

**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 5-6, 2006

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 5-6, 2006 in the Atwood Building, 550 West 7th Avenue, Anchorage, Alaska.

Thursday, October 5, 2006

Agenda Item 1 Call to Order/Roll Call

The meeting was called to order by Mary Ann Paul, PT, Chair, at 9:00 a.m.

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

Mary Ann Paul, PT, Chair
Jay McDiarmid, PT
Jo Boehme, OT/L
Cheryl Abitz, OT/L
Alec Kay, PT
Gary Burleson, Public Member

Not Present: Dr. Brecht

Staff Present:

Judy Weske, Licensing Supervisor

Agenda Item 2 Review/Approve Agenda

The following changes were made to the agenda:

- Alec Kay and Jay McDiarmid had items to present under public comment

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

RESOLVED to approve the agenda as amended.

State Physical Therapy and Occupational Therapy Board

Minutes of Meeting

October 5-6, 2006

Page 2 of 16

Agenda Item 3

Ethics Reporting

No ethic violations to report. It was pointed out that as a new board member, Cheryl Abitz, would need to review the Department of Law ethics video. Judy Weske advised board members that the video could be viewed online at the Department of Law's website. The board reviewed the reporting forms provided in their packet.

Mary Ann Paul recommended that at each meeting, members review the board member roster provided in the board packet and provide updates, if needed.

Agenda Item 4

Minutes

Jo Boehme requested Agenda Item 13 be clarified to reflect the board endorsed her attending the September 2006 NBCOT meeting with the understanding it was the board's intent to send the other occupational therapist member if Jo wasn't able to attend.

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

RESOLVED to approve the minutes of the meeting held March 30-31, 2006 as amended.

Agenda Item 5

Public Comment

Joyce Barnett, PT was present to discuss her concerns, set out in a letter addressed to Alec Kay, regarding proposed medicaid regulation changes in the Department of Health and Social Services. A copy of the letter was provided to each board member. Ms. Barnett stated that she had multiple concerns with the proposal, and she believes PT/OT board may be interested in this issue in as much as it relates to public protection. Specifically, the issue of oversight of physical and occupational therapy services within a school setting for children served by Medicaid. She believes the oversight for services provided in the school setting are dramatically lower than for services provided in the private sector; however, it appears this discrepancy is being addressed in the proposed regulations regarding the practice of physical therapy. Ms. Barnett is also working with representatives from Health and Social Services.

Ms. Barnett referred the board to pages 190-193 of the proposed regulations; she feels the physical therapist is pressured to provide services based on how the Individual Education Plan (IEP) is worded. The board discussed the possible intent of the regulations. Ms. Barnett would like clear language in the medicaid regulations regarding PT/OT services.

State Physical Therapy and Occupational Therapy Board

Minutes of Meeting

October 5-6, 2006

Page 3 of 16

Alec Kay addressed Ms. Barnett saying it was his understanding that her original concern was that in the private sector PTs and OTs need physician supervision to some degree in terms of writing prescriptions and ordering equipment, etc., and initially she thought such oversight was not required in the schools but now she thinks might be required?

Ms. Barnett said that was correct; she as well as other therapists have been trying to read and interpret the medicaid regulations and they are unclear as to intent. The language is not crystal clear. She asked for the board's help in making the language clear.

Alec Kay asked Judy Weske how can the board be involved in medicaid guidelines? Ms. Weske responded that the board could formulate an opinion on the regulations and provide public comment to the Department of Health and Social Services by the stated deadline for comment.

Jo Boehme stated that she and Cheryl Abitz received the same concern from an occupational therapist constituent regarding the same topic Ms. Barnett is presenting related to concerns about consumer protection and what appears to be considerably less oversight for PT/OT services provided in the school setting than in the private sector.

Ms. Barnett also passed on Naomi Gravdal's concerns about the potential erosion of the profession if there continues to be a big discrepancy in services between private practice and school/hospital based.

The board asked Ms. Barnett if she could stay and be available for an additional agenda item to be discussed later that morning.

