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NEVADA STATE BOARD OF  
PHYSICAL THERAPY EXAMINERS

BOARD MEETING MINUTES – FEBRUARY 15, 2016

ITEM 1: Call to order / roll call to determine the presence of a quorum. After determining the presence of a quorum, the meeting was called to order at 9:42 a.m. by Chairman Baum.

Board members present in the Board office: Tina Baum, PT, DPT, WCS, ATC, CLT, Chairman; Sherise R. Smith, PT, MSPT, CBIS, Vice-Chairman; Andrea Menicucci, MS, CCC-SLP, Public Member; Brian Fearnley, MPT, Member.

Board members present telephonically: Jim McKivigan, DC, PT, MPA, MA, Secretary-Treasurer.

Non-members present in the Board office: Muriel Morin Mendes, Licensing Coordinator; Richard Dreitzer, Legal Counsel; Richard Ruoti, PT, Board Inspector; Stanley Kamimoto, PT, Board Inspector (joined at 12:00 p.m.)

ITEM 2: Update of Board member appointments. The Board welcomed its newest Board Member, Brian Fearnley, PT and asked him to discuss his practice, his background and introduce himself to the Nevada physical therapy community.

ITEM 3: Pledge of Allegiance.

ITEM 4: Public comment period. Jibu Kurian, PT spoke to the Board. He indicated that he is presently employed HealthSouth Henderson and that his probationary license period is coming to an end, which requires that he appear before the Board to receive a release from probation. He stated that he received a letter from the Board stating that his matter would be handled at today's meeting, yet his item was not listed on today's

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agenda. Chairman Baum confirmed that his item was inadvertently omitted from the agenda and apologized for the oversight by the Board's Executive Director. Chairman Baum indicated to him that his item would be added to the Board's March agenda and that, because of the inconvenience, he could appear before the Board telephonically. Chairman Baum further indicated to him that he remained subject to the terms of his probation until he is formally released.

ITEM 5: Applicant Diane Gamit requests to take the National Physical Therapy Examination for Physical Therapist's Assistants a fourth time.

Motion to enter closed session: Baum  
Seconded: Menicucci  
Passes unanimously (McKivigan not voting)

After returning to open session:

Smith moved to grant approval to take the exam a fourth time, with two test dates offered -April 6 (registration date of March 2) and July 6 (registration date of June 1).

Seconded: Baum  
Passes unanimously

ITEM 6: Applicant Emily Luke requests to take the National Physical Therapy Examination for Physical Therapist's Assistants a fourth time.

Chairman Baum noted for the record that although Ms. Luke did receive notice of today's meeting, she was not present. Rebecca Cheema, PTA, Program Director at the Pima Medical Institute noted that she was unable to support this request because Ms. Luke's plan of study for the subsequent exam had not yet been approved. Chairman Baum noted that this item will be moved to a future Board agenda. No action taken.

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ITEM 7: Applicant Kristine Alegre requests to take the National Physical Therapy Examination for Physical Therapist's Assistants a sixth time

Motion to enter closed session: Baum

Seconded: Menicucci

Passes unanimously

After returning to open session:

Menicucci moved to grant approval to take the exam a sixth time, with two test dates offered -October 6 (registration date of September 1) and the January 2017 (examination date which has not yet been set).

Seconded: Baum

Passes unanimously

ITEM 8: Applicant Jonathan Jiminez requests to take the National Physical Therapy Examination for Physical Therapist's Assistants a third time.

Motion to enter closed session: Baum

Seconded: Menicucci

Passes unanimously

After returning to open session:

Baum moved to grant approval to take the exam a third time, with two test dates offered -April 6 (registration date of March 2) and July 6 (registration date of June 1).

Seconded: Menicucci

Passes unanimously

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ITEM 9: Applicant Jeevinmathu Chandra requests to take the National Physical Therapy Examination for Physical Therapist's Assistants a fourth time.

Chairman Baum noted for the record that although Mr. Chandra did receive notice of today's meeting, he was not present. No action taken.

ITEM 10: Applicant Sherolyn Chang requests to take the National Physical Therapy Examination for Physical Therapist's Assistants a fifth time.

Motion to enter closed session: Baum  
Seconded: Smith  
Passes unanimously

After returning to open session:

Baum moved to grant approval to take the exam a fifth time, with two test dates offered- October 6 (registration date of September 1) and the January 2017 examination date which has not yet been set).

Seconded: Menicucci seconded.  
Passes unanimously

ITEM 11: Applicant Maria Sophia Tadrum requests to take the National Physical Therapy Examination for Physical Therapist's Assistants a third time.

Chairman Baum noted that applicant's name was misspelled in the agenda item, and is actually "Taduran".

