

**STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT
DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING
STATE PHYSICAL THERAPY AND OCCUPATIONAL THERAPY BOARD**

MINUTES OF MEETING

OCTOBER 4-5, 2005

By the 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 4-5, 2005 in Suite 1760 of the Atwood Building at 550 West 7th Avenue, Anchorage, Alaska.

Tuesday, October 4, 2005

Agenda Item 1 Call to Order/Roll Call

The meeting was called to order by Mary Ann Paul, PT, Chair, at 9:20 a.m.

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

Mary Ann Paul, PT, Chair
Dee Berline, OTR
Jo Boehme, OT
Jay McDiarmid, PT
Alec Kay, PT
Gary Burleson, Public Member

Staff Present was:

Steven B. Snyder, Licensing Examiner

Ms. Boehme was welcomed to the board. Ms. Boehme told a little about herself and each of the members did the same.

The board elected Jay McDiarmid as board secretary.

Agenda Item 2 Public Comment

No Public was present.

Agenda Item 3 Review/Approve Agenda

The following changes were made to the agenda:

- Professional reference and work experience forms were added under Item 6B.
- FSBPT Annual Meeting Report was added under Item 5
- Guidelines for Fines for Disciplinary Actions was added under Item 8
- Newsletter Discussion was added under Item 11
- Written Request from Sara Bruel was added under Item 12
- Sunset Audit Discussion was added under Item 14
- TOEFL Passing Standard was added under Item 17

On a motion by Berline seconded by Boehme and carried unanimously it was

Resolved to approve the agenda as amended.

Agenda Item 4 Minutes

Ms. Boehme had a question about the last meeting minutes where she was appointed as the board liason to the state OT association. Ms. Boehme reminded the board that this was her first meeting and she had not attended said meeting. Everyone had a good laugh and Ms. Boehme then agreed to act as liason.

After review of the minutes and on a motion by Berline, seconded by Burlson and carried unanimously it was

Resolved to approve the minutes of the meeting held April 28-29, 2005 as presented.

Agenda Item 5 Liason Reports

Alec Kay reported that he had written an article for the state PT Association in regards to the board's study of telemedicine.

Dee Berline reported that she had spoken to the State OT Association explaining the similarities and differences between the licensing board, the American Occupational Therapy Association (AOTA), and the National Board for Certification of Occupational Therapists (NBCOT).

Mary Ann Paul reported on her attendance of the FSBPT annual meeting held in Austin, Texas September 9-12, 2005. Items covered included:

- The Model Practice Act with a hand out comparing the Alaska act to the model act along with recommendations for changes;
- The New TOEFL examination,

- Disciplinary Guidelines – revocation vs. suspension – When a license is revoked the person can apply for a new one. If the license is suspended for a number of years it may be easier to uphold the suspension than to deny a new application based on the revocation...
- FARB questionnaire for license renewal – 36 questions;
- Outline for determining whether a particular activity is within the scope of practice;
- Endorsement vs. Credentials;
- Title Protection;
- Legislative issues

10:25 a.m.
10:35 a.m.

Recess
Reconvene

Agenda Item 6

Regulations

A. Regulations for Adoption

The board reviewed the 9 page regulation project page by page and made the following changes as appropriate.

12 AAC 54.050 – In the title and under (a) “physical therapy” was changed to “physical therapist.” The board asked that anywhere the proposed regulations mentioned “physical therapy license” that therapy be changed to “therapist.”

Under (b) and (c) in the first license the same change was made. Under (c) in the second sentence the language “on the fifth business day following the scheduled examination date or” and the last three words “whichever occurs first” were deleted. At the end of (c)(7) the word “and” was added and the following was also added “(8) verification that the applicant has passed the English Language proficiency examination approved by the board.

12 AAC 54.405(a) – No changes

12 AAC 54.500(b) – The word “notarized” was deleted.

12 AAC 54.600(6)(A) and (B) were put into one section, (A), and (C) was changed to (B).

12 AAC 54.640(b)(2) and (3) – no changes – (4)(A) and (B) were put into one section, (A), and (C) was changed to (B)

12 AAC 54.700(4) – No changes

12 AAC 54.705(a)(2)(B) – the last word in the sentence, “and” was changed to “through.”

12 AAC 54.710(a) and (b) – no changes

12 AAC 54.805 – in the first sentence the word “certified” was deleted, and in the editors note the division name was changed to “Corporations, Business and Professional Licensing;”

12 AAC 54.915(b) and (c) – no changes – under (d) in the first sentence “Physical Therapy or Physical Therapy Assistant” was changed to “PT or PTA” in order to comply with the title of the form.