Jay McDiarmid presented an email he received from a physical therapist in Sitka regarding athletic trainers, services and billings. Jay said this matter has been an issue in Fairbanks as well. The board reviewed 12 AAC 54.500 (physical therapy standards); 12 AAC 54.520 (supervision of aides by physical therapists) and 12 AAC 54.990 (definitions). Mary Ann stated the first part of the question is they want to hire an athletic trainer as a PT aide and the second part is to provide athletic training in the school system and they don't address how they would bill for that. Jay read 12 AAC 54.500(a) (Services may not be stated or implied as being physical therapy unless performed by a licensed physical therapist or physical therapy assistant, or under the supervision of a licensed physical therapist) – that regulation results in confusion; Jay has consulted with attorneys who are not confused by the language and definitely say you can bill for the service if it's under the supervision; Alec Kay said the definition of supervision isn't clear enough as opposed to 12 AAC 54.520 regarding supervision of aides; Mary Ann said that 12 AAC 54.500 is implying that a PT can supervise anybody (ancillary personnel) and call it physical therapy; board members don't know original intent of the language in 12 AAC 54.500. Jay feels the language is unclear. Mary Ann said to avoid confusion the sentence should end after the word "assistant".

State Physical Therapy and Occupational Therapy Board

Minutes of Meeting

October 5-6, 2006

Page 4 of 16

Jay said 12 AAC 54.500 refers to services; 12 AAC 54.520(b) refers to practice and the question is “service” the same as “practice”?

Mary Ann believes that physical therapists can bill aide time as physical therapy services and reiterated the board’s ongoing goal is to clarify what physical therapy is and to prevent the use of techs/aides, etc. from providing physical therapy or occupational therapy services

Jay read 12 AAC 54.990(3) ““licensed” has the same meaning as registered, certified, or a similar term used by another licensing jurisdiction.” He thinks organizations are interpreting this regulation to mean that if an individual is registered or certified in another jurisdiction, then they are considering themselves to be licensed to practice in Alaska.

Jay will respond to email in the following manner: 1) cite the regulation and definition of “aide” regarding using an athletic trainer in the role of an aide; 2) using an athletic trainer in the school system is fine but for billing purposes it is not the practice of physical therapy; 3) billing the time of the aide is not physical therapy.

Sundi Hondl, PT, and president of the Alaska Physical Therapy Association addressed the board regarding the fact that chiropractors continue to reference “physiotherapy” in their advertisements. Sundi will write a letter to a chiropractor when she sees the advertisement and point out they should not be using the term “physiotherapy” in their advertisements; she will also report matter to board investigator. The bottom line however, is the term is not protected by the board’s statutes or regulations. Mary Ann asked Sundi to send her a copy of the letter she routinely sends to chiropractors using that term.

Agenda Item 6

Follow-up from March 30-31, 2006 Meeting re: Mary Olson

Recap of March meeting: Mary Olson had previously written to the board’s investigator regarding her concerns about physical therapists who work in the school system and the completion of the Individual Education Plan (IEP). Frequently, physical therapy is listed as the service provided, and a teacher, aide or paraprofessional listed as the provider. What is meant to be relayed on the IEP is that they are providing a program written by a physical therapist, but that is not what the IEP lists.

At the March meeting, the board agreed to send a letter to the school district (Director of Related Services) stating the IEP is misleading in the sense that when a parent signs the IEP, the parent sees physical therapy services listed and those services were not provided directly by a physical therapist. Dee Berline agreed to follow-up. Dee did send Ms. Olson an email on March 31, 2006 relaying the board’s appreciation of her efforts to clarify this issue. Dee agreed to call the state SPED director.

In September, 2006, Ms. Olson emailed the licensing examiner asking 1) what happened with the follow-up on this issue and 2) the status of the position paper on telemedicine.

State Physical Therapy and Occupational Therapy Board

Minutes of Meeting

October 5-6, 2006

Page 5 of 16

Ms. Weske contacted Dee Berline regarding status of follow-up; Dee advised that for a variety of reasons, she had been unable to follow-up and now that her term had ended on the board, she felt the matter should be returned to the board.