Motion to enter closed session: Baum  
Seconded: Menicucci  
Passes unanimously

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After returning to open session:

Menicucci moved to grant approval to take the exam a fifth time, with two test dates offered -April 6 (registration date of March 2) and July 6 (registration date of June 1).

Seconded: Baum  
Passes unanimously

Item later recalled (after applicant departed) to note that her fingerprint exemplars in support of her licensure application expired on October 27, 2015. Staff advised that this expiration will not prevent her from sitting for the examination once again, but her fingerprints would need to be redone if she does pass, in order to receive her license.

Baum moved to direct staff to notify applicant of this issue.

Seconded: Smith  
Passes unanimously.

ITEM 12: Applicant Guadalupe A. Mendez requests to take the National Physical Therapy Examination for Physical Therapist's Assistants a fifth time.

Motion to enter closed session: Menicucci.  
Seconded: Smith  
Passes unanimously

After returning to open session:

Smith moved to grant approval to take the exam a fifth time, with two test dates offered -July 6 (registration date of June 1) and October 6 (registration date of September 1).

Seconded: Menicucci  
Passes unanimously

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ITEM 13: Applicant Gary L. Smith requests to take the National Physical Therapy Examination for Physical Therapist's Assistants a fifth time.

Chairman Baum noted for the record that although Mr. Smith did receive notice of today's meeting, he was not present. Rebecca Cheema, PTA, Program Director at the Pima Medical Institute noted that she was unable to support this request because Mr. Smith's plan of study for the subsequent exam had not yet been approved. Chairman Baum noted that Mr. Smith had submitted a letter asking that the Board add this item to its May meeting agenda. No action taken.

ITEM 14: Applicant Alexandra Melody Santos requests to be licensed and appears to address the results of her fingerprinting and arrest record.

Motion to enter closed session: Menicucci.  
Seconded: Smith  
Passes unanimously

After returning to open session:

Smith moved to grant licensure to Ms. Santos.

Seconded: Baum  
Passes unanimously

ITEM 15: Applicant Husayn Howard requests to be licensed and appears to address the results of his fingerprinting and arrest record.

Motion to enter closed session: Baum  
Seconded: Menicucci  
Passes unanimously

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After returning to open session:

Smith moved to grant licensure to Mr. Howard.

Seconded: Baum

Passes unanimously

ITEM 16: Applicant Juston W. Pace requests to be licensed and appears to address the results of his fingerprinting and arrest record.

Motion to enter closed session: Baum

Seconded: Menicucci

Passes unanimously

After returning to open session:

Menicucci moved to grant licensure to Mr. Pace.

Seconded: Baum

Passes unanimously

ITEM 17: Applicant Yin Falk requests to be licensed and appears to address the results of his fingerprinting and arrest record.

Motion to enter closed session: Baum

Seconded: Smith

Passes unanimously

After returning to open session:

Smith moved to grant licensure to Mr. Falk.

Seconded: Baum

Passes unanimously

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ITEM 18: Review and approval of minutes for Board meeting of November 6, 2015.

Chairman Baum indicated that, despite requests to Mrs. Tresca, she never received a complete recording of this meeting to confirm if the minutes are accurate. Baum stated her belief that the draft minutes, as written may not accurate. Baum expressed the concern that the Board needed to be careful on this issue to ensure that the minutes reflect what actually happened.

Member Menicucci stated that because of the issues surrounding the Executive Director, the Board needed to examine prior Board meeting minutes and audits.

Member Smith indicated her belief that certain things in the minutes were misstated, which gave her concerns about its general accuracy.

Menicucci moved that the recordings of the Board's November 6, 2015 meeting be sent for transcription and minutes created from that transcript for review and approval at a subsequent meeting.

Seconded: Baum  
Passes unanimously

ITEM 19: Review and approval of minutes for Board meeting of December 14, 2015.

Board Member Menicucci moved that the recordings of the Board's December 14, 2015 meeting be sent for transcription and minutes created from that transcript for review and approval at a subsequent meeting.

Seconded: Baum  
Passes unanimously

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ITEM 20: Review and approval of executive session minutes for Board meeting of December 14, 2015.

Board Member Menicucci moved that the recordings of the Board's December 14, 2015 executive session minutes be sent for transcription and minutes created from that transcript for review and approval at a subsequent meeting.

Seconded: Baum  
Passes unanimously

ITEM 21: Update of activities of the Board office.

1) Update on moving towards a live website and going paperless.

Chairman Baum asked that this item be tabled to the Board's March 2016 meeting for the contracts related to this item be reviewed by the Interim Executive Director for possible renegotiation.

2) Review and approval for budget for fiscal year 2015/16.

