



The State of Nevada  
**Board of Physical Therapy Examiners**

**Board Meeting Minutes**

**July 7, 2016**

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 8:49 a.m. Thursday, July 7, by Chairperson Baum.

**Board Members in attendance:** Tina Baum, PT, DPT, WCS, ATC, CLT, Chairperson; Sherise Smith, PT, MSPT, CBIS Vice Chairperson; James McKivigan, DC, PT, MPA, MA, Secretary/Treasurer; Andrea Menicucci, MS, CCC-SLP, Public Board Member; Brian Fearnley, MPT, Board Member;

**Staff in attendance:** Lisa Cooper, Executive Director; Muriel Morin-Mendes, Licensing Coordinator; Chelsea Venturino, Administrative Assistant; Sarah Bradley, Senior Deputy Attorney General; Hal Taylor, Legal Counsel; Paula Berkley, Lobbyist

**Public North:** Deborah Dieter, Con Ed Committee Member, and Investigator,

**Public South:** Jenelle Lauchman, President, NVPTA,

2. **Pledge of Allegiance:**

3. **Public Comments:**

**Keith McKeever** - I showed up for Item number nine; this came up in one of my locations recently, we had an individual that was supervising a graduate and there was a need for the change in supervision. It became apparent after review of the actual statute that, the procedure that is in place does not allow for a secondary supervisor or any opportunity to switch the supervisor with ease whether it is a physical therapist or physical therapist assistant. The current process is that you send in a form for the therapist and either it is approved or not approved by the Board. If the supervising therapist goes on vacation, you need to fill out another form, send that to the Board, and that would need to be approved. What we are suggesting is to either send in an email notification that there is a change in supervision, or have a secondary supervisor in place so you would have a primary and a secondary supervisor in place so if you had a primary supervisor that was available you would have the secondary supervisor in place. We would not have the same administrative burden.

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**Jenelle Lauchman, President NPTA** – Madam Chair, I would like to know if I can speak on item number four during the item or do I need to provide public comment now.

**Tina Baum, Chairperson** – Let us take the comment now.

**Jenelle Lauchman, President NPTA** – I received some questions from the Board, regarding the DPT. I think the new bill language will answer two questions. One of the questions that was brought up was how does the Board deal with someone who does not have a license? This NRS only deals with the public display of DPT. They can use DPT to sign a check; they can use DPT to sign whatever. They can use it in an everyday context, this NRS only deals with, they cannot hang a shingle out stating they are a physical therapist. They cannot practice physical therapy, and that is the only thing this NRS is dealing with. So we changed the language on that; the other thing is the definition of DPT. We went back through the model practice language that defines DPT in this language, so hopefully, those two things will help clarify why we are defending these today. I do need a vote on this language today if you are going to support us. I need to have the language into LCB by tomorrow. Any questions for me?

**Tina Baum, Chairperson** – Can I have you explain the 1<sup>st</sup> one again?

**Jenelle Lauchman, President NPTA** - Yes, a question that had been brought to our attention by the Board was what do you do when the person graduates either with a PT or PTA degree/school, gets the degree and wants to use the designation. They can still use that degree designation, they can sign a check with it, they can sign a document with it, whatever it is they want to use. They just cannot tell the public that they are practicing physical therapy. They are not licensed to practice physical therapy, and that would be a violation of our NRS. So they can use DPT in, they can publish, whatever it is they want to do with DPT they just cannot go to the public and say, they are practicing as a DPT. We went with more of the model practice; I hope that answers the questions you have.

**Tina Baum, Chairperson** – Thank you for reviewing that again.

**Jenelle Lauchman, President NVAPTA** - I will be available for questions during Item #4 as well.

**Tina Baum, Chairperson** – You said you have a meeting between 10:00 and 2:00?

**Jenelle Lauchman, President NVAPTA** - I have a meeting between 11:00 and 2:00.

**Tina Baum, Chairperson** - Any other public comment?

#### 4. Review, Discussion, Action on the Bill Draft Sponsored by the Nevada Physical Therapy Association (For Possible Action)

A. Option 1

B. Information from the Federation of State Board of Physical Therapists

**Tina Baum, Chairperson** – Review, Discussion, Action on the Bill Draft Sponsored by the Nevada Physical Therapy Association (For Possible Action)

**Lisa Cooper, Executive Director** – In front of you, you have two options of bills that were submitted by the Association, Item #C is documentation and

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information that Tina requested to have in the Board Package from the Federation. I would suggest that you start with Item #A.

**Tina Baum, Chairperson** – The Option 2, just to clarify is everything in Option 1, except for it is adding NRS 629.076. Is that correct?

**Lisa Cooper, Executive Director** – Yes

**Tina Baum, Chairperson** – Let us take the discussion on NRS 640.024 – I do not think there were any changes made to this from last time?

**Paula Berkley, Lobbyist** – No, I think the only consideration that I would make on this, where it says “not include” and they are taking away the medical diagnosis. In the statute, diagnosis as a word belongs to the Medical Board. So they will come after this bill for this reason.

**Tina Baum, Chairperson** – At least we are clarifying it that it is a medical diagnosis. Hopefully, they understand that we are saying that the term belongs to them, and we are not trying to take it over. Any other discussion on NRS 640.024? No discussion, moving on to the next option. So that I understand from the Board, apparently, someone posed a question to Jenelle, was there anymore comment from whoever asked the question so that I can get some clarification? I am just trying to figure out who asked the questions because I thought it might bring some insight into the subject. One of the concerns that I have with this is, I think all of this is being driven by the American Physical Therapy Association Vision 2020. To move into a DPT, which once all the schools are, and the attrition of the past degrees that are no longer present seems to make more sense in the future, I guess I am concerned about why we are pushing for it now since the use of RPT and LPT are almost nonexistent as well. I appreciate the fact that we are keeping the regulatory designation of a PT in number one, I do like that, I guess I do not know why we are pushing for the two and the DPT.

**Sherise Smith** – My concern is referencing the FSBPT statement regarding this that you have in front of you. I do appreciate that we are looking forward to 2020. However, I do feel that it is a little premature for us as a Regulatory Board to incorporate before it is the only professional designation. Regarding the FSBPT ruling if you look on the last page the FSBPT Board has concerns that support the idea that changing the regulatory designator will be seen by legislators and other professions as a promotion of the profession and beyond the mission and of the Federation and its member licensing boards. Support for this could significantly impact the credibility of the Federation and its members. In reviewing how other professions have dealt with the issue, in the pharmacy case, the educational degree had been changed to a Doctor of Pharmacy, but the regulatory title remained the same. FSBPT found no evidence that a change to the regulatory designator would enhance public protection. That is my concern, and once we are in the year 2020, and it is, in fact, that time, then I think we will have the ability to stand up for this and push it through. My concern is the public protection part vs. the promotion of our profession.

**Tina Baum, Chairperson** – I am going to pause here we have someone joining us. Would you like to introduce yourself?

**Hal Taylor, Board Attorney** – I am one of the attorneys that work for the Board.

**Tina Baum, Chairperson** – One of the reasons I was introducing you now is, I

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was curious as to the legal opinion of someone to be calling themselves a DPT. Whether it was in our statute or not, if they are practicing physical therapy, and they did not have a license to be a physical therapist, and they were calling themselves a Doctorate of Physical Therapy we could go after them, right?

**Hal Taylor, Board Attorney** - There has been some erosion in what we call title protection, licensing law if someone is utilizing the term like DPT or PT to misrepresent his or her qualification for inducing someone to come to them for services that are the violation. I would also like to know what else is in their promotional material? Title Protection is not as strong as it used to be, however, if you can show misrepresenting qualifications then I think it is still a case we can take to prosecution.

**Tina Baum, Chairperson** – So you do not think that the changes they are proposing are going to make a difference?

**Hal Taylor, Board Attorney** – What I did note in there, there was some shell language, and I did think that was a little problematic.

**Tina Baum, Chairperson** – Somewhere else in the NRS it says that you do not hold yourself out to be more qualified than any other person. Maybe it is in Standards of Conduct.

