

Board Members

TINA BAUM, PT, DPT, MSPT, WCS, ATC, CLT
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Vice Chairperson

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STATE OF NEVADA

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Governor



Staff

LISA O. COOPER
Executive Director

MURIEL MORIN-MENDES
Licensing Coordinator

CHELSEA VENTURINO
Administrative Assistant

BOARD OF PHYSICAL THERAPY EXAMINERS

7570 Norman Rockwell Lane, Suite 230
Las Vegas, NV 89143

Board Meeting Minutes

September 6, 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 9:03 a.m. Tuesday September 6, 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 (10:30 a.m.), Senior Deputy Attorney General; Hal Taylor, Legal Counsel, Deborah Dieter, Con Ed Committee Member and Investigator.

2. **Pledge of Allegiance:**
3. **Public Comments: None**
4. **Formal Hearing (For Possible Action)**

A. Luke C. Wollett – Case # 2013-15

Tina Baum, Chairperson – Calls item number 5

Hal Taylor, Board Counsel – We have a proposed resolution to this case. As you know, this case has been around for a while. This case is regarding an untimely change of address. We offered him the same Consent Decree offered to him the first time. A fine of \$50.00 and an administrative fee of \$325.00. It is my recommendation that we accept this. Are there any questions?

Motion: James McKivigan motioned to accept the Consent Decree at presented.

Seconded: Brian Fearnley

Abstained: Andrea Menicucci

Motion Carries Unanimously

5. **Application Review (For Possible Action)**

A. Review Application of Mark Rizkalla for Approval, Denial or Other

Administrative action which is requesting to take the National Physical Therapy Examination for Physical Therapy a third time by NRS 640.100 (4)

Tina Baum, Chairperson – Calls Item number 5A Mark Rizkalla

Hal Taylor, Board Counsel – It is at the discretion of the Board to go into closed session for reviews.

Tina Baum, Chairperson – Discussion regarding attempts and what has Mr. Rizkalla done to succeed in his third attempt and if he was aware of the six-time lifetime limit?

Mark Rizkalla - Discussion stating he has changed strategies of studying, yes he is aware of the lifetime limit.

Motion: Tina Baum motioned to approve Mark Rizkalla to take the National Physical Therapy Examination for Physical Therapists a third time.

Seconded: James McKivigan

Motion Carries Unanimously

B. Review Application of Carrie Jacobsen for Approval, Denial or Other Administrative Action under NRS 640.160 (g)

Tina Baum, Chairperson – Calls Item number 5B Carrie Jacobsen

Lisa Cooper, Executive Director – Ms. Jacobsen's application is before you today due to not disclosing criminal history that warranted review. She is requesting a license under NRS 640.160.

Carrie Jacobsen – Discussed working in a position 28 years ago, where her employer required her to pass out flyers on a campus. The employer had been previously warned not to hand out the flyer at that location. She had been issued a citation for trespassing.

Lisa Cooper, Executive Director – The case was dismissed.

Motion: Sherise Smith motioned to grant Carrie Jacobsen approval for licensure and provide the office with a description of the events that took place.

Seconded: James McKivigan

Motion Carries Unanimously

C. Review Application of Georgeta Donatelli for Approval, Denial or Other Administrative Action under NRS 640.160 (m)

Tina Baum, Chairperson – Calls Item number 5C Georgeta Donatelli

Lisa Cooper, Executive Director – Ms. Donatelli's application is before you today due to potentially practicing physical therapy without a license.

Sherise Smith, Vice Chairperson – I think our concern was practicing without a license. You passed the NPTA in 2001 and worked in Georgia, and I show a gap from 2005 to 2015 where you were working at Henderson Physical Therapy.

Georgeta Donatelli – The FCCPT required that I complete courses of 456 hours to meet the credentialing requirements. I could not find a school that offered additional hours for credentialing. I had two licenses, I was working, I had children, and that is why I stopped working. Not many universities wanted to give a clinical internship; I applied to Miami University, and they accepted me. I completed my hours and received my credentialing.

Ms. Donatelli submitted her transcript from Miami University.