Member Smith noted that a budget had not been received for fiscal year 2015/2016 and moved that the Board not approve this item for this reason.

Seconded: Baum  
Passes unanimously

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3) Review and approval for budget for fiscal year 2016/17.

Chairman Baum asked that this item be tabled to the Board's March meeting since no budget had been received for the Board's consideration.

4) Review of employment history and contract of the Executive Director.

Chairman Baum noted that she had asked for a copy of this agreement on several occasions and Mrs. Tresca had indicated she had one, but never provided it to Baum. No action taken.

5) Review of employee handbook.

Member Menicucci stated that this needed to be reviewed and, in light of the situation involving the previous Executive Director, significant changes needed to be made to ensure that policies are clear and are followed. Menicucci also wants to draw on OT Board's Executive Director, Loretta Ponton's experience with employee handbooks for state boards to help improve this Board's materials.

Chairman Baum moved that she and Menicucci, in consultation with the Board's Legal Counsel, review this document with the Interim Executive Director to edit and solidify the finished product.

Seconded: Menicucci  
Passes unanimously

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6) Review of policy manual.

Chairman Baum moved that she and Menicucci, in consultation with the Board's Legal Counsel, review this document with the Interim Director to edit and solidify the finished product.

Seconded: Menicucci  
Passes unanimously

7) Review of the Executive Director, Allison Tresca's, performance, job description, job duties, and matters properly related thereto.

Richard Dreitzer, Board Counsel advised the Board that, ordinarily, an item of this nature would be conducted in closed session since the item was designed to consider the character, misconduct or professional competence of an individual. However, because the Executive Director is an appointed public officer who serves at the pleasure of the Board and the subject matter of the item relates to the Executive Director's performance in this capacity, it is required that this item be conducted in open session pursuant to NRS 241.031 (1)(b) and (2).

Public Member Andrea Menicucci noted that Board Counsel, Richard Dreitzer and the Executive Director have a longstanding and close friendship. Menicucci then asked Dreitzer whether, in light of this fact, he felt comfortable in representing the Board as to these issues. Dreitzer stated emphatically that the Board is and has always been his client, and not any particular individual working for the Board, and for that reason, his loyalty is and must be to the Board. Dreitzer added that he has no difficulty whatsoever in representing and advising the Board as to these issues, that he is ethically obligated to do so and takes this obligation very seriously. Board Member Menicucci then expressed her appreciation for Dreitzer's candor.

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Chairman Baum noted that the Executive Director was properly served with notice of this particular item pursuant to NRS Chapter 241 and Richard Dreitzer, Board Counsel confirmed this.

Chairman Baum then advised the Board of the following chronology:

Friday, February 5, 2016, 9:00 a.m.:

Allison Tresca, Executive Director, was served with a notice to appear for this meeting. When served, Mrs. Tresca refused to sign the document. Baum advised that she did not leave a copy of the notice with Mrs. Tresca, but immediately emailed her to ask if she would like a copy of the notice, which she declined, stating, " No, that's fine. You will have my resignation letter shortly."

Tuesday, February 9, 2016:

Mrs. Tresca was not present at the Board office for most of Monday, February 8, 2016 and all of Tuesday, February 9, 2016. Because the Board is ultimately responsible for posting the agenda for Board meetings, under the circumstances, Baum sought assistance to ensure that the agenda was posted in accordance with Nevada's Open Meeting (OML.) Upon reviewing the draft Agenda, Baum learned that the agenda might not be compliant with the OML, as written. Baum then made the decision to modify the agenda to comply with OML and post it, thereafter.

Baum noted that it is the procedure of the Board for the draft agenda to be prepared by Mrs. Tresca and then sent to the Chairman and Board Counsel for their approval. This was completed.

Baum noted that NRS 241.020(2)(d)(2) - (2) sets forth a list describing the items on which action may be taken at a

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meeting of the Board and clearly states that action may be taken on such items by placing the term “for possible action” next to the appropriate item or, if the item is placed on the agenda (pursuant to NRS 241.0365), by placing the term “for possible corrective action” next to the appropriate item.

Baum further noted that Nevada Attorney General Open Meeting Law Opinion OMLO 2003-13 (March 21, 2003) provided that items upon which the Board intended to take action had to bear the phrase “for possible action” on the Board’s agenda. This Opinion made clear that it is no longer sufficient to place the term “action” next to the item or to place an asterisk next to the item to signify that it is an action item. Baum noted that the draft agenda prepared by Mrs. Tresca did not contain this language.

Tuesday, February 9, 2016, 10:03 p.m.:

Baum advised that on this date and time, Mrs. Tresca emailed Ms. Jolene Polish with the Nevada Public Employees Retirement System (PERS), stating “...please note that I am resigning as of today, so I will not be the contact for these any longer. I am certain they will fill the position soon.”

