFFICE OF ADMINISTRATIVE HEARINGS PROPOSED DECISION WITH REVISIONS:

- 1. MS. BRYSON WILL PAY A CIVIL FINE IN THE AMOUNT OF \$500.00 WITHIN SIX MONTHS OF THIS DECISION. THIS AMOUNT SHALL BE PAID TO THE "STATE OF ALASKA" AND DELIVERED TO THE DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING, AND MAY BE PAID IN INSTALLMENTS.**
- 2. MS. BRYSON WILL, WITHIN 60 DAYS OF THE BOARD'S ADOPTION OF THIS DECISION, UNDERGO (AT HER OWN EXPENSE) A SUBSTANCE ABUSE SCREENING BY A COUNSELOR OR TREATMENT CENTER APPROVED BY THE DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING. SHE MUST SUBMIT TO THE DIVISION PROOF OF THIS SCREENING AND SUBMIT TO RANDOM BLOOD AND URINE TESTS FOUR TIMES PER YEAR TO BE SUBMITTED TO THE DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING DIRECTLY FROM THE TESTING AGENCY, AND SUBMIT COMPLIANCE WITH ALL RECOMMENDATIONS OF THE SCREENING REPORT WITHIN 30 DAYS OF THE SCREENING, AND EVERY THREE MONTHS THEREAFTER (A TOTAL OF FOUR REPORTS PER YEAR, INCLUDING THE ORIGINAL REPORT) FOR TWO YEARS.**

3. MS. BRYSON'S LICENSE MAY BE REVOKED PURSUANT TO AS 44.62.360 IF SHE DOES NOT TIMELY COMPLY WITH THESE CONDITIONS.

IN THE ALTERNATIVE, MS. BRYSON MAY REFUSE TO ACCEPT THESE CONDITIONS. IF SHE DOES NOT SUBMIT HER SIGNED ACCEPTANCE OF THE CONDITIONS WITHIN 30 DAYS OF THE BOARD'S DECISION, HER APPLICATION FOR LICENSURE IS DENIED.

GIVEN THE SUBMISSION OF URINE AND BLOOD TESTS, FOOTNOTE # 46 WOULD BE STRICKEN BECAUSE THERE WOULD BE NO WAY TO COMPLY WITH THIS EARLIER.

THE BOARD WAS DIRECTED BY JUDGE FRIEDMAN TO VOTE ON WHETHER TO ACCEPT OR NOT ACCEPT THE REVISED PROPOSED DECISION DOCUMENT FOR SEANNA E. BRYSON CASE OAH NO.12-0009-POT.

JUDY BOGARD AND MELISSA ROBINSON BOTH VOTED NOT TO ACCEPT THE REVISED PROPOSED DECISION.

VALERIE PHELPS, JAMES PARIETTI AND KATHY LIND ALL VOTED YES TO ACCEPT THE REVISED PROPOSED DECISION.

A MARJORITY OF THE BOARD ADOPTED THE REVISED PROPOSED DECISION OAH NO. 12-0009-POT. THE BOARD APPROVED TO LICENSE SEANNA E. BRYSON FOR PHYSICAL THERAPY ASSISTANT PENDING COMPLIANCE OF THE REVISED PROPOSED DECISION OAH NO. 12-0009-POT.

FOR THE RECORD THE BOARD WANTS TO CLEARLY STATE THAT THE RANDOM DRUG TESTS ARE AT MS. BRYSON'S EXPENSE AND THE RANDOM DRUG TEST DATES WILL BE SELECTED BY THE DIVISION.

Break off record at 2:40 p.m. and back on record 2:50 p.m.

Applications for licensure were reviewed by all board members:

ON A MOTION BY MELISSA ROBINSON TO APPROVE APPLICATIONS FOR LICENSURE FOR: PHYSICAL THERAPIST BY CREDENTIALS: JOANNA M. LOPEZ and JENNIFER N. DISNEY; OCCUPATIONAL THERAPIST BY CREDENTIALS: BRENDA A. FAGAN, JAMI L. NAGEL, MELISSA L. LAWES and CYNTHIA M. ELLIOTT; OCCUPATIONAL THERAPIST BY EXAMINATION: CATHERINE STEELE; OCCUPATIONAL THERAPY ASSISTANT BY CREDENTIALS: DANNIMARIE COMEAU. SECONDED BY JUDY BOGARD. ALL IN FAVOR, NO NAYS.

One application was not reviewed, staff asked for direction and it was determined it should be reviewed by an investigator prior to the board members reviewing it.