Motion: Andrea Menicucci made a motion to go into a Closed Session.

Seconded: Brian Fearnley

Motion Carries Unanimously

Tina Baum, Chairperson – Welcome back.

Sherise Smith, Vice Chairperson – I do have a question for you. You had a Colorado license, but on your work history, you do not show that you worked in Colorado?

Georgeta Donatelli – I did not work in Colorado.

Sherise Smith, Vice Chairperson – Prior to working as a student PT in Henderson, your previous job was in Georgia in 2012?

Georgeta Donatelli – Yes, that is correct.

Tina Baum, Vice Chairperson – Do you have a list of the continuing education you took? (Chairperson Baum reviews the list) Classes for a total of 163 hours since 2005.

Sherise Smith, Vice Chairperson – Could you give us what percentage of those would have been onsite courses vs. online courses.

Georgeta Donatelli – The online courses were just for the FCCPT the remainder were in person.

Andrea Menicucci, Board Member – Georgeta where do you think you want to work?

Georgeta Donatelli – It will be in orthopedic or pediatric.

Motion: James McKivigan made a motion to grant Georgeta Donatelli a Physical Therapy License

Seconded: Tina Baum

Motion Carries Unanimously

6. Consent Agenda (For Possible Action)

- A. Ratification of licenses approved and issued by authority of the Board per NRS 640.090, NRS 640.146, NRS 640.240 and NRS 640.250

Tina Baum, Chairperson – Calls Item #6A Consent Agenda

Andrea Menicucci, Board Member – I would like clarification of the colors of red and blue in the report.

Lisa Cooper, Executive Director – Blue is PTs, and Red is PTAs.

Motion: Tina Baum made a motion to approve the ratification of licenses approved and issued by authority of the Board.

Seconded: James McKivigan

Motion Carries Unanimously

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

- A. Ratification of Inspector, Deborah Dieter to Attend National Certified Investigator & Inspector Training – Investigating Allegations of Sexual Misconduct Workshop, September 15, 2016

Tina Baum, Chairperson – Calls Item number 7A Ratification of Inspector, Deborah Dieter to attend a CLEAR training workshop on September 15, 2016. I guess there is an additional workshop that she can attend.

Lisa Cooper, Executive Director – There was a workshop that Debby requested she take. The workshop does not add any additional days to her stay. She can leave on the date she originally intended to leave. I registered her for this class, and now I am asking for ratification.

Deborah Dieter, Investigator/ACCE Committee Member – The reason I

requested to attend this meeting, this subject is by far the most difficult and sensitive subject to investigate. The practice investigation is much easier; I have had two investigations in the last year that required these skills. You need to be careful with the process of the investigation so, I wanted more information on this subject and how to do my investigation more effectively. That is why I requested it.

Motion: Andrea Menicucci made a motion to ratify Inspector, Debby Dieter to attend National Certified Inspector Training – the Workshop for Investigating Allegations of Sexual Misconduct on September 15, 2016.

Seconded: Sherise Smith

Motion Carries Unanimously

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

A. January 14, 2016

B. January 14, 2016 - Executive Session

C. July 7, 2016

Tina Baum, Chairperson – Calls Item #8, Board Minutes A. I had gone through and made my edits. I would like everyone to go to page 6. Item number 26 that last paragraph. The motion says, to direct legal counsel to draft to draft a policy; if you go further, it says include language that this is for diagnostic purposes. It should read “not” for diagnostic purposes.

Sherise Smith, Vice Chairperson – I did not know that we were directing him to draft a policy rather than explore what options there are. It would be similar to the epi-pen.

Andrea Menicucci, Board Member – A therapist asked clarification from us regarding this issue. My question is we have not followed up on this, how do we want to move forward with this?

Tina Baum, Chairperson – We do not know what we want to do, with the regulation/policy issues we have discovered.

Sarah Bradley, Senior Deputy Attorney General – What you are going to want to do right now is, approve the minutes with the corrections or not. Then we can talk about the substance of this at a future meeting.

Tina Baum, Chairperson – My correction is to add “not” in the line mentioned prior.

