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**Texas Board of Physical Therapy Examiners
Board Meeting**

**333 Guadalupe, Suite 2-510
Austin, Texas 78701**

**October 13, 2017
9:00 am**

11
12 **Members Present:** Harvey Aikman, PT, Chair
13 Gary Gray, PT
14 Jeffrey Tout, PT
15 Liesl Olson, PT
16 Daniel Reyna, Public Member
17 Philip Vickers, Public Member
18

19 **Members Absent:** Barbara Sanders, PT, PhD
20 Glenda Clausell, Public Member
21

22 **Legal Counsel:** Kara Holsinger, Assistant Attorney General
23

24 **Staff:** John Maline, Executive Director
25 Karen Gordon, PT Coordinator
26 Mark Turek, Chief Investigator
27 Michael Briscoe, Licensing Manager
28

29 **Guests:** Craig Tounguet, Texas Physical Therapy Association (TPTA) ED
30 Stacey Mather, TPTA Staff
31
32

33
34 Agenda items listed under several committee reports begin with the letter D intentionally. No items have been
35 omitted from the board agenda.
36

- 37 1. Call to order
38 2. Discussion and possible action on excusing board member absences.
39 3. Public comment
40 4. Approval of minutes from the July 21, 2017 meeting.
41 5. Board member training regarding antitrust liability for licensing boards.
42 6. Discussion and possible action on Executive Director's Report concerning fiscal and budgetary matters,
43 performance measures, ongoing projects, agency personnel matters, policies pursuant to SB 317, and
44 other agency business.
45 7. Investigation Committee Report and consideration by the Board of the following items:
46 A. Review and possible action on Agreed Orders for case #: 17343; 17344; 17350; 17358; 17360;
47 17370;17385; 17391; 17394; 17396; 17415; 17420; 17429; 17432 and 17446.
48 B. Discussion and possible action on the Investigation Committee Meeting of September 21, 2017.
49 C. Discussion and possible action on investigative activities to date.
50 8. Executive Session pursuant to §551.074 of the Government Code regarding the appointment,
51 employment, evaluation, reassignment, duties, discipline, or dismissal of the Executive Director of the
52 Executive Council of Physical Therapy and Occupational Therapy Examiners.
53 9. Rules & Practice Report:
54 D. Discussion and possible action on proposing changes to Chapter 323. POWERS AND DUTIES OF
55 THE BOARD. Pursuant to SB 317 addition of Sec. 453.109. NEGOTIATED RULEMAKING;
56 ALTERNATIVE DISPUTE RESOLUTION during the 85th Legislative Session.
57 E. Discussion and possible action on proposing changes to §325.7. Board Member Terms. pursuant to
58 SB 317 amendments to Sec. 453.056 (a), Occupations Code during the 85th Legislative Session.
59