Baum also noted that on this same date and time, Mrs. Tresca emailed Ms. Polish four (4) completed 502 forms (a form that the Board is required to submit to PERS on a monthly basis) for the months of October, November and December 2015, as well as January 2016. With the message “I have attached October, November, December and January...”

Baum also noted that in accordance with the Executive Director Work Performance Standards Form created to define and measure the effectiveness of the Board’s Executive Director, Mrs. Tresca was required to file monthly retirement contribution reports with PERS on a monthly basis, in accordance with state requirements.

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Baum also advised that she became aware of a prior email from Ms. Polish at PERS (on January 20, 2016 at 11:17 a.m.), stating, "I see that we have the October and November 503 loaded into our system however I cannot find a copy of the 502 cover sheets. Also, I have not received anything for December and the due date for that was yesterday. FYI, we must have all 3 parts (502, 503 and deposit) of the W & C Reports by the due to avoid any penalties. If you have an original email or fax confirmation listing the date of when you originally sent these in we will use that date..." Thus, Baum advised that Mrs. Tresca had been several months behind in filing the Board's monthly disclosures with PERS and made a last ditch attempt to correct the problem at the time of her resignation on February 9, 2016, to no avail.

Baum further noted that after reviewing this exchange, she and Muriel Morin-Mendes, Licensing Coordinator, reviewed some of the Board's past PERS monthly disclosure forms and discovered numerous errors as to amounts and dates. Baum then corresponded with Ms. Polish to advise her of these errors and correct them. Baum also indicated that, in order to bring the Board into compliance with PERS requirements, she authorized the posting of payments to the oldest invoices in order to avoid PERS' assessment of penalties against the Board.

Tuesday, February 9, 2016, 10:28 p.m.:

Baum advised that on this date and time, Mrs. Tresca sent an email to all Board members indicating that Ms. Tresca was unable to work from February 9 through February 12, 2016 and can return to work on February 15, 2016. Baum also reminded the Board that the prior email Mrs. Tresca sent to PERS (submitting the forms mentioned earlier) occurred on February 9, 2016 at 10:03 p.m., at a date and time when Mrs. Tresca was purportedly not able to work.

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Thursday, February 11, 2016, 6:47 p.m.:

Mrs. Tresca provided official notice to the Board of her resignation via email. Baum then referenced an excerpt from the Board's Employee Handbook indicating the following: "Should an employee of the [Board] elect to resign their position, it is requested that the employee so advise the ED [or, in this case the Board] at least 2 weeks prior to your proposed date of departure..." Baum noted that Mrs. Tresca failed to provide any notice period to the Board whatsoever, notwithstanding the Board's request that she provide at least two (2) weeks notice.

Wednesday & Thursday, February 10 & 11, 2016:

Baum noted that in accordance with the Executive Director Work Performance Standards Form created to define and measure the effectiveness of the Board's Executive Director, Mrs. Tresca was required (as part of her "Office Management" duties) to oversee the planning and execution of Board and Committee meetings, including arranging for counsel, court-reporter, catering and making such arrangements with 100% accuracy.

Baum then stated that on February 10, 2016, she and Licensing Coordinator Muriel Morin-Mendes discovered that an applicant [name withheld] was noticed to appear on the February 15, 2016 meeting agenda, but was not placed on the agenda by Mrs. Tresca. Baum indicated that they then called this applicant and confirmed that he planned to attend the February 15, 2016 meeting. Baum further indicated that Morin-Mendes advised the applicant that the Board was unable to take any action regarding his appearance as Mrs. Tresca had not placed him on the agenda. The applicant advised that he would appear anyway.

Baum also relayed that on February 11, 2016, Morin-Mendes discovered that another applicant [name withheld] had been noticed to appear on at the February 15, 2016 meeting, but

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Mrs. Tresca had not added the individual to the agenda. Baum further relayed that Morin-Mendes spoke with the applicant and he was very upset that he had been omitted from the Board's agenda for the meeting. Morin-Mendes then advised the applicant that the matter could not be heard by the Board at the February 15, 2016 meeting.

Baum then explained that all of the events just described occurred subsequent to Mrs. Tresca being served with notice of this agenda item at today's meeting.

Baum then further explained that the events which caused her to notice the item (i.e., events that occurred prior to the service to Mrs. Tresca of the meeting notice) were as follows:

1. Baum noted that in accordance with the Executive Director Work Performance Standards Form created to define and measure the effectiveness of the Board's Executive Director, Mrs. Tresca was required (as part of her "Financial Management" duties) to prepare the Board's budget and work annually with the Board's Secretary / Treasurer to finalize it before the commencement of the next fiscal year. Baum then drew the Board's attention to Item 21 (2) of today's Board meeting which references the "Review and Approval for the budget for fiscal year 2015 / 2016." Baum noted that the timing of this item (i.e., well into 2016) meant that Mrs. Tresca had not met this standard for her performance.