**Lisa Cooper, Executive Director** – Advertising is NAC 640.630 –

**Sarah Bradley, Senior Deputy Attorney General** – NAC 640.630 (2) that is where it says, “Implies that the physical therapist has skill which is superior to that of another physical therapist;”

**Tina Baum, Chairperson** – So if we do not make this designation, it seems like they want to add the DPT, but I am not sure what the goal is of that.

**Brian Fearnley, Board Member** – Are we talking about just the NAC 640.630?

**Tina Baum, Chairperson** – What we are talking about is the 640.170, do you guys have any comments other than what Sherise and I have commented. I would like to take a vote.

**James Mckivigan, Board Member** – I tend to agree with what has been said already.

**Sherise Smith, Board Member** – My only other comment is when we start to have other regulatory designations added like DPT, and I think I brought this up before, that is a degree designation as of 2016. There are also MSPT and MPT - there are a lot of different professional degrees that make more sense than RPT to me.

**Tina Baum, Board Chairperson** – My question is, what difference does it make if a Board agrees on this. If the association wants to pursue it they can, right? I do not know whom should answer that question.

**Paula Berkley, Board Lobbyist** – In the legislative sense, this is something that the Board would regulate so they would need the support or not support. If we are not supporting, they would want to know why we were not supporting. We are basically, going in to testify against the Association which we always want to avoid if we can do that. There are a few things that are in this bill that is not in the previous ones. I know I did not get a chance to look at this, they are putting in a fine for doing this but they are not stating what the fine is, and so it is hard to vote on that. Whether it is reasonable or not it might be that you can have a

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designation for example of 2020 when this is appropriate, we can say as of 2020 we can see this being approved. It is hard to approve something that we do not know what the fines are and is that something you want to fine.

**Hal Taylor, Board Attorney** – I am sorry, it would be the fine for using DPT or for someone that is not licensed using the term?

**Paula Berkley, Board Lobbyist** – It is a violation of paragraph B & E which does not exist, so I am not positive. I was not able to research it.

**Hal Taylor, Board Attorney** – Obviously we do not have the authority to fine people for the use of terms under Title Protection falls under criminal context, and we do not have the authority for fines with regards to that. There is a question whether or not, that is why I would like to see the fine language to see what.

**Paula Berkley, Board Lobbyist** – That is why you might want to ask what the intention is here; I did not get a chance to discuss this.

**Tina Baum, Chairperson** – I think what I am hearing is that regardless if we agree as to whether it should be done or not. There is a question of what the fine would be and what the penalty would be; this is not defined so we cannot vote on something we do not know.

**Lisa Cooper, Executive Director** – The Legislator normally sets the fine during the Committee Meeting.

**Tina Baum, Chairperson** – So this is the way it would normally be.

**Sarah Bradley, Senior Deputy Attorney General** – Right now it says to specify the number of dollars. They want there to be, and usually, there is a not to exceed amount.

**Andrea Menicucci, Board Member** – Paula you also had talked in the past when we start looking at fines and everything, that it has to go through another level of review.

**Paula Berkley, Board Lobbyist** – They will probably push it into ways and means and finance because they view a fine as a tax and tax goes to finance so that will be a hard one, again, I do not know what the intention was here.

**Hal Taylor, Board Attorney** – Here is the problem that I have here. If there is a fine for the use of these terms for misrepresentation, then there will be a fine imposed by this Board. I think we are on the very thin ice at that time in light of the North Carolina Dental Decision. We have the ability to fine and punish unlicensed activity.

**Sarah Bradley, Senior Deputy Attorney General** – Yes, it could be civil and administrative. We have had two District Court Cases, Federal Cases, where they have upheld that using a title is ok. It requires more than that. There are two cases right now that people were calling themselves psychologists who were not licensed, one was a political candidate and said on an advertisement that he was a psychologist, and the court said that was fine the problem would be if the person had been seeking patients. My personal belief is it is hard to protect the use of a title alone without more. I think it is more appropriate when you have an unlicensed person holding themselves out doing those types of things. That is an easier case, and I think the courts would be on board with but just saying that someone cannot use a title alone without more I am not sure that is something

you can enforce easily, and I think the courts do not like that as much. I am still concerned about the DPT; I know you guys are too. It is their degree, and I think it is hard to tell someone that they cannot use initials for a degree that they earned regardless if they are licensed or not.

**Sherise Smith, Vice Chair** – I think what we are questioning in number two is the same in each.

**Paula Berkley, Board Lobbyist** – That was kind of a question I had, in the question of just the DPT, what is the difference between Option one and Option two? It looked like to me Option one had the new scope issue, and Option two had the one that's on Healthcare Professional. It used to be they wanted all three of them, and now they are saying we will do these two or those two. Is that right? I did not understand.

**Tina Baum, Chairperson** – I thought I asked that in the beginning but just to clarify 640.024 should be on both options.

Option 2 should include NRS 640.024, and then the difference is to add the NRS 629.076. Am I correct on that? Does anybody have any more questions are we ready for a motion?

**Motion:** Tina Baum made the motion, I move that we will support the changes from the American Physical Therapy Association for the 640.024 and not support their changes on 640.170 because of the issues we have discussed.

**Seconded:** James McKivigan

**Motion Carries Unanimously**

B. Option 2

**Tina Baum, Chairperson** – Let us talk about Option two, I do not have any issues or concerns, does anyone else? That is the one, should it be 629.029, I have that it should be 629.031, I am not sure where I got that information.

**Sarah Bradley, Senior Deputy Attorney General** – 629.031 is in here too. NRS 629.029, 629.027 and 629.031 are all here. Has there been any discussion on altering this NRS one page as we are not registered we are licensed?

**Sherise Smith, Vice Chairperson** – I think taking out registered makes sense.

**Brian Fearnley, Board Member** – I agree.

**Paula Berkley, Board Lobbyist** – Although you chose not to in our statute you are taking it out of 629 right?

**Sherise Smith, Vice Chairperson** – I think we should remove “registered” from both sections.

**Tina Baum, Chairperson** – I agree.

**Paula Berkley, Board Lobbyist** – that would be a change in our bill, we talked about it but didn't change it. So does that go into the Association Bill change or our change?

**Andrea Menicucci, Board Member** – We regulate the licensure so it should be in ours vs. the Association Bill. I thought we had talked about registered vs. license before.

**Motion:** Tina Baum made a motion to approve changes to NRS 640.029 and NRS 629.031.

**Seconded:** James McKivigan  
**Motion Carries Unanimously**

**Paula Berkley, Board Lobbyist** – For a clarification and my anticipation what I would like to do is draft up potential testimony saying that we support the Physical Therapy Association Bill but have reservations on that one section. I would like to get Rocky to edit it so that it is as kind and professional as possible while still making the point. I will run the language by our Board Liaison so we will have that ready to go. So there will be no surprises.

5. Review, Discussion, Action on the Bill Draft Sponsored by the Board of Physical Therapy Examiners (For Possible Action)

A. BOPT Bill Draft 7.5

**Tina Baum, Board Chairperson** - Review, Discussion, Action on the Bill Draft Sponsored by the Board of Physical Therapy Examiners, For Possible Action

**Paula Berkley, Board Lobbyist** – I sent you two versions so we can discuss whatever you wanted to discuss. If you want to discuss just the changes, then we can discuss those and see if I wrote them up the way you wanted, or we can go through the whole bill again which is the 7.5 one. Which would you rather?

**Sherise Smith, Vice Chairperson** – This is our final vote, then so do we want to go through the whole bill? So we are looking at Item # A.

**Paula Berkley, Board Lobbyist** – The first one is the proposed language changing the name of the Board, we will be changing it to the Nevada Physical Therapy Board. Any discussion on that?

Second one – Same language I think now as the association bill, and we had at one point we decided to leave it in there just in case there was a problem with the association bill we might be able to get ours through. I do not anticipate losing it; I will say that going through the Sunset Committee and Legislative Commission they are constantly making a list, sometimes, they want to put that in law where you have every health care provider you are talking about at the moment in there. Sometimes they just say, give us a break we do not want to come back and change it later on. Just give us everything in 629 which is what we prefer. The third one is one we did some changes to. You need to be aware; I had it from the last time that it was seven Board Members. We went back down to Five. Three members will be Physical Therapists, one Public Member and one member will be a Physical Therapist Assistant or a Physical Therapist. The other change going through is, number eight on the next page, the Board shall comply with the provision of Chapter 241 of NRS, and all meeting of the Board must be conducted according to the Open Meeting Law Chapter.