The board reviewed and discussed the Limited Permit Statute AS 08.84.075 in order to determine the meaning of “120 days in a calendar year.”

Why does the applicant need to certify that they will not practice for more than 120 days in the calendar year for which the permit is issued? Could it be that a limited permit should be issued for a complete or remainder of a calendar year and then the permittee can come and go as they please as long as they don't work more than 120 days total? The licensing examiner reported that according to the continuum book, limited permits have always been issued for 120 consecutive days. Under (c) of the statute it says that a limited permit is valid for “period” not exceeding 120 days in a calendar year. The term “period” indicates 120 consecutive days. That still leaves the question of why is the term “calendar year” used in the statute? If a persons limited permit of 120 days ends January 31 and they apply for another one, it could only be issued for 89 days in order to stay in compliance with the statute.

After discussion it was determined that limited permits would continue to be issued for 120 consecutive days.

The board reviewed the 3 checklists and no changes were made.

The board considered the cost to the public and licensees and determined that these changes would not be of any additional costs.

On a motion by Kay seconded by Berline and carried unanimously it was

Resolved to adopt the 9 page regulation project as amended and the 3 checklists as presented.

12:15 p.m. Lunch Recess
1:00 p.m. Reconvene

B. Regulations – New Proposals

12 AAC 54.800 makes mention of the AOTA .. Occupational Therapy Code of Ethics, as revised as of April 2000.

The Occupational Therapy Code of Ethics had been revised as of May 2005.
After review of the revised AOTA OT Code of Ethics and on a motion by Berline seconded by Boehme and carried unanimously it was

Resolved to adopt the revised AOTA Code of Ethics and amend 12 AAC 54.800 by replacing April 2000 with May 2005.

It was also noted that the editors note below 12 AAC 54.800 should be amended with the Division's new name.

Forms

The board reviewed draft revised work experience and professional reference forms. The board agreed to removing the notary requirement on the forms, but determined not to change work experience forms to include a professional reference. No further action was taken.

Phil Petrie joined the meeting at 1:25 p.m. to give the investigative report.

Agenda Item 8 Investigative Report

On a motion by Burleson seconded by Kay and carried unanimously it was

Resolved to enter executive session pursuant to AS 44.62.310(c)(3) to discuss the investigative report.

1:40 p.m.	Off Record
2:00 p.m.	Reconvene to open session
2:00 p.m.	Recess
2:15 p.m.	Reconvene

Agenda Item 6B Regulations Continued

The board reviewed Regulation 12 AAC 54.040(e) which states that the preceptor who signs forms stating that they will supervise, train, and take responsibility for the Foreign Trained PT doing a 6 month internship, must attest to working full time.

While section (c) of 12 AAC 54.040 states that the intern can do their internship by part time work as long as their total hours are equal to a full time interns total hours, (e) states that the supervisor must be full time. The board could not come up with a good reason to leave that requirement in regulation.

The board asked that the language "attest to be working full time and" be removed from 12 AAC 54.040(e). This change was added to their list for the next regulation project.

Agenda Item 7 NBCOT Electronic Score Reports

In the past the board has required an official letter (Verification of Certification, VOC) from the NBCOT as proof of meeting the requirements of 12 AAC 54.600(5) for an OT or OTA license. The VOC letter ensures that the applicant

has had the appropriate education, field work, internship and passed the NBCOT examination. A common problem with requiring the VOC for an applicant by exam who was working with a temporary permit was that the permit lapsed as soon as the exam scores were posted. It then took 3 to 6 weeks to pay for and order the VOC from the NBCOT and the therapist could no longer work until the VOC was received and a license issued.

The board reviewed a letter from the NBCOT. The letter stated that a person who has passed the NBCOT exam is immediately certified with NBCOT. Also that an exam score report for an applicant can be downloaded from the NBCOT website.

