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BOARD OF PHYSICAL THERAPY

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

BOARD MEETING MINUTES

July 6, 2018

Item 1 - Call to Order/Roll call to determine the presence of a quorum:

The meeting was called to order at 9:02 am by Chairperson Smith.

Board Members in attendance: Sherise R. Smith, PT, MSPT, CBIS, Chairperson; Jim McKivigan, DC, PT, MPA, MA, Secretary/ Treasurer; Rebecca Cheema, PTA.

Staff in attendance: Charles Harvey, Executive Director; Danielle Devine, Administrative Assistant; Debby Dieter, Investigator; Sarah Bradley, Senior Deputy Attorney General; Neena Laxalt, Lobbyist.

Item 2 - Pledge of Allegiance

Item 3 - Public Comment - None

Item 4 - Public Workshop: The Board will receive comments and input from interested persons regarding proposed regulation regarding Dry Needling. After receiving public comment, the Board may vote to amend its proposed regulation draft and send it to the Legislative Counsel Bureau for review and drafting. **(For Possible Action)**

Public members presenting comment and input:

- A. Dr. Maggie Tracey, OMD
- B. Dr. Maureen McKenney, OMD
- C. Dr. Megan Clowers, OMD
- D. Dr. Rachel Kohl, OMD, owner Integrative Acupuncture/President of Nevada Coalition of Acupuncture
- E. Dwayne Steel, OMD
- F. Dr. Richard Kyo Mitchell, OMD
- G. Dr. Lisa Grant, OMD
- H. Dr. Linda Chow, OMD
- I. Dr. Setsuko Sage, OMD
- J. Dr. Sharon Roth, OMD
- K. Dr. Fiona Kelly, OMD

The following comments and input were provided by members of the oriental medicine community regarding proposed Dry Needling regulations.

- Strongly oppose physical therapist having the legal right to use Dry Needling or acupuncture in their practice.
- Dry Needling definition is too broad and doesn't address exactly what dry needling is.
- Dry needling is an invasive procedure that requires advanced training and certification.
- Lack of standards and specificity in the number of hours of training, experience and certification.
- Public safety concern regarding invasive needling.
- Concern over the legal procedure for creation of new legislation. Request that the Board AG review procedural irregularities to ensure the public workshop is legal.

Chairperson Smith thanked the public for their comments.

Item 5- Review, discuss, amend and approve Board Meeting Minutes (**For Possible Action**)

A. June 1, 2018

Motion: I move that we approve the board meeting minutes from June 1, 2018 with the edits: Jim McKivigan

Second: Rebecca Cheema

Motion Passes Unanimously

Item 6 - Nevada Physical Therapy Association (NVPTA) Update (**For Discussion Only**)

Laura Cerame, PTA informed the Board that no update was being provided today.

Item 7- Review and Decision Regarding Pending Licensure Applications. (**For Possible Action**)

A. Anthony Dalmaso

Chairperson Smith noted that the Board had provided Mr. Dalmaso three opportunities to appear regarding this matter and he had failed to appear at today's meeting. Director Harvey acknowledged that Mr. Dalmaso had been provided written notice prior to each meeting. The Board determined that three attempts were sufficient.

Motion: I make a motion to deny Anthony Dalmaso's application at this time. If he wishes to appear before the Board, he may submit another application: Sherise Smith

Second: Jim McKivigan

Motion Passes Unanimously

B. Mindy Renfro

Director Harvey informed the Board that Ms. Renfro was unable to appear before the Board. She provided notice to the Board office the day before the meeting. It was

determined that the Board would notice Ms. Renfro for a later meeting.

- Item 8-** Ratification of licenses approved and issued by the authority of the Board pursuant to NRS 640.090, NRS 640.146, NRS 640.240, and NRS 640.250 **(For Possible Action)**

Motion: I make a motion that we approve the licenses issued by the authority of the Board pursuant to NRS 640.090, NRS 640.146, NRS 640.240, and NRS 640.250: Jim McKivigan

Second: Rebecca Cheema

Motion Passes Unanimously

Item 9- Investigation Department

- A. Review and Discussion of Outstanding Case Status Report **(For Possible Action)**

AG Bradley updated the Board about the current case list and the process she and Investigator Dieter are working on regarding the open cases.