2. Baum also noted that prior Board Chairman Louie Puentedura and other Board members had instructed Mrs. Tresca to provide Meeting Minutes and Executive Session Minutes no later than two (2) weeks after a Board meeting.

Baum then stated that the Board's Executive Session Minutes for its November 6, 2015 and December 14, 2015 meetings were not completed within the required two (2) week timeframe.

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January 13, 2016, 8:50 a.m.:

Baum explained that she walked into the Board office on this date and time to address the fact that minutes of the Board's November 6, 2015 and December 14, 2015 meetings had not yet been distributed, despite being agendaized for approval at the Board's upcoming meeting. In prior correspondence with Mrs. Tresca, Mrs. Tresca indicated that this was due to "emails bouncing back." Baum explained that she then asked Mrs. Tresca for a copy of the Executive Session Minutes to be distributed to the Board, and Mrs. Tresca again referenced that she had "proof" of emails bouncing back since she had taken a picture of them with her cell phone.

Baum explained that she then advised Mrs. Tresca that she was not interested in the pictures, but simply wanted a printout of the minutes since Mrs. Tresca had indicated they were already done, and that a technology problem had prevented their distribution to the Board members. Baum then relayed that after numerous requests, Mrs. Tresca finally admitted that the minutes in question were not done and that she was in the process of "spell checking them now".

Baum further explained that the Executive Session Minutes in question were finally emailed to the Board members on January 13, 2016 at 12:58 p.m. Baum then clarified that this meant the Board's Executive Session Minutes were approximately nine and a half (9 ½) weeks late following the Board's November 6, 2015 meeting and four and a half (4 ½) weeks late following the Board's December 14, 2015 meeting.

Baum also stated that the regular Board minutes for its November 5, 2015, November 6, 2015 and December 14, 2015 meetings were not completed within the required two (2) week timeframe, either. Baum noted that these minutes were all provided to Board members on January 13, 2016 at 10:22

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AM, making them approximately eight and a half (8 ½) weeks late and four (4) weeks late, respectively.

3. Baum then discussed her general concern that the Board's meeting minutes might not reflect the "substance of the meetings", as required under NRS 241.035(1)(c), which states as follows:

1. Each public body shall keep written minutes of each of its meetings, including:

(a) The date, time and place of the meeting.

(b) Those members of the public body who were present, whether in person or by means of electronic communication, and those who were absent.

(c) The substance of all matters proposed, discussed or decided and, at the request of any member, a record of each member's vote on any matter decided by vote.

(d) The substance of remarks made by any member of the general public who addresses the public body if the member of the general public requests that the minutes reflect those remarks or, if the member of the general public has prepared written remarks, a copy of the prepared remarks if the member of the general public submits a copy for inclusion.

(e) Any other information which any member of the public body requests to be included or reflected in the minutes.

Baum then indicated that during the Board's January 14, 2016 meeting, she moved that the Board not accept the prepared draft minutes of its November 5-6, 2015 and December 14, 2015 meetings since she felt that the drafts may have not accurately represented the discussions at those meetings. Baum specifically referenced Item 33 at the Board's December 14, 2015 meeting, which Baum felt contained discussions relating to the objectives that were discussed for Mrs. Tresca's Performance Review that she was going to prepare for the

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Board's January 14, 2016 meeting, but were not documented in the minutes as discussed.

Baum then stated that following the December 14, 2015 meeting, she made numerous requests of Mrs. Tresca for a recording of that meeting to compare it with the draft minutes that had been provided to the Board. Baum clarified that she initiated this request of Mrs. Tresca on January 15, 2016. In response, she received excuses which varied from,

- "I need to find which recorder it is on, and legally it should not leave the office...";
- An offer to "splice the section" that Baum had requested;
- That Mrs. Tresca needed, "several hours to record" the meeting for Baum's review;
- That Mrs. Tresca had other things to do;
- That Mrs. Tresca had "... 2 recorders, however, the one won't upload, which is why I ordered a new one...";
- That Mrs. Tresca was going to "put the recorders together in a closet and record from one to the other...";
- That she [Baum] was then informed she could come get it but it was the Board's only copy. Baum indicated she felt uncomfortable about removing the only copy of the Board's proceedings out of the office.
- Mrs. Tresca then gave a recorder to Baum to review the tape, but when she tried to listen to the meeting, there was no ability to start, stop, fast forward or rewind the recording. After being informed of these problems, Mrs. Tresca then gave Baum a "thumb drive" on February 5, 2016 that was supposed to contain the

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requested minutes. Baum then listened to the recording but it only contained one hour and thirty-three (1:33) minutes of the November 6, 2015 meeting, thru Item 23 on that agenda. Baum indicated that Mrs. Tresca never provided her with the December 14, 2015 meeting minutes.

