

STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC
DEVELOPMENT
BOARD OF PHYSICAL THERAPY AND OCCUPATIONAL THERAPY
ATWOOD BUILDING, 550 W 7TH AVE, ANCHORAGE, AK

OCTOBER 2-3, 2008

By authority of AS 08.01.070(2) and in compliance with the provisions of AS 44.62, Article 6, a scheduled meeting of the State Physical Therapy and Occupational Therapy Board was held on October 2-3, 2008 at the Atwood Building, 550 W 7th Ave, Anchorage, Alaska.

THURSDAY, OCTOBER 2, 2008

Agenda Item 1

Call to Order/Roll Call

The meeting was called to order by Mary Ann Paul, PT, Chair at 10:00 a.m.

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

Mary Ann Paul, PT, Chair
Jay McDiarmid, PT, Secretary
Jo Boehme, OT/L
Gary Burlison, Public Member
Kathleen Lind, OT
Joyce Barnett, PT

All members present. Dr. Brecht, the physician board member is moving out of state and resigned from the board effective September 25, 2008.

Staff present: Judy Weske, Licensing Supervisor
Connie Petz, Licensing Examiner

The board welcomed Connie Petz. Connie fills the examiner position that has been vacant since March 2007.

Jo advised that members of AKOTA would attend meeting to share public comment regarding Occupational Therapy in school situations.

Kathy asked with the position vacated by Dr Brecht could the board consider filling it with an Occupational Therapist. Per Gary, this position is set in statute. Need to contact

legislators for any changes. Per Mary Ann, a recommendation has already been proposed to change the physician board member position to an Occupational Therapist.

Agenda Item 2 **Review/Amend Agenda**

On a motion by Burleson, seconded by McDiarmid and carried unanimously it was RESOLVED to approve the agenda as presented.

Agenda Item 3 **Ethics Reporting**

Staff asked if the board would like to continue receiving the complete set of Ethics Reporting paperwork in the packet; the board confirmed they found it helpful.

FSBPT has board training in ethics, available to all board members, both PT & OT. Every board member should make the effort to become informed.

In relation to the Ethics agenda item, Kathleen Lind asked about a clinic that performs sensory integration and whether the clinic's advertising of such practice violates any ethics law. Per Mary Ann, Alaska does not have jurisdiction over facilities. Any concerns should be addressed to investigator Jasmin Bautista. Kathleen stated the clinic is licensed but not for this specific form of practice. Joyce stated that if someone is not trained in a specific area they should refer that patient to the properly trained OT.

Mary Ann asked if there were any ethics reporting violations to report.

All members stated nothing to report.

Agenda Item 4 **Review/Approve Minutes**

The board reviewed the April 10-11, 2008 meeting minutes. Correct the title reference for Kathleen Lind OT and Joyce Barnett PT.

Staff advised Board that it was up to them if they would like to have DRAFT minutes posted to the web. Process would be that draft should be sent to board for them to review, comments should be submitted to Staff so any changes can be incorporated in the minutes so they will be available for the staff to review by the next board meeting.

The board requested updates to the April meeting minutes regarding Agenda Item 8 concerning the comments made by Mark Lane. 2nd to last sentence, per Jo needs to be cleaned up. Jo states her recollection was board had discussion and they would like to have this reviewed. Jo wants a summary of the content of this discussion too. Jo stated members liked to have the meat of the discussion in the board minutes. Joyce thought it is good to have this for those who are tracking this issue.

Clarify Agenda Item 13 to recap the discussion with Chris Wyatt. What was it that she got back to the board about? Something to do with approving fees, Gary states the discrepancy was an error. Jo said that this should be clearly stated because no one knows what it was about unless it is stated. Board can approve as amended. Need to e-mail to board for their approval. Per Mary Ann, all board members to review and advise Judy when the minutes are ok to be posted to the web. It was agreed that staff would have the updated minutes to the board by November 1, 2008 for the board's final review.

On a motion by Boehme, seconded by Burleson and carried unanimously it was RESOLVED to approve the June 30, 2008 teleconference minutes.

On a motion by Boehme, seconded by McDiarmid and carried unanimously it was RESOLVED to approve the July 14, 2008 teleconference minutes.

June and July minutes will now be posted on the web.

Agenda Item 5 **Review Regulations Effective September 27, 2008**

The board reviewed the following regulations effective September 27, 2008.

