

STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY
AND ECONOMIC DEVELOPMENT

October 1-2, 2020

By authority of AS 08.01.070(2) and in compliance with the provision of AS 44.62, Article 6,
a scheduled meeting of the State Physical Therapy and Occupational Therapy Board
was held via Videoconference
333 Willoughby Ave, 9th Floor, Conference Room C, Juneau AK

Thursday October 1, 2020

Agenda 1 – Call Meeting to Order/Roll Call

Jennifer Carlson called the State Physical Therapy and Occupational Therapy Board to order on 10-01-20 at 9:03 a.m. This meeting was public noticed in the Anchorage Daily News and the Online Public Notice on September 15, 2020.

Voice Role Call:

Robert Calhoon, Occupational Therapist
Nathan Missler, Occupational Therapist
Lisa Radley, Physical Therapist
Enlow Walker, Secretary, Physician
Jennifer Carlson, Chair, Physical Therapist

A quorum of the board is present.

Keith Poorbaugh, Physical Therapist joined the meeting at 9:10 a.m.

Staff present:

Lacey Derr, Records and Licensing Supervisor
Josh Hardy, Investigator II
Amber Whaley, Senior Investigator III
Connie Petz, Licensing Examiner

Ms. Carlson welcomed new board member Nathan Missler, Occupational Therapist. He was appointed to the board on June 26, 2020 to March 1, 2024.

Agenda 2 – Consent Agenda

The Consent Agenda allows the board to vote on items without further discussion. Any document that requires discussion must be identified and removed from the motion.

MOTION BY ENLOW WALKER, SECONDED BY ROBERT CALHOON

ADOPT THE MARCH 26, 2020 MINUTES AS FINAL, THE APRIL 24, 2020 MINUTES AS FINAL AND THE FISCAL YEAR 2020 ANNUAL REPORT.

VOICE ROLL CALL VOTE: ROBERT CALHOON, NATHAN MISSLER, LISA RADLEY, JENNIFER CARLSON, KEITH POORBAUGH AND ENLOW WALKER. MOTION PASSED.

Agenda 3 – Review/Approve Agenda

MOTION BY ENLOW WALKER, SECONDED BY KEITH POORBAUGH

APPROVE THE AGENDA AS DRAFTED.

VOICE ROLL CALL VOTE: ROBERT CALHOON, NATHAN MISSLER, LISA RADLEY, JENNIFER CARLSON, KEITH POORBAUGH AND ENLOW WALKER. MOTION PASSED.

Agenda 4 – Ethics Reporting

Staff reminded Board members they should review the resource folder and ethics guidelines prior to each board meeting. Board members were reminded if anyone contacted them regarding any board business do not engage in conversation, refer them to the licensing examiner. If a board member engages, they place themselves an Ex Parte situation. Inform the person you are unable to speak with them about any board business.

Board members should abstain from voting during board business if they will be hiring an applicant for licensure or have any personal relationship with them.

Voice Role Call: No ethical situations to report by: Calhoon, Missler, Poorbaugh, Walker, Jennifer Carlson and staff Petz.

Lisa Radley shared while at a social function a Physical Therapist from her community asked about the time and process for licensure. She stated no names were discussed and that she explained applications were sent to the board for review once they were fully complete. Then a license is generally issued within one to two weeks.

Agenda Item 5 – Old Business/Tasks

Board members Jennifer Carlson, Chair and Enlow Walker, Secretary both have terms which end on March 1, 2021 and are eligible to seek reappointment.

Jennifer Carlson shared that she would not be seeking another term on the Board. She asked who would be willing to chair the Board. There were no volunteers. Enlow Walker will seek reappointment but stated he could not commit to the role of the Chair.

They will both contact Boards and Commissions (B&C) by November 1, 2020 to allow B&C time to find new board members and vet to be reviewed by the Legislature in January.

As of this meeting the board is still lacking a Public member. Ms. Carlson crafted a letter to B&C asking if they have had any applicants and stressed this seat has been vacant since March 1, 2020. The board reviewed and approved the letter.

TASK: Staff will forward letter to Boards and Commissions.