The board concluded from this new information that passing the NBCOT examination ensures that the candidate has met the requirements of 12 AAC 54.600(5) and the VOC was not necessary if the official exam score report could be downloaded.

It was reported that the downloadable score reports were available only for candidates who recently took the exam.

On a motion by Berline seconded by Boehme and carried unanimously it was

Resolved that the board would accept the NBCOT downloadable score report in lieu of the verification of certification letters for applicants by examination only.

No Regulation changes needed.

Agenda Item 8 CE Existing Fines Guidelines (Continued)

It was reported that the board gave the division some guidelines for fines and disciplinary action for unlicensed practice. The division had agreed to provide a list of guidelines used by a number of licensing boards for their review. The board concurred that their guidelines for continuing education falsification are in line with most others. No further action was taken.

Agenda Item 9 Telemedicine

Alec Kay PT, gave a summary of those professionals he had contacted who have some experience with the use of telemedicine by Video conferencing and use of webcams, including a person involved with development of software platforms and video teleconferencing technology.

The board discussed different scenarios and ideas and asked questions and made the following points;

- There is a difference between a therapist dealing directly with a patient and the therapist conferencing with an unlicensed aide performing the therapy.

Therapist to patient under certain circumstances is acceptable but therapist to aide is not proper supervision.

- Can a PT help a first time patient without meeting them face to face?
In many cases, yes.

Does the board want to address it in the practice act to make it legal?
Specifically what aspects? Education, demonstrate exercises, follow up visits.
Evaluations where no therapist is available within X miles?

The board addressed scenarios under current regulations.

Videoconferencing Scenarios:

Therapist to Patient – OK

Therapist to Licensed Assistant – OK

Therapist to experienced Aide – NO – would need Regulation change.

Therapist to Patient for 1st time Evaluations – unsure

The board will solicit more comment and do more research on this topic.

It was the consensus of the board to write a position paper on this topic and have a draft possibly in bullet form, for review at the next meeting.

Ron Chadwick, PT had written the board asking if a certain form of telemedicine was allowed under Alaska law. The board agreed that he was asking to use an unlicensed aide to provide treatment under his supervision in another location and that Alaska law did not provide for it. Mr. Kay agreed to draft a response letter and forward it to the licensing examiner.

The licensing examiner agreed to seek other position papers on this subject done by other boards.

Agenda Item 10 **CE Audit**

The board reviewed the remaining 9 files of audited continuing education and practice hours for the July 1, 2005 license renewal. The board found 1 person lacking in CE hours. **On a motion by Kay seconded by Berline and carried unanimously it was**

Resolved to approve the following 8 licensees as having completed the audit:

James Akers AA209

Meredith Autrey AA1049

Amber Delpilar AA1377

Lisa Kazmar AA1230

Heidi Clifford AA479

Charlotte Perotti AA264

Kathleen Qualls AA861

Jill Skidmore-Erickson AA229

Licensee - Linda Bruseth's documentation was lacking in proof of CE hours. The licensing examiner agreed to follow up by obtaining the necessary documents and sending it to the board for mail ballot approval. Ms. Bruseth's work experience certification was accepted and signed off by the board.

4:30 p.m. Recess

Wednesday, October 5, 2005

The meeting was called back to order at 8:05 a.m.

All members were present.

Agenda Item 11 Pamphlet/Website

The board reviewed the new pamphlet which provides information to the consumer about the licensing of PTs, OTs, PTAs, OTAs; the Board, and how the board monitors licensees; How to file complaints and contact information of the Board and Division, including address, phone number, fax, number and website/E-mail address.

Original printings of the pamphlet were distributed and board members agreed to distribute copies to the State Associations and other therapists as needed. Those pamphlets were intended for therapists to make available to their patients.

The licensing examiner reported that he had recently learned that the board could publish items to their page in the division's website. The board asked that this pamphlet be posted on the website and mailed out with renewal forms.

There was more discussion about the website and what items the board would like published.

- Board members and staff
- Newsletter with meeting summary written to the licensees
- Pamphlet
- Names of PT's and OT's that failed to renew their licenses
- A statement that CPR is no longer accepted as CE

The board's goal is to have this up and running by January 1, 2006.