Mary Ann asked Ms. Barnett if she had any comments on the issue of physical therapy services by non physical therapists. She said that for many years she worked in the schools and that while billing wasn't a problem then, there would be people who would say "well he got his physical therapy today" and she feels statements like that are common usage in some classrooms and she thinks mistakes will be made in billing because of that. Jo said it will especially be a problem now that schools will be billing medicaid for services; Alec said it is a billing issue and also a public protection issue if the parent thinks their child is getting physical therapy services.

The board continued to discuss this issue with Ms. Barnett.

Alec Kay asked whether the board still needed to contact Art Arnold with the school district. Mary Ann said the board should follow-up, but members felt that due to Dee Berline's experience in the school system, the board would still like her help in this matter. Mary Ann agreed to contact Dee. Ms. Weske suggested that while Dee could help formulate a letter to Art Arnold, any letter that is generated should come directly from the board.

Regarding Mary Olson's question about telemedicine, Alec Kay will draft a response and forward the draft to division staff.

Recess at 10:15 a.m.

On-record at 10:20 a.m.

Agenda Item 7

Telehealth Position Paper

Present for discussion during this item: Rick Younkins, Chief Investigator; and Dave Brower, Assistant Attorney General participating telephonically from Juneau.

Alec Kay gave a historical overview of why the telehealth position paper was generated. Specifically, at the board's April 28-29, 2005 meeting, Ron Chadwick, PT, from Wrangell met with the board to discuss whether a therapist must be on site and physically present when supervising. Mr. Chadwick's question concerned physical therapy aides and whether supervision could be done via telecommunication. The board confirmed that supervision of aides, as set out in 12 AAC 54.520, required "continual on-site supervision", but the board would be willing to consider this issue and gather more information.

Through research and based on the board's interpretation of their statutes and regulations, they formulated a "Position Statement on Videoteleconferencing/Telerehabilitation Adopted March 31, 2006". The position statement was to be posted on the board's website and provided to the public as requested.

State Physical Therapy and Occupational Therapy Board

Minutes of Meeting

October 5-6, 2006

Page 6 of 16

Dave Brower, AAG, advised that most boards, with the exception of the Board of Nursing, do not have statutory authority to issue position statements or advisory opinions. Position statements do not have the force of law.

Mr. Brower said there are many words in the statement that are not defined in statute or regulation; for example, the definition of "remote areas" can have different meanings and with no definitions it would be difficult for people to guess the board's intent. He advised that the board could use the statement as an "internal" working document, i.e., a management tool for future discussion with the legislature for instance in effecting a statute change, or adopting regulations, but it should not be handed out to the public. The board has broad authority to adopt regulations and he recommends that route for setting out the board's position on videoteleconferencing/telerehabilitation.

Mr. Brower suggested the board forward questions regarding statutory interpretation for which the board needs guidance to division staff who will work with the Department of Law on behalf of the board for an answer. The board may certainly respond to questions when the answer is clear according to statute or regulation.

Jay McDiarmid brought up the board's earlier discussion regarding 12 AAC 54.500 and the issue of athletic trainers working under the supervision of a physical therapist and then billing for physical therapy services. After discussing this matter with Mr. Brower, the board determined to refer this particular issue to the Department of Law for review.

The issue of billing for aide's time as physical therapy was also discussed.

Mr. Brower wondered what statutes were in effect in 1991 when the reg was created that allowed for supervision of aides?

Mary Ann brought up the school system and their definition of physical therapy – confusion of terms – non physical therapists performing physical therapy in school system; Rick Younkins thought they had previously sent a letter to the school system -- he would try to locate letter. Refer Mary Olson's concerns to Rick Younkins.

Jay will draft letter to Mary Olson and forward to division for review by division staff and Department of Law prior to sending. Mary's second question is something board can answer by citing the statutes and regulations.

Agenda Item 8 Results of “Quick Poll” – Failing FSBPT Exam

At its October 4-5, 2005 meeting the board discussed the number of times an applicant can fail the examination and whether the board should impose a time limit; the board directed the examiner to conduct a “quick poll” of other states and how they handle applicants who have not passed the examination after repeated attempts or within one year.

The board reviewed the results of the quick poll, conducted in September 2006 and it appears most states have a three time limit in failing the examination before requiring remedial education.