ON MOTION BY MELISSA ROBINSON, MOVE TO TABLE ONE APPLICATION AND REFER THE APPLICATION TO THE INVESTIGATOR, SECONDED BY JUDY BOGARD. ALL IN FAVOR, NO NAYS.

Agenda Item 14 – Day 2 Wrap Up

The board completed application review and discussed the time it took to review applications during board meetings. It was decided that for future board meetings only applications which are complicated or require a consent agreement will be reviewed during board meeting. Applications are reviewed every two weeks with mail ballots and this process is efficient.

Meeting was recessed; off record 3:58 p.m. Reconvene at 8:30 a.m. September 28, 2012.

Friday, September 28, 2012

Agenda Item 15 - Call Meeting to Order/Roll Call

Kathy Lind, Chair of the board called the meeting to order at 8:45 a.m. Present: Judy Bogard, Melissa Robinson, Valerie Phelps and Kathy Lind. Staff: Connie Petz.

Agenda Item 16 - Regulations Project

In addition to the drafted March regulation project the board added items to the regulation project with the intent for additional clarification to benefit the licensees understanding.

- 12 AAC 54.110 FOREIGN-TRAINED APPLICANTS does not identify the applicant must 'apply and pay a fee, on a form prescribed by the board and complete the jurisprudence questionnaire'.

Revise regulation could now read:

12 AAC 54.110. FOREIGN-TRAINED APPLICANTS. An applicant for a physical therapist or physical therapy assistant license by credentials who received an education and degree outside the United States shall meet all requirements for licensure under 12 AAC 54.030(a)(1)and(4) and this section by submitting to the department on a form prescribed by the board

FYI: number (4) does not currently exist under 12 AAC 54.040 but is being added to 54.040 as part of this current regulation project.

- It is noted that 12 AAC 54.110 does not clearly define for a foreign educated physical therapist or physical therapy assistant applying for license by credentials that they need to have current practice experience. To clarify the applicant must provide either 60 hours of verification of work experience in the immediate past 24 months or have passed the national exam in the immediate past 24 months. The board is aware that in some states a person can maintain a license and not be practicing. How this regulation is currently written could be a concern for public safety. The professional should be current in their skills and be required to meet the same requirements as other licensees.

To clarify foreign educated applicant has current professional competency add a number (8) to 12 AAC 54.110 written below or reference 12 AAC 54.100 (5)(A)and(B).

12 AAC 54.110 could now read:

(8) verification sent directly to the department from the source of having

(A) been employed in physical therapy at least 60 hours within the 24 months immediately preceding the date the application is received or
(B) passed the national physical therapy examination within the 24-month period immediately preceding the date the application is received;

OR, using the reference 12 AAC 54.100 (5)(A) and 12 AAC 54.100 (5)(B)

12 AAC 54.110

(8) verification sent directly to the department from the source of having met 12 AAC 54.100 (5)(A) and 12 AAC 54.100 (5)(B)

Do not include (5)(C) because that internship is for non foreign trained.

The board had removed the reference 'Professional Examination Service' from the application instructions and it also should be removed as a housekeeping item under regulation 12 AAC 54.640. Remove this wording as this organization no longer exists.

12 AAC 54.640. OCCUPATIONAL THERAPY TEMPORARY PERMITS AND SCOPE OF PRACTICE UNDER THOSE PERMITS.

12 AAC 54.640(a)

(4) a letter verifying

(A) the applicant's scheduled examination date sent directly to the board from NBCOT ~~or the Professional Examination Service~~; or

(B) that the applicant has taken the examination and is waiting for the results to be sent directly TO THE BOARD from NBCOT ~~or the Professional Examination Service to the board~~;

- The continuing education regulations for occupational therapists and occupational therapy assistants currently require that all courses must be recognized by the organizations identified in 12 AAC 54.715. In order to allow OT/OTA's the benefit of choosing continuing education courses from providers who are not identified within the regulations the Board recommends giving greater flexibility to the licensees. This will require at least one half of their completed continuing education courses be from providers identified within the 12 AAC 54.715 regulation and the licensees could then choose other providers and still stay within the scope of 12 AAC 54.715(c) for education that is contributing directly to their professional competence and be directly related to the skills and knowledge to implement the principles and methods of occupational therapy.

