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

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

**August 12, 2016
9:00 am**

11
12 **Members Present:** Gary Gray, PT, Chair
13 Harvey Aikman, PT
14 Barbara Sanders, PT, PhD
15 Jeffrey Tout, PT
16 Shari Waldie, PT
17 Liesl Olson, PT
18 Philip Vickers, Public Member
19 Daniel Reyna, Public Member
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 Amy Carter, Investigator
28 Michael Briscoe, Assistant Licensing Manager

29
30 **Guests:** Stacey Mather, Texas Physical Therapy Association Staff
31 Kathy Grant, TX Association of Acupuncture & Oriental Medicine (TAAOM)
32 Lisa Hughes, TAAOM
33

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

- 37
38 1. Call to order
39 2. Public comment
40 3. Approval of minutes from the April 29, 2016 meeting in Austin.
41 4. Discussion and possible action on Executive Director's Report concerning fiscal and budgetary
42 matters, performance measures, ongoing projects, agency personnel matters, Sunset Review,
43 and other agency business.
44 5. Investigation Committee Report and consideration by the Board of the following items:
45 A. Review and possible action on Agreed Orders for case #s: 15391;
46 15421; 16094; 16289; 16290; 16293; 16295; 16297; 16298; 16299; 16303; 16304; 16306; 16319;
47 16335; 16344; 16414; 16429; 16444; 16459; 16460, and 16475.
48 B. Discussion and possible action on the Investigation Committee Meeting of July 19,
49 2016.
50 C. Discussion and possible action on investigative activities to date.
51 6. Discussion and possible action on adopting changes to: §322.1. Provision of Services.
52 7. Discussion and possible action on adopting the Rule Review as required by §2001.039 of the
53 Government Code: Chapter 321, concerning Definitions; Chapter 322, concerning Practice;
54 Chapter 323, concerning Powers and Duties of the Board; Chapter 325, concerning
55 Organization of the Board; Chapter 327, concerning Compensation; Chapter 329,
56 concerning Licensing Procedure; Chapter 335, concerning Professional Title; Chapter 337,
57 concerning Display of License; Chapter 339, concerning Fees; Chapter 341, concerning

- 1 License Renewal; Chapter 342, concerning Open Records; Chapter 343, concerning Contested
2 Case Procedure; Chapter 344, concerning Administrative Fines and Penalties; Chapter 346,
3 concerning Practice Settings for Physical Therapy; and Chapter 347, concerning Registration
4 of Physical Therapy Facilities.
- 5 8. Rules & Practice Committee Report:
- 6 D. Discussion and possible action on proposing the addition of §323.4. Acquisition of Services.
7 regarding outsourcing services and a Request for Proposal (RFP) process.
- 8 E. Discussion and possible action on proposing changes to §321.1. Definitions including adding
9 “direct physical therapist-to-patient interaction.”
- 10 F. Discussion and possible action on proposing changes to §322.1. Provision of Services,
11 Regarding adding (f) Telehealth.
- 12 9. Education Committee Report:
- 13 D. Discussion and possible action on the Texas Physical Therapy Association (TPTA)
14 Continuing Competence Approval Program (CCAP) report, including auditing TPTA
15 approved courses.
- 16 E. Discussion and possible action on proposing changes to §329.2. Licensure by Examination
17 regarding the Federation of State Boards of Physical Therapy (FSBPT) alternate path for
18 exam eligibility approval.
- 19 F. Discussion and possible action on proposing changes to §329.5. Licensing Procedures for
20 Foreign-Trained Applicants, including upcoming FSBPT changes and Duke University
21 online module on the US healthcare delivery system.
- 22 G. Discussion and possible action on proposing changes §341.2. Continuing Competence
23 Requirements and §341.3. Qualifying Continuing Competence Activities regarding
24 combining the jurisprudence exam and the ethics/professional responsibility requirement
25 into one online assessment module.
- 26 H. Discussion and possible action on issues related to physical therapy entry-level education
27 and continuing competence.
- 28 10. Vision Committee Report:
- 29 D. Discussion and possible action regarding the Federation of State Boards of Physical
30 Therapy, including the Leadership Issues Forum, July 30-31, 2016 and the Annual Meeting
31 in Columbus, Ohio, November 4-5, 2016.
- 32 E. Discussion and possible action regarding the Sunset Review and the 2017 legislative
33 session.
- 34 11. Discussion and possible action on the Board Coordinator's report concerning any item listed on
35 the agenda and on events that have occurred between this meeting and the Board's last
36 meeting.
- 37 12. Discussion and possible action on the Board Chair's report concerning any item listed on the
38 agenda and on events that have occurred between this meeting and the Board's last meeting.
- 39 13. Discussion and possible action on long-term planning for future meetings, including future
40 meeting dates and agenda items.
- 41 14. Adjournment