The New section that we added, (640.035) ABILITY TO APPOINT ADVISORY/SPECIALTY MEMBERS: The Board may, by majority vote, select one or more persons including, without limitation: a physical therapist, a physical therapist assistant, or a member of the public, to serve as an advisory member of the Board. The terms and scope of the advisory members will be determined by the Board. An advisory member may not vote on any matter before the Board.

I took that language from the Audiology, and Speech Pathology Board. I did not purposely mention whether they were going to be paid or not. Since I have the terms and the scope, I left that option open.

**Sherise Smith, Vice Chairperson** – I have one little thing Board should be capitalized the second to the last Board.

**Paula Berkley, Board Lobbyist** – The fourth one, this is the one where we added Physical Therapist Assistant taking the exam for the sixth time in SB 68 from the last session, section two number three has not been disciplined or currently involved in a pending investigation by the corresponding regulatory authority.

The next one, we are combining the Physical Therapist and Physical Therapist Assistant to organize better.

**Sherise Smith, Vice Chairperson** – On number two we do not currently have a grace period so that we will be giving one now?

**Sarah Bradley, Senior Deputy Attorney General** – They are still not allowed to work on the public. If you are expired, you should not be working with the public; you should only be working with the public if you are license is current.

**Sherise Smith, Vice Chairperson** – So they would be able to reinstate it?

**Sarah Bradley, Senior Deputy Attorney General** – Yes, that is standard practice.

**Sherise Smith, Vice Chairperson** – One more clarification, Section three – “determine the manner by which the courses of study or training shall be evaluated for continuing education credit which may include an agency or organization approved by the board.” *Does this open us up to utilize other options other than the ACCE Committee?*

**Paula Berkley, Board Lobbyist** – *The next one is taking out antiquated language that no longer applies. The Board shall maintain a list instead of compile a list. The next part is a licensee address may be deemed confidential by the Board for a good cause. We discussed this last time thinking of domestic violence programs and what I think will happen if it spotted, we will have opposition.*

**Sarah Bradley, Senior Deputy Attorney General** – We are saying that it is confidential to the general public, there is another statute that is saying we can share with other law enforcement agencies. NRS 640.075 Confidentiality of certain records of the Board; exceptions (3) The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency. Normally what that means, if you have a complaint filed against a physical therapist, the complaints are confidential until a complaint and notice of hearing are filed, and the hearing is scheduled. If a police officer says I need to know what is in the file for Mr. Smith, then we would provide everything.

**Andrea Menicucci, Board Member** – Does this enhance by us adding number five?



**Sarah Bradley, Senior Deputy Attorney General** – No, I think what that does, it clarifies that we will withhold addresses if we have good cause, and that would show that someone is in danger.

**Sherise Smith, Vice Chairperson** – Let us leave it in.

**Paula Berkley, Board Lobbyist** – This is the one that is taking out the treatments that technicians should not be doing and finally, it is deletions that needed to be taken out. The last page is instructing the physical therapists assistant and the physical therapists technician.

**Sherise Smith, Vice Chairperson** – Do we need to take registered off of that one?

**Paula Berkley, Board Lobbyist** – Yes, I will make that correction.

**Motion:** Tina Baum I make a motion that we approve all the amendments that Paula and the Board just discussed.

**Seconded:** Sherise Smith

**Motion Carries Unanimously**

B. BOPT Revision 7 Changed Sections

**6. Webinar Presentation from Federation of State Physical Therapy Boards:**

A. Foreign educated physical therapists and supervised clinical practice

B. Performance evaluation tools available

Leslie Adrian, Mark Lane, and Chuck Brown gave the presentation.

**Sherise Smith, Vice Chairperson** – Is the TOEFL something that they do before applying?

Mark Lane, FSBPT – The course does not require any English proficiency, they do not have to pass the TOEFL to get into the program, but they have to have good use of the English language.

Tina Baum, Chairperson – When is this due to start?

Mark Lane, FSBPT – The first class is finishing up and then next class will be September 5<sup>th</sup>.

**Andrea Menicucci, Board Member** – I know that you looked at validity and reliability in your scoring, will you continue to gather that information?

**Leslie Adrian FSBPT** – Yes, we have a link to a poll/survey they must complete the survey to submit the evaluation, we are receiving information from the supervisor and the student about the tools and experience. If there were major shifts, we could look at changing standards down the line. Virginia has been using this tool for over a year, and they are extremely happy with it. If you have any other questions, feel free to reach out to Mark or me.

**7. Review, Discussion, Action of probation policy for applicants and licensees (For Possible Action)**

A. Foreign educated applicant policy

**Tina Baum, Chairperson** – Currently, if an applicant has never practiced in the United States that the applicant is on probation for the term of one year with a primary and secondary supervisors. Now we have the option of having them take the course through Duke University in Supervised Clinical Practice along with the new course work tool that will in place in January 2017.

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**Andrea Menicucci, Board Member** – Would they come in and apply for licensure after they have completed this coursework or we would grant a provisional license while they are doing this course work?

**Tina Baum, Chairperson** – Most of the people that come to us have been out for quite a while.

**Lisa Cooper, Executive Director** – In their line of work and they have not been in the United States system very long.

**Sherise Smith, Vice Chairperson** – How would it work if we thought they needed to take this course, and they were to apply, and the course does not start for a few months, are they working without a supervisor?

**Lisa Cooper, Executive Director** – No, they would be required to have a supervisor while they wait. I would say, if we are going to require this, I would suggest six months of supervision in addition to completing the course.

**Andrea Menicucci, Board Member** – Is there anything in the NAC or NRS that we would have to add to do this?

**Paula Berkley, Board Lobbyist** – The Board gets to decide how to do things pretty much.

**Brian Fearnley, Board Member** – What if you get someone that has applied via endorsement and is connected to this system, would we require them to complete the program?

**Tina Baum, Chairperson** – It depends on how long they have been practicing. If they have been practicing a year or more, we would not. I think that year window is a good reference.

**Andrea Menicucci, Board Member** – I know the components typically were considering Medicare/Medicaid system as well as the clinical competence. It seems that each is coming forward with his or her particular circumstances, whether he or she have practiced in the United States for a short period or whether they have taken the course. If they are in the process, we will have to determine based on where they stand and their experience what the plan is going to be for them for licensure.

**Tina Baum, Chairperson** – We should have some general criteria if they have been out and practicing full time for one year. I would not think anything would be needed.

**Sherise Smith, Vice Chairperson** – Yes, if it is less than a year we should review it.

**Tina Baum, Chairperson** – It is the course, and there is the supervision that is two different things. We may just say they have been out practicing for six months and this other class address cultural differences. We may require one and not the other.

**Andrea Smith, Board Member** – Did I understand that their protocol requires establishing supervisors? We would have that communication, and we would be able to see how they are progressing in the program.

**Tina Baum, Chairperson** – I would like to talk to Virginia and see how they utilize it. What about the people that are on probation now and they have a year probation? Will we offer this to them to complete their probation?

**Lisa Cooper, Executive Director** – I would say yes.

**Sarah Bradley, Senior Deputy Attorney General** – The only thing I can find on this is on Graduation from a Foreign Country is NAC 640.070; it talks about an applicant for licensure who has graduated from a school in another country that is not accredited by the Commission on Accreditation in Physical Therapy Education of the American Physical Therapy Association. Then it says they have to submit an evaluation and indicate that the edition of A Course Work Evaluation Tool for Persons Who Received Their Physical Therapy Education Outside the United States, adopted by reference under subsection two., submit proof, and then that is where it talks about the TOEFL exam. I do not see additional requirements here; this looks like an evaluation program. I recommend that we add some regulations, and we make this process transparent and clear to licensure. It sounds we would like a clearer program; I would work towards that.