12 AAC 54.500(c) PT's shall adhere to the ethical standards set out in the APTA *Code of Ethics*

12 AAC 54.500(d) PTA's shall adhere to the ethical standards set out in the APTA *Standards of Ethical Conduct for the PTA's*

12 AAC 54.530 STANDARDS FOR PRACTICE OF TELEREHABILITATION BY PHYSICAL THERAPIST

12 AAC 54.825 STANDARDS FOR PRACTICE OF TELEREHABILITATION BY OCCUPATIONAL THERAPIST

Jo Boehme asked if there is a way to alert all licensees when new regulations become effective. Jo mentioned that those licensees who are members of the state PT and OT association are updated on regulations and other board actions when the board member liaison provides their report to the respective association; however, not all licensees belong to a state association. Staff advised that when a regulation is proposed by the board, a copy of that initial regulation notice is sent to all current licensees. The licensees are given 30 days to comment on the project. When the project finally becomes effective (which could be several months after the initial public notice), the division would send notice of that regulation change to all licensees if the change affected licensees having to meet future requirements, for example, changes to continuing education requirements.

The board discussed various ways to alert licensees to board actions. Staff advised that the board's website could be updated to provide relevant information. A link for "What's

New” could contain information the board wants to convey. It was agreed that staff would look at options for updating the board’s website.

Staff informed board that there is the list serve that can be used to keep people informed with out expensive mail outs. Mary Ann thought that some things take so long people forget about the issues involved. Staff will try to keep this up to date.

Agenda Item 6 **Investigative Report**

2700-07-001 – open case – this could not be discussed; the matter has been forwarded to the Department of Law.

2700-08-001 – allegation of unlicensed practice; matter reviewed with board member; case closed with no action – no violation.

Jasmin Bautista met with the board and presented the investigative report. The board would like more information on closed cases. Per Jasmin when no litigation occurs then the investigation is not public record.

Mary Ann states the cases could be reported in newsletters in order to educate PT/OTs, Jo would like to see this become a practice. A “closed case” was discussed generically in which a complaint was filed by a chiropractor concerning a massage therapist who appeared to be putting himself out as a physical therapist. It was determined that no violation occurred.

Agenda Item 7 **Liaison Reports**

Jo reported that she has continued to contact the AKOTA and alerted the association to new regulation changes; AKOTA has established a task force to which she is a member regarding the statute changes.

Jay reported same thing in essence. At the next APTA meeting they will establish a task force. Per Mary Ann, model practice act group to be established and it will be brought up at the fall conference.

Recess 11:04 a.m.; back on record at 11:10 a.m.

Agenda Item 8 **FSBPT Annual Meeting Report**

Mary Ann shared that she and Jay attended the FSBPT Annual meeting in Minneapolis. Sept 11 – 15, 2008. FSBPT is considering creating / offering an ethics course that could be used for a licensee who needs to take an ethics course which would give CE credits.

One method of remediation would be for a violator to an ethics course. Some boards have established their own course.

One of the presenter's shared a 4 way grid:

Ethical & legal
Unethical & Legal
Illegal and ethical
Illegal and unethical

Things can fit in all 4 of the boxes. How does someone decide where it fits? What process do you use?

A grid of four different examples –

Quid pro quo – therapists who provide treatment for “quid pro quo” – create hostile environment and unethical; and usually illegal.

Why don't people perform/comply – four barrels- knowledge just not knowing; barriers (culture, language, just doesn't get it); competence – a person is just incompetent; choice – informed and make choice to not comply. When you look at someone who has a complaint against them we first decide where they fit into the four barrels –

When a complaint has been placed against someone, decide: Has it been intentional? Is it not intentional? If intentional why, if not, what is the barrier?

FSBPT promotes remediation – for example, a PT who may have a drinking problem could be protected under the ADA – in that case you would have no authority to deny them a job – teach, correct, learn. Employ them, if there is a violation; put it in black and white writing, signed by employee and employer. If another incident occurs, then you can say, now “I'll have to let you go”. Try to correct the behavior, make your action documented and formal.

Ethics issues – like raising a child – red hot burner test – burner red – put your hand on it and get burned – burner test for actions and regulations – non-discriminatory – consistent – make rules known – if chose to break laws then consequences.

It was a good conference – decisions that we make are based on our perspective, our experience, our environment and legal issues. Some things can be against the law but ethical.

Jay was the voting delegate at the meeting – they didn't vote on much – language changes for conflict of interest for officers of FSBPT. The FSBPT has been talking about research on physician-owned practices for financial gain – findings brought mixed reviews; Lowen group did study using mostly United Health Care – using CPT codes, date of service... various items used in practice setting and tax id numbers to identify

practice setting, attempted to tie the relationship between MD's to PTs practices and physician clinics – pre surgery / post surgery.

Inadequate evidence to conclude that practice ownership affects the quality of care. A difference in PT / MD owned clinics. FSBPT may look at this research again re: quality issues. Small practices do not have intake and outtake questionnaire's, generally only large practices do that sort of tracking.

Jo brought up that there is a physician-owned PT practice in Juneau and an item that has come up is; does the patient have a choice where they want to go for treatment or not? Educate the public so they know they have a choice. In Florida, \$5.00 of licensing fees goes toward public advertising. Do you have a choice? Is the therapist licensed? Operation of the board is protecting the public and giving the public information.

