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MURIEL MORIN-MENDES

Licensing Coordinator

CHELSEA VENTURINO

Administrative Assistant

BOARD OF PHYSICAL THERAPY EXAMINERS

7570 Norman Rockwell Lane, Suite 230

Las Vegas, NV 89143

Draft Board Meeting Minutes

FEBRUARY 23, 2017

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- 1. Call to Order:** To determine the presence of a quorum; after determining the presence of a quorum, the meeting was called to order at 9:05 a.m. Thursday, February 23, 2017, by Chairperson Baum.

Board Members in attendance: Tina Baum, PT, DPT, WCS, ATC, CLT, Chairperson; Sherise Smith, PT, MSPT, CBIS Vice Chairperson; ; Brian Fearnley, PT, MPT, Secretary/Treasurer; James McKivigan, PT, DC, MPA, MA, 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, Board Counsel.

2. Pledge of Allegiance

3. Public Comments – None

4. Formal Hearing (For possible action)

- Tiffany Darker, F/K/A Tiffany Cook – Case # 2016-15

Tina Baum, Chairperson – Calls item number four a.

Hal Taylor, Board Counsel – Ms. Darker signed the settlement agreement for a violation of NRS 640.260(3) Display of license. Mr. Darker submitted payment in full to the Board office. It is my recommendation that the Board accepts the agreement.

Motion: Brian Fearnley made a motion to accept the agreement as presented.

Second: James McKivigan

Motion carries unanimously

b. Davin Christensen – Case # 2016-21

Tina Baum, Chairperson – Calls item number four b.

Hal Taylor, Board Counsel – Mr. Christensen signed the settlement agreement for a violation of NAC 640.610 (1)(b). Mr. Christensen submitted payment in full to the Board office. It is my recommendation that the Board accepts the agreement.

Motion: Tina Baum made a motion to accept the agreement as presented.

Second: James McKivigan

Motion carries unanimously

c. Sebastian Combes – Case # 2016-28

Tina Baum, Chairperson – Calls item number four c.

Hal Taylor, Board Counsel – Mr. Combes signed the settlement agreement for a violation of NAC 640.560 (1). Mr. Combes submitted payment in full to the Board office. It is my recommendation that the Board accepts the agreement.

Motion: Brian Fearnley made a motion to accept the agreement as presented.

Second: James McKivigan

Motion carries unanimously

d. Charles Maribbay – Case # 2016-90

Tina Baum, Chairperson – Calls item number four d.

Hal Taylor, Board Counsel – Mr. Maribbay signed the settlement agreement for a violation of NAC 640.560(1). Mr. Maribbay submitted payment in full to the Board office. It is my recommendation that the Board accepts the agreement.

Motion: Tina Baum made a motion to accept the agreement as presented.

Second: James McKivigan

Motion carries unanimously

e. Steven Layton – Case # 2016-08

Tina Baum, Chairperson – Calls item number four e.

Hal Taylor, Board Counsel – Mr. Layton signed the settlement agreement for a violation of NAC 640.610(1)(b). Mr. Layton submitted payment in full to the Board office. It is my recommendation that the Board accepts the agreement.

Motion: Tina Baum made a motion to accept the agreement as presented.

Second: James McKivigan

Motion carries unanimously

f. Darren Marchant – Case # 2016-17

Tina Baum, Chairperson – Calls item number four f. Formal Hearing Darren Marchant case number 2016-17.

Hal Taylor, Board Counsel – Mr. Marchant was notified of an alleged violation with regards to records specifically; on our about October 28, 2014, respondent signed off on treatment that was provided on October 22, 2014. If found to be true these allegations violate the Nevada Administrative Code 640.610 (1)(b) A licensee shall within 72 hours after providing treatment to a patient, indicate in the record of the patient the treatment that was provided. Mr. Marchant and I had discussions, and I supplied him with copies of the medical records. I filed an amendment of the complaint to correct the error in the October 22, 2014, date. Mr. Marchant was provided with a notice of hearing. Mr.

Marchant stipulated to States Exhibit 1, which is the medical record in question and agreed to put that into evidence.

Tina Baum, Chairperson – The record should reflect that States Exhibit 1 is admitted into the record.