**Tina Baum, Chairperson** – How long is this course?

**Lisa Cooper, Executive Director** – Ten Weeks.

**Tina Baum, Chairperson** – My other concern is that the supervisors have to participate.

**Andrea Menicucci, Board Member** – It is more precise vs. having them write a letter, it is a more definitive process.

**Tina Baum, Chairperson** – How often do the supervisors fill out their forms?

**Andrea Menicucci, Board Member** – Midterm 500 hours, 750 hours and 1,000 hours.

**Tina Baum, Chairperson** – We would have a primary and a secondary supervisor just in case.

**Motion:** Tina Baum, I make a motion that we accept the new tools present from Duke University and the supervised clinical practice tools from the Federation of State Board of Physical Therapy to assist in licensing foreign trained applicants. Task our Executive Director in contacting Virginia and find out what their policies are and we can look at our current foreign trained probation people, and we can offer them this as well.

**Seconded:** James McKivigan

**Motion Carries Unanimously**

B. Application with criminal history

**Lisa Cooper, Executive Director** – I need to get an understanding what the Board would like to see for criminal history. Do you want to see everything?

**Tina Baum, Board Chairperson** – I care about non-disclosure.

**Brian Fearnley, Board Member** – Absolutely.

**Tina Baum, Board Chairperson** – Would that be on anything? Let us say it was a petty theft when they were 16 years old.

**Sarah Bradley, Senior Deputy Attorney General** – They still have to disclose, they are swearing that everything in the application is true.

**Tina Baum, Board Chairperson** – Some people think that once they have expunged their record they do not have to disclose.

**Sarah Bradley, Senior Deputy Attorney General** – That is a common problem. The problem is they the process of sealing of criminal history; they ask an attorney to complete the process, and the process is not completed correctly. The applicant, in good faith, believes the process was completed properly, and

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then the background check comes back with something, and now you it appears that they have lied.

**Hal Taylor, Board Attorney** – If there is a current criminal matter pending in the courts, you should question it. If you have arrests and no conviction, that is five years old; you do not want to be taking time to look at that.

**Sherise Smith, Vice Chairperson** – We have had people with numinous arrests but they were not convicted, and that was cause for concern.

**Sarah Bradley, Senior Deputy Attorney General** – The way I think about it, the State Bar, for example, they are very intrusive, and they want to know everything. Part of the reasoning is you want people to be truthful to you. If I disclose everything, then the Board has more of a belief that I will be honest going forward and maybe also that I am acknowledging that I know what is going on in my life. You have a qualification that states good moral character, so the reason you are asking for all of this is to determine “Good Moral Character.” There is no definition of that, but there are guidelines used.

**Tina Baum, Chairperson** – To go back to your question, anything that is non-disclosure, Sarah, I have questions for you, seven years is a hallmark.

**Hal Taylor, Board Attorney** – If you have three DUIs within seven years you will go to the penitentiary. That is the primary reason, which the period if you are abusing to the point that you got your third DUI you are going to prisons for a year.

**Sarah Bradley, Senior Deputy Attorney General** – I think it is too close together. Again they are trying to take into account that at the age of 18 or 19, I might do something dumb and again at 25, but I better be careful that I do not do anything within a seven-year window. I think I have also seen ten years in Licensing Boards.

**Tina Baum, Chairperson** – I think non-disclosure within that seven to the ten-year window we need to take a second look. I am just trying to a get hallmark of things in my mind.

**Lisa Cooper, Executive Director** – So we are looking at domestic violence, elder abuse, repeated substance abuse, crimes against a person, child abuse. I would like to get a feel for what we will be looking for so we can bring something back in policy. There is a difference between no charge and an arrest dismissed per negotiating; there are things that come back on criminal reports that if you do not know what to look for could be missed.

**Brian Fearnley, Board Member** – One thing at Board Member training they discussed that we need to look for: and an example of, one DUI at 2:00 am in the morning on a Wednesday, and you are working at 7:00 am the next morning is a concern.

**Tina Baum, Chairperson** – I feel seven years is the hallmark for me vs. five.

C. Early release from probation for foreign educated licensees

**Lisa Cooper, Executive Director** – Supervisory requirements for probation people, do you require supervision for applicants with a criminal history or is it only foreign educated people?

**Sherise Smith, Vice Chairperson** – We have required supervision for applicants in the past.

**Andrea Menicucci, Board Member** - They had to retest, another fingerprint check and stuff like that.

**Tina Baum, Chairperson** – Primary and secondary just like the other probations.

**Sherise Smith, Vice Chairperson** – Does that sound reasonable Sarah?

**Sarah Bradley, Senior Deputy Attorney General** – Yes, it does. I have not done it very many times. I have done it in the same kind of case where the person wanted to come back, and the Board said, you would need to test and be on probation for a period, and check in with someone, so they do not get stressed and fall back into bad habits.

**Motion:** Tina Baum I move that we task our Executive Director compiling the information we talked about, about the applicant's criminal history and developing our policy on office licensing applicants at our next meeting.

**Second:** James McKivigan

**Motion Carries Unanimously**

#### A. Supervision Requirements

**Lisa Cooper, Executive Director** – Here is the issue that came up. We have a gentleman that is on probation; he has a supervisor and a secondary. The primary supervisor is at one location, and the secondary supervisor is at another location. It is with the same clinic, just two different locations.

**Sherise Smith, Vice Chairperson** – The secondary supervisor, is the person that should be available while the primary supervisor is on vacation, or sick, it should be the person covering if that person is not available. That is my understanding; it should not be they are farming him out to two locations to maximize the use of staff.

**Andrea Menicucci, Board Member** – Is it on site supervision for that individual?

**Lisa Cooper, Executive Director** – This is the way it has been interpreted in the field right now. One supervisor is at one location, and the other supervisor is at the second location and what the Board is saying is not the intention, the intention was one location, primary supervisor, secondary supervisor pending vacation or off time for the primary supervisor.

**Sherise Smith, Vice Chairperson** – It says right here on the form that they sign that is what they signed.

**Muriel Morin-Mendes** – They have done it before with primary and secondary at one location and turn in another form for the second location. On the first form they say Monday, Wednesday and Friday at this location and these hours and on the other sheet they will put Tuesday and Thursday

**Andrea Menicucci, Board Member** – The idea is that they have direct supervision and if they are at multiple locations.

**Tina Baum, Chairperson** – How do you know if they are following plans of care and that there is consistency.

**Andrea Menicucci, Board Member** – My understanding is that it has been that the direct supervision occurs at both sites if they are working and scheduled at multiple sites, and they have a direct supervisor that they can report to.

**Sherise Smith, Vice Chairperson** – The idea is that you have a physical

therapist, not multiple assessing you to be sure that you are performing properly if you are at site A and site B that would be multiple supervisors.

**Lisa Cooper, Executive Director** – This is my thought process, we are here to protect the public if we have a complaint in the field for this person, and he is working at multiple locations that is where I need to have the Board focus at this point. Is it detrimental to have this person working at multiple locations or does the Board want to allow only one location? That is where we will have the issue.

**Tina Baum, Chairperson** – I can tell you that Muriel had me review someone's time for probation when it was up, and I cannot tell you how long it took to figure out who was whom and they had switched so many times it was so complicated. We did not have some of the forms and luckily he kept them. It took me a long time to figure it out.

**Andrea Menicucci, Board Member** – In the past we have allowed multiple sites as in two sites, I believe what Muriel was saying that we allowed.

**Tina Baum, Chairperson** – How well are these people being managed when so many different people oversee them?

**Andrea Menicucci, Board Member** – I think that is where as a Board we have to be careful and be specific which I think we have been.

**Sherise Smith, Vice Chairperson** – I can understand maybe two sites with a primary and secondary at the two sites and the schedule is very consistent.

**Sarah Bradley, Senior Deputy Attorney General** – What is the duty of the supervisor? Are they intended to watch what they are doing or are the supervisors checking the charts when they are complete?

**Tina Baum, Chairperson** – It depends on why we have them on probation, sometimes it is more charting issues, sometimes it is the quality of care, ethics.

**Sherise Smith, Vice Chairperson** – It is to provide onsite supervision and cosign notes, to have a discussion with them about the cases. The supervisor is not in the same room with them; On-site means the same facility.

**Tina Baum, Chairperson** – Let us say you have someone that has drug issues, and there are three people overseeing them may or may not recognize the pattern if there are issues.