Another session Jay attended was led by Mark Lane; regarding competency – what makes someone competent. FSPBT thinks it may be 10 years in the making for changes. Like the Model Practice Act rather than calling it continuing education call it continuing competencies. PRT: Practice review tool exam, available for \$250.00. Some states are thinking about offering a certain amount of credit for taking it. It points out weaknesses in your education.

Documentation and billing and the regulatory role; using one case for the whole day of discussion – 43% fraudulent diagnoses (manipulating the diagnoses – coding issues) – 34% billing services not rendered – 21% waiving fees (to entice people to come back) – 2% were others. Discussed the False Claim Act; using codes in order to get payment, coding issue, and compliance issues – submitting claims that are not medically necessary; not meeting Medicare standards.

A significant topic during the meeting was FRAUD. Fraudulent Billing can be; if you receive the money then it's mail fraud, if you do electronic billing it's wire fraud.

CPT codes are updated annually: you should check every year to make sure your CPT codes are valid for that billing timeframe. If the board is going to investigate something, they need to check the year of the CPT codes as it could affect if considered fraud or not. What is the year CPT codes started? Always check the books to determine the date they changed.

Compliance issues discussed:

Billing services which were not documented.

Submitting claims which were not medically necessary (based on payers' definition)

Clinician needs to look at individual payers definitions if medically necessary.

Not meeting medical standards

Unbundling

Services not supported with the time codes (bill 1 hr while patients was only there ½ hr)

Not using modifiers

Failure to use abn forms

If you do bill for something you shouldn't have, you should resolve that situation as soon as possible.

The licensee should be aware of how their services are being billed. You need to let your employer know you are not comfortable with billing practice – if not resolved, then walk to avoid being a part of any legal action. It is the responsibility of the licensee to find out what is being billed.

Mary Ann suggested the board amass an effort to bring these two presenters to Alaska to share the above information. They can be hired to come to evaluate and educate on how to adhere to the correct and ethical billing standards. Joyce thought this sort of workshop would be a good one to offer. This could be used as continuing education credit too as it has to do with billing practice.

Next year's FSBPT convention is in San Diego September 30th to October 4, 2009.

Agenda Item 9 **FY08 Annual Report**

Jay is up for re-appointment March 1, 2009 and he will need to make his desires known if he wants to continue on the board. He intends to seek re-appointment.

Under the July 2007 teleconference, Jo noted that the title for Kay Levenson should be OT. Jo further noted that memorandums of agreement are the kind of information that should be included in association newsletters, such as those who don't complete the Continuing Education requirement. Once an MOA is issued, when a condition is put on a license, the licensee is to advise their employer.

The board discussed the difference between surrendering a license (voluntary on licensee's part as they agree they are under investigation) versus having a license revoked (proactive position of board). Surrender agreement in order to get license back they have to do... A, B, & C). Which is better? FSBPT viewpoint is that a surrendered license is not preferred, no action can be taken against the licensee and they can reapply for a license. Revoked licensee has option to pursue license 1 year after revocation. A suspended license has more control by the board. There is a national data base that is available to identify cases of concern and the Alaska board participates in this and statute AS 08.84.120 Refusal, revocation and suspension of license was discussed. Items 1-8 explain how a license is taken away, Item B explains how to get it back.

Judy advised the Division is working on an omnibus bill which hopes to clarify the process of investigations and clear up the language in the centralized statutes. It has been drafted and now is waiting for introduction to legislature. The board also requested that a Disciplinary Link be added to the board's website to post actions taken.

Under FY 09 the OT exams are now offered 4 times per year.

Under Goal 2 add activity #4 (just like activity #3 for PT association) If a Board member is present at AKOTA chapter meetings, he/she may provide updates and answer questions the membership may have in regards to Board activities.

Under Goal 3, add objective #3: Maintain contact with National professional associations including; AOTA State Affairs group & APTA regarding: licensure trends and issues.

Under Goal 8, add objective #3 Encourage board members to make their desire known to continue on the board by notifying Boards & Commissions timely re: reappointment.

Under Goal 10, add Objectives re: disciplinary action (once a case is closed with action) to be added to website and FY Annual Report. Add objectives regarding posting the Annual Report, New regulations, and disciplinary matters to the website.

Under Goal 12 amend goal wording after assimilating **in part or in it's entirety** the FSBPT- **AOTA** Model... then amend objective #1 add **and AOTA** after FSBPT

Amend Objective 1 to add "contact FSBPT **and AOTA** about having a representative from that organization meet with members of both AKPTA and AKOTA. **Maintain contact with professional organizations such as the AOTA State Affairs Group and the APTA regarding licensure trends and issues.**

Goal 14

Article 4 Sec. 08.84.190 definitions. Kathy asked why (4) OTA "for Compensation" is mentioned? Discussion ensued as to definitions of PTs and OTs etc... as to how they are defined and a recommendation to be more specific for "definitions" of each profession. Look at Model Practice Act for their wording of definitions. Decision was made to put this issue under the Legislative recommendations. Gary clarified that "for compensation" was included as some OTs have used volunteer time to qualify for licensing requirements.

