

**THE BOARD OF PHYSICAL THERAPY**  
Professional & Vocational Licensing Division  
Department of Commerce and Consumer Affairs  
State of Hawaii

**MINUTES OF MEETING**

Date: Tuesday, May 29, 2012

Time: 12:00 p.m.

Place: Queen Liliuokalani Conference Room  
King Kalakaua Building  
335 Merchant Street, 1st Floor  
Honolulu, Hawaii 96813

Members Present: H. Christina Baxendale, Physical Therapist ("PT"), Chair  
Charles Aki, Public Member  
Rachelle Iopa, PT  
Michael Turner, PT

Member Excused: Debra Kubota, PT

Staff Present: Kenyatta Nichols, Executive Officer ("EO")  
Rodney J. Tam, Deputy Attorney General ("DAG")  
Jennifer Fong, Secretary

Guests: Gregg Pacilio, Hawaii Health Systems Corporation ("HHSC")  
Millie Ng, HHSC  
Juanita Lauti, HHSC  
Cathy Mishima, HHSC  
Joanne Agnes, HHSC  
Lee Ann Teshima, DCCA-PVL  
Herbert Yee, Hawaii Chapter of the American Physical Therapy  
Association ("HAPTA")

Agenda: The agenda for this meeting was filed with the Office of the Lieutenant Governor,  
as required by section 92-7(b), Hawaii Revised Statutes ("HRS").

Call to Order: There being a quorum present, the Chair called the meeting to order at 12:10 p.m.

Chair's Report: **Announcements**

The Chair noted that at their last meeting, the Board approved the creation of a continued competency investigative committee, made up of the Chair, Mr. Turner and Ms. Iopa. She reported that the committee is initially focused on answering

the questions in the Professional and Vocational Licensing Division ("PVL") Continuing Professional Education Guidelines – Checklist ("Checklist"). They have consulted with both the EO and former EO Alan Taniguchi for guidance and have also met with HAPTA. HAPTA has agreed to collaborate with the Board to answer the questions on the Checklist.

The EO reported that HAPTA representatives met with himself, the DCCA Director and PVL Licensing Administrator to discuss how they can assist with this issue.

The Chair said that she understood that the Board of Veterinary Examiners and the Board of Pharmacy both went through the process successfully. She asked Ms. Teshima, the EO of the Board of Pharmacy, how long the process took.

Ms. Teshima said that the process didn't take long, however, she noted that Hawaii was the last state to require continuing education so that made it easier to justify.

Mr. Turner asked what the next step would be.

The Chair said that a meeting would need to be set up with HAPTA to form a committee. She asked Mr. Yee if he knew who the point of contact would be.

Mr. Yee replied that Ann Frost would be the contact for HAPTA.

Ms. Iopa asked if continued competency and physical therapy assistant licensure would be addressed in the same bill.

The Chair said that is still to be determined.

#### **Additions and Additional Distribution**

None.

#### **Approval of Previous Minutes – January 10, 2012 Meeting**

Upon a motion by the Chair, seconded by Mr. Turner, it was voted on and unanimously carried to approve the minutes of the January 10, 2012 meeting as circulated.

#### **Executive Officer's Report:**

The EO thanked the Chair for her service and presented her with a certificate of appreciation.

The EO reported that the legislature had approved two new Board members – Debra Kubota and Neil Shimabukuro. Ms. Kubota's term is effective immediately

and Mr. Shimabukuro's term begins on July 1, 2012.

**2012 Federation of State Boards of Physical Therapy ("FSBPT") Annual Meeting, September 20-22, 2012, Indianapolis, Indiana**

The EO stated that the FSBPT Annual Meeting will be held September 20-22, 2012 in Indianapolis, Indiana. The FSBPT will fund a voting delegate, a primary alternate delegate and an administrator to attend. He asked for volunteers.

Mr. Aki said that he is available to attend as the alternate delegate.

Mr. Turner said that he is unavailable.

The EO reported that Ms. Kubota had indicated that she is available to attend.

Ms. Iopa said she would need to check her schedule and would notify the EO if she is able to attend.

Correspondence:

**Letter from Hawaii Health Systems Corporation – Whether the key duties and responsibilities currently being performed by the Physical Therapy Aides in their facilities are in violation of the Hawaii Administrative Rules for Physical Therapy**

The Board reviewed and discussed the March 2, 2012 and May 1, 2012 correspondence from Juanita Lauti of HHSC in which she provided the key duties and responsibilities of their Physical Therapy Aides ("PT Aides") and is seeking clarification regarding whether these duties and responsibilities are in violation of the Board's administrative rules.