James McKivigan – I would like to make a correction. At the top of the page Dr. Maylor, it should read Dr. Laymon, PT, DSC, OCS.

Andrea Menicucci, Board Member – I had some questions on the minutes just to follow up on items: regarding the website and if we wanted to move to another vendor.

Lisa Cooper, Executive Director – The website is on the state platform. I do not know if it was on another platform prior.

Andrea Menicucci, Board Member – It was not on a different platform, the issue was just getting changes completed promptly. One of the options was to use another vendor to get the service we wanted.

Lisa Cooper, Executive Director – The change requests are completed within 24 to 72 hours. Normally, when I submit an update in the morning, the update is completed by 4:30 that evening.

Tina Baum, Chairperson – On item 31- Did the White Paper get updated with five references no more than five years old, did that get added? I am trying to follow through with all of these things due to the transition.

Andrea Menicucci, Board Member – Those were the minutes that I also had, QuickBooks, and the website.

Sherise Smith, Vice Chairperson – What about Item number 32?

Tina Baum, Chairperson – That is not 640, that is 499.

James McKivigan, Board Member – That was something else; I will get back to Lisa on the information for this.

Motion: Tina Baum made a motion, to approve the minutes from January 14, 2016, with the following corrections on page 6 to add the word “not” in Item number 25’s motion. To reflect that we are “not” doing a diagnostic procedure, and revisit item number 25 in the future with what we are going to do with that. Item number 31 we need to add to the ACCE and Jim will report to Lisa on a possible with a conflict or a possible change to NRS 629 from registered to licensed.

Seconded: James McKivigan

Motion Carries Unanimously

Tina Baum, Chairperson – Calls Item number 8, Board Minutes B, Executive Session Minutes.

Motion: Tina Baum made a motion to approve January 14, 2016, Executive Session minutes with the corrections to be sent to Executive Director.

Seconded: James McKivigan

Motion Carries Unanimously

Tina Baum, Chairperson – Calls Item #8, Board Minutes

Motion: Tina Baum made a motion to table minutes pending edits from Board Members.

Seconded: James McKivigan

Motion Carries Unanimously

9. Consideration of recommendations of the Advisory Committee on Continuing Education for continuing education courses reviewed at the Advisory Committee on Continuing Education meeting July 26, 2016 (For Possible Action)

A. Con Ed Meeting from July 26, 2016

Tina Baum, Chairperson – Calls Item #9, Item A, ACCE Continuing Education Recommendations.

Motion: Sherise Smith made a motion to approve the ACCE Continuing Education recommendations from July 26, 2016.

Seconded: James McKivigan

Motion Carries Unanimously

B. Discussion of Specialty Exams

Tina Baum, Chairperson – Calls Item #9, Item B, Discussion of Specialty Exams

Lisa Cooper, Executive Director – At the last ACCE meeting we had a licensee request to receive continuing education credit for passing a specialty exam. The Committee agreed to give her credit for the prep courses that she took for the exam, but not for passing the exam itself.

Sherise Smith, Vice Chairperson – We told her any preparation course could

count towards CEU, the fact that the exam was passed does not constitute Continuing Education per our current White Paper

Tina Baum, Chairperson – You do not have to take classes to pass the exam. You do have to document hours and cases studies if you pass the exam, the preparation for that is above, and beyond the intensity, I have ever done at any time in my career. In my opinion, if you pass that exam you have completed a tremendous amount of studying and written case studies, and to me, I think if you have passed that exam, in my opinion, it should count for continuing education for that year.

Sherise Smith, Vice Chairperson – We will have to add that to our White Paper.

Tina Baum, Chairperson – The information that you had that time was what the decision was based on. I did not know if anyone on the Committee had gone through the process.

Sherise Smith, Vice Chairperson – No, this person submitted very little information and tried to get her credits through at the last minute, we did not have anything to justify awarding the credit.

Andrea Menicucci, Board Member – Would we need to provide a list of how many hours' exam requires?

Sherise Smith, Vice Chairperson – Would we only allow just the specialty exams provided by the ABPTS of the APTA that we would acknowledge? We need to have a framework for what we want, and we need to add it to the White Paper.

