STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY
AND ECONOMIC DEVELOPMENT
BOARD OF PHYSICAL THERAPY AND OCCUPATIONAL THERAPY
550 West 7th
Anchorage, AK
Suite 240

September 23-24, 2010

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 Certified Direct-Entry Midwives was held September 23-24, 2010 Suite 240, 550 West 7th, Anchorage, Alaska

Sept 23, 2010

Agenda Item 1 Call to Order/Roll Call

Kathy Lind, secretary of the board called the meeting to order at 9:00 a.m. This board meeting was public noticed on August 15, 2010 and published in the Anchorage Daily News.

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

Joyce Barnett, PT
Gary Burleson, Public Member
Kathleen Lind, OT;
Darin Bell, MD
Mary Melissa Robinson, OTL
Judy Bogard, PT

Jay McDiarmid, Board Chair resigned from the board on September 20, 2010 for personal reasons.

Staff present: Connie Petz, Licensing Examiner
Public present: NONE

First order of business – vote on a new chair for the board. Kathy Lind stated she was interested in the chair position.

On a motion made by Darin Bell, seconded by Gary Burleson to appoint Kathleen Lind as chair of the Board of Physical Therapy and Occupational Therapy. All in favor, carried unanimously.

Second order of business was to vote for a new secretary. Historically the board has kept a balance of an occupational therapist and physical therapist in the chair and secretary positions. Judy Bogard was nominated.

On a motion made by Joyce Barnett, seconded by Gary Burleson to appoint Judy Bogard as secretary of the board of Physical Therapy and Occupational Therapy. All in favor, carried unanimously.

The Board welcomed the new board members Judy Bogard and Mary Melissa Robinson. Kathy asked Melissa if she would be the new board liaison for the AKOTA and she accepted.

Board liaisons will reference the board website in their reports and advise the dates of the next board meeting and explain the agenda will be on the website prior to the board meeting.

Agenda Item 1 Review/Approve Agenda

Added correspondence to be discussed under the agenda item 12 - public comment.
Add discussion on ethics to agenda item 16 - regulations project.
Moved agenda item 5 – annual report pages 7 – 13 to discussion under agenda item 16 - regulation projects as this is proposed legislative recommendations, regulation recommendations, goals and objectives.

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

Agenda Item 2 Ethics Reporting

There were no ethics violations to report by board members or staff. Two board members shared they have been approached by parties who wanted to report violations of practice and the board members directed them to investigations.

Board members should direct anyone who approaches them regarding a complaint to our website http://www.commerce.state.ak.us/occ/pphy.htm and should not accept any information. The investigative office direct telephone number is 907-269-8156.
To file a complaint, click on the link: Submit Professional License Complaint

Agenda Item 3 Review/Approve Minutes

February 4-5, 2010 board meeting minutes – typo on page 11.

On a motion made by Gary Burleson, seconded by Joyce Barnett it was RESOLVED TO APPROVE February 4-5, 2010 MINUTES as amended. All in favor, carried unanimously.

No discussion.

February 17, 2010 teleconference minutes approved as written.

On a motion made by Gary Burleson, seconded Joyce Barnett it was RESOLVED TO APPROVE February 17, 2010 MINUTES as written. All in favor, carried unanimously.

No discussion.

Agenda Item 4 Investigative Report

Peggy Weaver, investigator for the board recapped the role of the investigator and the role of the public in reporting violations. Peggy explained she primarily works with applications and reviews 'yes' answers and paralegal Karen Wilke works on continuing education violations.

The public can contact Peggy directly by phone # 907-465-6466 or investigator Jazmin Bautista 907-269-8026 but the division requires written documentation for reporting purposes.

Peggy explained the complaint process and that it is usually in relation to standard of care or ethics.

Joyce stated the board is unclear as to which department posts disciplinary data on the website. The Board wants to have disciplinary actions kept up to date for the purpose of public scrutiny.

Task: Staff to update all closed disciplinary actions and have them current on web.

Task: Staff to find out if someone who files a complaint report, are they able to remain anonymous? To what point does the initial investigation keep the person anonymous. In the event it does not go anywhere is their name kept private.