Mr. Turner noted that there are significant differences in verbiage between the two inquiries. The duties and responsibilities listed in the March 2, 2012 letter are regarding PT aides and physical therapy treatment programs while the questions in the May 1, 2012 email are regarding routine exercises. Mr. Turner stated that treatment programs and routine exercises are very different. He asked for a HHSC representative to clarify their inquiry.

Ms. Ng stated that HHSC is asking about non-skilled treatments that are not billed services. These are mainly routine exercises to keep the patient from deteriorating.

Mr. Pacilio said that other facilities have physical therapy aides doing routine exercises and helping with treatment programs.

The Chair noted that in order for an aide to do routine exercises with a patient, they would have to be trained to do so.

Mr. Turner asked if the key duties and responsibilities listed in Ms. Lauti's March 2, 2012 were taken from HHSC's job description or manual.

Ms. Lauti said yes.

The DAG asked for an HHSC representative to clarify what "routine exercise" is.

Mr. Pacilio gave an example in which a resident that can no longer stand or walk on their own is placed in a device that helps them stand approximately three times a week. The exercise is primarily done for maintenance.

Ms. Ng said that the routine exercises are done both in a group and one-on-one sessions.

The Chair proceeded to read the definition of "treatment" from Chapter 16-110, HRS.

Mr. Yee stated that if the definition includes therapeutic exercise as part of physical therapy, then anyone doing therapeutic exercise would be considered performing physical therapy.

Ms. Teshima asked if HHSC is referring to the person performing the activities described in the letter as a "Physical Therapy Aide".

Ms. Lauti said yes.

The Chair noted that the supervising physical therapist is responsible for the conduct of a physical therapy assistant.

Ms. Lauti said that these aides are assigned to the physical therapy department so they feel they should be under the responsibility of the physical therapist. They are seeking answers because they need to know if they are in violation of the laws and rules.

Ms. Ng noted that the definition read by the Chair specifically mentions "skilled interaction". She stated that routine maintenance should not be considered skilled interaction.

The Chair stated that it would still be a learned action no matter if it is performed by an aide. The aide would have to have some type of training to know how to

hold the body and monitor the patient for adverse reactions during these routine exercises.

Ms. Iopa asked if these aides document what they do.

Mr. Pacilio stated that the aides complete a checklist which is placed in the resident's chart.

Ms. Ng stated that this is done for record keeping purposes for the facility and the resident's family.

At 12:40 p.m., upon a motion by the Chair, seconded by Ms. Iopa, it was voted on and unanimously carried to move into executive session pursuant to §92-5(a)(4), HRS, "To consult with the Board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities;".

At 1:01 p.m., upon a motion by the Chair, seconded by Mr. Turner, it was voted on and unanimously carried to move out of executive session.

After some discussion, upon a motion by the Chair, seconded by Ms. Iopa, it was voted on and unanimously carried to respond to Ms. Lauti's May 1, 2012 email as follows:

1. Are physical therapy aides allowed to do routine exercises with our residents that are provided free of charge?

*Board Response:* The term "physical therapy" should not be used in conjunction with "aide". The term "physical therapy" is defined in Hawaii Revised Statutes, Chapter 461J. Anyone performing "physical therapy" is required to obtain a Hawaii physical therapist license. "Aides" may do non-therapeutic, routine maintenance exercises with patients. Whether or not there is payment involved is irrelevant.

2. Are physical therapists allowed to supervise physical therapy aides and/or other staff doing routine exercises even if they do not charge for these services? If so, is direct line of supervision required?

*Board Response:* Physical therapists are not required to supervise aides and/or other staff doing non-therapeutic, routine maintenance exercises, however, if they choose to do so, the supervising physical therapist would be responsible for the conduct of the aide. In addition, it must be made clear to the patient and others that these exercises do not constitute physical therapy services. Again, whether or not there is payment involved is irrelevant.

3. Are physical therapy aides allowed to physically assist the PT or PT Assistant with a skilled therapy resident that requires more than one person assistance with walking (for safety concerns)?

*Board Response:* Aides are allowed to physically assist a physical therapist or physical therapist assistant with a patient with walking if it requires more than one person's assistance and there are safety concerns.

In addition, upon reviewing Ms. Lauti's March 2, 2012 letter, the Board recommended that HHSC review the Board's statutes and rules and amend the language used to describe the key duties and responsibilities of their aides to avoid confusion and possible violations of the Board's statutes and rules.

This is an informal interpretation for informational and explanatory purposes only and is not an official opinion or decision, and therefore is not to be viewed as binding on the Board.

Applications:

**Ratification List**

Upon a motion by the Chair, seconded by Mr. Turner, it was voted on and unanimously carried to approve the attached ratification list.