Tina Baum, Chairperson – In my opinion, any of the specialty exams by the Specialty Board Counsel they have a very structured process to follow. The other certifications, I do not know, we would have to take them one at a time.

Sherise Smith, Vice Chairperson – We do have a Member on our ACCE Committee that has his OCS Certification in Orthopaedics, and he did not feel this should qualify for continuing education.

Deborah Dieter, Investigator/ACCE Member – We have two Certified Orthopedic specialists on our committee. They did not feel that we should have given credit for just passing the exam.

Tina Baum, Board Chairperson – This is not a school, and it is not considered a class it falls into its category. So either we approve it for credit, or not because it does not fit into the White Paper.

Deborah Dieter, Investigator/ACCE Member – Tina, do they use the same structure for every specialty exam?

Tina Baum, Board Chairperson – Yes, if you look at the minimum requirements to apply for certification, there are options for each of the certifications. There are options for each one; evidence-based for so many hours, direct patient care, some of them have documentation of certain care, and some certifications have specialty case studies. There is a tremendous amount of studying involved. The A.P.T.A. is involved very closely with the certification program. However, they are a separate entity.

Deborah Dieter, Investigator/ACCE Member – So there is consistency in the requirements for each certification program.

Tina Baum, Board Chairperson – Yes, I have looked into being on their Board to do item writing and the review of the exam it is very technical and is a large process.

Sherise Smith, Vice Chairperson – We would only approve the one year that the licensee received the certification? Just to clarify, not on the recertification?

Tina Baum, Board Chairperson – Yes just on the first time only and not on a recertification. It is a requirement to keep the certification that recertification occurs every ten years. Continuing Education is required.

Sarah Bradley, Senior Deputy Attorney General – Are you discussing NAC 640.470? I just wanted to make sure that you have authority for this. It reads; A course of study or training for continuing education may consist of lectures, seminars, classes, correspondence courses or completion of an examination for certification that is approved by the A.P.T.A. The content of the course may be studied privately or in groups.

Sherise Smith, Vice Chairperson – Yes, that should cover it.

Tina Baum, Board Chairperson – No action on this item.

Sarah Bradley, Senior Deputy Attorney General – Basically, what this is saying if you take and pass the exam given by the A.P.T.A. that can count for continuing education, it does not say how much but, you are saying it should be more than enough credit?

Motion: Tina Baum made a motion to approve eight specialty exams through the A.B.P.T.S. (which is part of the APTA) It is also supported by NAC 640.470.

Seconded: James McKivigan

Motion Carries Unanimously

C. Discussion of NAC 640.410 – Who is required to apply for Continuing Education?

Tina Baum, Chairperson – Calls Item number nine, C, who is required to apply for continuing education approval?

Lisa Cooper, Executive Director – An issue came up in the office; under NAC 640.410 (1) Any school accredited by the Commission on Accreditation in Physical Therapy Education of the American Physical Therapy Association which offers instruction in the field of physical therapy will be considered as a recognized provider of continuing education without applying to the Board for approval. We had a situation that a school with these credentials applied for continuing education to be approved and added to the Con Ed Approved List. Let us say we have a course from UNLV and the licensee takes the course, the licensee will go to the list and review to see if the course is on the list and if it is not they will apply for the approval. The Board has been very strict about referring to the Con Ed Approved List. However, the course is approved already.

Sherise Smith, Vice Chairperson – I think the committee has always known this and just assumed that is was being carried out this way.

Lisa Cooper, Executive Director – This is an administrative procedural issue and can be corrected easily.

Deborah Dieter, Investigator/ACCE Member – Does this include the A.P.T.A. classes?

Sherise Smith, Vice Chairperson – No, only the schools.

Sarah Bradley, Senior Deputy Attorney General – The language in the NAC is; a PT school, offering PT classes does not need to apply to the Con Ed Committee for approval.

Tina Baum, Chairperson – No action take on this topic.

