

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

MINUTES OF MEETING

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").

- Date: Tuesday, August 21, 2012
- Time: 12:00 p.m.
- Place: Queen Liliuokalani Conference Room
King Kalakaua Building
335 Merchant Street, 1st Floor
Honolulu, Hawaii 96813
- Present: Charles Aki, Public Member, Chairperson
Michael Turner, Physical Therapist ("PT"), Vice Chairperson
Rachelle Iopa, PT
Debra Kubota, PT
Neil Shimabukuro, PT
Rodney J. Tam, Deputy Attorney General ("DAG")
Kenyatta Nichols, Executive Officer ("EO")
Jennifer Fong, Secretary
- Guests: Cris Kaniaupio, TAMC
Matthew Yamamoto, ILWU
Herbert Yee, Hawaii Chapter of the American Physical Therapy
Association ("HAPTA")
Wilfred Chang, ILWU
- 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").
1. Call to Order: There being a quorum present, Chair Aki called the meeting to order at 12:08 p.m.
 2. Additions/
Additional
Distribution: None.
 3. Approval of
Minutes: Upon a motion by Vice Chair Turner, seconded by Ms. Kubota, it was voted on and unanimously carried to approve the July 10, 2012 Board meeting minutes.

4. Proposed
Legislation:

a. Licensure of Physical Therapist Assistants ("PTAs")

Ms. Kubota summarized the proposed changes to HRS Chapter 461J that she had drafted with the assistance of Justin Elliott of the American Physical Therapy Association ("APTA"). She asked if there were any questions.

EO Nichols noted that the State Auditor had done a Sunrise Analysis of a Proposal to Regulate PTAs in December 1995. The Auditor recommended that regulation of PTAs is not warranted. He suggested that the Board formulate answers to potential questions that may come up based on the Sunrise Analysis

Ms. Iopa asked what the next step would be.

EO Nichols said the Auditor will not conduct another Sunrise Analysis as long as one exists, however, he was told that there have been bills that passed in spite of having an unfavorable analysis. He will be working on the justification and may need input from the Board.

Chair Aki said he feels the Board's priority should be working on the specific language of the bill.

DAG Tam said that when the bill comes up during the legislative session, the Board will need to have a member testify and answer any questions that may come up.

Chair Aki asked if there were any comments or suggestions regarding Ms. Kubota's proposed language.

DAG Tam asked what the qualifications would be for a PTA to obtain a license. Ms. Kubota's proposed language is vague and does not list specific education and examination requirements. He asked how many people would potentially be affected.

Ms. Kaniaupio said she thought there were about 100 PTAs.

Mr. Yee said he thought there were about 200 PTAs, however, HAPTA will be sending out their questionnaire in early September. Once the results are compiled, they will have a more exact idea of how many people will be affected.

Mr. Shimabukuro asked if all of the students in the Kapiolani Community College ("KCC") PTA program take the exam.

Ms. Kaniaupio said that the current class and all future classes will take the exam. Previous graduates may have taken the exam but not all of them have because taking the exam was not required in Hawaii.

DAG Tam suggested that the Board consider delayed implementation to give themselves several years to pass rules for PTA licensure.

Mr. Yee cautioned the Board against naming a specific exam and suggested language such as "exam approved by the Board." He also stated that when physical therapists ("PTs") were first licensed, there were people working as PTs that did not have the required training but those individuals were grandfathered in. He said that the Board might have to do the same with PTAs.

DAG Tam noted that normally an area is regulated when there is a need for it. Unfortunately, the Sunrise Analysis determined there was no need to license PTAs.

Mr. Yee said that in the last 13 years, the number of PTAs has increased and their scope of practice has changed.

Vice Chair Turner suggested providing examples of the risks involved in using PTAs that are not properly trained.

Ms. Kaniaupio suggested checking with the Department of Defense to see if they have any injury reports involving PTAs.

Mr. Yee suggested contacting insurance companies.

Chair Aki asked the Board members for their thoughts on the DAG's suggestion of delayed implementation.

Vice Chair Turner said that in his meeting with the Licensing Administrator and the Supervising EO regarding the continued competency issue, they had suggested delayed implementation of two license cycles to allow time for the Board to implement necessary rule changes.

Chair Aki suggested that instead of listing a specific implementation date, that the Board use language which would allow them to delay implementation until the rules are changed.

DAG Tam suggested using language that implementation would be one year after the administrative rules are adopted.

Vice Chair Turner asked if the Board has to include a mechanism for grandfathering in the language of the bill.

Ms. Kaniaupio noted that she graduated from KCC's program in 1995. She reiterated that many of her peers have not taken the National Physical Therapy Examination ("NPTE") because they have only worked in Hawaii.

DAG Tam asked if the issue is a waiver of the exam requirement.

Ms. Kaniaupio said yes.

Mr. Yee said that they would like to ask for an education and exam waiver based on a PTA's experience. He noted that there are some people working as PTAs that started as an aide and worked their way up to a PTA.