Pend to approve Annual report, after discussion later in the afternoon.

Recessed at 12:40 p.m. – back on record at 1:03 p.m.

Agenda Item 10 **Model Practice Act**

Mary Ann gave an update on the Model Practice Act workshop – all board members attended except for Jo Boehme. 25 attendees – 10 OTs and 15 PTs attended Chuck Wilmarth (head of state affairs group with AOTA). Full day course – the process was to keep it basic in the beginning. After groundwork laid, then went through Model Practice Act to compare where issues are addressed in the board's statutes and regulations.

1. Define legislative intent – board’s statute doesn’t state they are created to protect the public.
2. Practice Act has definitions – the board’s statutes & regulations have definitions everywhere. Define the “practice” of OT and PT. Keep everything concise and in one place. Need to update the wording of Physical Therapist and Physical Therapy Assistant. Same for OT and OTA’s. To have everything in one place so when someone picks up an application packet, everything is consistent. Here is the statute and here is the regulation which backs it up.
3. Title and term protection – statute references outdated titles. Old terms are outdated. To protect the term “physiotherapists” – and protect the DPT title.
4. Why do we have a physician member on the board – outdated requirement? Would rather see another PT / OT or OTA / PTA. Need to update the definitions. RPT is an old term. Need to designate they drop the R & L.
5. Designate how people list their credentials (i.e., PT, followed by their credentials).
6. Workforces were established for OTs and PTs. Recommended both groups will develop taskforces which they will go over paragraph by paragraph and come together at the annual conference. After they have gone through and make suggestions of the identified changes and discuss suggested changes. Then prioritize in order of importance, most/least, what is negotiable what is not.
7. Temporary permits. LTD permits, model practice act call them courtesy license. Questioning if temporary permits are truly protection of the public as issuing for 8 months may be to long, maybe reduce time or get rid of temporary license. It is a revenue generator and if decide to get rid of the temporary permit the permanent license costs will go up. Last year issued: Temporary permits: PT 27 & OT 12; issued Limited permits: 10 PT and 3 OT this was about \$2K in fees. Currently have about 900 license holders so increase cost per license would only be a few dollars.

Roundtable discussion –

Gary thought the presenter did a good job going through the Model Practice Act – supplying tools that you could use help compare our statutes and regulations.

Joyce mentioned the cooperation needed between both groups – Joyce also shared her concerns about the scope of individual therapist practice. “Practice act should require licensees to demonstrate that they have the required training and competence to provide a service”. Not all licensees may be practicing when they may not be fully competent in an area, for example, a pediatric therapist applying a splint to a child when perhaps an OT could do that task better / safer. Joyce would like to see more work on this area. Jo thought perhaps to identify a self assessment of competence in practice setting. Joyce states the Practice Act should require competency in the area they work.

Mary Ann brought up the fact that she is asked whether PTs do cold laser, acupuncture, needling, manipulation, etc. Do we have power to regulate that scope – some scopes we share with other professions? Mary Ann referred to an article that reviewed four areas of scope: History (in your practice – have you done this); Education (in the area/schooling); Evidence (does it benefit the patient); Regulation or disciplinary power to regulate that particular scope.

Kathleen stated that the board's statutes are antiquated and outdated. Language needs to reflect what is currently practiced. Ours does not.

Jay mentioned that the OTs and PTs have established separate taskforces, and Jay thought there should be a global outreach. Jay would like to have representation throughout the state so that different regions are represented. Jay thought several groups of OTs/PTs, board members could share the work instead of having it spread out. Take components or decide how it will be divided, make smaller groups and avoid duplicating efforts in each group. Need to be communicating with each other.

Jo asked, what is our role as a board member in opening the statutes and Model Practice Act? When is she acting as a board member or as an OT? How do we proceed with introducing a bill?

Mary Ann stated the process is pretty involved and we need to be organized first in order to proceed. Have a plan identified and then go to the different groups (chiropractors, massage therapist, etc...) to do some marketing and identify for them that this is what we are doing and this is why we are doing it. This would be to avoid any surprise action from some other board when we are at legislation. Come together as the two professions to find a legislator who would be willing to present it to legislature.

Jay feels it's time for the board to take action on the legislative recommendations...
Sunset is coming.

Jo asked do we have permission to combine the areas in the statutes and regulations and what can we find out from Department of Law in advance so changes are not presented which will be slashed. Mary Ann said this is where the lobbyist comes in. PTs have Caren Robinson as their lobbyist.

Judy said when you get the model drafted it will get flushed out in Dept. of Law. Centralized statutes are generic (08-01, 08-02) to all professions unless your board has something specific in its title. It deals with enforcement, investigations, courtesy license, etc...