10. Review, Discussion, Amend, Approval of Created/Updated Policies and Procedures (For Possible Action)

A. Personnel Policies Procedures Sections

- i. 020 General Policies and Procedures
- ii. 150 Staff Compensation
- iii. 155 Board Member Compensation
- iv. 156 Committee Member Compensation
- v. 240 Other Leave Benefits
- vi. Classification and Compensation Plan
- vii. Administrative Assistant, I Job Description
- viii. Forms – Personal Time Off Form, Bi-Weekly Timecard

Tina Baum, Chairperson – Calls Item number ten A.

Changes were made to the Personnel Policies Procedures of the sections mentioned above. Executive Director created time off request form. The Board asked to remove the Bonus policy form manual. Executive Director to create an overtime sheet. Board Member Compensation for the review of applications for approval and time limit requirements.

Motion: Tina Baum made a motion to approve the changes to the Personnel Policies Procedures as amended.

Seconded: Sherise Smith

Motion Carries Unanimously

B. Consent Agreement

Tina Baum, Chairperson – Calls Item number ten B, Consent Agreement

Hal Taylor, Board Counsel – Introduces Consent Agreement.

Discussion on edits and process of the Consent Agreement. We are not going to do a 233B letter on these complaints as the violations are small. While inspecting if there are multiple complaints for the same PT or PTA, we will not issue this Consent Agreement; we would file a complaint, and bring the case before the Board.

Motion: Tina Baum made a motion to approve the Consent Agreement developed with the indicated changes.

Second: James McKivigan

Motion Carries Unanimously

C. Advisory Committee on Continuing Education Guidelines

Tina Baum, Chairperson – Calls Item number ten C, Advisory Committee on Continuing Education Guidelines.

Lisa Cooper, Executive Director – I revised the White Paper for the ACCE Committee by adding numbers and corresponding letters for quick reference. We are adding ABPTS Specialty Exams, CAPTE University Approved Courses. We are clarifying that breaks are included in the hours of class. All licensees will receive .1 non-clinical hours per Board Meeting attendance with a maximum of .8 per year for renewal.

Motion: Tina Baum made a motion to approve the changes made to the ACCE Guidelines.

Second: James McKivigan

Motion Carries Unanimously

D. Disciplinary Cost/Fines Policy

Hal Taylor, Board Counsel – Cost should not be a profit center for the Board. We should be charging what the actual cost are to the Board. Suggested fines are acceptable; my concern lies with the fixed rate administrative fees.

NAC 640.560 (1) First Offense - \$100.00, Second Offense - \$250.00
NAC 640.560 (2) First Offense - \$100.00, Second Offense - \$250.00
NAC 640.110 (3) First Offense - \$100.00, Second Offense - \$250.00
NAC 640.061 (2) First Offense - \$100.00, Second Offense - \$250.00
NRS 640.560 (3) First Offense - \$100.00, Second Offense - \$250.00
NAC 640.055 (1) First Offense - \$100.00, Second Offense - \$250.00
NAC 640.610 (1)(b) First Offense - \$200.00, Second Offense - \$350.00 Two or less infractions, over 2 and licensee must appear before the Board.

Third Offense is to appear before the Board.

Administrative Cost of \$150.00 will be assessed for each Consent Decree.

No Action Taken

E. Examination and Reexamination of Applicants Policy

Tina Baum, Chairperson – Calls Item Ten E, Examination and Reexamination of Applicants Policy.

Lisa Cooper, Executive Director – The Board requested for staff to create a policy for NRS 640.100. This will facilitate staff approving or denying applicants to take the National Physical Therapy Examination.

Tina Baum, Chairperson – I will email you the helpful tips to add to the back of the form with a disclaimer that these classes are not endorsed by the Board.

Motion: Brian Fearnley made a motion to approve the Examination and Reexamination Policy with the addition of a helpful tips page.