Hal Taylor, Board Counsel – As you will see Mr. Marchant wanted to make comments with regards to litigation. The staff would propose that he has violated the cited NRS and NAC. Staff recommends the Board impose an Administrative Fine of \$200.00 and Administrative Cost of \$350.00 for the violation.

Sarah Bradley, Chief Deputy Attorney General – I just would like to review the complaint. We have factual violations stated in the complaint. Mr. Marchant, you agree to the facts of the complaint?

Darren Marchant, Licensee – Yes.

Sarah Bradley, Chief Deputy Attorney General – The Notice states on page three, count one, Pursuant to NAC 640.610(1)(b), a licensee is subject to discipline if the licensee fails to indicate in the patient records the treatment provided within 72 hours hours after providing treatment and the violations alleged herein subject the Respondent to discipline pursuant to NRS 640.160(2)(m) and NAC 640.550(8). Are you not disputing the chart entry was not completed promptly?

Darren Marchant, Licensee – No.

Sarah Bradley, Chief Deputy Attorney General – You are not disputing that the fact of this is considered a violation of NAC 640.610(1)(b)?

Darren Marchant, Licensee – No.

Motion: Tina Baum made a motion based on the facts before the Board, we agree there has been a violation of NAC 640.610(1)(b), and that is grounds for disciplinary action.

Second: James McKivigan

Motion carries unanimously

Sarah Bradley, Chief Deputy Attorney General – Normally at this time you would hear from the States Attorney what the recommendations are. I believe it was an Administrative Fine of \$200.00 and Administrative Cost of \$350.00. At this time the licensee is allowed to address the Board with regards to the amounts of the fine and fee or into other factors that the licensee would like for you to know.

Darren Marchant, Licensee – Thank you for having me and just a little bit about myself. I have been a practicing therapist in Nevada since 2000; I have a clinic in Mesquite and Overton, NV. This meeting is the first Board Meeting that I have attended; it is good for that experience if nothing else. I received the notice in the mail, and my first impression was the date. The date is wrong, it was corrected for the record. However, instead of 5 months, it was 6 days, and over a weekend. My biggest issue is the date of the incident was two years ago. Why am I receiving this complaint two years after the fact? I thought this is to modify behavior. If that is, in fact, the course of action. I feel that the notice should be issued closer to the time of the actual violation. I looked at the chart and verified that the date of the audit was correct. My interpretation of the NAC is that it is documentation of the treatment that is required. In my practice, we have a daily note in a paper file that we note the day and the treatment, and we sign it at the bottom. As I look at it, the NAC does not say to sign once the initial evaluation is completed, the requirement is if pretty vague as to what that entails. If the inspector had looked at the paper chart that was in the office, he would have seen there was a treatment flow sheet that I had signed off the treatments as required. In my mind that

would fulfill the documentation requirements. In closing, the fact that it was two years after the incident and the 72-hour requirement is vague.

Tina Baum, Chairperson – Thank you. Yes, you do have a very valid concern. To let you know, we have had a staff turnover and going forward I am confident that this will not be our practice in the future.

Sarah Bradley, Chief Deputy Attorney General – You heard his testimony; you heard the recommendation from the States Attorney. The Board's Attorney agrees with all the facts of the case.

Sherise Smith, Vice Chairperson – I have a question. Do we have the other documentation that he is referring?

Lisa Cooper, Executive Director – We do not.

Sarah Bradley, Chief Deputy Attorney General – Let us swear him in and he can give you sworn testimony.

Mr. Marchant is sworn in

Sarah Bradley, Chief Deputy Attorney General – The Board can ask questions of Mr. Marchant now under sworn testimony.

Sherise Smith, Vice Chairperson – Within 72 hours did you write the note for the treatment that was provided?

Darren Marchant, Licensee – Yes.

Sherise Smith, Vice Chairperson – Do you recall what the note said in general?

Darren Marchant, Licensee – We have our treatment flow sheet, and we mark the date the person visits and any subsequent visits. There is a column to the left of the procedures and modalities performed at the bottom of the document the therapists' signs with their initials and the date.

Brian Fearnley, Secretary/Treasurer – Do you initial and date every day of service?

Darren Marchant, Licensee – Yes, every day of service, including the first visit.