Mary Ann said the Model practice act is simple language and not confusing.

Joyce Barnett plans to attend the APTA October meeting.

Joyce asked how the board gets involved in the Physical Therapy meeting that is coming up. Do they need to formalize a task force? Judy said if more than three members plan to attend the meeting it needs to be public noticed that the board will attend/participate in workshop. Need five working days to public notice, it goes in the Anchorage Daily News. Board members can't speak for the board unless the board has made a determination and actually taken an official position on the record.

Board members can lobby for the board to get a bill introduced.

Discussion ensued as to how to tackle the changes. It was agreed that items which can be considered little changes eg: changing "council on medical education" as they no longer exist. This change would likely not be opposed by anyone. Then come back with other things that the global task force can list out as things to tackle next. Keep the process going in order to keep moving forward on changes? It could be years until some issues can be presented or years until it passes once it is entered in to the legislative process. Small changes like changing the temporary permit from eight months to three months. Straight forward changes are the ones that will be easiest to change based on the authority of the board.

Licensing boards are encouraged to seek out a legislator to work with them if the board wants anything to happen over the next few years due to the lengthy process. Eg: Change the wording "foreign trained" to "foreign educated" through out statutes. Once this one is off "the list", it won't need to be addressed down the road when the "big" items are being dealt with. Small issues that can be changed now should be.

Collaborative efforts between the PT & OT's will make the efforts for change more effective. Two professional organizations have come together to make changes. Have a strong association with a strong lobby and you can get more done.

Mary Ann brought up a "decision making matrix":
How high is it rated – 1, 2, 3 as far as public protection. 1, 2, 3 as far as opposition to it.

What is the likelihood of being successfully making changes due to factors such as opposing groups?

High likelihood of being successful

Low likelihood of opposition

The matrix is a way of prioritizing goals and objectives. Assign a number, assign a color and then build from there.

The board took up the Annual Report again – Goals and Objectives.

1. Define Legislative Intent re: public protection (Statute)
2. Under 08.84.190(3) the "Practice of" OT and (6) "Practice" of PT

3. Definitions add “the practice” of “Physical Therapist” and “Occupational Therapist” – is “licensed by the state PT/OT Board” 08.84.190(2) & (5). {Full definitions should wait for the task forces. It was suggested to keep all of the definitions in one area, not all spread out in Regulations, Jun can do the housekeeping by putting PT definitions together and then put OT definitions together. In Statutes, the board needs to organize. It would also be good to have a consistent order in reading, keep one first eg: PT then OT}. Judy clarified, when the definition is unique to the profession, then that definition will be kept within that area of the statute or regulation. Board has to pay a fee for regulation updating. Judy thinks about \$550 is the cost for a generic regulation project. The more spent now, the more the licensing fees could increase down the road.
4. Update AS 08.84.030(a)(1) and (b)(1) re: schooling (clean up defunct school names)
5. Delete AS 08.84.030(b) (2) (A) and (B).
 - (2) submit proof of successful completion and supervised field work approved by the board
 - (A) for an occupational therapist, a minimum of six months of supervised field work;
 - (B) for an occupational therapy assistant, a minimum of two months of supervised field work;
6. AS 08.84.032(a) (1) and (b) (1) – delete outdated language re: schooling. (Only needs to show they graduated from an accredited school, not a specific school)
7. Update language AS 08.84.032 (b) (3) regarding English language exams if graduated from a program that teaches in English.
8. Temporary permit AS 08.84.065– (long term goal, eliminate altogether and short term goal – decrease the length of time). Evaluate WHO is actually getting the temporary permits, protection of the public. Judy advised most professions offer an issuance of a temporary permit. The eight months was established back when exam was only offered two times per year.
9. Limited permit AS 08.84.075 (3); AS 08.84.075 (b) (4); AS 08.84.075 (c) - Clarify that the limited permit is 120 consecutive days – only one in a 12 month period (calendar year). May want this to be part of global task force for review. Limited to three limited permits in a lifetime. Think about the paperwork and staff hours involved each time someone applies.

Jay will amend the annual report with recommended changes which is to add Goal 15 to incorporate the five changes the board would like to get introduced. We will discuss at April meeting again. Deadline is August 1st. Judy will submit what Jay has and can add a note that an amended report is coming.

Joyce thinks for clarity we should identify projects not ready for action as goals we are working on. Those listed in the annual report, projects not ready for legislative recommendation. eg.: goal #13, writing a definition while making goal # 14 to be “submit to Legislature”.

The first four goals and goal 7 should be Legislative Recommendations, first three are all related to “foreign trained” and all fall in same category, the fourth is to remove words “Council on Medical Education” in four locations.

Set a goal number fifteen to propose that Legislative Recommendations 1, 2, 3, 4 & 7 get presented this year. Make an activity under this goal to make contact with Legislators. Judy suggests that any board member can contact a legislator to ask them if they would be willing to introduce this during session. They have a legislative affairs lawyer who will craft the language to introduce the bill.