Seconded: James McKivigan

Motion Carries Unanimously

11. Discussion, Action of Procedure of Nevada Revised Statute and Nevada Administrative Code (For Possible Action)

A. NRS 640.110 Issuance and display of license

B. NAC 640.560 Display of license

Hal Taylor, Board Counsel – With regards to the display of license there are several complaints that are dealing with licenses displayed in a binder on the counter at a Physical Therapy Office. The requirement is that the license is accessible to the public and the original and copy of licenses “displayed.” The license needs to be accessible and visible within 30 seconds of entering the establishment. Staff will close the outstanding cases with regards to licenses placed in a binder for the public to view.

No Action Take

12. Discussion, Action of Board Operations and updates (for Possible Action)

A. 2017 Year-to-Date Budget

Tina Baum, Chairperson – Calls Item Twelve A.

Discussion regarding line items 5015, 5016, 5017, and 5018. Nevada State Bank account closed. 7570 Norman Rockwell rent is paid quarterly. Travel policy, all In-State Travel is approved by the Executive Director before travel plans are made, and all Out of State Travel is approved by the Board before travel plans are made. Board Members will attend Board Meetings via video conferenced unless there is a hearing. The state rate for Fleet Services, the departing flight must be “Wanna get away” and return home flights can be “Business Select”; Hotel must be within Government Rate. Item number 7030 expenses for bank fees for July are the credit card charges for renewal.

Motion: Tina made a motion to approve the Year-to-Date Budget.

Seconded: James McKivigan

Motion Carries Unanimously

B. Physical Therapy Insurance Code

Tina Baum, Chairperson – Calls Item Twelve B.

Lisa Cooper, Executive Director – There are two specific codes that are specific to Physical Therapy, they are 97001 and 97002. All other codes can be utilized by any other providers of health care.

No Action Taken

C. Percentage of Licenses to Audit Continuing Education

Tina Baum, Chairperson – Calls Item Twelve C.

Lisa Cooper, Executive Director – 1,522 PTs and 484 PTAs that renewed for 2016, that is a total of 2006. What percentage would the Board like to audit continuing education?

Motion: Andrea Menicucci made a motion to audit 5% of the renewed licensees for Continuing Education.

Seconded: Sherise Smith

Motion Carries Unanimously

D. Executive Director's Evaluation

Tina Baum, Chairperson – Calls Item Twelve D. Executive Director Evaluation.

Discussion of the evaluation tools. The rating system is defined on the first page of the form. Tina would like this on the December Agenda, Tina would like the feedback no later than October 31, 2016.

Motion: James McKivigan made a motion to accept the Executive Director Evaluation Form.

Seconded: Tina Baum

Motion Carries Unanimously

E. Grad Status Requirements

Tina Baum, Chairperson – Calls Item Twelve E. Grad Status Requirements

Lisa Cooper, Executive Director – They are able to work at a maximum of two facilities. Each are eligible for two supervisors, one primary and one secondary at each facility; The supervisors can be changed if the primary supervisor is moved out of the department or no longer in employment with the facility and that is required in writing.

Motion: Tina Baum made a motion to accept the Grad Status Policy as stated.

Seconded: James McKivigan

Motion Carries Unanimously

F. Update on InLumon

Tina Baum, Chairperson – Calls Item Twelve F. Update on InLumon

Lisa Cooper, Executive Director – There are several learning experiences in this renewal cycle. I wanted to make sure that I mention that our agency did not send any reminder notice that licenses expired on July 31, 2016. There was no reminder sent in 2015. However, moving forward we will send reminders.

No Action Taken

G. New Licensee License

Tina Baum, Chairperson – Calls Item Twelve G. New Licensee License

Lisa Cooper, Executive Director – We ran out of parchment paper, is this something the Board would like to continue.

Motion: Tina Baum made a motion the Board would like to know the cost of parchment or some other paper options.

Second: Andrea Menicucci

Motion Carries Unanimously

H. New Letterhead

Tina Baum, Chairperson – Calls Item Twelve G. New Letterhead.

Lisa Cooper, Executive Director – The Board requested that we explore different letterhead.

Motion: Sherise Smith made a motion that we retain our previous letterhead in the digital form of blue.

Seconded: James McKivigan

Motion Carries Unanimously

I. Inspection Department

i. Inspection Process

ii. Goal for inspections

Tina Baum, Chairperson – Calls Item Twelve I. Inspection Department.