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43 The Board may meet in closed session on any agenda item listed above as authorized by the Texas Open Meetings Act, Texas Government Code Chapter 551.
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1 **1. Call to order**

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3 Mr. Gray called roll and determined that a quorum existed. He called the meeting to order at 9:05
4 a.m. He recognized the new board members Liesl Olson, PT and Glenda Clausell and noted that
5 this was the first time the PT Board has had all of the positions filled and all of the members present
6 in over a year.

7
8 **2. Public comment**

9
10 There was no public comment.

11
12 **3. Approval of minutes from the April 29, 2016 in Austin.**

13
14 Motion: To approve the minutes as corrected.
15 Made by: Harvey Aikman
16 Second: Shari Waldie

17 Motion passed unanimously.

18
19 **4. Discussion and possible action on Executive Director's Report concerning fiscal and**
20 **budgetary matters, performance measures, ongoing projects, agency personnel matters,**
21 **Sunset Review, and other agency business.**

22
23 Mr. Maline gave the Executive Director's Report which included the following:

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- Orientation of the new Board members
 - Agency budget and fiscal status for FY 2016 through the 4th Q to date
 - Performance Measures
 - Sunset Staff Report and upcoming hearings
 - Upcoming personnel retirements

30 **5. Investigation Committee Report and consideration by the Board of the following items:**

31
32 **A. Review and possible action on Agreed Orders for case #s:**

33 15391; 15421; 16094; 16289; 16290; 16293; 16295; 16297; 16298; 16299; 16303; 16304; 16306;
34 16319; 16335, 16344; 16414 16429; 16444, 16459; 16460, and 16475.

35
36 The Board reviewed and ratified the following Agreed Orders presented by Mr. Turek:

37
38 15391; 15421; 16289; 16290; 16293; 16295; 16297; 16298; 16299; 16303; 16304; 16306;
39 16319; 16344; 16429; 16459; 16460, and 16475.

40
41 **B. Discussion and possible action on the Investigation Committee Meeting of March 29,**
42 **2016.**

43
44 Mr. Turek reported that the Committee reviewed 229 cases, held 4 informal conferences, and
45 issued 22 agreed orders.

46
47 **C. Discussion and possible action on investigative activities to date**

48
49 Mr. Turek reported on performance measures and school visits since the last meeting.

50
51 **6. Discussion and possible action on adopting changes to: §322.1. Provision of Services.**

52
53 Motion: To adopt changes to §322.1. Provision of Services as proposed.
54 Made by: Glenda Clausell
55 Second: Jeff Tout

56 Motion passed unanimously.
57

1 There were no comments or discussion on this amendment.

2
3 (See Attachment A for the adopted amendment)

4
5 **7. Discussion and possible action on adopting the Rule Review as required by §2001.039 of**
6 **the Government Code: Chapter 321, concerning Definitions; Chapter 322, concerning**
7 **Practice; Chapter 323, concerning Powers and Duties of the Board; Chapter 325,**
8 **concerning Organization of the Board; Chapter 327, concerning Compensation; Chapter**
9 **329, concerning Licensing Procedure; Chapter 335, concerning Professional Title;**
10 **Chapter 337, concerning Display of License; Chapter 339, concerning Fees; Chapter 341,**
11 **concerning License Renewal; Chapter 342, concerning Open Records; Chapter 343,**
12 **concerning Contested Case Procedure; Chapter 344, concerning Administrative Fines**
13 **and Penalties; Chapter 346, concerning Practice Settings for Physical Therapy; and**
14 **Chapter 347, concerning Registration of Physical Therapy Facilities.**

15
16 Motion: To adopt the Rule Review.