4. Baum noted that in accordance with the Executive Director Work Performance Standards Form created to define and measure the effectiveness of the Board's Executive Director, Mrs. Tresca was required (as part of her "Communications / Reporting" duties) to maintain information on the Board's website and update the site, as changes occur, within five (5) days.

Baum indicated that on January 16, 2016 at 7:41 a.m., she requested that Mrs. Tresca update the Board's website and the Federation of State Boards of Physical Therapy (FSBPT) website to reflect that new Board officers had been selected. Tresca responded to Baum on January 18, 2016, at 6:05 p.m, indicating that the FSBPT website had been updated and that a request had been sent to the webmaster as to the Board's website.

Baum noted that these actions should have been completed five (5) days after the November 6, 2015 Board meeting when the nominations and elections for Board officers actually took place. Baum further noted that these changes were made ten (10) weeks after the November 6, 2015 meeting – far more than the five (5) day limit that was required by the Board.

Baum then made the following observations as to the Mrs. Tresca's performance as Board Executive Director following the service of her notice of this hearing on February 5, 2016:

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Baum noted that in accordance with the Executive Director Work Performance Standards Form created to define and measure the effectiveness of the Board's Executive Director, Mrs. Tresca was required, as part of her "Office Management" duties, to be "Responsible for all operational aspects of the Board office – Provide prompt, courteous, accurate and reliable service." Furthermore, pursuant to Mrs. Tresca's "Financial Management Duties" to "Create invoices and post payments for applications, renewals, fines, lists, etc.," "Process invoices immediately upon receipt" and with regard to accounts payable invoices, "Review for accuracy upon receipt and pay before due date to avoid late fees."

1. Baum noted that Mrs. Tresca had failed to discharge these obligations in the following instances:

- a. Stanley Security – Invoice of 11-23-15, Past due date 12-28-15, letter dated 2-8-16 and received in the office on 2-12-16;
- b. Pitney Bowes – account balance \$526.71 – received in the office on 2-9-16 – "our records indicate that your payment of \$30.00 has not yet been received and your account is now 75 days past due."
- c. Century Link - Bill date 1-18-16, received in the office 1-28-16, due date 2-10-16, "just a friendly reminder that your account is past due. If you have already made your payment, thank you for bringing your account up to date."
- d. Wells Fargo – Date – 2-2-16, returned check due to "stale date", uncashed check for

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Continuing Education from Summit – check was dated 7-17-2015.

- e. Board Counsel – Richard Dreitzer informed Baum on February 13, 2016, that his firm is owed \$13,000 for invoices from 2014-2015. Mr. Dreitzer also noted that he addressed this issue with Mrs. Tresca in December, 2015 and was told, “it’s just going to have to wait, I have too many other things going on...”

2. Baum described her concerns of Mrs. Tresca’s apparent use of a Board account for personal reasons. Baum discussed her review of a FedEx Invoice dated 11-6-15, referencing a “Shipment from Board office on 10-08-15 and 10-20-15”, which was addressed to Mrs. Tresca’s daughter (Rebecca Franssen) at UNR/Reno. This was unrelated to any Board activities that Mrs. Tresca was conducting. Baum then indicated she then conferred with the Board’s bookkeeper, Mrs. Woods, to determine if reimbursement had been made to the Board for this personal expense. Mrs. Woods indicated that she had never received any reimbursement from Mrs. Tresca for any reason.

3. Baum indicated that on Saturday, February 13, 2016 she spoke with the Board’s legal counsel, Richard Dreitzer. Mr. Dreitzer showed Baum a file, that included a resignation letter from Lawrence Mooney (a prior Board Investigator), “Summary of Allegations” regarding previous complaints against Mrs. Tresca, and notes from a meeting regarding these complaints that took place on December 11, 2012. Dreitzer indicated that persons in attendance at this meeting were himself, Mrs. Tresca, and then-Chairman, Kathy Sidener. Baum explained that the summary of the meeting outlined a series of

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“Management Issues” that were to be addressed and changed. Baum’s review of this material revealed that the concerns/complaints raised at that time were dealt with in an internal meeting, and were very similar to the allegations described elsewhere in this current agenda item. Baum emphasized that most of the issues touched on during this discussion had been the subject of this previous meeting with Mrs. Tresca in 2012.