Agenda Item 6 – Investigative Report / Presentation

The Board welcomed new Investigator III Josh Hardy and his supervisor Senior Investigator III Amber Whaley.

Mr. Hardy, shared the Investigative Report which was compiled for the Board for the period of March 07, 2020 thru September 15, 2020; this report includes cases, complaints, and intake matters handled since the last report. Matters opened 9, Cases closed 8 and 2 matters were closed since the report memo was provided for the meeting.

Mr. Hardy requested to provide Investigative Training for Board members.

MOTION BY LISA RADLEY, SECONDED BY ENLOW WALKER

CALL FOR A MOTION TO ENTER EXECUTIVE SESSION: THE STATE PHYSICAL THERAPY AND OCCUPATIONAL THERAPY BOARD RESOLVED TO ENTER EXECUTIVE SESSION IN ACCORDANCE WITH AS 44.62.310(C)(3 AND 4), AND THE ALASKA CONSTITUTIONAL RIGHT TO PRIVACY PROVISIONS, FOR THE PURPOSE OF INVESTIGATIVE TRAINING FOR BOARD MEMBERS

VOICE ROLL CALL VOTE: ROBERT CALHOON, JENNIFER CARLSON, NATHAN MISSLER, KEITH POORBAUGH, LISA RADLEY AND ENLOW WALKER. MOTION PASSED.

Ms. Carlson stated all board members and staff Hardy, Whaley, Derr and Petz will stay in the meeting.

Time Off Record Time 9:26 a.m.

Time Back on Record 10:02 a.m.

The Board thanked Mr. Hardy for the investigative training.

Agenda 7 – FSBPT Model Board Action Guidelines

Ms. Carlson, welcomed Leslie Adrian, PT, DPT, MPA Director of Professional Standards Federation of State Boards of Physical Therapy (FSBPT).

Ms. Adrian presented the history and process for FSBPT Model Disciplinary Guidelines and matrix to the Board. She encouraged the board to review this outline based on past Alaska disciplinary history. The importance of precedence and reviewing future cases is a benefit to both boards and licensees. This formula is suggested to allow the physical therapy profession to be more consistent on a national level. It was recommended the board set time aside for the process and then they can adopt their own matrix. The tool will be shared with the investigative unit also. Time will be set aside for this topic during the February Board meeting.

The Board thanked Ms. Adrian for attending the meeting.

BREAK off record at 10:53 a.m. Back on 11:00 a.m.

Agenda Item 8 – Paralegal Report

Ms. Carlson welcomed Marilyn Zimmerman, Paralegal II to the meeting to discuss communication related to a consent agreement.

MOTION BY LISA RADLEY, SECONDED BY ENLOW WALKER

CALL FOR A MOTION TO ENTER EXECUTIVE SESSION: THE STATE PHYSICAL THERAPY AND OCCUPATIONAL THERAPY BOARD RESOLVED TO ENTER EXECUTIVE SESSION IN ACCORDANCE WITH AS 44.62.310(C)(3 AND 4), AND THE ALASKA CONSTITUTIONAL RIGHT TO PRIVACY PROVISIONS, FOR THE PURPOSE OF CASE # 2019-000869

VOICE ROLL CALL VOTE: KEITH POORBAUGH, LISA RADLEY, NATHAN MISSLER, JENNIFER CARLSON, NATHAN MISSLER AND ENLOW WALKER. MOTION PASSED.

Ms. Carlson stated all board members and staff Zimmerman, Derr and Petz will stay in the meeting.

NOTE: Robert Calhoon was not present during this agenda item or vote.

Time Off Record Time 11:07 a.m.

Time Back on Record 11:23 a.m.

The Board determined they would not consider the request to waive the fine for the consent agreement. They did agree to allow additional time for payment and extended the due date to June 24, 2021. Ms. Zimmerman will draft a letter for the licensee based on the boards' decision.

Agenda 9 - Budget

Fiscal Year 3rd Quarter Budget Report was presented by Ms. Petz who advised the Board was asked to set aside 1 to 1.5 hours for the budget report at the February 2021 board meeting.