No decision was made at this meeting, other than Mary Ann agreed to review the Model Practice Act for any reference to limiting the exam; Judy Weske agreed to find out the language repealed in 1999 under 12 AAC 54.080(b).

Agenda Item 9 Regulation Projects

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

RESOLVED to approve for public notice changes to 12 AAC 54.040(e); 12 AAC 54.040(j)(2); 12 AAC 54.040(j)(3); 12 AAC 54.040(j)(4); 12 AAC 54.100(5); 12 AAC 54.410; 12 AAC 54.600(6); 12 AAC 54.610(a); 12 AAC 54.710 and 12 AAC 54.800 as drafted

11:30 a.m. Lunch Recess
12:30 p.m. Reconvene

Agenda Item 10 Continuing Education Course Approvals

The board approved for 8 hours of continuing education, the SCCA Rehab-Oncology Lecture to be held in Juneau, October 28, 2006 and to be taught by Andrea Leiserowitz (AKOTA had approved course as well).

The board reviewed a September 19, 2006 email from Judy Zacharius requesting approval of a UAF course, Comparative Anatomy of Vertebrates, for continuing education toward the reinstatement of her occupational therapist license.

On a motion by Boehme, seconded by McDiarmid and carried unanimously it was

RESOLVED to not approve the Comparative Anatomy of Vertebrates course for continuing education.

Agenda Item 11 Investigative Report

The board reviewed and discussed the four open cases with Rick Younkins, Chief Investigator.

Agenda Item 12 Applications for Licensure

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

RESOLVED to approve William Pearce, PT, for licensure

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

RESOLVED to approve licensure for

**Jeremy Gaynor, PT, pending Verification of Licensure from Maryland
Jennifer Harrison, PT**

Cynthia Mathis, OT

Janet Michelson, OT, pending receipt of license fee

Joelle Mueller OT

Mary Peters, PT

Sara Oster, OT, pending receipt of 18 hours of OT continuing education

Jeffrey Gordon, PT

On a motion by McDiarmid, seconded by Boehme and carried unanimously it was

RESOLVED to deny Fawn Lewis licensure as a physical therapist assistant based on the fact that Ms. Lewis does not hold a degree as a physical therapist assistant from a school of physical therapy approved by the Council on Medical Education and Hospitals of the American Medical Association, or the American Physical Therapy Association as required by AS 08.84.030(a)(1).

1:30 p.m. Break

1:35 p.m. Reconvene

Agenda Item 13 Annual Report

The board reviewed the FY 2006 annual report drafted by Jay McDiarmid; one correction was made regarding the appointment date of Cheryl Abitz; specifically, Ms. Abitz did not attend the March 30-31, 2006 meeting due to the fact that she was officially appointed April 4, 2006. The members thanked Jay for his work in drafting the report.

State Physical Therapy and Occupational Therapy Board

Minutes of Meeting

October 5-6, 2006

Page 9 of 16

Discussion was held regarding the approval process for out-of-state conferences. Jo Boehme referenced the September 2006 NBCOT conference which the board had authorized an OT member to attend; she had planned to attend the conference but was unable to due to personal reasons; Cheryl Abitz as the other OT board member should have been contacted and given the opportunity to attend. Ms. Weske apologized for not contacting Ms. Abitz in order to get travel approved for the conference.

Ms. Weske also advised the board that even though the board may approve sending members to an outside conference, the director of the division still has the right to deny travel; the director could deny travel based on the Governor's mandates or travel could be denied if the director felt that the trip did not warrant attendance due to a lack of substantial agenda items, etc.

Jo Boehme expressed her desire that travel authorizations (TA) be completed as soon as possible; she advised that she must give 60 days notice at work when she needs to take time off, and if the TA isn't completed until 45 or 30 days before a meeting, it makes it difficult for her at work. Ms. Weske advised that completion of TAs for outside conferences are driven by when we receive the agenda for the conference.

Division staff will do their best to ensure TAs are completed promptly and will advise members of approval so that they can make travel plans.

Jo Boehme brought up Goal # 9 ("The Board will stay informed on the issues through attendance at workshops and list serves.") and asked if there are list serves available to board members from regulatory agencies. The licensing examiner is able to conduct quick polls and receive national information through FSBPT and NBCOT.