Break 10:10 a.m. and back on record at 10:22 a.m.

Agenda Item 5 FY10 Annual Report

Staff explained the duty of the secretary of the board is to recap the minutes in the 'narrative' statement for the annual report.

Task: Judy to keep narrative statement current per board business.

Board tabled pages 7-13 for discussion to agenda item 16.

Agenda Item 6 Budget Report Staff to call Cathy Mason 907-465-2572

Board was concerned they are being told to reduce license fees while at the same time are being told to decrease services via a directive to reduce travel expenses.

TASK: Staff to research the budget issues of where and why (how the travel) expenses are allocated when we have a roll over and find an explanation of where and how the travel is allocated.

Agenda Item 7 Liaison Reports

Joyce learned that the Big Dipper had not published her board liaison report after the February board meeting. Joyce said there are code of ethics changes being presented by the APTA and it was discussed in order to update our regulations requires a regulation change. Board tasked to compare new APTA ethics vs current regulations.

Joyce attended a board member training in Alexandria VA and recapped her experience. She provided documents and reference materials for new board members and public board members and the roles each have on the board. Joyce thought the training was very valuable for her understanding of the role of a board member. Staff will maintain these items to provide to future board members.

Agenda Item 8 Old Business/Task Follow Up

OLD business – follow up questions:

Why do we require CE's for occupational therapists and occupational therapy assistants when they apply for initial licensure but not for PT/PTA's. [Prior to 1994 OT/OTA's were required to provide 20 CE's; it was then changed to 24 CE's. Historically we do not know why and I would have to recall board books from Archives and read through all the old board books to find it. Sher Zinn, licensing supervisor suggested if the board wants to change the requirements of 12 AAC 54.600 (6) to remove the CE requirement then the board may want to add this to a future regulation project.]

Explain what "cost to the Public' means: Policy and procedure DOL – 10 / Dec 1995 requires that final action on proposed regulations requires the board to consider and comment on how the board gave special consideration to the cost to private persons even if there are no apparent costs. [Cost to the public is anything that might make the license fees increase or any cost which affects anyone who needs something from us. If there would be a cost increase we would need to explain this in detail on the record.]

Agenda Item 9 Continuing Education Audit Review Tabled to Friday morning.

LUNCH recess 12:10 p.m. and back on record at 12:58 p.m.

Reconvened, all board members in attendance

Agenda item 10 FSBPT presentation

Darvan Ervin and Susan Layton presented to the board the history of the security breach which has caused the National Physical Therapy Exam to restrict certain countries from taking the exam.

They shared how other states are working with FSBPT to create a jurisprudence exam and would be able to work with the board to create a jurisprudence questionnaire for Alaska.

Susan Layton explained the vision and advantages of using the aPTitude which is FSBPT's continuing competence system. This system was developed to create a comprehensive continuing competence program.

FSBPT will begin evaluation education courses and continuing competence activities in 2011. There is a great advantage for the board with FSBPT approving CE courses and approving vendors. It will assist in the CE audit review process and give a direction to send licensees who ask the board to review courses. As for licensees, they can choose to maintain and store completed CE activities in one location. Vendors who ask the board to review their courses will be directed to FSBPT to have their courses approved too. The vendor will save time by going to one source for course approval versus going to every state board and their courses will be listed on FSBPT website.

Susan also told the board about the General PRT - Practice Review Tool. There is also a project under construction for an orthopedic PRT. The federation is working towards developing a way to put a value on competencies which would identify the true quality of a course.

The board was in favor of having a tracking system for all licensees to keep their courses under a format that will ease the burden of both the board and the licensee with managing CE's. As it now stands the board questions how current CE's are being submitted and the board does not feel competency is being tracked and that is a public protection issue.

Agenda Item 11 Q & A with FSBPT

Agenda revised - Table CE audit review and Application review to Friday.

Recessed 4:40 p.m.

September 24, 2010

Kathy Lind called the meeting to order at 9:00 a.m.