17 Made by: Shari Waldie

18 Second: Jeff Tout

19 Motion passed unanimously.

20
21 There were no comments or discussion on this amendment.

22
23 (See Attachment B for the adopted amendment)

24
25 Mr. Gray recessed the meeting at 10:14 a.m. and reconvened at 10:26 a.m.

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27 **8. Rules & Practice Committee Report:**

28
29 **D. Discussion and possible action on proposing the addition of §323.4. Acquisition of**
30 **Services. regarding outsourcing services and a Request for Proposal (RFP) process.**

31
32 Mr. Aikman presented language for the addition of §323.4. Request for Proposals for Outsourced
33 Services which would authorize the Board to outsource services utilizing the Request for Proposal
34 (RFP) process.

35
36 Motion: To propose the addition of §323.4. Request for Proposals for
37 Outsourced Services

38 Made by: Rules and Practice Committee

39 Second: None required

40 Motion passed unanimously.

41
42 (See Attachment C for the proposed amendment)

43
44 **E. Discussion and possible action on proposing changes to §321.1. Definitions including**
45 **Adding “direct physical therapist-to-patient interaction.”**

46
47 Mr. Aikman reported that the Committee discussed whether or not “direct physical therapist-to-
48 patient interaction” needed to be defined as the result of the changes to §322.1. Provision of
49 Service (d) Reevaluation. The Committee decided that it was not necessary to add a definition and
50 took no action.

51
52
53 **F. Discussion and possible action on proposing changes to §322.1. Provision of Service**
54 **regarding adding (f) Telehealth.**

55
56 Mr. Aikman reported that the Committee took no action but agreed to keep the item on the agenda.

1 **9. Education Committee Report:**
2

3 **D. Discussion and possible action on the Texas Physical Therapy Association (TPTA)**
4 **Continuing Competence Approval Program (CCAP) report, including auditing TPTA**
5 **approved courses.**
6

7 Dr. Sanders reported that the Committee reviewed the following randomly selected
8 continuing competence offerings provided under the TPTA Accredited Provider
9 Status:

- 10 1. 2015 Texas Unencumbered Conference
- 11 2. Interventions to Maximize Functional Mobility Recovery in Patients with
12 Neurological Disorders/Diseases
- 13 3. Movement Education and Motor Learning – Where Ortho and Neuro
14 Rehab Collide
- 15 4. Current Best Practices for Treatment of Wrist & Hand Injuries
- 16 5. IDT Collaboration Models with OT and ST

17
18 The following deficiencies were noted in regard to the audit submissions and a
19 request was made for TPTA to provide additional information at the October 27th
20 meeting:

- 21 1. Conference co-sponsored by the Physical Therapy Business Alliance who
22 conducted the course evaluation. There is no written policy regarding co-
23 sponsorships for offerings under an accredited provider status.
24 More information needed on the presenters qualifications.
- 25 2. Course schedule/agenda did not provide a sufficient breakdown of the
26 presentation content in order to verify appropriateness and assignment of
27 CCU value.
- 28 3. No additional information needed.
- 29 4. Course schedule/agenda did not provide a sufficient breakdown of the
30 presentation content in order to verify appropriateness and assignment of
31 CCU value.
- 32 5. Course schedule/agenda did not provide a sufficient breakdown of the
33 presentation content in order to verify appropriateness and assignment of
34 CCU value. There is no written policy exempting courses that are valued
35 less than 3 CCUs from submitting course agenda.
36 More information needed on the presenters qualifications.