- 1 F. Discussion and possible action on proposing changes to §325.1. Elections. pursuant to SB 317
 - 2 amendments to Sec. 453.058, Occupations Code during the 85th Legislative Session.
 - 3 G. Discussion and possible action on proposing changes to §343.35. Complaint Investigation and
 - 4 Disposition. pursuant to SB 317 amendments to Sec. 453.058, Occupations Code during the 85th
 - 5 Legislative Session.
 - 6 H. Discussion and possible action on proposing changes to §322.4. Practicing in a Manner Detrimental
 - 7 to the Public Health and Welfare regarding the addition of violation of the Physical Therapy
 - 8 Licensure Compact rules.
 - 9 I. Discussion and possible action on proposing changes to §329.1. General Licensure Requirements
 - 10 And Procedures. pursuant to SB 317 amendments to Sec. 453.215, Occupations Code during the
 - 11 85th Legislative Session.
 - 12 J. Discussion and possible action on proposing changes to §341.1 Requirements for Renewal., §341.6.
 - 13 License Restoration., §341.8. Inactive Status., and §341.9. Retired Status; Performing Voluntary
 - 14 Charity Care. pursuant to SB 317 amendments to Sec. 453.255, Occupations Code during the 85th
 - 15 Legislative Session.
 - 16 K. Discussion and possible action on proposing changes to §344.1. Administrative Fines and Penalties.
 - 17 pursuant to SB 317 amendments to Sec. 453.3525 and Sec.453.402(b), Occupations Code during
 - 18 the 85th Legislative Session.
 - 19 L. Discussion and possible action on proposing the addition of §344.2. Record of Disciplinary Action;
 - 20 Expungement. pursuant to SB 317 amendments to Sec. 453.357, Occupations Code during the 85th
 - 21 Legislative Session.
 - 22 M. Discussion and possible action on adding new CHAPTER 348. PHYSICAL THERAPY LICENSURE
 - 23 COMPACT. pursuant to SB 317 addition of Subchapter K to Chapter 453, Occupations Code during
 - 24 the 85th Legislative Session.
 - 25 10. Education Committee Report:
 - 26 D. Discussion and possible action on the Texas Physical Therapy Association (TPTA) Continuing
 - 27 Competence Approval Program (CCAP) report.
 - 28 E. Discussion and possible action on developing a Request for Proposal (RFP) for outsourcing
 - 29 continuing competence activities approval.
 - 30 F. Discussion and possible action on proposing changes to §329.2. Licensure by Examination pursuant
 - 31 to SB 317 amendments to Sec. 453.205. LICENSE EXAMINATION, Occupations Code and Sec.
 - 32 453.207 REEXAMINATION, Occupations Code during the 85th Legislative Session.
 - 33 G. Discussion and possible action on proposing changes to §341.2. Continuing Competence
 - 34 Requirements pursuant to SB 317 amendment to Sec. 453.254 CONTINUING COMPETENCE,
 - 35 Occupations Code during the 85th Legislative Session.
 - 36 H. Discussion and possible action on a request for review of educational credentials from a foreign-
 - 37 educated physical therapist.
 - 38 I. Discussion and possible action on requests for appeals to re-take the National Physical Therapy
 - 39 Examination (NPTE).
 - 40 J. Discussion and possible action on issues related to physical therapy entry-level education and
 - 41 continuing competence.
 - 42 11. Vision Committee Report:
 - 43 D. Discussion and possible action regarding the Federation of State Boards of Physical Therapy,
 - 44 including motions and election of officers at the Annual Meeting in Santa Ana Pueblo, New Mexico,
 - 45 November 2-4, 2017.
 - 46 E. Discussion and possible action regarding issues impacting the physical therapy profession.
 - 47 12. Discussion and possible action on the Board Coordinator's report concerning any item listed on the
 - 48 agenda and on events that have occurred between this meeting and the Board's last meeting.
 - 49 13. Discussion and possible action on the Board Chair's report concerning any item listed on the agenda and
 - 50 on events that have occurred between this meeting and the Board's last meeting.
 - 51 14. Discussion and possible action on long-term planning for future meetings, including future meeting dates
 - 52 and agenda items.
 - 53 15. Adjournment
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1 **1. Call to order**

2
3 Mr. Aikman called roll and determined that a quorum existed. He called the meeting to order at 9:00
4 a.m.

5
6 **2. Discussion and possible action on excusing board member absences.**

7
8 Motion: To excuse the absences of members Barbara Sanders and Glenda Clausell.
9 Made by: Gary Gray
10 Second: Liesl Olson
11 Motion passed unanimously.

12
13 **3. Public comment**

14
15 There was no public comment.

16
17 **4. Approval of minutes from the July 21, 2017.**

18
19 Motion: To approve the minutes as submitted.
20 Made by: Liesl Olson
21 Second: Jeff Tout
22 Motion passed unanimously.

23
24 **5. Board member training regarding antitrust liability for licensing boards.**

25
26 Kara Holsinger, AAG conducted Board training regarding antitrust liability.

27
28 **6. Discussion and possible action on Executive Director's Report concerning fiscal and**
29 **budgetary matters, performance measures, ongoing projects, agency personnel matters,**
30 **policies pursuant to SB 317, and other agency business.**

31
32 Mr. Maline gave the Executive Director's Report which included the following:

- 33 • Agency budget and fiscal status for FY 2017 to date;
- 34 • Performance Measures;
- 35 • Policies for Division of Responsibilities, and Negotiated Rulemaking and Alternative Dispute
- 36 Resolution; and
- 37 • Personnel changes

38
39 Motion: To recommend approval of the policies for Division of Responsibilities, and
40 Negotiated Rulemaking and Alternative Dispute Resolution to the Executive
41 Council.
42 Made by: Gary Gray
43 Second: Liesl Olson
44 Motion passed unanimously.

45
46 **7. Investigation Committee Report and consideration by the Board of the following items:**

47
48 **A. Review and possible action on Agreed Orders for case #s: 17343; 17344; 17350; 17358;**
49 **17360; 17370;17385; 17391; 17394; 17396; 17415; 17420; 17429; 17432 and 17446.**

50
51 The Board reviewed and ratified the following Agreed Orders presented by Mr. Turek:
52 17344; 17350; 17360; 17370; 17391; 17396; 17415; 17429; and 17446.