**Lisa Cooper, Executive Director** – The Board is going to require a primary supervisor and a secondary supervisor and no more than two locations. The only way we can change these supervisors is if we have documentation from the facility that the supervisor has moved department, job duties or terminated employment with the facility. It is the responsibility of the person on probation.

**Motion:** Tina Baum, I move that we task our Executive Director to start developing a policy for supervision requirements for licensees that are on probation.

**Second:** James McKivigan

**Motion Carries Unanimously**

## 8. Review, Discussion, Action of NRS 640.275 (4) Designation of supervisor for Physical Therapy Assistant (For Possible Action)

- A. Number of supervisors allowed at one time
- B. Frequency in Change of Supervisor

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C. Number of Facilities allowed at one time

D. Definition of Direct supervision NAC 640.008 (1)

**Lisa Cooper, Executive Director** – For supervision, we will allow a primary and a secondary, changes are allowed if they leave the facility or promote out of that position, and this will require a letter from the facility to change. A maximal number of facilities allowed will be two, and the definition of direct supervision is a line of site and immediately available.

**Matt Leveque, Select Physical Therapy** – Madam Chairperson, may I ask some clarifying questions?

**Tina Baum, Chairperson** – Yes.

**Matt Leveque, Select Physical Therapy** – Just two points: number one, you have indicated that there needs to be a notification of a change in supervisor if we have a primary and a secondary. Are you expecting a notification of when it converts from primary to secondary?

**Tina Baum, Chairperson** – Yes.

**Matt Leveque, Select Physical Therapy** – So there has to be a separate letter sent when it changes from primary to secondary.

**Tina Baum, Chairperson** – No, I am sorry, we misunderstood the question. You do not have to send a letter when the secondary takes over for the primary.

**Matt Leveque, Select Physical Therapy** – To the point made early about having the approval of the Board in order for the supervisors to be official, is that going to be received in writing, fax or email and in addition to that is there a certain turnaround time for that to be obtained?

**Lisa Cooper, Executive Director** – I would say 24 hours at minimum for the turnaround time. If you send it in on Friday, you will not receive a response back until Monday.

**Matt Leveque, Select Physical Therapy** – I think that is fair. Thank you, I appreciate it.

**Lisa Cooper, Executive Director** – Currently, we are faxing the documents, we will continue that process.

**Sarah Bradley, Senior Deputy Attorney General** – So number eight is a person that meets every requirement for licensure, except they have not passed the exam.

640.275 subsection 4, A person who has applied for licensure as a physical therapist assistant and who meets the qualification outlined in NRS 640.230, except subsection five thereof, is temporarily exempt from licensure and may practice as a physical therapist assistant during the period of the temporary exemption if: ... They just have not passed the exam.

**Tina Baum, Chairperson** – We will have to place it on the next agenda next meeting.

## 9. Review, Discussion, Action of NRS 640.120 (2) & (3)(d) Temporary license, exemptions from licensing for certain students and applicants (For Possible Action)

A. Number of supervisors allowed at one time

B. Frequency in change of supervisor

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C. Number of facilities allowed at one time

D. Definition of direct supervision

**Tina Baum, Chairperson** – A. The number of supervisors allowed at one time.

**Sherise Smith, Vice Chairperson** – If supervising assistants, technicians, and graduates may the supervisor not supervise a combined total of more than 3? Unfortunately, I think this falls under the same rule as probationary because these are as of now not licensed personnel. In some respect, there is the potential that they will not pass the exam, hopefully not. I do not think we ease up on it because they are graduate students vs. someone on probation I think we still need to be diligent for the protection of the public. What are the issues you are seeing?

**Lisa Cooper, Executive Director** – My main issue is the definition of direct supervision, which is outlined in the NRS if my supervisor leaves the room and is no longer in the line of sight of me do I need to stop working until they return? Another issue that was brought to my attention, I am the supervisor, and I appoint someone in charge of my facility, and I am available by phone does that constitute supervision? Is that acceptable?

**Sherise Smith, Vice Chairperson** – No, that is not direct supervision

**Andrea Menicucci, Board Member** – In the line of site vs. on site.

**Sherise Smith, Vice Chairperson** – Supervision does not include telephonic.

**Sarah Bradley, Senior Deputy Attorney General** – It says they are present and immediately available. They may not have to have their eyes on you the whole time, but they need to be immediately available and on premises while physical therapy is performed.

**Lisa Cooper, Executive Director** – Frequency in changes in supervisor, I know there have been some issues with following this. We are having the same issue with switching supervisors as needed.

**Brian Fearnley, Board Member** – I think with a secondary supervisor you take away that problem.

**Sherise Smith, Vice Chairperson** – I think with the graduate student, we should handle it the same way. Graduates are not a licensee, and we are protecting the public until which time they are licensed.

**Tina Baum, Chairperson** – It is an emergency backup, and it is not intended to be used in that manner. It is not like one week here, one week there, that is not the intent of it.

**Sherise Smith, Vice Chairperson** – Maybe the problem with the graduate status is that there is only one supervisor, and they do not have the secondary.

**Tina Baum, Chairperson** – The number of facilities that we would allow is two.

**Lisa Cooper, Executive Director** – We will now have a primary and a secondary supervisor, the only time a primary will change is if they leave the facility or promote out of that position and this will require a letter from the facility to change.

**Motion:** Tina Baum, I move that we task our Executive Director to make the changes that were discussed and put those into policy.

**Second:** James McKivigan

**Motion Carries Unanimously**

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## 10. Consent Agenda (For Possible Action)

A. Ratification of licenses approved and issued by authority of the Board  
Tina Baum, Chairperson –

**Sherise Smith, Vice Chairperson** – We do not have the date they applied or the date that they were licensed.

**Lisa Cooper, Executive Director** – The list needs, the date that the application was received in the office, and the date it was approved administratively. I will make sure that is on the report moving forward.

**Motion:** Tina Baum, I move that we approve the consent agenda

**Seconded:** James McKivigan

**Motion Carries Unanimously**

## 11. Review Discussion, Action regarding CLEAR< Council on Licensure Enforcement & Regulation (For Possible Action)

A. Renew Membership to CLEAR

**Tina Baum, Chairperson** – Has this membership been maintained over the years?

**Lisa Cooper, Executive Director** – Sporadically, currently it is not renewed.

**Motion:** Andrea Menicucci, I make a motion that we approve the renewal of our CLEAR Membership and send Inspector Deborah Dieter to the National Certified Investigator & Inspector Specialized Training in Portland, OR.

**Seconded:** Sherise Smith

**Motion Carries Unanimously**

B. Send Inspector, Deborah Dieter to National Certified Investigator & Inspector Training – Specialized in Portland, OR – September 12, 2016, through September 14, 2016

## 12. Review, Discussion, Action of Board Meeting Minutes (For Possible Action)

A. April 11, 2016

B. May 3, 2016

C. June 1, 2016

**Tina Baum, Chairperson** – It is 12:37 pm and we are back in session, let us go to item 12 A. April 11, 2016.

**Lisa Cooper, Executive Director** – Sherise sent me all her corrections.

**Tina Baum, Chairperson** – I found one.

**Andrea Menicucci, Board Member** – Mine was that my name was spelled wrong on the first three pages of the June 1<sup>st</sup> Minutes and then it was corrected.

**Lisa Cooper, Executive Director** – I will make the correction.

**Tina Baum, Chairperson** – I kind of thought about May 3<sup>rd</sup> the Consent Agenda, I did not know if it was clear to everybody else but, remember that is when you asked me about releasing people from probation early based on the fact that we had started doing that? If someone ever reads it, in the next Board Meeting, I will go over it in more detail.

**Sherise Smith, Vice Chairperson** – I wondered the same thing.

**Lisa Cooper, Executive Director** – I will put a line in there about you will bring

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information back to the Board at the next meeting.

**Sherise Smith, Vice Chairperson** – I would put a question mark after where I said, “so we are no longer reviewing those?” I believe I asked had this been decided by the Board?

**Lisa Cooper, Executive Director** – Yes, you did add that.

**Tina Baum, Chairperson** – What is a good policy for doing minutes, I know you do not want to put everything word for word,

**Lisa Cooper, Executive Director** – I just put the gist of the conversation. When there is a group discussion, and everyone is involved, I will not get into individual statements. I will put an open discussion about and the general topic.