Judy will draft letter for the board – Mary Ann will talk to Sundi – Gary Burleson will help with the process.

Gary asked about #5 on Legislative recommendations; take the temporary permit off the Legislative recommendations and put on April 2009 agenda.

Jo wants to see the issue of aides in the school setting be reviewed and presented in light of “protecting the public”. Joyce said this is a “red light” issue to tackle now. Need to make sure the law gets changed as to how the aides work in school. What is the Long Term goal? Gary thinks AKOTA needs to take the lead on this one.

Board members mentioned that the associations’ goal may not be the Board’s goal.

Joyce proposes we table discussion until tomorrow and that we add an agenda item under item 12 to consider Item 8 of legislative recommendations and establish board activities to promote that recommendation.

Table final review of annual report.

Agenda Item 11 **Public Comment**

Focus is primarily addressing the Model Practice Act.

Jean Keckhut; President of AKOTA - spoke to the board about her thoughts on the workshops.

Organization of statute and regulation; make two chapters or just clarifying language. Article 1: Under board composition would like to consider whether physician member needed – would like to see another OT member. Also would like regulations regarding the supervision of assistants and aides.

Article 2 – qualifications for licensing to update references; under foreign-trained update language; before eliminate temps to evaluate how many have been issued over past 2 years; language regarding renewal and lapsed license 12 AAC 54.700; 12 AAC 54.950 both are confusing would like the board to adopt concise regulations, Would also like full range of continuing competency options to renew.

Article 3 – Unlawful Acts false claims of License titles OT, OTA...titles? Litigation has increased with Department of Education because of the standards on the IEP. They (schools) are billing Medicaid for aides at OTs & OTA's. Set standards for student supervisor; teachers & teachers' aides – believe it's inappropriate for teacher's aides to provide OT;

Article 4 – definition for aide and assistant – and should include contemporary definitions. Wants to collaborate with PT & OTs.

Jay asked if the AKOTA would object to the language "Foreign-educated" as compared to "internationally trained". Jean asked if she could get back to Jay. Per Kathleen, OTA uses internationally trained. PT wants to get rid of "trained" as it's demeaning to the profession. Jo was to get the information from Jean as to the language preferred for Foreign "trained/educated".

Recess at 3:20 – back on record at 3:32 p.m.

Mary Ann recapped Jean Keckhut's public comment; it's important to organize the statute in a consistent manner (some sections Occupational Therapy is first, other sections Physical Therapy is first, need to put PTs and OTs in consistent order throughout the statutes) and not separate the professions into two chapters.

Board Composition; fix the language of supervision of OT assistants.

Under Regulation Projects, add changes to 12 AAC 54.700 & 12 AAC 54.950 (d) and (e) regarding reinstatement of lapsed license. Kathleen stated future consideration of defining "lapsed" when a choice is made to take time off within a profession. eg: raising children, taking care of aging parent and then coming back into the profession. Suggested that instead of just referencing the centralized licensing statute regarding license lapsed five years also state what it means and then cite the statute. 12 AAC 54.950(e) is also confusing. It's the hours "each" year when you have not been practicing. This is to require competency. Perhaps it could be changed to 150 hours of internship. A board approved mentorship? This is another area to improve. Write this more clearly, add flat hours and mentorship.

Add Lapsed License to Regulation Project.

Exceptions to license requirements Sec 08.84.150. Discussion ensued when the wording for aides may have been added – approximately 15 years ago. School districts did not start billing Medicaid for occupational therapy services until these past 18 months. Juneau, Fairbanks, Kenai and one other district are now billing for PT/OT services. There is concern if they are billing Medicaid for PT/OT performed by teachers or aides. First Health Insurance is the billing company. Medicaid fraud unit is very active in pediatric fraud. Alaska statute gives aides an exemption so currently it is not illegal. That

is why this needs to be reviewed and revised. Kathleen suggests board consider deleting all of Sec. 08.84.150 (6) (A), (B) and (C) (i) (ii) as everyone seems to disagree with them anyway.

Amend AS 08.84.075 "Limited Permit" to state "Limited License". As it is a license to practice. Should also change wording for temporary **permit** to temporary **license** as it's issued while **waiting for permanent license**. 12 AAC 54-050 will also have wording clean up if this is changed. Regulations spell out the details while statutes give authority, this all comes down to housekeeping.

Discussed there is a lot of language about aides in regulations but no definition of aides in statutes. Board may need to consider dropping the whole section as there is nothing about aides in the statutes.

Mary Ann wrote up a proposed regulation for 12 AAC 54.520 Supervision of Aides by Physical Therapists; this was written with the approach of the supervision of "non-licensed personnel" by PTs and does not distinguish what an aide can or cannot do as some call them techs or other names. Do not use the word "delegate" because when you delegate you give up responsibility. Instead of a definition of aide we need a definition of non-licensed personnel. ALSO... do not list what they can or cannot do to avoid the laundry list. This has to do with Patient Care Management.