53
54 **B. Discussion and possible action on the Investigation Committee Meeting of September**
55 **21, 2017.**

1 Mr. Turek reported that the Committee reviewed 97 cases and issued 15 agreed orders. There
2 were no informal conferences.

3
4 **C. Discussion and possible action on investigative activities to date.**

5
6 Mr. Turek reported on performance measures, on-site investigation visits, and school presentations
7 since the last meeting.

8
9 **8. Executive Session pursuant to §551.074 of the Government Code regarding the**
10 **appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of**
11 **the Executive Director of the Executive Council of Physical Therapy and Occupational**
12 **Therapy Examiners.**

13
14 Mr. Aikman called the Board into executive session at 9:35 a.m.

15 Mr. Aikman called the Board back into regular session at 10:19 a.m.

16
17 **9. Rules & Practice Report:**

18
19 **D. Discussion and possible action on proposing changes to Chapter 323. POWERS AND**
20 **DUTIES OF THE BOARD. Pursuant to SB 317 addition of Sec. 453.109. NEGOTIATED**
21 **RULEMAKING; ALTERNATIVE DISPUTE RESOLUTION during the 85th Legislative**
22 **Session.**

23
24 Mr. Gray reported that the Committee reviewed the rule changes necessitated as a result of the
25 statute amendment.

26
27 Motion: To recommend approval of the proposed changes to Chapter 323. POWERS
28 AND DUTIES OF THE BOARD by adding §323.5. Negotiated Rulemaking
29 and §323.6. Alternative Dispute Resolution.

30 Made by: Committee

31 Second: None required

32 Motion passed unanimously.

33
34 (See Attachment A)

35
36 **E. Discussion and possible action on proposing changes to §325.7. Board Member**
37 **Terms. pursuant to SB 317 amendments to Sec. 453.056 (a), Occupations Code**
38 **during the 85th Legislative Session.**

39
40 Mr. Gray reported that the Committee reviewed the rule changes necessitated as a result of the
41 statute amendment.

42
43 Motion: To recommend approval of the proposed changes to §325.7. Board Member
44 Terms.

45 Made by: Committee

46 Second: None required

47 Motion passed unanimously.

48
49 (See Attachment B)

50
51
52 **F. Discussion and possible action on proposing changes to §325.1. Elections. pursuant**
53 **to SB 317 amendments to Sec. 453.058, Occupations Code during the 85th Legislative**
54 **Session.**

55
56 Mr. Gray reported that the Committee reviewed the rule changes necessitated as a result of the
57 statute amendment.

1 Motion: To recommend approval of the proposed changes to §325.1. Elections.
2 Made by: Committee
3 Second: None required
4 Motion passed unanimously.

5
6 (See Attachment C)
7

8 **G. Discussion and possible action on proposing changes to §343.35. Complaint**
9 **Investigation and Disposition. pursuant to SB 317 amendments to Sec. 453.058,**
10 **Occupations Code during the 85th Legislative Session.**
11

12 Mr. Gray reported that the Committee reviewed the rule changes necessitated as a result of the
13 statute amendment.

14
15 Motion: To recommend approval of the proposed changes to §343.35. Complaint
16 Investigation and Disposition.
17 Made by: Committee
18 Second: None required
19 Motion passed unanimously.

20
21 (See Attachment D)
22

23 **H. Discussion and possible action on proposing changes to §322.4. Practicing in a**
24 **Manner Detrimental to the Public Health and Welfare regarding the addition of**
25 **violation of the Physical Therapy Licensure Compact rules.**
26

27 Mr. Gray reported that the Committee discussed adding violating the Physical Therapy Licensure
28 Compact rules as detrimental practice.

29
30 Motion: To recommend approval of the proposed changes to §322.4. Practicing in a
31 Manner Detrimental to the Public Health and Welfare.
32 Made by: Committee
33 Second: None required
34 Motion passed unanimously.

35
36 (See Attachment E)
37

38 **I. Discussion and possible action on proposing changes to §329.1. General Licensure**
39 **Requirements and Procedures. pursuant to SB 317 amendments to Sec. 453.215,**
40 **Occupations Code during the 85th Legislative Session.**
41

42 Mr. Gray reported that the Investigation Department continues to work on the procedure for
43 implementing fingerprinting as a requirement for initial licensure and renewal. He stated that
44 proposed rules will be forthcoming at a later meeting.
45

46 **J. Discussion and possible action on proposing changes to §341.1 Requirements for**
47 **Renewal., §341.6. License Restoration., §341.8. Inactive Status, and §341.9. Retired**
48 **Status; Performing Voluntary Charity Care. pursuant to SB 317 amendments to Sec.**
49 **453.255, Occupations Code during the 85th Legislative Session.**
50