Joyce Barnett, PT
Gary Burleson, Public Member
Kathleen Lind, OT
Darin Bell, MD
Mary Melissa Robinson, OTL
Judy Bogard, PT

Roll call – all board members in attendance

Agenda Item 12 Public Comment

No public in attendance.

Board discussed correspondence from a licensee who had a 'yes' answer on the renewal application which delayed renewal of license. They requested the board send the renewals applications out earlier. Joyce Barnett recused herself from discussion as she knows the applicant.

Staff explained any renewal application with a 'yes' answer requires an investigative review. Staff explained that while the practice has been to send renewal applications 45 to 60 days prior to the license renewal deadline, by law the division is only required to mail them 30 days prior to the deadline. Renewal applications were mailed on May 13, 2010 to all licensees.

The board stated they would like to have the renewal application provide direction that when someone answers 'yes' they should contact staff to ask to find out exactly what documentation is required to assist the applicant to avoid delays in the renewal process.

TASK: Staff will provide response to correspondence concerning renewal process.

Agenda Item 13 Review Applications

Physical Therapy by Credentials:
Marie J. Podbelski – pending certified true copy of marriage certificate
Ivy R. Pederson
Felix Islas
Amanda M. Schuler
Occupational Therapy by Credentials:
Kristin L. Brand
Sharlene M. Ervin
Julie A. Jordan

Occupational Therapist Assistant by Credentials:
Sheila S. Kimble
Karen A. Goeddertz

On a motion by Melissa Robinson, seconded by Gary Burleson, to approve all applicant's for licensure. All approved - No nays.

TASK: Staff to include a letter to applicant Jordan advising the board highly recommends advanced approval for any courses which might be questionable if they are directly related to occupational therapy skills and provide a list of the approved occupational therapy courses and activities from regulation.

Agenda item 9 CE's Audit Review [tabled from prior day]

Board reviewed approximately 80 audits for license period July 1, 2008 to June 30, 2010.

Staff advised the board that any licensee who has not yet renewed but who had been randomly selected for this audit period will still need to comply with audit requirements in the event they renew their license.

The board reviewed four mandatory continuing education audits required by consent agreements to determine if the CE's submitted met the requirements.

TASK Staff to:

Compare continuing education certificates for all mandatory audits with prior submissions to confirm the current CE's submitted had not been duplicated within their recent consent agreements. If they did not duplicate CE's then staff can notify each licensee that their CE audit was complete and CE's were accepted.

Send follow up letters to audited licensees who did not respond to the audit.

Send follow up letters to licensees who requested extensions for audit submissions and late renewal license was sent audit letter 8/24/10 but had not responded in time for the board meeting.

Send follow up letters to licensees requesting additional documentation to back their continuing education certificates. The board need clarification to determine if the CE's meet the requirements.

On a motion by Judy Bogard, seconded by Darin Bell, to approve all audits discussed and accepted with the exception of those requiring additional information. All in favor. No nays.

No further discussion.

TASK: Staff to send letters to each licensee whose CE audit is approved.

Lunch - recess 12:59 p.m. and back on record at 1:35 p.m.

Meeting called to order at 1:35 p.m. all board members were in attendance.

Board scheduled the next board meeting in Juneau March 30 – April 1, 2010.

All board members to check their schedules and confirm with staff the above dates are good for the next board meeting.

Agenda Item 14 Revise Applications

Review of the new regulation for internship standards: 12 AAC 54.535. PHYSICAL THERAPY INTERNSHIP STANDARDS and 12 AAC 54.830 and OCCUPATIONAL THERAPY INTERNSHIP STANDARDS; the board needed to create a form for PT's, PTA's, OT's and OTA's who may choose to re-enter their profession and to know what they need to do to meet the requirements .

Staff provided a draft form for internship standards for NON foreign educated for the board to review. Due to time constraints, this became a project and the board divided the documentation between OT's and PT's. They will review and provide staff with their recommendations for both the 'preceptor evaluation of a candidate' and 'candidate evaluation of internship' forms. Board members will determine if the current form covers practice requirements and provide suggestions for any more criteria in areas of training for the preceptor to document.