Lunch off record 11:41 a.m. back on at 12:45 p.m.

Ms. Carlson did a Voice Roll call - Robert Calhoon, Nathan Missler, Keith Poorbaugh, Lisa Radley, Enlow Walker, Jennifer Carlson, staff Lacey Derr and Connie Petz were present.

While waiting for the Public Comment, staff Petz read:

AS 44.62.312. State Policy Regarding Meetings.

(a) It is the policy of the state that

(1) the governmental units mentioned in AS 44.62.310 (a) exist to aid in the conduct of the people's business;

(2) it is the intent of the law that actions of those units be taken openly and that their deliberations be conducted openly;

(3) the people of this state do not yield their sovereignty to the agencies that serve them;

(4) the people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know;

(5) the people's right to remain informed shall be protected so that they may retain control over the instruments they have created;

(6) the use of teleconferencing under this chapter is for the convenience of the parties, the public, and the governmental units conducting the meetings.

(b) AS 44.62.310 (c) and (d) shall be construed narrowly in order to effectuate the policy stated in (a) of this section and to avoid exemptions from open meeting requirements and unnecessary executive sessions.

Staff explained the state policy regarding meetings was to protect all parties while also limiting over use of executive session which allows the public to be informed of board discussion.

Agenda 10 – Public Comment

No public called in to the meeting.

Agenda 11 – Legislative Discussion

Ms. Carlson shared SB47 did not pass in the 31st Legislative session. The board has sought introduction of statutory changes over the past two sessions (4 years). The board discussed the history of the legislation for newer board members.

Staff Petz informed the board LeeAnne Carrothers PT, PhD Government Affairs Liaison, APTA Alaska had contacted her prior to the board meeting. Ms. Carrothers said that she would be working towards reintroducing the legislative goals of the board as well as the working towards a bill for the Physical Therapy Licensure Compact (PTCL).

Ms. Carrothers letter was presented to the Board. They responded with a letter clarifying it was their understanding that Ms. Carrothers had two separate goals.

- 1) to facilitate passage of the language from SB 47 prior to the end of the session (everything included except title protection for "physiotherapist," and
- 2) pursue AK's participation in the Physical Therapy Licensing Compact.

The Board is in support of both as two separate bills and they will be monitoring the progress for each during the legislative process.

TASK: Staff will forward the Bill tracking management instructions to Board members in January so they will be prepared to follow legislation related to the PTOT profession.

Agenda 12 – Alternative Approval Pathway

Ms. Carlson shared about the benefits for the Board to consider the FSBPT Alternative Approval Pathway (AAP). It would eliminate some delays in the process for application by exam by allowing the FSBPT to determine exam eligibility, approval to take the national examination. Staff added the AAP will also give the FSBPT the authority to approve exam candidates for accommodations. To consider a contract for the AAP the board will need some regulations changed.

Agenda 13 - Regulation Project

Board members were asked to review regulations and determine where they can meet the mandates of the Governor and reduce regulatory barriers.

For historical records, the board packet included the fee regulation 12 AAC 02.320 (2) and (3) which was enacted 03-13-20. No board action required.

The board reviewed regulations related to professional reference from a physician. Both physical therapy and occupational therapy professions work with physicians and that would always be a good resource for an applicant. No further discussion is required.

Staff asked the board to determine if there was any reason to amend regulations for physical therapy applicants by credentials who hold a compact privilege. It was determined as the Compact requires disclosure by home states for any disciplinary action the only area the compact privilege is needed is to be reported on the initial application. No regulation required and no further discussion is required.

The FSBPT will be changing their TOEFL scores requirements. Although the date the score requirements will change on national level were delayed to 2022 it was noted if the Board does not change the scores in

regulations to match the future scores, it could cause additional delays and expenses for foreign applicants. Mr. Missler agreed to take the lead on drafting the regulation for current TOEFL scores.

12 AAC 54.040. Foreign-Trained Physical Therapy Applicants (4) if the applicant has taken the Test of English as a Foreign Language Internet-Based Test (TOEFL iBT), the applicant must obtain at least the following minimum scores:

- (A) writing – 24 points;
- (B) speaking – 26 points;
- (C) reading comprehension – 21 points;
- (D) listening comprehension – 18 points.