51 Agenda Item J was reported on in conjunction with Item I.
52

53 **K. Discussion and possible action on proposing changes to §344.1. Administrative**
54 **Fines and Penalties. pursuant to SB 317 amendments to Sec. 453.3525 and**
55 **Sec.453.402(b), Occupations Code during the 85th Legislative Session.**
56

1 Mr. Gray reported that the Investigations Department continues to work on a schedule of
2 disciplinary action for both the PT and OT Boards and proposed rules will be forthcoming at a later
3 meeting.
4

5 **L. Discussion and possible action on proposing the addition of §344.2. Record of**
6 **Disciplinary Action; Expungement. pursuant to SB 317 amendments to Sec. 453.357,**
7 **Occupations Code during the 85th Legislative Session.**
8

9 Mr. Gray reported that the Investigations Department is preparing procedures for implementing
10 expungement of practicing in an unregistered facility disciplinary actions.
11

12 **M. Discussion and possible action on adding new CHAPTER 348. PHYSICAL THERAPY**
13 **LICENSURE COMPACT. pursuant to SB 317 addition of Subchapter K to Chapter 453,**
14 **Occupations Code during the 85th Legislative Session.**
15

16 Mr. Gray reported the Compact Commission will hold a meeting on November 5th in conjunction
17 with the Federation of State Boards of Physical Therapy (FSBPT) Annual Meeting in Santa Ana
18 Pueblo, New Mexico, and that Harvey Aikman will be the Board's delegate to the meeting. He also
19 reported that the Board needs to recommend a fee addition for TX Compact Privileges to the
20 Executive Council.
21

22 Motion: To recommend a Compact Privilege fee of \$50, and \$0 for military/spouse and
23 Veterans to the Executive Council.

24 Made by: Committee

25 Second: None required

26 Motion passed unanimously.
27

28 **8. Education Committee Report:**

29 **D. Discussion and possible action on the Texas Physical Therapy Association (TPTA)**
30 **Continuing Competence Approval Program (CCAP) report.**
31

32 Mr. Tout reported that the processing time for CCAP applications is now averaging 2 - 4 weeks
33 if there are no issues with the submission, and that there were several action items contained within
34 the CCAP report that the Committee reviewed that require action.
35

36 Motion: To recommend upholding the denial of Application #180738.

37 Made by: Committee

38 Second: None required

39 *Motion passed unanimously.*
40

41 The Committee issued a cautionary note for the reviewers that just because an author/presenter of
42 a CC course is not licensed in the US would not preclude them from being an appropriate speaker
43 or author of a course, and that a PT who does not have a DPT could be an appropriate speaker or
44 author of a course with DPTs in the audience or taking a course online based on specialized
45 training and experience.
46

47 Motion: To recommend denying granting credit for written case study reflections.

48 Made by: Committee

49 Second: None required

50 *Motion passed unanimously.*
51

52 Motion: To recommend the clarification of documentation as either the certificate or
53 letter of attendance/completion to be included in the CCAP Policy Manual.

54 Made by: Committee

55 Second: None required

56 *Motion passed unanimously.*
57

1
2 Motion: To recommend the clarification of participant attendance tracking at live
3 courses to be included in the CCAP Policy Manual.
4 Made by: Committee
5 Second: None required

6 *Motion passed unanimously.*
7

8 **E. Discussion and possible action on developing a Request for Proposal (RFP) for**
9 **outsourcing continuing competence activities approval**

10
11 Mr. Tout reported that there is now a legislative requirement for an RFP if the Board decides to
12 continue outsourcing continuing competence activities approval, and that the Committee charged
13 Ms. Gordon to develop an outline of the current process and present it at the next meeting for
14 review.
15

16 **F. Discussion and possible action on proposing changes to §329.2. Licensure by**
17 **Examination pursuant to SB 317 amendments to Sec. 453.205. LICENSE**
18 **EXAMINATION, Occupations Code and Sec. 453.207 REEXAMINATION, Occupations**
19 **Code during the 85th Legislative Session.**
20

21 Mr. Tout reported that the Committee reviewed the rule changes necessitated as a result of the
22 statute amendment.
23

24 Motion: To recommend approving the proposed changes to §329.2. Licensure by
25 Examination.
26 Made by: Committee
27 Second: None required

28 *Motion passed unanimously.*
29

30 (See Attachment F)
31

32 **G. Discussion and possible action on proposing changes to §341.2. Continuing**
33 **Competence Requirements pursuant to SB 317 amendment to Sec. 453.254**
34 **CONTINUING COMPETENCE, Occupations Code during the 85th Legislative Session.**
35