**Andrea Menicucci, Board Member** – It seems that in the past we got more detail of the discussion on everything.

**Sarah Bradley, Senior Deputy Attorney General** – The Open Meeting Law, requires the substance of the discussion for the agenda item. Any action items, need to have a motion and a second and the count if any members request then you would have to say how each of the members voted, but that is not required unless requested. There are lots of argument and questions about that; I think it is enough for a person to read and have a general idea of the discussion. If the Board did make a decision, that information needs to be in the minutes.

**Andrea Menicucci, Board Member** – If the details of the discussion are called into question, we keep the tapes for how long?

**Sarah Bradley, Senior Deputy Attorney General** – You are required to keep tapes one year, minutes are a permanent record the Board keeps them at their option five years and sends them to archives, so you do not have to have them forever. Meeting minutes and recordings should be sent to archives, and they would respond to any requests for documents.

**Sherise Smith, Vice Chairperson** – Our meetings are video conferenced is there a recording of that?

**Lisa Cooper, Executive Director** – No, we are not recording the video of the meeting.

**James McKivigan, Board Member** – Have you thought about Dragon Speak?

**Andrea Menicucci, Board Member** – There is some software out there that is better than Dragon Speak that I can get you that information.

**Lisa Cooper, Executive Director** – Yes, please let me know.

**James McKivigan, Board Member** – Then if you get Grammarly, that will help you.

**Lisa Cooper, Executive Director** – I have all the edits to move forward with.

**Motion:** Sherise Smith I make a motion to approve April 11<sup>th</sup>, May 3<sup>rd</sup> and June 1<sup>st</sup> with the edits as forwarded to the Executive Director.

**Second:** James McKivigan

**Motion Carries Unanimously**

**13. Consideration of recommendations of the Advisory Committee on Continuing Education for continuing education courses reviewed at the Advisory Committee on Continuing Education meeting June 28, 2016 (For Possible Action)**

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A. Con Ed June 28, 2016 – 1

C. Con Ed June 28, 2016 – 2

**Motion:** Sherise Smith I make a motion to approve the courses as stated and deny the courses as stated in items A and B

**Seconded:** James McKivigan

**Motion Carries Unanimously**

**Sherise Smith, Vice Chairperson** – I would like to comment and acknowledge that the new system that has been put in place utilizing the DropBox for the ACCE committee, I know it was not easier for Muriel and Chelsea. I know in time it will get streamlined, the way they were uploaded and numbered it made our work so much easier, thank you.

#### **14. Discussion, Action of Advisory Committee on Continuing Education Request (For Possible Action)**

A. Allow currently licensed, licensees to submit Continuing Education without paying the Con Ed Fee

B. Setting parameters for the above request

**Tina Baum, Chairperson** – A. Allow currently licensed, licensees to submit Con Ed without paying a Con Ed Fee and B. Setting parameters for the above request.

**Sherise Smith, Vice Chairperson** – I can speak to this, it has come up a couple of times in our Committee Meetings; the fact that whoever is putting the continuing education course up to be approved has to pay the fee to get the course approved. If a therapist is the only person taking the class or even if they are the first one submitting the paperwork, they are required to pay the \$50.00 fee for the class on top of the cost for the course. It had been discussed at the ACCE meeting that we as the committee discussed that it might be a good public relations thing for the therapist if we waived the fee for the licensees submitting con ed for approval. The percentage of individual licensees that submit for approval is very small.

**Andrea Menicucci, Board Member** – If you establish a policy you need to make it consistent.

**Tina Baum, Chairperson** – My problem is then why do people even submit continuing education? The companies will stop paying for the approval.

**Lisa Cooper, Executive Director** – We discussed setting parameters, if we are seeing multiple people for the same course submitting for approval, we would bring that back before the Board and let the Board know there is a problem and discontinue the use of the program.

**Sherise Smith, Vice Chairperson** – The idea just being that there are many grumbings that therapists have to pay to have courses approved.

**Muriel Morin-Mendes** – I think we should have the licensee request the company to pay the fee and if they do not get a letter from the company and they we can waive the fee.

**Sherise Smith, Vice Chairperson** – That is what we discussed. However, once the companies get ahold of the information, they will just write a letter, and we

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are back where we started.

**Andrea Menicucci, Board Member** – Can it be discounted?

**Sherise Smith, Vice Chairperson** – Maybe there is not a way around it. The idea is a good one.

**Tina Baum, Chairperson** – We have many courses for people to take.

**Sherise Smith, Vice Chairperson** – You are right maybe it is not a big enough issue.

**Lisa Cooper, Executive Director** – In the last meeting out of 208 applications we only had four that had been submitted by the licensee.

**Tina Baum, Chairperson** – If we start doing this is that number going to grow? We could be opening a can of worms, but I understand why this is being brought up.

**James McKivigan** – What happens is someone takes a course that we would not normally approve because you do not approve every course?

**Sherise Smith, Vice Chairperson** – The licensee would still need to submit it for approval.

**Sarah Bradley, Senior Deputy Attorney General** – That is the intent I think. Let us say we have a licensee in Pennsylvania; they are taking classes that are far from us. Most likely they are not going to be aware of those classes and approving them ahead of time so that licensee would then say; hey, I took this seminar, please approve it so I can renew my license here.

**Sherise Smith, Vice Chairperson** – What if we gave staff the option to waive the fee. I guess that does not work.

**Sarah Bradley, Senior Deputy Attorney General** – Under NAC 640.025 (4) For a request to consider approval of a course of study or training for licensed physical therapists under subsection 4 of NRS 640.150 that is...

NRS 640.150 (4) authority is you may under subsection 3, establish a fee of not more than \$150.00 to consider approval of a course of study or training. We have said, it is \$10.00, \$30.00 or \$50.00 depending on the value of the units.

**Sherise Smith, Vice Chairperson** – It is \$50.00 for the amount of CEU's for one year. If it is only four out of 208, it just does not seem right that the therapists should have to pay, I do not know how.

**Muriel Morin-Mendes** – Can someone submit for reimbursement on an individual basis?

**Lisa Cooper, Executive Director** – Can the ACCE Committee decide if we should refund the licensee?

**Sherise Smith, Vice Chairperson** – It is evident to us sometimes to know who is filling out the form.

**Debbie Dieter, Investigator/ACCE Committee Member** – Their information will be on the form submitted to us.

**Tina Baum, Chairperson** – If they pick one this year, they probably will not make that mistake next year, they are going to find a continuing education class that they will benefit from, and it is not going to happen again. If we start waiving the fee, my fear is it will start going wild.

**Sherise Smith, Vice Chairperson** – With me, it only happened once, but it was enough to make me think about it the next time.

**Sarah Bradley, Senior Deputy Attorney General** – It is written with the following fees that have been established. It does not say at the discretion of the Board or anything like that. I feel if we are going to do something different we need to change the regulation. I am not saying that we should not do something, I am just saying that we need to change the regulation.

**Sherise Smith, Vice Chairperson** – If the number is that low, it is not that big of an issue.

**Lisa Cooper, Executive Director** – It is something to look at when we are going through our regulations.

**Tina Baum, Chairperson** – No action was taken on the item.

**15. Discussion, Action of Board Operations and updates (For Possible Action)  
Please see discussion below.**

A. Year-to-Date Budget

B. Proposed 2017 Budget

**Motion:** Tina Baum, I move to approve the year to date budget and the proposed budget for 2017.

**Second:** James McKivigan

**Motion Carries Unanimously**

C. Strategic Planning

i. Change in Staffing

ii. Job Descriptions

iii. Hours of operation

iv. Executive Director Evaluation Tool

**Lisa Cooper, Executive Director** – We are using a combination of the State and the document that starts with Leading Change.

v. Chief Investigator – Inspection Department

**Tina Baum, Chairperson** - Discussion, Action of Board Operations and updates, For Possible Action;

**Lisa Cooper, Executive Director** – Enclosed you have the year to date budget, any questions?

**Tina Baum, Chairperson** – I informed Lisa, and I want to make sure I am correct, we never approved the 2015 budget.

**Sherise Smith, Vice Chairperson** – No we did not, we were half way through the year before we discussed it. I have a question on item 5015 – why are they so far off?