TASK: Board members to return their revisions for the forms for NON foreign educated to staff by October 25, 2010. TASK: Staff will compile and send out to the board for a mail vote.

Agenda Item 15 Regulation Projects

The board revisited prior board meeting discussion as to what constitutes 60 hours of practice in 'therapy services'. It was affirmed that actual practice under the title of the profession is what the 60 hours is referring to. The board will not make any project for redefining therapy services for either 12 AAC 54.705 (c) or 12 AAC 54.405(c).

If someone is no longer practicing in their profession (PT or OT) but they want to keep their professional license current it will be up to them to meet the renewal requirements per the regulations. In the event they are working under another professional title which means they are not practicing in their field they can volunteer services or they can take extra CE's to meet the requirements of the competency for licensing.

TOEFL exam scores in 12 AAC 54.040(j). At a prior board meeting the board motioned to clarify in the regulation the intent is the applicant pass all 4 sections <u>in one testing session</u>.

This will be on the next regulation project to include wording for the applicant to pass their TOEFL in one sitting.

Both the American Physical Therapy Association and the American Occupational Therapy Association have revised the professional code of ethics. The board will compare the revisions to what is currently referenced in our statutes and regulations. Prior to holding discussion or making a determination the board is directed to read and compare the new ethics from a public perception view point. What is in the best interest for the public? This project will be on the 2011 spring agenda.

Joyce also pointed out that APTA principal number 4: some states mandate a time period of 10 days for reporting violations and she thinks the board should consider regulating a timeline in which to report a violation.

TASK: Project for board members to read and compare the current ethics of the national organizations APTA and AOTA with the Alaska statutes and regulations. Board members divided the project; Gary, Melissa and Kathy will review AOTA and Judy, Joyce and Darin will review the APTA's. This topic of ethic revision will be an agenda item for the spring 2011 board meeting.

TASK for staff: Ask the investigator if we have the authority to require someone to take an ethics course as a disciplinary action and require they pass it.

Currently we have a jurisprudence questionnaire and it is not graded. The board wants to require it be a graded pass/fail exam. Should we make this a regulation before we move ahead with FSBPT in developing more in depth questions for the AK jurisprudence?

Can we make a regulation that requires passing a jurisprudence exam? The whole point is that to get enough answers correct in order to have gained knowledge of the law.

The board believes that under statute AS 08.84.030(b)(4) we have the ability to require they pass the jurisprudence.

TASK: Staff to ask if we can use AS 08.84.030(b)(4) as a basis to write a regulation that the jurisprudence must be an 'exam they pass'. Currently it is only a questionnaire that the applicant is required to fully complete.

Consider requiring CE for initial licensure by both physical therapists and physical therapy assistant for applicants by credentials. The board would like consistency for both disciplines and recognizes that some states do not require occupational therapy licensing. This may be the reason the law was written to require CE's for OT's and OTA's who apply by credentials. This discussion will be on the next agenda.

TASK: Staff to request boards and commissions to appoint another physical therapist to the board to replace Jay McDiarmid.

Agenda Item 16 Statute Project

Annual report page 7-14 moved to discussion under statue project.

Page 9: Under Goal # 1 - Add Objective #5 – In years when there is an audit or other time consuming items for a board meeting the board will consider an agenda that has a

longer board meeting time or determine other areas which can be addressed in a teleconference.

Page 12 Goal # 13 – The board had sought repeal of 08 AS 08.84.150(b)(5) and (b)(6) This project from prior board meetings was discussed and the board agreed the current regulations that became effective on June 10, 2010 have accomplished the goal for term protection and identifies what is NOT physical therapy or occupational therapy AS 08.84.190.

The regulation reads:

12 AAC 54.590(b) In AS 08.84.190, "physical therapy" does not include exercise or activities performed by non-licensed personnel in a home or school setting for the benefit of a patient or student.

12 AAC 54.890(b) In AS 08.84.190, "occupational therapy" does not include exercise or activities performed by non-licensed personnel in a home or school setting for the benefit of a patient or student.