The board reviewed the rest of the report and approved the report as amended (reference to Cheryl Abitz appointment date).

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

RESOLVED to accept the annual report as amended.

Agenda Item 14

Budget Report

The board reviewed the budget report and approved the report as presented.

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

RESOLVED to accept the report as provided.

Agenda Item 15 Liaison Reports

Jo Boehme reported that she has been communicating with the AKOTA and providing updates after board meetings, but has not attended an AKOTA meeting in person. Her name is out there as board liaison; she encourages people to look at the board's website. She feels it is going well and there are no hot items or issues currently before the association.

Alec Kay reported that he will be attending APTA meeting in the next week and providing an update on board activities. He does provide an update after each board meeting. He said his name is out there as liaison and he is making more contact in his role as board liaison; he also refers people to the board's website.

Both Jo and Alec will continue to inform their respective associations of the need for people to be thinking about serving as board members.

Judy Weske also encouraged Alec and Jo to share with association members the importance of placing their names on the board's interested party mailing list for regulation changes. This can be done by writing the regulations specialist and asking to be placed on the physical and occupational therapy interested parties mailing list.

Agenda Item 16 National Meeting Report (FSBPT September 2006)

Alec Kay and Jay McDiarmid both attended the FSBPT September 2006 meeting held in Portland, Oregon. They tried to attend different sessions to glean the most information.

Alec found the conference to be an overall dynamic experience and it was good to be among people fired up about their mission. The main points at the delegate meeting were referenced in the FSBPT September 2006 News Brief as:

- Reaffirmed the Federation's six areas of focus: Examination; Membership; States' Rights, States' Responsibilities and Professional Standards; Education; Leadership; and Organizational Financial Stability.
- Updated the recommended passing score for reading and listening comprehension on the TOEFL examination.
- Supported a call for proposals and funding research to investigate professional and business ownership issues identified by the Referral for Financial Gain Task Force.

Alec said the issues identified by the task force are controversial; FSBPT has committed up to \$250,000.00 to step up research on this issue; the issue is probably more passionately fought in the lower 48 than in this state; Alec said there are eight states who now have statutes prohibiting a licensed physical therapist from working for a company whose referral source has financial gain associated with it.

State Physical Therapy and Occupational Therapy Board

Minutes of Meeting

October 5-6, 2006

Page 11 of 16

Alec said an interesting fact he learned regarding behavior and discipline was that men were more likely to get disciplined for unprofessional conduct or financial fraud and women were twice as likely to be disciplined for not completing continuing education and practicing without a license.

The workshop on the Model Practice Act was worthwhile.

Jay McDiarmid reported the conference was good for new board members and it helped changed his opinion about what a regulatory board is supposed to do. He attended an interesting meeting on legislative considerations for assessing scope of practice changes which addressed separating your professional organization-self from your regulatory self; the regulatory scope is protecting the public which doesn't always jive with the professional organization goals. Another interesting discussion was "how do your regulations really protect the public".

One of the presentations titled "10 Easy Ways to Lose Your License" was very good. The investigator from Oregon said that if an investigation is started and no disciplinary action is taken, those individuals are still being asked to reveal that information on insurance credentialing forms and it's resulting in credentials being pulled.

Jay would like to research this issue and also place it on the next agenda.

Agenda Item 17 Sign Certificates/Schedule Meeting

The board signed wall certificates and confirmed the meeting dates of:

April 12-13, 2007 Juneau
October 4-5, 2007 Anchorage

Agenda Item 18 Miscellaneous Correspondence

Correspondence reviewed. Jo asked that the board be sent correspondence when there is a due date prior to a board meeting.

Agenda Item 19 Recap Board Member Assignments and Next Meeting Agenda

- **Jay** – check on review courses for PT exam; write letter to Paul Columb and forward to Judy
- **Judy** – forward Mary Olson letter regarding school district issues to Rick Younkins. (The telehealth issue addressed in her letter requires separate follow-up by division staff).