NEW FSBPT scores to be enacted in 2022:

- Writing – 22
- Speaking – 24
- Reading – 22
- Listening – 21

Other regulations which connect to the TOEFL are:

12 AAC 54.050. Physical Therapist Temporary Permits and Scope of Practice Under Those Permits.

12 AAC 54.110. Foreign-Trained Applicants.

Staff shared she frequently receives communication from licensees asking about telehealth and supervision related to both physical therapy assistants and occupational therapy assistants.

The Board discussed a newly enacted law in Montana, HB0518 addressing physical therapists and supervision via telemedicine. How does the current AK regulation provide guidance for telehealth supervision for a physical therapist towards their physical therapy assistant? 12 AAC 54.530. STANDARDS FOR PRACTICE OF TELEREHABILITATION BY PHYSICAL THERAPIST and (b)(3) (3) must comply with the requirements of 12 AAC 54.510 for any licensed physical therapist assistant providing services under this section.

Staff reminded the board that current standards 12 AAC 54.500 and 12 AAC 54.800 for both professions limits the supervision “a therapist may not supervise, in any combination, more than three aides, assistants, students, foreign-trained candidates, or permittees at the same time”.

Lisa Radley agreed to take the lead to review current PTA/OTA supervision and telerehabilitation health laws. Keith Poorbaugh is willing to assist on the review. Staff will research the rules for two board members to work outside of a board meeting. It may need to be public noticed.

12 AAC 54.530, 12 AAC.810. Article 4, Article 7 and 12 AAC 54.990 definitions.

Jennifer Carlson agreed to take the lead on the FSBPT Alternative Approval Pathway (AAP). There are several regulations to consider before the board would be in any position to have a contract for the exam approval process.

12 AAC 54.030 REQUIREMENTS FOR PHYSICAL THERAPY LICENSE BY EXAMINATION (b)

12 AAC 54.040. FOREIGN-TRAINED PHYSICAL THERAPY APPLICANTS.

12 AAC 54.050. PHYSICAL THERAPIST TEMPORARY PERMITS AND SCOPE OF PRACTICE

UNDER THOSE PERMITS.

The National Board for Certification in Occupational Therapy, Inc. (NBCOT) has set limits for how many times an occupational therapist or occupational therapy assistant may take the exam. As the NBCOT is also working towards a compact the board determined they would monitor their progress and not consider any law changes.

Board members who agreed to work on regulations will be prepared to share with staff prior to the next teleconference. That date they will set during agenda item 22.

TASK: Board members to work on their draft regulations. Staff to find out current rules for less than two board members to work together on regulations and if it is allowed outside of a meeting.

BREAK off record at 2:41 p.m. back on at 2:47 p.m.

Agenda 14 – Correspondence

Ms. Carlson drafted a letter for the Board to consider based on an email from a licensee whose name was redacted from the board. They asked about providing services to a patient who was travelling and would Not be physically in the state of Alaska and asked if it would make a difference if they just didn't charge for the services.

The Board discussed the therapist would need to contact the jurisdiction in question, likely would need a license there to be able to provide services and that not billing is considered unethical. The Board approved the letter to be sent.

TASK: Staff will put on state letterhead and mail to licensee.

RECESS meeting at 2:58 p.m. Board to reconvene 9:00 a.m. October 2, 2020

Friday, October 2, 2020

9:00 a.m. – Call to Order

Ms. Carlson call the meeting to order at 9:17 a.m. Voice Roll Call; Robert Calhoon, Nathan Missler, Lisa Radley, Enlow Walker and Jennifer Carlson. A majority of the board was present and staff Connie Petz.

Keith Poorbaugh signed on at 9:19 a.m.

Agenda 15 – COVID meeting updates

Jennifer Carlson shared about the COVID board chair meetings and the complementary medicine workgroup which meets weekly. Ms. Carlson, Mr. Walker and Mr. Poorbaugh have all participated in many of the meetings.