12 AAC 54.710 (b) could now read:

12 AAC 54.710 (b) **AN APPLICANT SHALL COMPLETE AT LEAST ONE-HALF OF THE REQUIRED CONTACT HOURS IN COURSES OR PROGRAMS OFFERED BY AN ACCREDITED ACADEMIC INSTITUTION OR A PROFESSIONAL ORGANIZATION APPROVED BY THE BOARD UNDER 12 AAC 54.715(A)**

ON A MOTION MADE BY JUDY BOGARD, SECONDED BY VALERIE PHELPS, TO APPROVE THE PROPOSED REGULATIONS CHANGES AS MODIFIED TO GO OUT FOR WRITTEN PUBLIC COMMENT AND TO INFORM ALL LICENSEES OF THE REGULATION PROJECT. THE REGULATION PROJECT, WITH ITS MODIFICATIONS COULD HAVE A FINANCIAL IMPACT TO OCCUPATIONAL THERAPY ASSISTANTS WHO ARE LICENSED IN THE STATE OF ALASKA. ALL IN FAVOR. NO NAYS.

The board included in the motion to inform all licensees because they want to make sure every license holder is notified in writing about the public notice for written public comment for this regulation project. The board recognizes that the occupational therapy assistants will have an increase in their financial costs by being required to have 12 more continuing education certificates at renewal. The board would like the written public notice for this regulation project to be completed and ready for the board to review in preparation for adoption at the April 2-3, 2013 board meeting.

TASK: Staff will forward the regulation project to Regulations Specialist, Jun Maiquis.

Break off record at 10:15 a.m. and back on record at 10:30 a.m.

Agenda Item 17 - Review/Draft Jurisprudence

Board members had planned to revise the jurisprudence questionnaire at this board meeting. After discussion of the substantial changes due to the regulation project it was decided to table revision of the jurisprudence until the regulation changes become law.

Under old business, the board had asked staff to research why a 'passing score' or graded jurisprudence could not be required. Staff discussed the question of why the board is not authorized to require a graded jurisprudence with supervisor Sher Zinn. The Board must work within the authority of the existing statutes and this board does not have authority to require a passing score, i.e. graded examination.

Staff provided examples of statutory wording from other professions and explained the current physical therapy and occupational therapy statutes do not give the board authority to require passing a state law exam. It was noted that some license groups which require passing the state law exam at initial licensure do not require completion of a jurisprudence questionnaire during renewal which means the license holder may never review or know about changes in their professional licensing law unless they are proactive.

The board determined current regulation requires all licensees to complete the jurisprudence questionnaire at each renewal and this is one way they will be kept informed of changes in their professional licensing laws. The board will not consider a statutory change that would require passing a state law exam at initial licensure. They believe it is beneficial to have all license holders complete a questionnaire as required at each renewal and when applying for a license.

Agenda Item 18 - Board member training booklet

The Board now has a board member book which provides guidelines for their role as a board. This version may be revised over time but is a tool to assist in board meeting process.

Agenda Item 19 - Board member training for reviewing applications for licensure on secured website.

Staff explained the new online application review process. Board members will now sign on to a secure website to review applications for licensing. Staff will continue to send individual ballots for each licensee to Board members so they can submit their vote.

Lunch break at 12:08 p.m.

Agenda Item 20 - Call to Order/Roll Call

Kathy Lind called the meeting to order at 1:05 p.m. A quorum of board was present. Judy Bogard, Melissa Robinson, Valerie Phelps, Kathy Lind. Staff present, Connie Petz.

The board held discussion regarding the prior day's executive session with the Administrative Law Judge. The board would like to be educated on this process and wanted to know what their rights are as board members during an executive session and working with an ALJ. Does the board have the option to state on the record and to ask that staff stay in the room? Why can't the investigator and/or the AAG of the department be allowed to stay in the room during executive session when an ALJ is present? The board would also like to have more time to review legal documents before beginning a license appeal or even other legal proceedings.

Also in the future, the Board does not want to have the public comment on the agenda next to any potential executive session agenda item.

TASK: staff to research the reason for only ALJ and board members in Executive session and no division employees and provide information at the next board meeting.

Agenda Item 21 - Recap of renewal period and Health and Social Services Survey results

July 1, 2012 to June 30, 2014 license renewal period was successful. All 'yes' answer applications will be reviewed by the investigative unit in time for the next board meeting.

Brief discussion of HSS survey results. Health and Social Services has been studying and calculating the future work force among health care professions in relation to the retiring population. They asked to include their survey for physical therapists and physical therapy assistants during the recent licensing renewal period. Overall a very good response from the licensees, close to 500 responded and 7% reported they plan to retire in the next 5 years, 80% are Alaska residents and 90% are currently practicing in their field.