Sherise Smith, Vice Chairperson – Does that become part of the medical record?

Darren Marchant, Licensee – Yes.

Tina Baum, Chairperson – I notice on the Exhibit 1, it says completed by Darren Marchant on October 28, 2014, that is the indication of when the full note formalized.

Darren Marchant, Licensee – Yes, that was the initial evaluation. We still have the hand-written record, and the NAC does not say when the paperwork is to be completed.

Sarah Bradley, Chief Deputy Attorney General – At this point, the Board has voted that there was a violation. If the Board feels that a violation did not occur, you could make a motion and rescind the previous vote, and the Board can decide the case again based on his testimony.

Lisa Cooper, Executive Director – Can I suggest that we continue this case to the next available Board meeting and that Mr. Marchant provides the documentation he is describing?

Sarah Bradley, Chief Deputy Attorney General – I think that would be great, then the Board could have all the exhibits before them.

Tina Baum, Chairperson – I think that is a good idea if we can move this to the next available Board Meeting.

Motion: Sherise Smith made a motion to resend the previously made motion that there was a violation of NAC 640.610 (1)(b)

Second: James McKivigan

Motion carries unanimously

g. Katelyn Taylor – Case # 2016-12

Tina Baum, Chairperson – Calls item number four e.

Hal Taylor, Board Counsel – Ms. Taylor signed the settlement agreement for a violation NAC 640.560(1). Ms. Taylor submitted payment in full to the Board office. It is my recommendation that the Board accepts the agreement.

Motion: Tina Baum made a motion to accept the agreement as presented.

Second: James McKivigan

Motion carries unanimously

5. Discussion, review and possible action of presentation of ProCert (For possible action)

The presentation was given by Charles Brown and Heidi Herbst-Paakkonen representing the Federation of State Boards of Physical Therapy. Please see PowerPoint located on Board website on February 23, 2017, meeting attachments.

6. Discussion, review, and possible action regarding the 2017 Legislative Session (For possible action)

- a. AB10 - <https://www.leg.state.nv.us/App/NELIS/REL/79th2017/Bill/4616/Text>
- b. AB14 - <https://www.leg.state.nv.us/App/NELIS/REL/79th2017/Bill/4620/Text>
- c. AB18 - <https://www.leg.state.nv.us/App/NELIS/REL/79th2017/Bill/4624/Overview>
- d. AB19 - <https://www.leg.state.nv.us/App/NELIS/REL/79th2017/Bill/4644/Text>
- e. AB26 - <https://www.leg.state.nv.us/App/NELIS/REL/79th2017/Bill/4659/Overview>
- f. AB42 - <https://www.leg.state.nv.us/App/NELIS/REL/79th2017/Bill/4691/Text>
- g. AB47 - <https://www.leg.state.nv.us/App/NELIS/REL/79th2017/Bill/4709/Text>
- h. AB76 - <https://www.leg.state.nv.us/App/NELIS/REL/79th2017/Bill/4757/Text>
- i. AB122 - <https://www.leg.state.nv.us/App/NELIS/REL/79th2017/Bill/4860/Text>
- j. AB128 - <https://www.leg.state.nv.us/Session/79th2017/Bills/AB/AB128.pdf>
- k. AB160 - <https://www.leg.state.nv.us/App/NELIS/REL/79th2017/Bill/4908/Text>
- l. AB173 - <https://www.leg.state.nv.us/App/NELIS/REL/79th2017/Bill/4936/Text>
- m. AB184 - <https://www.leg.state.nv.us/App/NELIS/REL/79th2017/Bill/4949/Text>
- n. SB4 - <https://www.leg.state.nv.us/App/NELIS/REL/79th2017/Bill/4595/Text>
- o. SB14 - <https://www.leg.state.nv.us/App/NELIS/REL/79th2017/Bill/4608/Text>
- p. SB23 - <https://www.leg.state.nv.us/App/NELIS/REL/79th2017/Bill/4631/Text>
- q. SB55 - <https://www.leg.state.nv.us/App/NELIS/REL/79th2017/Bill/4695/Text>
- r. SB069 - <https://www.leg.state.nv.us/App/NELIS/REL/79th2017/Bill/4716/Text>
- s. SB137 - <https://www.leg.state.nv.us/App/NELIS/REL/79th2017/Bill/4965/Text>
- t. SB139 - <https://www.leg.state.nv.us/App/NELIS/REL/79th2017/Bill/4967/Text>
- u. SB142 - <https://www.leg.state.nv.us/App/NELIS/REL/79th2017/Bill/4974/Text>
- v. SB160 - <https://www.leg.state.nv.us/App/NELIS/REL/79th2017/Bill/4999/Text>
- w. SB163 - <https://www.leg.state.nv.us/App/NELIS/REL/79th2017/Bill/5004/Text>
- x. SB170 - <https://www.leg.state.nv.us/App/NELIS/REL/79th2017/Bill/5021/Text>
- y. SB186 - <https://www.leg.state.nv.us/App/NELIS/REL/79th2017/Bill/5037/Text>