AOTA has a Model Practice Act which also addresses the importance of documentation of supervision by an Occupational Therapist of what an aide can and cannot do and what an aide has been trained in. Both professions are concerned about the supervision and the use of ancillary services.

Non-patient related tasks include clerical and maintenance activities and preparation of the work area or equipment.

Patient-related and client related tasks are routine tasks during which the aide may interact with a patient while the therapist acts as the primary service provider

Regardless of the setting, a therapist is solely responsible for the treatment delivered by the licensed personnel. (Should this be Non-licensed personnel?)

Recess at 5:00 p.m.

Friday, October 3, 2008

8:37am back on record

All present

Mary Ann relayed Sundi Hondl's comments since she was unable to attend. Basically, Sundi recommends the board be made up of either PT/PTA/OT/OTA. She also relayed her thanks for set up of the FSBPT meeting. Fall conference is November 11-12, 2008

Mary Ann also referred to the FSBPT meeting regarding the United Health Care research project. United Health Care limits number of visits a patient can have. Four of the six states in the study had laws preventing physician owned physical therapy practices.

Agenda Item 12 Regulation Projects

Mary Ann prepared draft language for the board's review regarding 12 AAC 54.520. The title was changed from Supervision of Aides by Physical Therapists to "Supervision of Non-Licensed Personnel by a Physical Therapist".

(A) Regardless of the practice setting, a licensed physical therapist is solely responsible for the treatment and management of all aspects of physical therapy care of each patient.

(B) At no time is the use of non-licensed personnel to be considered the practice of Physical Therapy.

(C) A Physical Therapist may utilize non-licensed personnel in the delivery of patient-related and non-patient related duties.

(D) A Physical Therapist shall assure the training of personnel under his or her supervision and document that training.

(E) A Physical Therapist shall provide "continual, on-site supervision" when supervising non-licensed personnel in the delivery of patient-related duties.

Definitions:

(1) "Non-licensed" personnel are utilized by Physical Therapists in the delivery of Physical Therapy services. These persons may be referred to as an aide, technician, or a "tech". These personnel are trained under the direction of a Physical Therapist to perform designated non-patient related duties and supervised patient-related duties related to the practice of Physical Therapy.

(2) "Patient-related duties" are routine tasks that do not require the education, skill and training of a Physical Therapist or Physical Therapy Assistant. The following factors must be present when a routine task is assigned to non-licensed personnel.

(a) The outcome anticipated for the task is predictable;

(b) The situation of the patient and the environment is stable and will not require that judgement, interpretations, or adaptations be made by the non-licensed person.

- (c) The patient has demonstrated some previous performance ability in executing the task;
 - (d) The task routine and process have been clearly established.
- (3) “Non-patient related duties” include clerical and maintenance activities and preparation of the work area or equipment.
- (4) “Continual on-site supervision” means the supervising Physical Therapist is present, in the department or facility where services are provided, is immediately available to the person being supervised, and maintains continued involvement in appropriate aspects of each treatment session in which the non-licensed person is involved in components of care.

Gary moves to public notice the above new language for 12 AAC 54.520 Supervision of Aides by Physical Therapists and 2nd by Jo. All in favor- no nays

Jo moves to public notice new language for 12 AAC 54.815 Supervision of Aides by Occupational Therapists to the same proposed language as – as 12 AAC 54.520; 2nd by Kathy. All in favor – no nays

Intent is to delete - replace in its entirety.

Recessed at 10:05 a.m. / back on record at 10:15 a.m.

The board discussed the tabled Continuing Education Project (12 AAC 54.410(a); 54.410(e)-(f); 54.710(a); 54.710(f)-(g)). Over the past few years, board members have noticed when conducting the continuing education renewal audit that many licensees complete all continuing education requirements through on-line or self-study courses at the “last-minute” to meet licensing requirements. The board questions the value of obtaining all continuing education in an environment that does not provide for personal interaction. Is it beneficial to require licensees to obtain some of their required hours “in-person” through attendance at a conference, workshop, etc...?

It was the board’s desire to standardize the continuing education requirements in relation to historical background concerning the project. A number of different types of continuing education courses were being submitted and the board’s desire was to get a standardization of credit for courses. The public comment showed concern about the cost of travel out-of-state to attend any workshops for continuing education.

Kathleen Lind is not in favor of requiring in-person attendance. She feels this is a big expense to licensees that does not provide any better education than what a person can obtain on-line.

Jo stated that initially she was in agreement with the board’s proposed changes, but she has taken a 180 degree turn. She does not feel the board should limit the number of on-

line courses. She believes the board could do a better job of auditing the courses taken. Jo researched the topic of whether continuing education courses taken on-line are less valuable than those courses taken in person. She did not find evidence that in-person attendance is more valuable than an on-line course.