The board discussed and agreed that a follow up letter to the interested parties would be appropriate.

TASK: Kathy Lind to draft letter to Art Arnold and others from the working group and send to staff to distribute stating the primary concern was for protection of the term physical therapy and occupational therapy and there is now a regulation in place for this issue.

Agenda Item 17 FCCPT Credentials Evaluation Standards tabled to next meeting

Agenda Item 18 Continuing Education/Competency

Continuing Competencies will be discussed at the next board meeting. We need to have more information of what other states require. Judy and Joyce will research states for physical therapy and Kathy and Melissa will research occupational therapy.

TASK: Staff to contact Shawn Conway on NBCOT re: CE's and competencies which are available to us as a board.

TASK: Staff to ask supervisor if the board can send out a letter to all licensees that advise the aPTitude program is available for them to track their CE's. This is a good time to do it as it's the beginning of licensing cycle and they can have their CE's compiled in one location.

TASK: Kathy to draft a letter for liaisons to forward to the AKOTA and AKPTA advising them of the CE's tracking now available 'free' with FSBPT.

TASK: Kathy will also discuss the CE/competency issue at the NBCOT annual meeting in October.

David Napier of FSBPT has asked the board to select – Continuing Competence Model for aPTitude. The board chooses to accept option 1 which allows FSBPT to set up their aPTitude program to be specific to our state's CE requirements. It also empowers

aPTitude to make suggestions and allows licensees to record and track their CE activities in an ongoing basis. Eventually aPTitude will allow jurisdictions to track compliance and non-compliance against continuing competence requirements.

The board agreed that the fact this tracking tool is available to both professions (PTOT) as a tracking mechanism, but for OT's the FSBPT does not have the ability to verify course content. The board believes this has potential to be a good option for all licensees in our state to track their CE's.

On a motion by Melissa Robinson, seconded by Joyce Barnett to accept Option 1 for aPTtitude with FSBPT. All in favor – no nays.

TASK: Staff to advise FSBPT that the Alaska board chooses Option # 1

TASK: Tabled to next board meeting – CE/Competencies discussion

Agenda Item 19 Defining Service Hours – Tabled to Next board meeting

Agenda Item 20 Other discussion/Recap of Assigned Tasks

Discuss agenda item # 9 correspondences which had not yet been reviewed.

Angela Obrien and Shannon Mahoney-Irish both submitted certificates for Clinical Applications in Functional Testing and Rehabilitation offered by BTE Technologies. In order to use this equipment you would need to take this course. These were not received in time to pre-approve for the license renewal period the courses were taken.

On a motion by Judy Bogard, seconded by Kathy Lind, the Board accepts the continuing education units for Clinical Applications in Functional Testing and Rehabilitation offered by BTE Technologies. All in favor – no nays.

TASK: Staff to send a follow up letter to both licensees regarding their request for accepting courses for CE approval. Although approved, these courses could not be counted for this current renewal cycle because they were completed during the last renewal cycle.

Ellen Pryor sent correspondence requesting approval of an upcoming course she would like to take called Trauma PTS and Compassion/Fatigue. The board discussed the course content and it was asked how this course would be relevant as 'directly related' to the practice of the profession itself. It was discussed that this was no different than other courses that improve a participant in their profession as a whole but it still does not appear directly related to the actual practice of the competency of the professional. The board asked that this course be sent to either the AOTA or the AKOTA to determine if it would be approved / sponsored by either. The board has the option to determine if a course is directly related to the practice and it is the option of the provider to find course approval certified by a national or state professional organization.

On a motion by Judy Bogard, seconded by Melissa Robinson to allow the course for CE. On a vote, 4 board members abstained, Gary Burleson, Darin Bell, Joyce Barnett and Judy Bogard.

Motion did not pass. There was not a quorum of the board as the board was unable to make a definitive decision.

TASK: Staff to send a letter to Ms. Pryor that the board was unable to make a definitive decision so this course would not be accepted for CE's at this time.
TASK: Joyce & Melissa will find out the approval process for both state associations (AKPTA and AKOTA) on reviewing courses for continuing education.