Tina Baum, Chairperson – Calls item number six. Discussion, review, and possible action regarding the 2017 Legislative Session.

The Board discussed each bill listed above.

Motion: Tina Baum made a motion to support SB 142 and the Nevada Physical Therapy Association Bill and to remain neutral on the remainder of the legislative bills.

Second: James McKivigan

Motion carries unanimously

Bill Draft Requests not introduced (only if language is posted between now and Board Meeting date)

- A. 31-49
- B. 38-817
- C. 40-628
- D. 40-809
- E. 54-182
- F. 54-350
- G. 54-676
- H. 54-728
- I. 54-91
- J. 605
- K. 838
- L. 856
- M. 881
- N. 915

7. Consent Agenda (For possible action)

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

Tina Baum, Chairperson – Calls item number seven A. Consent Agenda. Ratification of license approved by authority of the Board per NRS 640.090, NRS 640.146, NRS 640.240 and NRS 640.250

Sherise Smith, Vice Chairperson – I was looking at the amount of time it takes to license the PTAs vs. the PTs. Is there a reason it takes longer for the PTAs?

Muriel Morin-Mendes, Licensing Coordinator – It depends on if they applied as an endorsement candidate or if they are an exam candidate.

Sherise Smith, Vice Chairperson – It seems as though the average is 4 months from receiving their application to issuing a license.

Muriel Morin-Mendes, Licensing Coordinator – The other factor is if the exam candidate did not pass their exam the first time. Going forward we will add the date of the last exam taken to the report.

Motion: Sherise Smith made a motion to approve the ratification of licenses presented and to include the last exam date on the report to more accurately reflect the licensing timeline.

Second: James McKivigan

Motion carries unanimously

8. Discussion, review, action of Board operations and updates (For possible action)

- A. 2017 Year-to-date budget and adjustments

Tina Baum, Chairperson – Calls item number eight A. 2017 Year-to-date budget and adjustments. In the past, we got a very detailed list of documents including the treasurer's report, the balance sheet, and the profit & loss statement. It would say office equipment, and it would itemize it out.

Lisa Cooper, Executive Director – That would be what the treasurer is responsible for. Let us review the procedure of the budget. The Board approved the budget. The Board gave me the ability to work within my parameters. The Board gave Brian the authority to work within his parameters. We want to make sure that we are not overreaching, with that in mind, what are the issues and what do we need to put in place to solve the problems?

Tina Baum, Chairperson – In the past we received the treasurer's report, profit & loss statement and the balance sheet.

Lisa Cooper, Executive Director – I will work with Brian to get more information on the agenda for the April Board meeting.

Sherise Smith, Vice Chairperson – Under income, we have been talking about removing line item 5017 and 5018 and amended the title of 5015.

Lisa Cooper, Executive Director – Yes, I will correct that.

Sherise Smith, Vice Chairperson – Item 6001, Board Salary, it looks like we are going to be \$8,000.00 over budget by the end of the year?

Lisa Cooper, Executive Director – We will be close to budget, we have had six additional meetings that were not planned. We may be over budget due to that.

Sherise Smith, Vice Chairperson – I like the way this is presented and I feel we are pretty much on target with the expenses. Item 6572 there was nothing budgeted for that telephone expense.

Lisa Cooper, Executive Director – I broke that out of our telephone budget because I wanted to keep track of how much we spend on the ACCE Meetings.