4. Baum spoke of an additional concern as to Mrs. Tresca, that arose from Baum’s review of the Board’s November 6, 2015 meeting minutes. Baum explained that at that meeting, when the Board reviewed its then-current financials, a question arose regarding two (2) checks made payable to Mrs. Tresca – one direct deposit and one handwritten check. Baum related that, at that time, Board Member Smith inquired about these checks and was informed by Mrs. Tresca that the Board’s bookkeeper, Mrs. Woods, had a specific process for direct deposit and manual checks which had been followed. Mrs. Tresca then deflected any further discussion of these items at that time. Baum then related that upon questioning Mrs. Woods, Baum learned that Ms. Woods was not aware that Mrs. Tresca had created a manual check until after it had already been cashed, and revealed that the check was to Mrs. Tresca herself, allegedly to reimburse her for time off that she believed that the Board owed her in the form of compensation.

Baum then indicated that the items described herein do not represent a complete list of all of her concerns regarding Mrs. Tresca, but merely the items where objective information was available to substantiate her concerns. Baum added that as the Board’s Chairman, she would be filing an official complaint with the Nevada

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Attorney General's Office so that a full audit and investigation is conducted.

Motion to enter closed session for an attorney / client meeting: Baum  
Seconded: Smith  
Passes unanimously

After returning to open session:

Menicucci moved to accept the resignation of Allison Tresca as Executive Director for the Board, remove her from all Board business accounts immediately and designate Chairman Baum, Licensing Coordinator Morin-Mendes and Bookkeeper Woods as the Board's signatories for financial purposes, as needed.

Seconded: Smith  
Baum votes Aye  
Menicucci votes Aye  
McKivigan votes Aye  
Fearnley votes Aye  
Smith votes Aye  
Passes unanimously

Chairman Baum then moved that the Board formally request that Mrs. Tresca provide all necessary information to close out her position with the Board.

Seconded: Smith  
Passes unanimously

Chairman Baum then moved to form a subcommittee empowered to hire an Interim Executive Director for the Board, with herself and Member Menicucci as its members.

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Seconded: Smith  
Passes unanimously

Chairman Baum then indicated that the position of Executive Director for the Board would have to be posted for all members of the public to apply. Baum further indicated that a portion of the work of the Board's Interim Executive Director will be to create the notice of this vacancy and draft a workable job description for the position. Baum further indicated that this change represented a good opportunity for the reorganization and expansion of Licensing Coordinator Morin-Mendes' position with the Board and Morin-Mendes welcomed this opportunity. Baum further indicated that Morin-Mendes was free to apply for the Executive Director's position if she wished.

Chairman Baum then recommended that the Board consider Mrs. Loretta Ponton, currently the Executive Director of the Nevada Occupational Therapy Board, to serve as this Board's Interim Executive Director, with her involvement not to exceed three (3) months.

Baum clarified that she had discussed this possibility with Ponton, who was amenable to undertaking the interim position with the understanding that because she was based in Reno, her ability to fly to Las Vegas was limited, but that others that were part of her staff, could do so. Baum also stated that Ponton wanted to clarify that her primary duties would remain with the Occupational Therapy Board.

Board Member Menicucci raised the concern as to whether it would be possible for Ponton to handle things remotely from Reno, on a short term basis.

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Chairman Baum indicated that Ponton had done such things in the past for other Boards and had staff that could present on site, while she remained available by email and telephone as needed. Baum further indicated that the GL Suite software that the Board was in the process of transitioning to, was quite expensive in the long run. But, Baum suggested that Ponton had great familiarity with GL Suite and could possibly renegotiate any contracts related to the software to make them more affordable for the Board. Baum then directed that the issue of Ponton's interim appointment as Executive Director be added to the agenda for the Board's March 2016 meeting.

Baum then asked legal counsel as to the process to be followed in posting the vacancy as required. Dreitzer replied that he would have to research the issue.

Board Member Smith moved that the Board empower Chairman Baum and Member Menicucci to finalize a job description for the Executive Director position, consult with Board Counsel Dreitzer as to the steps to be followed to post the opening properly, conduct interviews applicants for the position and present final candidates to the Board for approval at a future meeting.

Seconded: McKivigan  
Passes unanimously

Board Member McKivigan indicated that he will review the financial records of the Board to follow up on specific items of concern related to Mrs. Tresca's activities as Executive Director.

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Board Member Menicucci recommended that the Board provide more oversight of financial activities in the future so that not all such functions begin and end with the Executive Director. Menicucci stated that this situation calls prior audits of the Board into question, but practicality requires that the Board address one audit at a time. Menicucci emphasized that she doesn't want the Board to question prior audits right now, but also doesn't want to let this issue go.