Initially, the groups reviewed Mandate 15 and some of the other mandates as they came out. The primary goal was to work towards drafting guidance to maintain a safe setting for patients and providers once Health Mandate 15 is rescinded November 15, 2020.

The Board drafted a letter specifically for physical therapy and occupational therapy professionals only, they did not want to have them be for other professions as each profession has their own environments.

TASK: Staff will forward their final draft to Sara Chambers and cc all board members.

Agenda 16 – FAQ project

Staff created instructions with specific directions for exam applicants from the University of Alaska Anchorage. It is also a tool for other PT/PTA exam applicants. After review, the Board asked it also include how long it takes to receive a license after they pass the exam and to create a similar instruction document for OT/OTAs.

TASK: Staff will amend the PT/PTA sheet, create the OT/OTA sheet and add both to the website.

Agenda 17 – Applications

Staff reported Online applications are under development for Physical Therapists. It is hoped the first application will live by the end of 2020.

Agenda 18 – Continuing Competency Project

Ms. Carlson shared the history of the continuing competency project. The OnBoard Resource Folder contains the historical information. As she will not seek reappointment she asked if any board member would be willing to carry this project. Nathan Missler volunteered to research the continuing competency folder and staff will assist. Ms. Carlson is willing to work with him on this project if allowed.

TASK: Staff will ask for rules on how 2 board members can discuss outside of a board meeting to work on projects.

Agenda 19 - Foreign Educated Project

Ms. Carlson shared the Foreign Educated Project has a long history for the board as well. The OnBoard Resource Folder for historical information. Extensive information for the FCCPT course work tool (CWT) Mr. Poorbaugh suggested they wait until the Compact is enacted into statute.

BREAK off at 10:33 a.m. and back at 11:16 a.m.

During the break, Ms. Carlson drafted two letters for the Board to discuss.

The board reviewed and approved a revised COVID-19 guideline for physical therapy and occupational therapy letter. Staff will forward it to Sara Chambers.

Ms. Carlson drafted a letter to LeeAnne Carrothers in support of the two bills they will be presenting to the state legislators in 2021.

Agenda 20 – Compact Discussion

The Board continues to be interested in the PHYSICAL THERAPY Licensure compact. They are grateful that LeeAnne Carrothers will be working towards this with the state legislature.

Agenda 21 – Discussion 10 Minute Topics

The board reviewed some documentation that was informational and required no action.

APTA AK letter to the Board
AK - CBA Board Report Form 2020
NBCOT NEW scoring calendar
NBCOT Regarding the Academic Credential Verification Form
NBCOT staff response to Survey for EXAM

Agenda 22 – Schedule Meetings

The board agreed to keep the February 11-12, 2021 videoconference meeting via ZOOM

Schedule teleconference on December 8, 2020 at 1:00 p.m.

Schedule October 7-8, 2021 in person in Anchorage.

TASK: Staff to book rooms for all meetings.

Agenda 23 – Other Discussion/Task List

TASK: Staff

- Forward letter to:
- Boards and Commissions asking about public member
- Letter to licensee asking about out of state services
- Letter in support of introduction of legislation and compact to Ms. Carrothers
- Letter to Sara Chambers for new COVID guidelines for physical therapy and occupational therapy professionals
- Update instruction for applicants by exam for PTOT and publish to web
- Forward the Bill tracking management instructions to Board members in January so they will be prepared to follow legislation related to the PTOT profession.

TASK: Board members to work on their draft regulation wording and FAQs and submit to Staff by December 1, 2020.

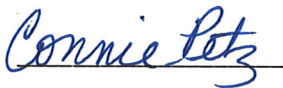
- Nate Missler – TOEFL
- Lisa Radley – PTA/OTA supervision and telerehabilitation
- Jennifer Carlson – AAP Alternative Approval Pathway

The Board having no further business to discuss adjourned the meeting at 12:10 p.m.

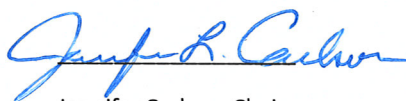
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Signature

Date



Connie Petz
Licensing Examiner



Jennifer Carlson, Chair
Physical Therapist

2-11-21