Tina Baum, Chairperson – Item 7110, it seems that the rent is more expensive in October and December.

Lisa Cooper, Executive Director – We pay the rent for the Las Vegas office quarterly, the rent was paid out in October and December.

Sherise Smith, Vice Chairperson – Our total out of state budget we are a little over in that category, but we should not incur any more fees, correct?

Lisa Cooper, Executive Director – The expense for out of state travel was for Debby Dieter to go to the CLEAR training. We should not have any more expenses in out of state travel.

Sherise Smith, Vice Chairperson – Line item 7010, are we so close to budget due to opening the Reno office?

Lisa Cooper, Executive Director – Yes, and the refrigerator broke in the Vegas office, and we had to get a new one, the Board approved the purchase of computers.

Sherise Smith, Vice Chairperson – For our total operating expenses, we are at 54% of the budget after 6 months, so it looks like we are on target. One more question, the very last line Wells Fargo, it looks like our holding decreased \$104,000.00 since July. So, we have operated at a loss within 6 months?

Lisa Cooper, Executive Director – June and July is when we receive the majority of our revenue. In a month, we do not receive in enough revenue to operate the day to day operations of the office. Therefore, we utilize differed revenue.

Brian Fearnley, Secretary/Treasurer – Software in August \$1663.00 is that in Lumon?

Lisa Cooper, Executive Director – Yes.

Tina Baum, Chairperson – Right now, we have \$18,000 left to spend in account 9002. Will that change going forward?

Lisa Cooper, Executive Director – Not much.

Motion: Sherise Smith made a motion to approve budget as presented.

Second: James McKivigan

Motion carries unanimously

~~B. Update on 2015/2016 Audit Report (?)~~

C. Board officer job descriptions. Pursuant to NRS 640.035 the Board may discuss and determine what officer positions are necessary for the Board and may draft and approve job descriptions for its officer positions.

Tina Baum, Chairperson – Calls item number eight C. Board officer job descriptions per NRS 640.035.

Introduction

This document outlines the job descriptions for officers of the Board. These assigned responsibilities are meant to outline activities that will keep the Board informed/engaged with the administrative processes of the Board. The assigned responsibilities can be delegated to other officers or Board members upon approval of the Board. When new officers are elected, a review of the assigned responsibilities will be reviewed and recorded in the minutes.

The Board decided that the Board member job descriptions are a working document and the Board will continue to work on this document with adding, deleting and moving descriptions.

Brian Fearnley, Secretary/Treasurer – We need to strike eight and nine from the Secretary/Treasurer's job description?

Sarah Bradley, Chief Deputy Attorney General – The Cosmetology Board recently updated their Board member job descriptions; I will contact them and get a copy.

Tina Baum, Chairperson – How do you feel about assigned responsibilities or do we want to be less rigid in the descriptions? As stated in the introduction officers can delegate responsibilities to other officers or Board members. Once we get the job descriptions from the Cosmetology Board, Lisa will you email them out to the Board members.

No Action was Taken

D. New ACCE Liaison

Tina Baum, Chairperson – Calls item number eight D. New ACCE Liaison

Motion: Sherise Smith made a motion to nominate James McKivigan as the ACCE liaison.

Second: Tina Baum

Motion carries unanimously

E. Telehealth policy provided by the Nevada Department of Health and Human Services

Tina Baum, Chairperson – Calls item number eight E. Telehealth policy provided by the Nevada Department of Health and Human Services

Lisa Cooper, Executive Director – I received an email from the Health and Human Services that stated the following: "We are interested to know if you feel that telehealth would be within your specialty scope of practice."

Sherise Smith, Vice Chairperson – On the conclusion of the FSBPT Telehealth paper it says the delivery of physical therapy services by or under the supervision of a physical therapist via telehealth is physical therapy, falling under the purview of the existing regulatory body and their respective practice act and regulations. Regulators must consider care delivered in this manner as physical therapy first and telehealth second ignoring any impulse to draft a new set of telehealth rules and instead relying on our existing regulatory framework for physical therapy and making minor modifications for Telehealth.