37
38 Dr. Sanders reported that the following questions were posed in the CCAP report:

- 39 1. Should the process for reaccrediting accredited providers for only one
40 period before completing a new accreditation application remain the
41 same?
- 42 2. Does participation in an online discussion group qualify for continuing
43 competence (CC) credit?
- 44 3. If an individual is seeking approval for attending a course and cannot
45 obtain a copy of the course evaluation, can the requirement for an
46 evaluation be waived?
- 47 4. Is there any changes to the final draft of the CCAP Policy Manual?

48
49 She reported that the Committee responded to the questions as follows:

- 50 1. The process for reaccrediting accredited providers for only one period
51 should remain the same.
- 52 2. Participation in an online discussion group does not fit into any of the
53 categories for qualifying continuing competence activities and cannot be

1 claimed for CC credit.

2 3. Kara Holsinger, legal counsel, determined that it would be acceptable to
3 receive a statement from the individual attesting that an evaluation of the
4 course was completed if he is unable to obtain a copy of the evaluation
5 from the sponsor of the course.

6 4. As the section for the reviewer approval process has not been completed,
7 the Committee will look at the final draft at the next meeting.
8

9 Dr. Sanders reported that the Committee discussed the following directives to TPTA
10 for the CCAP:

11 1. TPTA should work to reduce the processing time for applications from 8-10
12 weeks to 4-6 weeks.

13 2. TPTA should prioritize processing applications from individual licensees
14 seeking approval.

15 3. TPTA should work on an automatic confirmation of application processing.

16 4. TPTA should assure that applications from individual licensees for
17 courses/conferences that have already been approved for a different
18 individual receive an administrative approval per policy.

19 5. TPTA should develop a follow-up customer survey.
20

21 **E. Discussion and possible action on proposing changes to §329.2. Licensure by**
22 **Examination regarding the Federation of State Boards of Physical Therapy (FSBPT)**
23 **alternate path for exam eligibility approval.**
24

25 Dr. Sanders reported that the implementation of the alternate path for exam eligibility is on
26 track for January 2017 with Texas possibly being the test state for the January 2016 test
27 dates.
28

29 Motion: To propose an amendment to §329.2. Licensure by Examination regarding
30 participation in the FSBPT alternate path for exam eligibility approval.

31 Made by: Education Committee

32 Second: None required

33 Motion passed unanimously.
34

35 (See Attachment D for the proposed amendment)
36

37 **F. Discussion and possible action on proposing changes to §329.5. Licensing**
38 **Procedures for Foreign-Trained Applicants, including upcoming FSBPT changes**
39 **and Duke University online module on the US healthcare delivery system.**
40

41 Dr. Sanders reported that the Committee discussed the CWT6 for educational credentials
42 review which will be implemented on January 1, 2017; on the recommended cut scores
43 from the TOEFL Standard Setting Panel, implementation TBA; and on the portions of the
44 CWT5 that will be satisfied for remediation by taking the Duke University module
45 *Healthcare Policy, Practice, and Regulation in the United States*. She reported that no
46 action was taken and it was recommended to delete the agenda item until the FSBPT
47 finalizes changes to the exam eligibility requirements for foreign-educated candidates.
48
49

50 **G. Discussion and possible action on proposing changes to §341.2. Continuing**
51 **Competence Requirements and §341.3. Qualifying Continuing Competence**
52 **Activities regarding combining the jurisprudence exam and the ethics/professional**
53 **responsibility requirement into an online assessment module.**
54

1 Dr. Sanders reported language changes were needed in order to go forward with
2 combining the jurisprudence exam and the ethics/professional responsibility requirement
3 into an online assessment module.

4
5 Motion: To propose an amendment to §341.2. Continuing Competence
6 Requirements and §341.3. Qualifying Continuing Competence Activities
7 regarding combining the jurisprudence exam and the ethics/professional
8 responsibility requirement into one online assessment module.