**Lisa Cooper, Executive Director** – I do know they split up the continuing education because it is split up that way in the regulation. What happens if we receive a check for \$200.00 we do not know how to divide that money up, it is applied to one account. In the future, we will only use one 5015 for continuing education and not divide up the money.

**Andrea Menicucci, Board Member** – On renewal fees, we are down 65%

**Lisa Cooper, Executive Director** – This income is only through May, renewals start to come in June.

**Sherise Smith, Vice Chairperson** – Regarding line item 7050 is that because

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now we are taking on some insurance that we did not previously have?

**Lisa Cooper, Executive Director** – That is for the TORT Fund.

**Andrea Menicucci, Board Member** – Maybe this is not the time to ask, did we resolve the legal fees outstanding?

**Sherise Smith, Vice Chairperson** – I do have questions, under item 7067 why are we budgeted so low on lobbyist?

**Tina Baum, Chairperson** – There is another lobbyist under item 7902.

**Lisa Cooper, Executive Director** – If you look at Item B. I have a comparison sheet. I identified duplicate accounts that will need to be corrected. There are Lobbyist, Attorney, and some miscellaneous office account.

**Sherise Smith, Vice Chairperson** – Is this the budget from Loretta?

**Lisa Cooper, Executive Director** – I do not know if this is the same document. This is what I got from Carol. There are some things that have occurred in the books that I think are strange. Debit has been written off without being submitted to the Controller's Office. Other income, should have been brought back through the original accounts they were credited to for example returned checks.

**Sherise Smith, Vice Chairperson** – I have a few more questions, line 7065 Management Services, is that Loretta?

**Lisa Cooper, Executive Director** – Yes, it is.

**Sherise Smith, Vice Chairperson** – Item 7800 - It is \$115,025.27, and we are only in July?

**Lisa Cooper, Executive Director** – That is the remaining balance from Richard.

**Andrea Menicucci, Board Member** – We talked about the audit, did we ever received itemized bills?

**Lisa Cooper, Executive Director** – My understanding was Loretta and Carol went through the itemized bills, and they reconciled the account. There was an email exchange regarding four bills that I had not submitted a check because we were waiting for the boxes to come in and for them to be evaluated. That was completed, and we were going to release the balance of \$20,000 +. We finally paid him all according to the invoices.

**Sarah Bradley, Senior Deputy Attorney General** – I feel like there was a \$40,000.00 bill at some point and then it was discovered that a portion of that bill was paid, and so it brought the total amount down to about \$27,000.00. That is just the number off the top of my head. Yes, these are bills from July 1 of 15 to March of 16 as far as I know.

**Andrea Menicucci, Board Member** – There had been discussion as to some of those types of things being reviewed, has all of that review been completed?

**Lisa Cooper, Executive Director** – Carol told me that the review had taken place between Loretta and herself. There were three bills left over, one of them was in the Dunning case, mileage and flight. There was a \$300.00 bill, a \$200.00 bill and the balance of the \$20,000.00 bill that was still outstanding. I paid the \$20,000 and held off on the other two until I had confirmation of the received files.

**Tina Baum, Chairperson** – What is bothering me, I am looking at the one Loretta gave us in April, and it is for the 2015/2016, and I am looking at yours. The total expenses on yours are 265, and you look at April's, and they are night

and day, they are so off it is unbelievable. Did that much happen between April and July?

**Lisa Cooper, Executive Director** – All I can tell you is this is what is right out of QuickBooks.

**Sarah Bradley, Senior Deputy Attorney General** – I remember Loretta saying that she was going through bills and trying to get everything paid. I kind of think that is what was outstanding in bills.

**Lisa Cooper, Executive Director** – Let me look in QuickBooks. What is the ending date on the Balance Sheet?

**Tina Baum, Chairperson** – April 7<sup>th</sup>.

**Lisa Cooper, Executive Director** – The document that had been presented to you for March did not have the bank balanced for March. The numbers would be off; there were things added when they reconciled the account. There was a lot of money paid out to Richard. We currently have 1,590 PTs to renew and 503 PTAs to renew.

**Sherise Smith, Vice Chairperson** – I have questions on the examination fees.

**Lisa Cooper, Executive Director** – This is another area of issue. The \$17,000+ in Examination Fees the majority of that money was allocated to Application Fees,

**Sherise Smith, Vice Chairperson** – Why do we not have any administrative fees?

**Lisa Cooper, Executive Director** – We only had one discipline in November. Any other questions?

**Tina Baum, Chairperson** – Why does Loretta have Contract Services – Lobbyist for \$40,000 and you have \$45,000.00.

**Lisa Cooper, Executive Director** – The contract was written not to exceed \$45,000.00.

**Tina Baum, Chairperson** – Previous legislative years is because we did not have a bill. Is that why?

**Paula Berkley, Board Lobbyist** – Yes.

**Andrea Menicucci, Board Member** – Lisa, just to clarify in my head, because I know it is the biggest line item we have. If you look at your rolling fiscal year, and you go to item 5005 Renewal Fees, and you look at 2016 Actual, it says \$235,987.00, and then you go to the QuickBooks one, and it says \$179,137.00.

**Lisa Cooper, Executive Director** – The QuickBooks one is only to May of 2016, and the rolling is through June. The money is accurate as far as being correct.

**Sherise Smith, Vice Chairperson** – Item 6003 Cost of Living Merit you cannot go by this year, and you are projecting \$137,000. I thought we would have a lower salary there.

**Lisa Cooper, Executive Director** – We are adding someone.

**Sherise Smith, Vice Chairperson** – Item 7068 for the ACCE Committee that almost doubled from last year to this year.

**Lisa Cooper, Executive Director** – I think they have not been getting paid in a timely fashion or at all.

**Sherise Smith, Vice Chairperson** – What are the Misc. Expenses? For the 2015 Actual?

**Lisa Cooper, Executive Director** – Misc. Expense is a place where oddball stuff was allocated to. Federation Fee – this should be under registration and dues, Awards West – this should be under Office Expense. 2015 Misc. Expense - \$5828.99 this was a refund from the IRS, it should have been brought in through payroll. We have just a little under \$500,000.00 in our reserve fund, I am not accustomed to using a reserve fund for operating expenses, that is not my practice. We are currently in a situation where we may need to use our reserves for restitution. If that is the case, we need to save money everywhere we can.

**Andrea Menicucci, Board Member** – Let us get back to the budget, I am looking at your proposed 2017 Budget, going into all the things that need to be completed. The budget is not unreasonable.

**Lisa Cooper, Executive Director** – I agree, we can make up some of that money in the areas of other income and by cutting spending. There is money in other categories that we may not spend. Non-state owned rent, transportation; maybe I need to stay a couple of days when I travel to Vegas instead of staying a week. Those are areas where we can save money. Paula is \$45,000.00; Hal services are not to exceed \$45,000.00 are we going to use all of that? I do not know; we have opportunities to save money. The budget is what I proposed for 2017. The year to date is through May.

**Andrea Menicucci, Board Member** – Can we talk about item C?

**Tina Baum, Chairperson** – Yes. I keep asking Lisa about inLumon; I know we have so much work, and extra stuff is going on, I think that our staffing needs will be temporary.

**Lisa Cooper, Executive Director** – What I proposed is that we bring Chelsea on part time, and she will be a part-time employee. Currently, she is going to school to be a Speech Pathologist; she has two years more of school. Chelsea has done an amazing job of picking up the slack, and once we are operating normal, we have several projects that need to be completed.

**Sarah Bradley, Senior Deputy Attorney General** – NRS 281.110 The offices of all state officers, departments, boards, commissions, and agencies must maintain not less than a 40-hour workweek. It talks about a 40-hour workweek, in the past, the legislature wanted to give the agencies freedom to switch to a 4-10 workweek. Respond to customer requests and be as available as you can, and it will bring less scrutiny to your agency.

**Tina Baum, Chairperson** – Muriel are you still working 40 hours a week or are you back to taking Wednesday off?

**Muriel Morin-Mendes** – I would like just to get one Wednesday off per month. If I could get that, I would appreciate it. Chelsea can cover it as well.