Sarah Bradley, Chief Deputy Attorney General – The last Legislative Session NRS 629 includes NRS 640 as Healthcare Providers;
The Legislature hereby finds and declares that:

1. Health care services provided through telehealth are often as effective as health care services provided in person;
2. The provision of services through telehealth does not detract from, and often improves, the quality of health care provided to patients and the relationship between patients and providers of health care; and
3. It is the public policy of this State to:
 - (a) Encourage and facilitate the provision of services through telehealth to improve public health and the quality of health care provided to patients and to lower the cost of health care in this State; and
 - (b) Ensure that services provided through telehealth are covered by policies of insurance to the same extent as though provided in person or by other means.

(Added to NRS by [2015, 621](#))

In the next section it talks about:

NRS 629.515 Valid license or certificate required; exception; restrictions; jurisdiction over and applicability of laws.

1. Except as otherwise provided in this subsection, before a provider of health care who is located at a distant site may use Telehealth to direct or manage the care or render a diagnosis of a patient who is located at an originating site in this State or write a treatment order or prescription for such a patient, the provider must hold a valid license or certificate to practice his or her profession in this State, including, without limitation, a special purpose license issued pursuant to [NRS 630.261](#). The requirements of this subsection do not apply to a provider of health care who is providing services within the scope of his or her employment by or pursuant to a contract entered into with an urban Indian organization, as defined in 25 U.S.C. § 1603.
2. The provisions of this section must not be interpreted or construed to:
 - (a) Modify, expand or alter the scope of practice of a provider of health care; or
 - (b) Authorize a provider of health care to provide services in a setting that is not authorized by law or in a manner that violates the standard of care required of the provider of health care.
3. A provider of health care who is located at a distant site and uses telehealth to direct or manage the care or render a diagnosis of a patient who is located at an originating site in this State or write a treatment order or prescription for such a patient:
 - (a) Is subject to the laws and jurisdiction of the State of Nevada, including, without limitation, any regulations adopted by an occupational licensing board in this State, regardless of the location from which the provider of health care provides services through telehealth.

- (b) Shall comply with all federal and state laws that would apply if the provider were located at a distant site in this State.
- 4. As used in this section:
 - (a) “Distant site” means the location of the site where a telehealth provider of health care is providing telehealth services to a patient located at an originating site.
 - (b) “Originating site” means the location of the site where a patient is receiving telehealth services from a provider of health care located at a distant site.
 - (c) “Telehealth” means the delivery of services from a provider of health care to a patient at a different location through the use of information and audio-visual communication technology, not including standard telephone, facsimile or electronic mail.

It sounds like you are for the FSBPT position, we want to do whatever we can to facilitate or clarify as needed.

Sherise Smith, Vice Chairperson – It is the position of the American Physical Therapy Association that telehealth is an appropriate model of service delivery for the profession of physical therapy when provided in a manner consistent with association positions, standards, guidelines, policies, procedures, Standards of Practice for Physical Therapy, ethical principles and standards, and the Guide to Physical Therapist Practice. My take on it is that we do not want to create new regulations regarding telehealth unless we have issues that need to be addressed specific to telehealth.

Sarah Bradley, Chief Deputy Attorney General – Correct, unless you see a trend that only applies to telehealth, the same standard of care applies. This statute outlines what jurisdiction has the authority of a specific case.

Lisa Cooper, Executive Director – The Document in your Board package was given to us by the Nevada Health and Human Services:

I am writing you from Nevada Medicaid; I am the therapies policy specialist. We have a Telehealth policy that works to assist with providing services in areas that they would not otherwise be available to recipients ultimately improving access to care. At this time, we use this application in many of our policies. We are interested to know if you feel that telehealth would be within your specialties scope of practice.

Sherise Smith, Vice Chairperson – It is within our regular scope of practice.

Sarah Bradley, Chief Deputy Attorney General – Division of Healthcare Medicaid Division of Health Care Financing and Policy Manual Section 3400 page 1. All providers participating in the Medicaid Checkup programs must offer services in accordance with the rules and regulations of the Division of Health Care Financing and Policy (DHCFP). The DHCFP is trying to work with other agencies, they are changing their policies, and it may affect our licensees. Looking at the next page in Section 3401 Professional Licensing Boards have the authority to set standard of practice for licensed professionals in the NRS of the following specialists: [and it lists out NRS chapters] maybe they want to know if you want to be added to the list with the other agencies.