9 Made by: Education Committee

10 Second: Non required

11
12 After discussion regarding the need for a request for proposal, the following motion was made:

13
14 Motion: To table the motion to propose an amendment to §341.2. Continuing
15 Competence Requirements and §341.3. Qualifying Continuing Competence
16 Activities regarding combining the jurisprudence exam and the
17 ethics/professional responsibility requirement into one online assessment
18 module.

19 Made by: Harvey Aikman

20 Second: Shari Waldie

21
22 Motion passed 5 Yeas to 3 Nays.

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

26
27 Dr. Sanders reported that there was no discussion on this item.

28
29 **10. Vision Committee Report:**

30
31 **D. Discussion and possible action regarding the Federation of State Boards of Physical**
32 **Therapy, including the Leadership Issues Forum, July 30-31, 2016 and the Annual**
33 **Meeting in Columbus, Ohio, November 4-5, 2016.**

34
35 Mr. Aikman reported on the Leadership Issues Forum that he and Ms. Gordon attended including
36 upcoming changes to the Federation of State Boards of Physical Therapy (FSBPT) bylaws,
37 recommended changes to the Test of English as a Foreign Language (TOEFL) set score, Texas
38 disciplinary action as compared to other jurisdictions, and the FSBPT slate of nominees. He state
39 that there will be further information regarding motions and the slate of nominees available at the
40 Board's October meetings prior to the Annual Meeting, and that the Committee took no action.

41
42 **E. Discussion and possible action regarding the Sunset Review and the 2017 legislative**
43 **session.**

44
45 Mr. Gray reported that the Committee discussed the upcoming Sunset Advisory Commission
46 decision meeting regarding the recommendations from the Sunset Staff Report especially the
47 modification of Recommendation 3.2. which would continue the authority of the Board to delegate to
48 other entities the responsibility of approving continuing competence activities with the proviso that
49 the Board include a request for proposal and bid process. Mr. Aikman informed the Committee that
50 a proposal to add a section in Rules for Request for Proposals for Outsourced Services will be
51 forthcoming from the Rules & Practice Committee during the Board meeting. It was noted that
52 Senator Robert Nichols will be carrying the Sunset bill that will be introduced in the Senate,
53 but the House sponsor is not known at this time.

54
55 Mr. Gray also reported that Representative Travis Clardy is considering introducing a bill to
56 authorize the Board to expunge disciplinary actions in addition to facility violations as

1 recommended by Sunset staff; that the Committee discussed the inclusion of the
2 recommendation to adopt the Physical Therapy Licensure Compact (PTLC) in the Sunset Staff
3 Report; and that Oregon was the first state to pass the PTLC during its 2016 legislative session.
4

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

9 Ms. Gordon reported on the meetings that she had attended since the last Board meeting; the
10 updates to the website; the 3rd Quarter FY 2016 CC Audit; the NPTE Pass/Fail statistics for 2016
11 through the July PT/PTA testing dates; the NPTE pass rates per TX schools; and the total number
12 of PTs, PTAs, and PT facilities as of 7/31/2016.
13

14 **12. Discussion and possible action on the Board Chair's report concerning any item listed**
15 **on the agenda and on events that have occurred between this meeting and the Board's**
16 **last meeting.**
17

18 Mr. Gray reported that he visited several of the members of the Sunset Advisory Commission
19 regarding the Sunset Staff recommendations.
20

21 **13. Discussion and possible action on long-term planning for future meetings, including**
22 **future meeting dates and agenda items**
23

24 The Board scheduled meetings as follows: October 27-28 in Fort Worth during the Texas Physical
25 Therapy Association Annual Conference; January 26 – 27, 2017; April 20 – 21, 2017; and July 27 –
26 28, 2017.
27

28 **14. Adjournment**
29

30 Motion: To adjourn the meeting.

31 Made by: Harvey Aikman

32 Second: Jeff Tout

33 Motion passed unanimously.
34

35 Mr. Gray adjourned the meeting at 12:08 p.m.
36

37
38 **Date reviewed by the Board:** 10/28/2016

39 **Action taken by the Board:** approved as submitted