**Tina Baum, Chairperson** – Moving onto the evaluation tool, when are we scheduled to do your review.

**Lisa Cooper, Executive Director** – I thought it was three months, in the September meeting we will get something out of that meeting.

**Tina Baum, Chairperson** – This is going to be our first time so it will be a work in progress.

**Andrea Menicucci, Board Member** – The other piece we had was the job description to be able to evaluate the performance and a lot of the details. This



being the specific activities and the implantation of the new online licenses and those kinds of things.

**Tina Baum, Chairperson** – Do you have a preference to use one or the other tool?

**Andrea Menicucci, Board Member** – I was looking at it and listing the work elements, the other one had a project based form. So I think a combination of the two.

**Tina Baum, Chairperson** – Let us move on to the Investigation Department.

**Lisa Cooper, Executive Director** – I wanted to talk about how the Board envisions the structure of the agency. We have the administrative process, and we have an investigation process. I take care of Board Meetings and the day to day operations of the office as the budget allows. I work with the attorneys, and we have the investigative department that things were not getting done. Does the Board envision having staff that goes out and has a day to day job of inspecting facilities? Do you see this agency doing that type of work or are we going to be only reactive to complaints?

**Andrea Menicucci, Board Member** – We did facility inspections, and there was a percentage every year and then every how many years we would try and do 100%.

**Debbie Dieter, Investigator/ACCE Member** – We tried to do 20 to 30%, but it had not been done since Angela.

**Sherise Smith, Vice Chairperson** – If we are inspecting 20 to 30% a year then we do not have to do a year with 100% because with the 100% within 20 days everyone in the profession knows that we are doing inspections.

**Tina Baum, Chairperson** – I think a combination of both, the thing that I am having a hard time with is there is so much change right now. We do not know where we are going to end up. If you end up, and you have more time get involved, it would be nicer to have fewer people involved. The way it was, it was too spread out, we did not have any accountability or consistency. I do not know where the issue was.

**Debbie Dieter, Investigator/ACCE Member** – I think when you hire people, they need to be aware that it does take chunks of time, I work part-time, and then I have another flexible job, and it works well for me.

**Andrea Menicucci, Board Member** – Would it be better to talk about this down the road a bit? Have all the cases been assigned?

**Hal Taylor, Board Attorney** – It is going to settle down to some degree. I have received some files for review where we have the investigative report done. I have reviewed the investigator report to the degree that was done by the investigator and to the degree if I wanted something else that needed further investigation. I developed a form that I use to give my thoughts back to the investigator. I look at cases as what can I prove and how can I prove it. There are several cases moving through the process. Sarah gave me some good suggestions on the Consent Agreement.

**Sherise Smith, Vice Chairperson** – I think having both Pete and Debbie working on the cases is great. He is down south; she is in the North, and I think that just makes a great team. I am sure he will consult, but I do not think he

would take on a position.

**Brian Fearnley, Board Member** – With the new licensing are licensees printing their licenses?

**Lisa Cooper, Executive Director** – Yes.

**Brian Fearnley, Board Member** – How many copies can they print?

**Lisa Cooper, Executive Director** – We already have an issue with all of this. The regulation states that a licensee need to post their original license technically the original is a PDF file. What they are printing is a copy. So we need to change the regulation.

#### D. Addition of Staff

**Motion:** Tina Baum, I move that we allow our Executive Director to hire a part-time staff member as an Administrative Assistant.

**Second:** James McKivigan

**Motion Carries Unanimously**

- i. Administrative Assistant I – Part time

#### E. Selection of Northern Nevada Office

1. Kietzke Plaza Office Complex  
4600 Kietzke Lane, Reno, NV 89502
2. Airport Garden  
1325 Airmotive Way, Reno, NV 89502
3. Delucchi Lane  
1575 Delucchi Lane, Reno, NV 8950

**Tina Baum, Chairperson** – Would it be possible that any of these offices that we could have our Board Meetings closer to Reno?

**Lisa Cooper, Executive Director** – We could have our meetings teleconferenced at two of the location in Reno. The Delucchi Lane office does not have teleconference capability. The Kietzke Lane Office is a standalone office the Airmotive Way is an Executive Suite. The Executive Suite has a person that greets people, can receive mail or packages for you while you are out of the office. The Kietzke Lane is a standalone office. There is no one to assist if I am out of town with the mail or packages. The Board Room in the Kietzke Plaza a very large and they said they would figure out how to get teleconference set up. The leases are negotiable; we can choose how long we want. Airport Garden has a person that greets you when you enter the suite. You have full use of the copy machine; we will get 100 pages free, unlimited scanning and a shredder. Wi-Fi is extra. Kietzke does not have Wi-Fi. However, they do have the State Backbone in the complex.

**Tina Baum, Chairperson** – What are the pros and cons?

**Lisa Cooper, Executive Director** – I think it is less expensive to go with the Airport Gardens for the upfront cost vs. going to Kietzke Lane.

**Tina Baum, Chairperson** – Let us check into a one-year lease at both Kietzke and Airport Garden and get back to us. I would talk to Kietzke and make sure they know that we are willing to say. I like that Airport allows us not to have upfront cost with things.

**Andrea Menicucci, Board Member** – Can we grant her the ability to move forward with the lease within let us say \$50.00?

**Motion:** Tina Baum, I move that we allow our Executive Director to make the decision between the Kietzke Plaza or the Airport Garden location as long as it does not exceed \$675.00 per month for a one-year lease.

**Second:** James McKivigan

**Motion Carries Unanimously**

F. Pay for Executive Director while out of the office July 8, 2016, to July 18, 2016

- i. Answer and return phone calls
- ii. Check and return emails
- iii. Enter online renewal deposits

**Tina Baum, Chairperson** – Pay for Executive Director while out of the office July 8, 2016, to July 18, 2016.

**Lisa Cooper, Executive Director** – As you know I am leaving to go tomorrow for Hawaii, and as I have been going back and forth on this, I discussed with Tina that I did not want to go without pay. I have come to the realization that I am going to be working if you pay me or not. If I go away this long and, do not check my emails and work I would have a mountain of work waiting for me. What I was thinking is I just got back from Virginia that was two days, I am going to Virginia in July, and that will be two days. So if I could have four days of compensatory time and I would work the 11<sup>th</sup> to the 13<sup>th</sup> by doing the above tasks.

**Tina Baum, Chairperson** – When she asked me this, I asked her what she thought she could do from Hawaii to be able to keep on top of things. Monday, Tuesday & Wednesday and then you would take off 8<sup>th</sup>, 14<sup>th</sup>, 15<sup>th</sup> and 18<sup>th</sup> as days off. I expressed concern about setting a precedent. I asked her to present it, and we would decide what to do.

**Andrea Menicucci, Board Member** – I am sure you already had this planned.

**Sherise Smith, Vice Chairperson** – It was discussed when we hired her. It sounds good to me if you are ok doing it.

**Andrea Menicucci, Board Member** – I just want to make sure we are following labor laws, typically if you work five minutes, you get paid the whole day.

**Sarah Bradley, Senior Deputy Attorney General** – She is a salaried employee, it is my understanding that she is working more than eight hours a day on the average. Seeing she has comp time, and she is doing email and phone it should be ok.

**Lisa Cooper, Executive Director** – Maybe that is something that we can look at in policy, how many hours constitutes working for a day.

**Sarah Bradley, Senior Deputy Attorney General** – There are some Executive Directors that receive comp time for travel or exams.

**Andrea Menicucci, Board Member** – I think before we were concerned about when the work was getting done or was it getting done.

**Motion:** Tina Baum, I move we pay the Executive Director while out of the office from July 8<sup>th</sup> to 18<sup>th</sup> which translates to three working days and four compensatory days for the remainder.

**Second:** James McKivigan  
**Motion Carries Unanimously**

16. Report from Board Chair (For Possible Action

**Tina Baum, Chairperson** – Thank you, Lisa, for all your hard work, our Attorneys, Muriel, and Chelsea Thank you and welcome Chelsea.

Board Meeting dates:

September 6<sup>th</sup> is our next meeting scheduled

December 1<sup>st</sup>

Future Agenda Items –

Executive Director Review

17. Report from Legal Counsel (Non-meeting, attorney-client privilege)

18. Public Comment – No Public Comment

Adjournment – 3:54 p.m.