State Physical Therapy and Occupational Therapy Board

Minutes of Meeting

October 5-6, 2006

Page 12 of 16

The board continued to discuss the issues raised by Mary Olson and the proposed medicaid regulations. The board decided that since they had covered so much of their agenda the first day, they would meet Friday to continue discussion on the Department of Health & Social Services' proposed medicaid regulations; the comment period for the regulations closes October 31, 2006 and any comment the board wishes to submit must meet that deadline date.

Agenda Item 20 Election/Reelection of Chairperson/Secretary

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

**RESOLVED to reelect Mary Ann Paul for another term as
Chairperson**

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

**RESOLVED to reelect Jay McDiarmid for another term as board
secretary.**

Recess: 4:30 p.m.

Friday, October 6, 2006

Call to Order/Roll Call

The meeting was called to order by Mary Ann Paul, PT, Chair, at 9:00 a.m.

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

Mary Ann Paul, PT, Chair
Cheryl Abitz, OT/L
Jo Boehme, OT/L
Jay McDiarmid, PT
Alec Kay, PT
Gary Burleson, Public Member

Staff Present was:

Judy Weske, Licensing Supervisor

Agenda Item 6 Mary Olson Concern Continued

The board reviewed portions of the proposed medicaid regulations. Gary Burleson asked if there is a difference between a health care practitioner and a health care provider, as both terms are used in the regulations.

State Physical Therapy and Occupational Therapy Board

Minutes of Meeting

October 5-6, 2006

Page 13 of 16

The board reviewed the sections where the terms were used and determined the terms appear to be used interchangeably.

Mary Ann addressed the project as a whole and whether the intent of the regulations was to update and reorganize existing language, or are services being added; also there appears to be a big difference in the schools regarding treatment generated by an IEP which means there was no referral for services.

The board continued to formulate their questions and concerns and then, via a conference call, spoke with Tom Watson, Medical Assistant Administrator with the Department of Health and Social Services.

Alec Kay referenced 7 AAC 102.550(g)(1), page 191, and asked regardless of whether that person is enrolled (if school is enrolled as medical provider), then they can hire a therapist and that person does not have to be enrolled with medicaid to be reimbursed – Alec asked if there was a way to clarify that language because it is not clear who is to be enrolled. Mr. Watson said they would look at that.

7 AAC 102.442(b)(1), page 168, regarding who can prescribe and the language “or other licensed health care practitioners”. Mr. Watson said they are probably going to clarify that because it’s really only for physician assistants – someone with prescriptive authority.

Mary Ann stated there is no definition of practitioner or provider – the board’s assumption is the practitioner is the licensed person who prescribes treatment and the provider provides the service. Mr. Watson said they would look into that as well.

Mary Ann also asked for clarification on the word “habilitation” used in the regulations; Mr. Watson said he was aware of the need for clarification on that word.

Alec Kay asked about the overall mission of the project. Mr. Watson said for the most part, it was just a renumbering of existing regulations to allow for the adding of provider types and a few minor clarifications.

Jo Boehme asked if it was a fairly recent change that the schools were able to become medicaid providers; Mr. Watson said that change occurred about two-three years ago. Alec Kay asked how many districts are doing that and Mr. Kay said “not many”; he said that Anchorage, the biggest district is not participating.

Mr. Watson said in the school district, they are covered under different regulations – in the school the IEP serves as the prescription and is their written treatment plan. There is a difference between school based services and independent services.

State Physical Therapy and Occupational Therapy Board

Minutes of Meeting

October 5-6, 2006

Page 14 of 16

Mary Ann said the reason they were asking is that under 7 AAC 102.550(g)(1) it says "physical therapy services furnished by or under the direction of a physical therapist licensed under AS 08.84, and practicing in accordance with 7 AAC 102.440 – 7 AAC 102.444 regardless of whether that person is enrolled under that section". 7 AAC 102.440-444 breaks down the requirement of the prescribing physician signing the treatment plan. Tom Watson offered to research the board's questions and call back within 30 minutes.

While waiting to hear back from Mr. Watson, the board reviewed the application for foreign-trained physical therapy applicant Genevieve Maglinte. The FCCPT reported that "Based on the documents provided, it is our opinion that Genevieve Maglinte's education is not substantially equivalent to the first professional degree in physical therapy in the United States."