36 Mr. Tout reported that the Committee reviewed the rule changes necessitated as a result of the
37 statute amendment.
38

39 Motion: To recommend approving the proposed changes to §341.2. Continuing
40 Competence Requirements.
41 Made by: Committee
42 Second: None required

43 *Motion passed unanimously.*
44

45 (See Attachment G)
46

47 **H. Discussion and possible action on a request for review of educational credentials**
48 **from a foreign-educated physical therapist.**
49

50 Mr. Tout reported that the Committee discussed the credentials evaluation and support
51 documentation provided by the foreign-educated physiotherapist.
52

53 Motion: To recommend approving the educational credentials as substantially
54 equivalent.
55 Made by: Committee
56 Second: None required

57 *Motion passed unanimously.*

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2
3 **I. Discussion and possible action on requests for appeals to re-take the National**
4 **Physical Therapy Examination (NPTE).**
5

6 Mr. Tout reported that the Committee discussed the requests for appeals to re-take the NPTE.
7

8 Motion: To recommend that request #1 for an appeal to re-take the NPTE be
9 granted.

10 Made by: Committee

11 Second: None required

12 *Motion passed unanimously.*
13

14 Motion: To recommend that request #2 for an appeal to re-take the NPTE be
15 granted.

16 Made by: Committee

17 Second: None required

18 *Motion passed with two (2) dissenting votes.*
19

20 The Board instructed Ms. Gordon to obtain the FSBPT's policy/procedure for handling appeals.
21

22 **J. Discussion and possible action on issues related to physical therapy entry-level**
23 **education and continuing competence.**
24

25 Mr. Tout reported that Ms. Gordon presented information on the Best Practices for Physical
26 Therapist Clinical Education that was reported to the American Physical Therapy Association 2017
27 House of Delegates and the response from the Federation of State Boards of Physical Therapy.
28 She also reported that the 2018 NPTE fee increase has been deferred to 2019, and that new
29 content outlines are available for the NPTE. There was no action required.
30

31 **11. Vision Committee Report:**

32 **D. Discussion and possible action regarding the Federation of State Boards of Physical**
33 **Therapy, including motions and election of officers at the Annual Meeting in Santa**
34 **Ana Pueblo, New Mexico, November 2-4, 2017.**
35

36 Ms. Olson reported that the Committee reviewed and discussed the motion and slate of candidates
37 for officers, and that it was decided that the Board's delegate should make a decision on who to
38 vote for based on the Candidate's Forum and other opportunities to interact with the candidates at
39 the annual meeting.
40

41 **E. Discussion and possible action regarding issues impacting the physical therapy**
42 **profession.**
43

44 Ms. Olson reported that the Committee discussed an email regarding an online certification in
45 therapeutic exercise. After reviewing information from the company's website, the Committee
46 determined that the Board had no authority over the matter as there was no reference to physical
47 therapy in any form or derivative.
48

49 **12. Discussion and possible action on the Board Coordinator's report concerning any item**
50 **listed on the agenda and on events that have occurred between this meeting and the**
51 **Board's last meeting.**
52

53 Ms. Gordon reported on the following:

- 54 • Meetings that she had attended since the last Board meeting;
- 55 • Appointment to FSBPT Re-Entry to Practice Task Force;
- 56 • 4th Quarter FY 2017 CC Audit results;
- 57 • Total number of PTs, PTAs, and PT facilities as of 08/31/2017;

- 1 • NPTE Pass/Fail statistics for 2017;
2 • Alternate Approval Pathway update;
3 • Hurricane Harvey Response; and
4 • TX JAM statistics.
5

6 **13. Discussion and possible action on the Board Chair's report concerning any item listed**
7 **on the agenda and on events that have occurred between this meeting and the Board's**
8 **last meeting.**
9

10 Mr. Aikman reported on his attendance at the different Compact meetings/teleconferences, and that
11 he will be attending the Compact meeting on November 5.
12

13 **14. Discussion and possible action on long-term planning for future meetings, including**
14 **future meeting dates and agenda items**
15

16 The Board scheduled meetings as follows: January 25 – 26, 2018; April 12 – 13, 2018, and
17 July 26 – 27, 2018.
18

19 **15. Adjournment**
20

21 Motion: To adjourn the meeting.
22 Made by: Gary Gray
23 Second: Liesl Olson
24 Motion passed unanimously.
25

26 Mr. Aikman adjourned the meeting at 12:24 a.m.
27

28
29 **Date reviewed by the Board:** 1/26/2018
30 **Action taken by the Board:** approved as submitted