Lisa Cooper, Executive Director – Our Inspector Deborah Dieter is requesting a state cell phone and email to use for investigations.

Motion: James McKivigan made a motion to approve the purchase of a state cellular phone and a state email address for Deborah's investigations.

Seconded: Sherise Smith

Motion Carries Unanimously

There was a discussion of utilization of inspectors vs. investigators. The Inspection Form does not require the ratios for supervision.

No Action Taken

13. Discussion of Board Opinion of Dry Needling from 2012 and Consideration of Addendum (For Possible Action)

Tina Baum, Chairperson – Calls Item number 13, Discussion of Board Opinion of Dry Needling from 2012 and Consideration of Addendum.

Overview of the origin of the Opinion letter on Dry Needling in 2008, in 2012 the Board received a petition for a declaratory order from a licensee for the Board to reconsider its decision. As a Board, we have a responsibility to monitor modalities affecting public protection. In the January of 2014, Board Meeting, the Board discussed revisiting its opinion; I just wanted to follow through with previous agenda items. In July of 2015, this HumRRO Document on Dry Needling. Analysis of Competencies for Dry Needling by Physical Therapists, this document states the following:

- 86% of the knowledge requirements needed to be competent in dry needling is acquired during PT clinical education, including knowledge related to evaluation, assessment, diagnosis and plan of care development, documentation, safety, and professional responsibilities.

- 14% of the knowledge requirements related to competency in dry needling must be acquired through post-graduate education or specialized training in dry needling.
- In terms of skill and ability requirements, psychomotor skills needed to handle needles, and palpate tissues require specialized training. This skill was the only skill or ability noted as not being required to be an entry-level physical therapist. Special training was unable to be identified because the training is individualized. I drafted this statement; it is just something I wrote.

OPINION REGARDING THE PERFORMANCE OF DRY NEEDLING AND THE PRACTICE OF PHYSICAL THERAPY

ADDENDUM:

It is the position of the Nevada State Board of Physical Therapy Examiners that “dry needling” is within the scope of practice of physical therapists. The Human Resources Research Organization (HumRRO) has completed a document addressing the “Analysis of Competencies for Dry Needling by Physical Therapists.” Based on the findings of this report, “dry needling” is viewed as an advanced skill that requires additional training beyond entry-level education and should only be performed by physical therapists that have demonstrated knowledge, skill, ability, and documented competence. A physical therapist must practice only those procedures that the physical therapist is competent to perform.

The Board has dealt with policies a little different in the past.

Sarah Bradley, Senior Deputy Attorney General – We want to be careful when we are issuing policy statements and opinions. The board has to have a procedure for advisory opinions and declaratory orders. The concern is that part of the advisory opinion, or declaratory order cannot be something that applies to everyone. If someone asks a specific question of the Board, the Board can review the question and answer yes or no for that specific situation. When you have opinion statements or opinions; it can start to look like you are making regulations without going through the rulemaking process. Advisory opinions and declaratory orders are exempt and not considered regulations as long as they are not of general applicability. This means that we would want all licensees to follow the opinion or order. Overall my advice is I do not like issuing opinion statements or answering questions that apply to all licensees without going through the rulemaking process. If you issue a statement that you intend for all licensees to follow, that statement needs to go through the rulemaking process and codified in the law or regulation. The only exception is; if a licensee asks the Board for an advisory opinion, and you answer, but you do not issue a statement of general applicability for all licensees. My recommendation is, we do not utilize this opinion letter moving forward. Ultimately, I do not feel we want to have opinions like this. I am not opposed to leaving it alone and moving forward create regulations.

No Action Taken

14. Board Member Training

Tina Baum, Chairperson – Calls Item Fourteen. Board Member Training, the Board Member Training is October 20, 2016. Who will be attending?

No Action Taken

15. Report from Board Chairperson

Tina Baum, Chairperson – Presented gift and plaque to Andrea Menicucci for her potential final Board Meeting.

16. Report from Legal Counsel

17. Public Comment - None

18. Adjournment 5:27 p.m.