Under Section 3403.6 NON-COVERED SERVICES

- A. Telephone calls;
- B. Images transmitted via facsimile machines (faxes);
- C. Text messages;
- D. Electronic mail (email); and
- E. The following services must be provided in-person and are not considered appropriate services to be provided via telehealth:

1. Basic skills training and peer-to-peer services provided by a Qualified Behavioral Assistant (QBA) as identified in provider qualifications found in MSM Chapter 400, Mental Health and Alcohol and Substance Abuse Services;
2. Personal care services provided by a Personal Care Attendant (PCA) as identified in provider qualifications found in MSM Chapter 2600, Intermediary Service Organization and MSM Chapter 3500, Personal Care Services;
3. Home Health Services provided by a Registered Nurse, Physical Therapist, Occupational Therapist, Speech Therapist, Respiratory Therapist, Dietician or Home Health Aide as identified in provider qualifications found in MSM Chapter 1400, Home Health Agency; and
4. Private Duty Nursing services provided by a Registered Nurse as identified in provider qualifications found in MSM Chapter 900, Private Duty Nursing.

Home Health Services provide by a physical therapists, would not be considered appropriate services to be provide via telehealth.

Sherise Smith, Vice Chairperson – I would say that is not true.

Sarah Bradley, Chief Deputy Attorney General – What it looks like is they have created a revision to an existing policy and this section is all new. They are saying your services cannot be provided via telehealth. The Board stance of this matter is that under the FSBPT Modle Practice Act, telehealth is acceptable. I would say that the policy in 629 is encouraging everyone to do utilize telehealth.

Sherise Smith, Vice Chairperson – In this section they are talking about personal care attendants, private duty nursing, home health. That is when it has been determined that person needs “in home care.” Not that they had an ACL replacement and they cannot get to an out patient facility. These paticular things are ordered because the person needs someone in the home.

Sarah Bradley, Chief Deputy Attorney General – The intent is not to say that all services can be done from our offices. In home service is different than regular physical therapy. Regular physical therapy can be done via telehealth. I think the response should be that yes, telehealth is within the scope of physical therapy and it is something that the Board would encourage as long as the proper protocol is followed.

Sherise Smith, Vice Chairperson – Our general statement is telehealth is within the scope of practice for physical therapy.

Lisa Cooper, Executive Director – Telehealth is within the scope of practice for physical therapy; the Board is confused as to why home home services is excluded in the Medicaid policy.

Motion: Sherise Smith made a motion the Board of Physical Therapy Examiners shall respond to the Division of Health Care Financing and Policy. Our general statement is telehealth is within the scope of practice for physical therapy. The Board is confused as to why home health services is excluded in the Medicaid policy.

Second: Brian Fearnley

Motion carries unanimously

F. Electronic signature software

- i. Docusign
- ii. Adobe sign

Tina Baum, Chairperson – Calls item number eight F. Electronic signature software.

Lisa Cooper, Executive Director – I have provided quotes from the DocuSign and Adobe Sign. Both software programs are an annual fee.

Sherise Smith, Vice Chairperson – My company uses Nuance Power PDF Advanced. The cost is substantially less than these programs. Can you check into that software?

Lisa Cooper, Executive Director – Yes, we can do that and bring back that information to you.

No action was taken

G. Newsletter

Tina Baum, Chairperson – Calls item number eight G. Newsletter.

Sherise Smith, Vice Chairperson – We are going to get the first newsletter out by April 1, 2017. I wanted to let you know what articles we will have and any suggestions we may have to add.

1. Letter from the Executive Director (front page)
2. Letter from the Board Chair
3. Dunning Statement (as required by the settlement agreement)
4. aPTitude information
5. Discuss the difference between changing the NRS and NAC
 - a. Workshops
 - b. Small business impact
6. Difference between the Association and the Board
7. Mission Statement
8. “How are we doing” on the website, comments of any type from the licensee
9. Original license and printing of the license
10. List of Board Meeting Dates
11. Receive Continuing Education for attending a Board Meeting.