At this time, the Chair asked the audience if they would like to address the Board.

Mr. Yee reported that HAPTA will be sending out a questionnaire to their members in August regarding both the continued competency and physical therapy assistant licensure issues.

The Chair asked who would be responsible for communicating with the Board.

Mr. Yee stated that Ann Frost would be the contact regarding continued competency, however, he is HAPTA's designated representative at the board meetings.

**Applications**

Executive Session:

At 1:13 p.m., upon a motion by the Chair, seconded by Mr. Turner, it was voted on and unanimously carried to move into executive session pursuant to §92-5(a)(1) and (4), HRS, "To consider and evaluate personal information relating to individuals applying for professional or vocational licenses cited in section 26-9 or both; and "To consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities;".

At 1:15 p.m., upon a motion by the Chair, seconded by Ms. Iopa, it was voted on and unanimously carried to move out of executive session.

Kathi Layne

Upon a motion by the Chair, seconded by Mr. Turner, it was voted on and unanimously carried to approve Ms. Layne's application.

Election for Board  
Chair and Vice Chair:

The EO explained the duties of the Chair and Vice Chair. The Chair opened the floor for nominations.

After some discussion, upon a motion by Mr. Aki, seconded by Ms. Iopa, it was voted on and unanimously carried to defer the election for Board Chair and Vice Chair.

Next Meeting:

Tuesday, July 10, 2012  
12:00 p.m.  
King Kalakaua Conference Room  
King Kalakaua Building  
335 Merchant Street, 1<sup>st</sup> Floor  
Honolulu, Hawaii 96813

Adjournment:

With no further business to discuss, the Chair adjourned the meeting at 1:22 p.m.

Taken by:

/s/ Jennifer Fong

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Jennifer Fong  
Secretary

Reviewed by:

/s/ Kenyatta Nichols

\_\_\_\_\_  
Mr. Kenyatta Nichols  
Executive Officer

6/1/12

[  ] Minutes approved as is.

[  ] Minutes approved with changes; see minutes of \_\_\_\_\_.

LTYPE	LIC	NUM	BP	NAME	PART	1
PT		3471		GRETA A	<	FIEDLER<
PT		3472		BRIAN P	<	KINMARTIN<
PT		3473		JEREMY M	<	HANNUM<
PT		3474		JAMIE N	<	SHARP<
PT		3475		BHANU	<	MONTGOMERY<
PT		3476		LAUREL C	<	MINES<
PT		3477		JESSICA A	<	CRAIK<
PT		3478		NANCY C	<	EUBANKS<
PT		3479		JOCELYN A	<	BYLSMA<
PT		3480		DENISE M	<	TRACY<
PT		3481		LINETTE A	<	CLARK<
PT		3482		LILLIAN L	<	KWONG<
PT		3483		MARI A	<	KITAGAWA<
PT		3484		ELIZABETH A	<	FORST<
PT		3485		SUSAN B	<	PATEL<
PT		3486		ELIZA B	<	SZYMANEK<
PT		3487		GERALDINE D	<	LAGUA<
PT		3488		TERRI L	<	DRIESEL<
PT		3489		SUSAN A	<	OGWAL<
PT		3490		JUDY H	<	CHEN<
PT		3491		ALTON D	<	HOWARD<
PT		3492		MORGAN K	<	DE LIMA<
PT		3493		MARISA I	<	MENDEZ<
PT		3494		REBECCA K	<	ELBARE<
PT		3495		TAIMA A	<	MCCARTNEY<
PT		3496		JOY N	<	WADA<
PT		3497		ROBIN R	<	WARREN<
PT		3498		CATHLYN L	<	NGUYEN<
PT		3499		BRAD C	<	BARRETT<
PT		3500		CASEY M	<	MALONE<
PT		3501		REID M	<	NAKAMURA<
PT		3502		BETHANY M	<	CORVELLO<
PT		3503		DANA L	<	PARKER<
PT		3504		JEFFREY	<	WANG<
PT		3505		SARA G	<	RICHTER<
PT		3506		DAVID J	<	KAHLE<
PT		3507		PATRICK D K	<	GESIK<
PT		3508		SUSAN C	<	NOWELL<
PT		3509		MONICA C	<	CASTAGNETTI<
PT		3510		LINDSAY A	<	OLMSTEAD<
PT		3511		ROGER R	<	HAMMEL< JR
PT		3512		LAWRENCE J	<	PEMBERTON<
PT		3513		KRISTY M	<	SHIMABUKURO<
PT		3514		JESSICA L	<	HICKMAN<