Mary Ann is in favor of the project as written. She feels it's important to set a high standard and in-person courses assure a level of quality and interaction that isn't available on-line.

Joyce Barnett is also in agreement with the regulation project as written. Joyce finds in-person attendance at workshops and conferences valuable and she comes away knowing that there was a benefit in attending.

Jo recapped some of the comments received from licensees. Jo stated it's a balance between wanting to assure public protection vs. the financial impact to licensees by requiring 12 hours of in-person attendance.

Jay shared he is on the fence regarding this project; he knows the value of in-person attendance but he also recognizes the financial impact of requiring in-person attendance.

The board decided to review the 2008 continuing education audits at the April 2009 board meeting to determine what kinds of courses were taken.

On a motion by McDiarmid, seconded by Burleson and carried unanimously it was RESOLVED to withdraw all of the proposed 12 AAC 54.410 EXCEPT for letter (f).

On a motion by Boehme, seconded by McDiarmid and carried unanimously it was RESOLVED to withdraw all of the proposed 12 AAC 54.710 EXCEPT for letter (g).

The board did consider the cost to the public in determining what action to take; the board determined that additional research is needed regarding what types of continuing education courses will be the most beneficial (requiring in-person attendance for a certain number of CE hours vs. on-line self-study, etc).

Staff will create a spreadsheet which compiles and identifies the responses in the continuing education audits. It should reflect a breakdown of the courses taken on-line or other forms of CE's. The board will review the results at April 2009 meeting.

Judy asked the board to set standards for completion of the 150 hour internship required under 12 AAC 54.100, 12 AAC 54.405 and 12 AAC 54.950. The 150 hour internship may be obtained if the applicant does not have 60 hours of physical therapy or occupational therapy practice within 24 months of applying for a new license; the 150 hour internship is also an alternative for renewal applicants who do not have the required practice hours.

The foreign-trained regulations identify the standards for an internship and that is the model we have been using for the 150 hours internship, however the board needs to set separate standards that are enforceable. Discussion ensued about the time frame, practice conditions, etc.

Need a motion to add into the language on changing to (1) "completed in not less than six months and (2) be in an institution or facility that has at least one full-time physical therapist... take out clinic setting, add a varied case load. Put on April agenda to review in full.

On a motion made by Mary Ann and 2nd by Jay – internship proposal. The board will also review the internship form to see if changes need to be made.

Judy will put above out to public notice.

On a motion made by Joyce and 2nd by Gary, it was moved to amend 12 AAC 54.950(e) to amend to 150 hour internship approved by the board.

Mary Ann suggests April Project to bring all definitions to a central place in statutes.

Mary Ann is going to check into FSBPT jurisprudence exam, what's available and how it's defined. She will also write to Sundi about proposed statute changes and find out how to connect with Caren Robinson. To see if she can take up the Physical Therapy and Occupational Therapy causes with legislature.

Judy is going to write language for Mary Ann to eventually pass on to Gary.

All members will look at preceptor / internship form to see if needed to be updated.

Audit letters with form to be completed by the licensee.

Joyce asked if the board needs to garner support for change to OT exception statute regarding the school district.

Judy needs to complete the legislative recommendation form.

The board set meeting dates of April 16-17, 2009 in Juneau and October 8-9, 2009 in Anchorage.

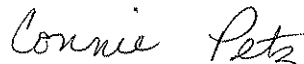
Jay left the meeting at 12:30 p.m. and he will get the Annual Report completed by end of October 2008.

Jo brought up the topic of sending applications via email vs. U.S. mail. Is there any concern about sending applications via unsecured e-mail. Judy clarified that the information typically sent to board members is a public record already so there should not be a concern. Whether sent via e-mail or paper both require the board members to handle with care. It is best to shred or delete the documents once review is complete regardless of how the application is received. Alternative would be that all board members receive a code from IT which they would use to open the document. There is a cost related to the initial setup but we could do it if the board wanted it. Gary feels it's more secure to receive the documentation on the internet than sitting in his mail box on the front porch.

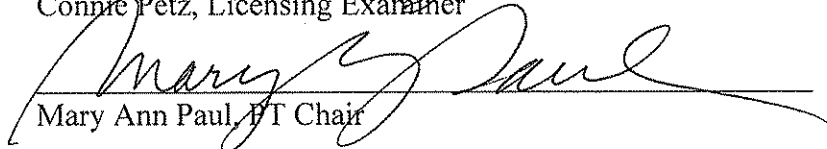
Foreign educated applicant Manuel Mauri is still waiting for his FCCPT report. Judy stated it takes about 16 weeks for a report to be completed.

The board adjourned at 12:45 p.m.

Respectfully Submitted:



Connie Petz, Licensing Examiner



Mary Ann Paul, PT Chair

Date: 4-17-09

CP/2009