Brian Fearnley, Secretary/Treasurer – Has a list of topics to email to Sherise.

Sherise Smith, Vice Chairperson – We will email the newsletter and post it on the website. If anyone thinks of any more topics, please forward them to me.

No action was taken

H. System Automation

Tina Baum, Chairperson – Calls item number eight H. System Automation.

Lisa Cooper, Executive Director – In the Board Packet there is a quote for a new database system. The first quote is for the implementation of work, the second quote is for the maintenance of the software and housing of our software.

Tina Baum, Chairperson – Do you know who else they do business with?

Lisa Cooper, Executive Director – They did not give me a reference list, I will send an email to get more information. In order for system automation to be able to meet the go live dates, the Board will need to approve this contract no later than February 28, 2017.

Sherise Smith, Vice Chairperson – With the size of our agency this contract is just not feasible.

Tina Baum, Chairperson – What is Arizona doing? Let us take a break and try to contact Chuck Brown to see what his state is doing?

No action was taken

I. Possible additions to the Consent Agreement Form

Tina Baum, Chairperson – Calls item number eight I. Consent Agreement Form.

Motion: Tina Baum made a motion to add supervision ratios to the Consent Agreement Form.

Second: Sherise Smith

Motion carries unanimously

J. Job Descriptions for Chief Investigator, Investigators, and Field Inspectors
Tina Baum, Chairperson – Calls item number eight J. Job Descriptions for Chief Investigator, Investigators, and Field Inspectors

K. Survey information
i. Physical therapist survey regarding physical therapy technicians
ii. Physical therapist assistant survey
Tina Baum, Chairperson – Calls item number eight K. Survey information.

Please see the attached copies of survey

No action was taken

L. Board Meeting dates
Tina Baum, Chairperson – Calls item number eight K. Board meeting dates. We need to have another two-day Board meeting where we work on regulations. It was determined that April 1st and 2nd, 2017, the Board would meet in Reno for a two-day meeting.

M. 2017 NAC Regulation Changes – working document

N. Standard Operations Manual

9. Consideration of recommendations of the Advisory Committee on Continuing Education for continuing education courses reviewed at the Advisory Committee on Continuing Education meeting (For possible action)

A. November 29, 2016

Tina Baum, Chairperson – Calls item number nine A. Recommendations of the Advisory Committee on Continuing Education for continuing education courses reviewed at the Advisory Committee on Continuing Education meeting. What is that status on the dry needling courses?

Sherise Smith, Vice Chairperson – We have been approving them and we have not denied any to this point.

Motion: Tina Baum made a motion to approve the recommendations from the ACCE meeting.

Second: James McKivigan

Motion carries unanimously

B. February 3, 2017

Tina Baum, Chairperson – Calls item number nine B. Recommendations of the Advisory Committee on Continuing Education for continuing education courses reviewed at the Advisory Committee on Continuing Education meeting. I had a question about a class, # 133 “Upholding your ethics.”

Sherise Smith, Vice Chairperson – The course was too basic.

Motion: Tina Baum made a motion to approve the recommendations from the ACCE meeting.

Second: James McKivigan

Motion carries unanimously

10. Discussion, review, action of Board Meeting Minutes (For possible action)

A. January 12th & 13th, 2017

Tina Baum, Chairperson – Calls item ten A. Discussion, review, action of Board Meeting Minutes

Motion: Tina Baum made a motion to approve the Board retreat minutes with amendments.

Second: James McKivigan

Motion carries unanimously

11. Investigation Department

Tina Baum, Chairperson – Calls item number eleven, Investigation Department

Sherise Smith, Vice Chairperson – I would like to ask how are we prioritizing the case with regards to the severity of the violation? For example; the gross negligence cases vs. address and licensees issues.

Hal Taylor, Board Counsel – I understand your concern, we have several cases that need more attention and will take longer to bring before the Board. The cases with address and license issues we can move them quicker to a Board meeting. This approach will allow us to move these cases off of our plate and spend more time on the larger cases.

Sherise Smith, Vice Chairperson – I want to make sure that we are keeping public protection in mind as of the utmost importance.

No action was taken

12. Report from Board Chair (For possible action)

A. Future Agenda Items

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

14. Public Comment – None