Menicucci moved that the Board move forward on the scheduled biennial audit of the Board and, based upon the results of this audit, determine whether it makes fiscal sense to examine prior audit years.

Seconded: Baum  
Passes unanimously

Chairman Baum noted that Bookkeeper Woods had requested the Board's Employee Manual and Policies and Procedures from Mrs. Tresca but had never received them. Baum noted that there are a lot of unanswered questions in this situation.

Member Menicucci expressed the concern that Mrs. Tresca was not present for a series of days around the holidays and was out for an entire week in July, 2015 before license renewals.

Chairman Baum noted that from her discussions with Bookkeeper Woods, Mrs. Tresca had never actually recorded taking a vacation, but only cashed it out.

Baum moved that the Board formally request that all records in Mrs. Tresca's possession regarding sick and

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vacation time taken since completion of the Board's last audit be provided to the Board for cross-referencing.

Seconded: McKivigan

Passes unanimously

Member Smith indicated her strong belief that the Board had an obligation to the people of Nevada to follow this up.

Baum stated her sense that things will continue to surface regarding this situation and that the Board will pursue it as appropriate, whether criminal or civil in nature. Baum indicated her belief that a two year criminal statute of limitations exists on the acts she believe have taken place here. Counsel advised that this statute of limitations exists from the time information is discovered, not the time that it occurred.

Member Menicucci emphasized that the Board needed to correct these issues so that they don't happen again and wants the Board to be fiscally responsible at all times.

Chairman Baum suggested that this item be placed on the agenda for the Board's March meeting for progress updates.

Member Smith moved that the Board task Chairman Baum with the authority to provide instruction to Licensing Coordinator Morin-Mendes during the interim period prior to the hiring of a new full-time Executive Director, to include the taking of any necessary actions related to this investigation.

McKivigan seconded.

Passes unanimously

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8) Executive Director's determination of goals for 2016.

No action taken; moot at this time.

9) Review of employment history, contract, job description and title of the Licensing Coordinator. (For Possible Action)

Chairman Baum indicated that, during Mrs. Morin Mendes annual review (2015) with Mrs. Tresca, Mrs. Tresca advised that Mrs. Morin Mendes functions better mirrors that of an Executive Secretary and not merely a Licensing Coordinator. Chairman Baum spoke of the possibility of modifying her job description and title to reflect her actual job duties

Member Menicucci indicated that the Board needs to examine Morin-Mendes' current job description to incorporate the reality of her job.

Morin-Mendes asked that the Board keep her job title as is for the time being, but that she will review and modify her job description to reflect what she does.

Menicucci moved that the Board review Morin-Mendes' compensation to make sure it reflects her job and that she be compensated for any additional time she spends at work during this period, consistent with her status as Part Time, Salaried (i.e., exempt) Employee, and Menicucci further moved that Morin-Mendes' hours be modified to 8:30 a.m. to 4:00 p.m., with a half hour lunch from 12:00 p.m. to 12:30 p.m.

Baum seconded.

Passes unanimously

10) Review of the employment history and contract of legal counsel.

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Chairman Baum noted that the Board had not entered into an updated fee agreement with Dreitzer, despite his having moved to a different law firm in recent years.

Chairman Baum then asked Dreitzer to do the following in preparation for the next meeting of the Board:

1. Provide a fee agreement with Dreitzer's current firm for the Board's review and approval.
2. Provide Bookkeeper Woods with a breakdown of all payments made to his firm over the last two years, so that the Board can address the issue of Dreitzer's unpaid invoices.

Chairman Baum also suggested that Dreitzer adjust the types of updates he provides the Board on a regular basis so that the Board has a better idea of what is being expended on each matter and what is expected in the future. Dreitzer responded that he was pleased to do so and would implement the Board's suggestions immediately.

Dreitzer also waived any notice requirement for the consideration of his contract with the Board at its next meeting.

11) Review of employment history and contract of bookkeeper.

Baum moved that Bookkeeper Woods be requested to appear at the Board's March meeting to review the Board's bookkeeping procedures, report on the results of the material sent by legal counsel and understanding of how she has been directed to address the Board's finances.

Seconded: Menicucci  
Passes unanimously

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12) Review of employment history and contract of lobbyist.

Chairman Baum noted that the Board has no formal contract with its lobbyist right now that has been approved by the Board.

Menicucci moved that lobbyist Paula Berkley provide the Board with updated proposal for services based upon recent events and services she anticipates needing to provide through the next legislative session, and further moved that Board Member Smith be tasked with meeting with her to review the current proposed changes from the previous workshop for proper language.

Seconded: Baum  
Passes unanimously

ITEM 22: Public comment period.

None.

ITEM 23: Adjournment of the Board meeting.

Adjourn at 3:23 p.m.