The board discussed allowing CE credit for teaching courses and training. (No action taken)

The board discussed the fact that they did not want to give CE credit for CPR courses, yet they had on at least two licensees in the past and therefore felt obligated to accept ½ credit for a CPR course submitted by an audited licensee, Amber Delpilar. Had they not accepted it, Delpilar would not have passed the audit. The board felt it appropriate to write a letter to Ms. Delpilar explaining that CPR is no longer an acceptable course. Alec Kay agreed to draft this letter.

Agenda Item 12 Applications for Licensure

The board reviewed 3 applications for Physical Therapist Licenses.

After discussion and on a motion by Boehme seconded by Kay and carried unanimously it was

Resolved to approve the applications of Diane DeCristoforo and Cathy Trout.

Dale R. Malstrom's application was discussed. Mr. Malstrom had had a disciplinary action in Colorado in 1985. He applied for a license in Alaska in 1989 and at that time he disclosed his discipline in Colorado. He was issued a full unrestricted license in Alaska which lapsed June 30, 2000 and remained lapsed for longer than 5 years. He was informed by the licensing examiner that he could no longer reinstate his Alaska license so he applied for a new license in Alaska.

On his application he falsely answered a question regarding disciplinary action.

Before board review the licensing examiner had contacted him and explained that he needed to write a letter to the board answering why he failed to answer the question truthfully. The board did not feel he should be denied a license but also did not want to let this go without incident. The licensing examiner agreed to ask the investigator to join the meeting and provide some guidance.

9:20 a.m.
9:35 a.m.

Recess
Reconvene

The licensing examiner reported that Rick Younkings, Chief Investigator would join the meeting shortly.

Sara Bruhl Request

Sara Bruhl is a registered OT who passed the NBCOT exam and became licensed in Colorado. She still holds a current license there but had not practiced in 7 years. She would be unable to meet the experience requirements because she did not have 60 hours of practice experience within the last 24 months. She asked about possibly doing an internship in Sitka but decided that she would return to Colorado and compete 60 hours of paid work experience. The licensing examiner had explained that this would be acceptable to the board but she insisted that this be reviewed by the board for a board determination.

Rick Younkings, Chief Investigator joined the meeting at 9:45 a.m.

Mr. Younkings explained the boards options including granting a license along with a letter of advisement by the investigators; turn it over for investigation leading to MOA; or granting a license with a reprimand MOA.

The board thanked Mr. Younkins for his input. He left the meeting at 9:55 a.m.

On a motion by Berline seconded by Burleson and carried 5 to 1 it was

Resolved to grant a license to Dale R. Malstrom subject to a Memorandum of Agreement with a reprimand.

The roll call vote went as follows:

Dee Berline	Yes
Alec Kay	No
Jay McDiarmid	Yes
Jo Boehme	Yes
Mary Ann Paul	Yes
Gary Burleson	Yes

The licensing examiner agreed to contact the investigator to initiate the MOA.

Sara Bruhl Request

The board discussed and determined that an applicant for PT, PTA, OT, or OTA who cannot meet the 60 hour work experience requirement could instead complete a 150 hour board approved internship. This option would become subsection (c) in 12 AAC 54.100(5) and 12 AAC 54.600(6) and was approved for public notice for the next regulation project.

The board asked about the reporting of disciplinary actions to national boards and data banks. The licensing examiners reported that Deborah Finley reported all licensing actions to:

NPDB – National Practitioner Data Bank (online)
HIPDB – Healthcare Integrity & Protection Databank (online)
DHHS – U.S. Department of Health & Human Service (letter)

And for PT's or PTA's to:

APTA – American Physical Therapy Association
APTA – Alaska Physical Therapy Association
FSBPT – Federation of State Boards of Physical Therapy

And for OT's or OTA's to:

AOTA – American Occupational Therapy Association
AOTA – Alaska Occupational Therapy Association
NBCOT – National Board for Certification in Occupational Therapy

Agenda Item 13 Jurisprudence Questionnaire

The board had re-written the jurisprudence questionnaires and added the requirement that the licensee or applicant cite the statute or regulation where the answer is found in the law booklet. The licensing examiner distributed the final drafts of the PT/PTA and the OT/OTA questionnaires.

A few minor changes were made. The board was pleased with the new versions.