Agenda Item 22 – Attorney General Opinion re: licensure for health care professionals employed/contracted with Native Health Care

Federal Law enacted in March 2012 section 221: 25 U.S.C. 1621t: "Licensed health professionals employed by a tribal health program shall be exempt, if licensed in any State, from the licensing requirements of the State in which the tribal health program performs the services described in the contract or compact of the tribal health program under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)"

Similar to federal facilities, anyone who is working in the state of AK at a Native Health Care facility is still required to hold a license in some jurisdiction in the U.S.

Agenda Item 23 - Continuing Education and Competency and views of other jurisdictions process and practice

Staff collected and provided examples from other states with the ways others are viewing and working along the lines of CE and competencies so the board can continue to stay informed with how other boards are viewing the issue of proof of competency.

The discussion included beginning a list for a future regulation project to define and include the new languages being used for measurement of continuing education such as PDU – professional development unit. It was also noted that our law uses the wording continuing competency to cover both the practice within the profession and the continuing education. This may need to be changed in the future too.

Kathy Lind will work with NBCOT and Valerie Phelps will contact FSBPT, both will compile information for the board to keep moving ahead on this project of staying informed of the changing continuing education environment.

Agenda Item 24 - Correspondence

One letter asked about private practice clinics who treat active duty military off base and then they are later treated on base by techs. Is there any liability from the physical therapist for physical therapy techs who is treating the patients on the military base? The board said that parties employed by the U.S. government are under the authority of the U.S. government. Kathy Lind drafted a full response which the board approved for staff to put on state letterhead and send to the licensee.

One letter was related to three therapists who wanted to study a book together and how they could gain CE's for this self study. The board discussed that they could approach the state associations to see about developing a program that meets the state law as outlined in 12 AAC 54.715(2) continuing education activities. Kathy Lind drafted a full response which the board approved for staff to put on state letterhead and send to the licensee.

Break off record at 2:37 p.m. and back on record at 2:52 p.m.

Agenda Item 25 - Old Business/Task Follow up

Melissa Robinson had 23 agenda items for topics which she wanted the board to consider for future board meeting discussion. Staff had responded in writing to some items for the benefit and understanding of all board members. The board went over these item by item to see where they may fit in to future agendas.

All tasks from last board meeting were completed.

Begin a new 'on-going' list for regulation change 12 AAC 54.040(b); once the statute is changed, need to remove Council of Medical Education and Hospitals.

Agenda Item 26 - Other discussion

Schedule board meetings and appoint who will attend national conferences in 2013:
April 2-3, 2013 in Anchorage
September 19-20, 2013 in Anchorage
2013 FSBPT Annual meetings – Valerie Phelps and Staff
2013 NBCOT Annual meetings – Melissa Robinson

Recap of assigned tasks:

Staff tasks:

- Issue license to all approved applicants
- Post approved final minutes to web
- Draft minutes for the Board meeting
- Follow up written response to Melissa Robinson with re: ethics disclosure
- Schedule board meeting rooms
- Draft and post a mandatory audit worksheet on the disciplinary action link
- Ask investigator for direction on ethics project
- Ask regulations specialist for direction on regulatory reference to national standards of practice for ethics project
- Compile the revised ethics draft based on discussion and forward to all board members
- Research and provide information for Executive Session and ALJ process
- Draft response letters for correspondence and to licensees audited for CE's
- Draft letters to all audited licensees whose audits are not complete allow 60 days to respond and forward to paralegal if not in compliance
- Forward regulation project to regulation specialist
- Complete all application revisions and post to web
- Staff to draft letter reminding state assn and vendors what is required on a continuing education certificate to make it complete
- Forward written explanation of what a Consent Agenda is to all board members

Board member tasks:

- Kathy – NBCOT and PDU's / competency
- Valerie – FSBPT and continuing competency
- Liaisons' to send written recaps for meetings to staff to place under consent agenda: Kathy Lind NBCOT annual meeting; Melissa Robinson, AKOTA and Valerie Phelps AKPTA

Agenda Item 27 - Adjourn Meeting

Kathy Lind called for a motion to adjourn the meeting.

**ON A MOTION BY MELISSA ROBINSON, SECONDED BY VALERIE PHELPS
TO ADJOURN THE MEETING. ALL IN FAVOR - NO NAYS.**

The Board having no further business to discuss adjourned the meeting 4:23 p.m.

Respectfully Submitted:



Connie Petz, Licensing Examiner

Approved:



Kathleen Lind, Chair



Date