Ms. Kubota noted that the current administrative rule includes a definition for "physical therapist assistant". According to that definition, all PTAs must be a graduate of either an accredited physical therapist assistant program or an accredited physical therapy program. There should not be anyone currently working as a PTA that does not meet that education requirement.

Mr. Shimabukuro said he would rather not change the existing administrative rule to allow for exemptions to the education requirement.

Ms. Kaniaupio noted that there are PTAs that hold a current license in another state because in Hawaii some of the larger facilities require their PTAs to have a license because of the medicare and medicaid regulations.

DAG Tam said that to get the bill passed, a need for the profession to be licensed must be demonstrated to the legislature. It would be very difficult to say that there is a need for licensure, however, a waiver of the education and/or exam requirements is also being requested for a subgroup. You would basically be saying that it is okay for those in the subgroup to practice despite not having the education and/or passing the exam that is required for everyone else.

Chair Aki asked Ms. Kaniaupio and Mr. Yee if they had any suggested parameters for their proposed waivers.

Ms. Kaniaupio provided the Board with a copy of the recent Colorado amendment licensing PTAs.

Chair Aki said that ultimately, the goal is to legitimize the profession. Allowing concessions would make that harder to justify.

Vice Chair Turner said that he feels if someone has been working as a PTA for the last 20 years, they should be able to pass an exam.

Mr. Shimabukuro said that in his quick review of the Colorado amendment, it appears as if the amendment addresses graduates of an accredited program and those who have practiced as a PTA for the last five years. Those that have graduated would still have to take the exam anyway.

DAG Tam asked if there are more people that have not gone to school or have gone to school but not take the exam.

Ms. Kaniaupio said she believes that most Hawaii PTAs have gone to school but have not taken the exam.

EO Nichols stated that the language of the bill needs to be finalized by the end of September. He also informed the Board that the current makeup of the Board is four PTs, one physician and two consumers. Currently, there is no PTA position on the Board.

DAG Tam noted that the total number of board members must be an odd number in order to have quorum. If the Board chooses to add a PTA member, they would either have to eliminate one of the current positions or add two positions.

Chair Aki noted that it has been difficult for the Board to find a physician and suggested that the physician position be replaced by a PTA.

b. Continued Competency Requirements for Re-licensure

Vice Chair Turner reported that the continued competency investigative committee had met and also worked with Justin Elliott on their proposed changes.

As previously stated, he met with the Licensing Administrator and Supervising EO. Regarding implementation, they suggested allowing two licensing cycles before requiring CE which would delay implementation to the December 2016 renewal. They also suggested specifying the type of courses that are acceptable, the mechanism of course approval and the amount of hours that would be required. Also, he was informed that some of the other Boards that wanted to add continuing education ("CE") did not submit their bills until the proposed rule amendments were approved by the Board and ready to go through the rule amendment process. In addition, he was told that it may be beneficial for a board member to meet with Senator Baker to see if she is willing to support the bill.

DAG Tam noted that with regards to completing the proposed rule amendments prior to submitting the bill, while he knows the Board wants to submit the bill as quickly as possible, with many boards agreeing on proposed rule amendments takes a long time and in some cases, takes years which may be why he was made aware of that option.

Chair Aki asked if the continued competency investigative committee could provide their recommendations for the additional issues brought up today at the Board's next meeting.

Vice Chair Turner said yes.

At 1:34 p.m., DAG Tam was excused from the meeting.

Ms. Kubota asked if the Federation of State Boards of Physical Therapy ("FSBPT") has a chart of the CE requirements in each state.

Mr. Shimabukuro said yes, however, each state's requirements are different. The amount of CE required varies and there is also a difference between the number of hours and the number of credits.

Chair Aki expressed concern that licensees would take easy courses in order to meet the requirements which would defeat the purpose of having the CE requirement.

Mr. Shimabukuro said that the courses are weighted.

Vice Chair Turner suggested that the Board require several different specific sub-categories such as taking a jurisprudence exam, having current CPR certification as well as requiring a specific amount of weighted courses.

EO Nichols asked if a jurisprudence exam was currently available.

Vice Chair Turner said no, one would have to be developed, however, he believes the FSBPT has a system in place to assist each state with the development of a jurisprudence exam.

Chair Aki asked if the members were willing to have a meeting in September.

The Board said yes.

EO Nichols requested that the members send their available dates to the Secretary.

5. Next Meeting: To Be Determined.
6. Adjournment: With no further business to discuss, Chair Aki adjourned the meeting at 1:42 p.m.

Taken by:

/s/ Jennifer Fong

Jennifer Fong
Secretary

Reviewed by:

/s/ Mr. Kenyatta Nichols

Mr. Kenyatta Nichols
Executive Officer

8/30/12

- [] Minutes approved as is.
- [] Minutes approved with changes; see minutes of _____.