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

RESOLVED to deny the application for Genevieve Maglinte based upon her inadequate education as determined by the FCCPT specifically lacking content areas of Clinical Science Examination and Evaluation: Integumentary Systems. Denial is based on 12 AAC 54.040(a)(b) and AS 08.84.32(a)(1).

The board discussed 12 AAC 54.500(a) "Services may not be stated or implied as being physical therapy unless performed by a licensed physical therapist or physical therapy assistant, or under the supervision of a licensed physical therapist". The board's concern centers around the wording "or under the supervision of a licensed physical therapist". The board discussed repealing the language, but was hesitant to do so until further research was done as to why the wording was there in the first place.

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

Resolved to amend 12 AAC 54.500(a) so that the sentence reads "Services may not be stated or implied as being physical therapy unless performed by a licensed physical therapist or physical therapy assistant." The words "or under the supervision of a licensed physical therapist" are to be deleted.

Mary Ann also wanted to change the term "physical therapy assistant" referenced in regulations to "physical therapist assistant". Physical Therapist Assistant is the correct terminology. Cheryl said that within the occupational therapy realm, the title "occupational therapy assistant" is used. After further discussion, it was decided that since the statute refers to "physical therapy assistant" the regulations will need to remain as written.

State Physical Therapy and Occupational Therapy Board

Minutes of Meeting

October 5-6, 2006

Page 15 of 16

While waiting to hear back from Mr. Watson discussion continued on matters addressed previously during the meeting.

Jo read 12 AAC 54.520(f)(3) "patient related duties" means routine tasks performed during a treatment session, as selected by the supervising physical therapist." She stated that on Thursday, the board had discussed the benefit of defining or clarifying routine tasks or changing the wording to make it less ambiguous. Jay said the Model Practice Act talks about a difference between designated routine tasks as selected and then selected components of intervention. The selected components of intervention would be for assistants and a designated routine task would be for an aide. They are leaving out what "routine" is, but the implication is that it is not a part of the intervention.

Jo said it's clear under (b) "The duties performed by an aide under this section are not considered the practice of physical therapy". Jay said that was what he had brought up to Dave Brower on Thursday – what is the difference between practice under 12 AAC 54.520 and service under 12 AAC 54.500. Does the practice of physical therapy mean the interpretation, examination and evaluation and the service of physical therapy means the ultrasound?

Alec said his goal for the next meeting was to have some kind of rough draft of telehealth regulations.

Mr. Watson was reconnected via conference call. He said as far as physicians signing the IEP, we contact CMS (Center for Medicaid Services) which oversees all of our medicaid services and they said the IEP can be signed by a licensed health care practitioner, which includes physicians, physician assistants, ANPs, physical/occupational and speech therapists. For school based services they don't have to have a physician signature. This is the difference between a practitioner and provider. He referenced AS 14.30.278.

Jo asked why independent practitioners are being held to a different standard than school practitioners. Mr. Watson said he wasn't sure.

Mr. Watson said he is going to take a look at defining practitioner to include "physician assistant". He said only those practitioners than can prescribe are "practitioners" (this includes physicians, physician assistants, and ANPs.)

Jo mentioned for occupational therapy services, there might be other practitioners who may be in the private sector that you don't want to exclude, for example, psychologists. Tom said since psychologists don't have prescriptive authority, that might be a problem.

Jo asked if physical or occupational therapists wanted to follow-up on the CMS interpretation that was received, who could they talk to? Tom said Jeri Powers, with the Department of Health and Social Services at (907) 334-2426. The board thanked Tom for his input.

State Physical Therapy and Occupational Therapy Board

Minutes of Meeting

October 5-6, 2006

Page 16 of 16

The board continued to discuss the issue and formulated their comments which are to be forwarded to the Department of Health and Social Services in accordance with the public comment procedures. (Letter attached to minutes as a part of the official record.)

The Board having no further business to discuss adjourned the meeting at 11:25 a.m.

Respectfully Submitted:

Judy Weske, Licensing Supervisor

Approved:

Mary Ann Paul, PT, Chair

Date: _____