ADD to next agenda – how much time does the board want to put towards review of courses that do not meet the boards' requirements?

Review of TASKS from this board meeting:

Tasks for STAFF:

- Draft response to correspondent concerning renewal process.
- Update the website with phone numbers for investigations.
- Update all closed disciplinary actions and have them posted on board website.
- Find out if someone who files a complaint is able to remain anonymous?
- Research the budget issues of where and how travel expenses are allocated.
- Draft letter to Jordan regarding course content per regulations.
- Audits: Compare CE certificates for all mandatory audits and send follow up letters to all audited licensees: those who did not respond to audit; those who requested extensions or were late renewals but audited; all whose audits were approved and follow up letters requesting additional documentation to back their continuing education certificates for board to determine if the CE's meet requirements.
- Ask the investigator if we have the authority to require someone to take an ethics course as a disciplinary action and require they pass it.
- Ask if we can use AS 08.84.030(b)(4) as a basis to write a regulation that the jurisprudence must be an 'exam they pass'. Currently it is only a questionnaire that the applicant is required to fully complete.
- Request boards and commissions appoint another physical therapist to the board to replace Jay McDiarmid.
- Contact Shawn Conway on NBCOT re: CE's and competencies that are available to us as a board.
- Ask supervisor if the board can send out a letter to all licensees regarding the availability of the aPTitude program for keeping track their CE's. This is a good time to do it as it's the beginning of licensing cycle and they can have their CE's compiled in one location.
- Advise FSBPT that AK chooses Option # 1 for aPTitude.

- Send a follow up letter to licensees regarding review of courses to consider for CE.
- Revise the occupational data page of applications per board discussion.

BOARD member TASKS:

Project: All board members divided task to comparing current ethics of APTA and AOTA with the existing ethics of the Alaska statutes and regulations.

Kathy/Melissa, Judy/Joyce to review and return suggested revisions for the forms for NON foreign educated interns to staff by October 25, 2010. TASK: Staff will compile and send out to the entire board for a mail vote.

Kathy/Melissa and Judy/Joyce will review CE's and competencies from all states to have information for the next board meeting and our CE discussion.

Kathy:

- Draft a letter for liaisons to forward to the AKOTA and AKPTA advising them of the CE's tracking now available 'free' with FSBPT.
- Write a follow up letter regarding regulatory changes and the statute project. Kathy will forward it to staff to put on state letterhead and forward to the working group so they can advise all interested parties,
- Draft letter to all licensees regarding aPTitude advising it is available and encouraging them to look at it for tracking their CE's.
- Contact providers to understand their process for prior approval for courses they provide with both state and national associations.
- Discuss the CE/competency issues, online documentation etc... at the annual NBCOT meeting in October.
- Kathy will call PESI & EMPI (continuing education companies that sponsor workshops across the country) regarding process for approval of courses for CE.

Melissa:

- Liaison report
- Review CE's for jurisdictions from Alaska to Maine
- Find out the approval process for the AKOTA on reviewing courses for continuing education.

Judy:

- Update the annual report/narrative statement with current board actions
- Review CE's and continuing competency for jurisdictions from Maryland to West Virginia

Joyce:

- Review/compare ethics per current regulations and new APTA ethics
- Review CE's and continuing competency for jurisdictions from Alaska to Maine

- Contact Doug Munzo of the AK chapter of the organization to understand how courses are approved and for what entities they approve them for.
- Liaison report
- Find out the approval process for the AKPTA on reviewing courses for continuing education.

Task staff to send our reminder to affirm the next board meeting dates will work for all board members in Juneau on March 30 and April 1, 2011.

Add to next agenda: Limited permit discussion

On a motion by Judy Bogard, seconded by Gary Burleson, to adjourn the meeting. All in favor - No nays.

The Board having no further business to discuss adjourned the meeting at 4:50 p.m.

Respectfully Submitted:

Connie Petz

Connie Petz, Licensing Examiner

Approved:

Kathleen Lind

Kathleen Lind, Chair

Date: 3/31/11