Agenda Item 14 Annual Report

The board reviewed and accepted the FY05 annual report and thanked Mary Ann for her work. Jay McDiarmid, PT, secretary agreed to write the next report due August 1, 2006.

Sunset Audit Preliminary Report

On a motion by Burleson, seconded by Kay and carried unanimously it was

Resolved to enter executive session pursuant to AS 44.62.310 to discuss the confidential report.

11:05 a.m. Off record
11:35 a.m. Reconvene to open session

11:35 a.m. Lunch Recess
12:35 p.m. Reconvene

Agenda Item 15 Budget Report

The board reviewed the written budget/expenditures report. **On a motion by Berline seconded by Boehme and carried unanimously it was**

Resolved to accept the budget/expenditures report.

Agenda Item 16 Ethics Reporting

Dee Berline reported that she is on the NBCOT Certification Development Examination Committee. The Board determined that this was not a conflict of interest. The board had no ethics violations to report.

Agenda Item 17 NPTE National Examination Passing Standards

The board reviewed documents from the FSBPT describing and explaining a recent lowering of the passing score criteria for the physical therapist examination. It was described as being lowered .15 logits from 1.10 logits to .95 logits. No board action was taken.

TOEFL Examination Changes

The TOEFL Examination had recently been revised into 4 sections – reading, writing, listening, and speaking. The board read an FSBPT report that FSBPT, along with NBCOT and National Associations Councils and Boards for Nursing, Pharmacy, and Veterinary had conducted a workshop with the test provider, ETS for the purpose of setting passing standards and scores on the new TOEFL English Examinations. As a result the following scores were adopted and recommended:

Listening..... 18
Reading..... 21
Writing..... 24
Speaking..... 26
Total Score... 89

Since applicants are required to pass each section of the examination the board felt it would not be beneficial to adopt a total passing score but to adopt only passing scores for each section.

The board determined that the old passing scores for exams taken prior to this change need to remain in regulation.

On a motion by Berline seconded by Burleson and carried unanimously it was

Resolved to adopt the new passing scores into regulation 12 AAC 54.040(j) as follows and delete (j)(3)(B) of the regulation referring to the SPEAK examination as it is not appropriate and cannot be taken on demand.

**Listening..... 18
Reading..... 21
Writing..... 24
Speaking..... 26**

Agenda Item 18 **Miscellaneous Correspondence**

The board reviewed the letter from the department of administration explaining the changes in regulations creating a hearing officer pool. It was reported that the Division would no longer be delegated a single hearing officer for all cases. No action was taken.

The Board reviewed an AOTA letter describing AOTA reports that are available by dialing an 800 number and using the keypad to request documents be faxed. Documents range from OT Educational Programs and Annual salaries to position papers on Telehealth and accreditation standards.

It was reported that the APTA also has the same program available to members.

Agenda Item 19 Sign Certificates/Schedule meeting dates

The Certificates were signed and meeting dates were scheduled as follows:

April 13-14, 2006	Juneau
September 5-6, 2006	Anchorage

Agenda Item 20 Final Comments/Agenda Items

- The new OT Code of Ethics also needs to be added to the back of the regulation Book.
- Editors notes throughout the Law Booklet need to be corrected with Division's new name.
- Alec Kay was authorized to attend the next FSBPT Annual Meeting scheduled for September 7-11, 2006.
- Jo Boehme was authorized to attend the next NBCOT meeting in 2006.
- Alec Kay will:
 - 1) Give a report for the AKPT Association newsletter;
 - 2) Follow-up with a draft position paper on Telemedicine
 - 3) Draft Chadwick letter
- Jay McDiarmid will:
 - 1) Draft meeting summary and newsletter for posting on the website
 - 2) Draft next Annual Report
- Mary Ann Paul will:
 - 1) Respond to the preliminary legislative report
 - 2) Work with investigator on the MOA
- Jo Boehme will report to the State OT Association regarding the board's activities and work with the licensing examiner in issuing limited permits.
- Dee Berline will ...ahem... pray that she is replaced before the next meeting as she had finished her second term March 1, 2004 and has attended 3 meetings since!

The Board having no further business to discuss adjourned the meeting at 2:00 p.m.

Respectfully Submitted:

Steven B. Snyder, Licensing Examiner

Approved:

Mary Ann Paul, PT, Chair

Date: _____