- B. Review of Cases Recommended for Dismissal **(For Possible Action)**

Three cases were recommended by AG Bradley for dismissal. Those cases being 2017-009, 2017-031, and 2018-09.

Motion: Motion to dismiss 2017-009, 2017-031, and 2018-09 as recommended by Deputy AG Bradley: Sherise Smith

Second: Jim McKivigan

Motion Passes Unanimously

Item 9- Investigation Department. Review and Discussion of Outstanding Cases Status Report **(For Possible Action)**

AG Bradley discussed the amount and types of cases the Investigation Department is handling, and recommendation for dismissal of two cases.

Motion: Motion to dismiss 2017-008 and 2017-021 as recommended: Sherise Smith

Second: Jim McKivigan

Motion Passes Unanimously

- Item 10-** Review and discussion on the Physical Therapy Licensure Compact. Report from Senior Deputy Attorney General. Ms. Bradley will discuss her review of the PT Compact and indicate whether or not any items in the compact conflict with Nevada law. Based on Ms. Bradley's review, the Board may vote to pursue legislation to adopt the PT Compact in Nevada law in the next legislative session. **(For Possible Action)**

AG Bradley informed the Board that she was not completely comfortable with the Compact. She voiced a number of concerns including the fact that the Board would have to follow any rules that come from the Compact Committee and the difficult issue about discipline. AG Bradley also raised concern that the board can be assessed a fine for a number of reasons by the compact committee, which are not set amounts. AG

Bradley did not feel comfortable recommending moving forward with the compact at this time. Board Lobbyist Laxalt recommended that AG Bradley draft a letter to the compact committee and then the Board can follow up with a conference call for further clarification.

- Item 11-** Sunset Subcommittee Report. Ms. Laxalt will provide an update to the Board regarding the Sunset Committee's review of the board. Based on comments from the Sunset Committee, Ms. Laxalt recommends that the Board vote to have an annual audit. After Ms. Laxalt's report, the Board may vote to make that change. **(For Possible Action)**

Ms. Laxalt discussed the recommendations presented by the Sunset Subcommittee of the Legislative Commission on April 23, 2018. The Board was informed that the committee did not recommend consolidation or termination of the Nevada Physical Therapy Board at this time.

Motion: Motion to move forward with conducting annual audits: Sherise Smith

Second: Jim McKivigan

Motion Passes Unanimously

- Item 12-** **Board Operations/ Report by Executive Director (For Discussion Only)**

A. Renewals

Director Harvey updated the Board on the status of licensee renewals including a comparison of renewals to date

B. PT Board Website

Director Harvey informed the Board of changes to the Board website designed to update data, forms and information. The Board Office has uploaded a list of Frequently Asked Questions to improve communication and answer common questions. Director Harvey informed the Board that he would like to conduct a survey of PTs and PTAs to better understand what information would be most helpful to licensees.

- Item 13-** Report from Board Chair **(For Discussion Only)**

A. FSBPT Update

Director Harvey and Board Member Cheema discussed their experience at the FSBPT conference in June. They mentioned Nevada being recognized for their work as well as the knowledge gained during this experience. The Board was also informed that Nevada has a new liaison to the FSBPT. Chairperson Smith noted that the NPTE fees will be increasing from \$400 to \$485.

B. Leadership Issues Forum (LIF)

Chairperson Smith informed the Board that she and Director Harvey will be attending the LIF Conference in Arlington, Virginia on July 14-15th.

C. Newsletter

The Summer 2018 Newsletter was sent to inLumon for mass distribution to PTs and PTAs in June 2018. It does not appear that it was mailed out to everyone. Chairperson Smith sent a copy to the Nevada Physical Therapy Association to be distributed on their ListServ. It was mentioned that perhaps board office staff would take charge of the newsletters going forward.

Item 14 - Public Comment

AG Bradley responded to a comment offered during the public workshop. NRS 233B.0608 states that the small business impact statement needs to be made available, which it is when posted with the notice of workshop. A copy is available to anyone who needs it.

A. Susan Fisher, Lobbyist for the Nevada State Board of Oriental Medicine- Question regarding the survey results contained in the Dry Needling Small Business Impact Statement. In your survey results, you have a lot of very specific answers. On the final page of the document, question number 7, you have answer options and response count, including those who skipped the question, but we do not know what the answers were regarding how many hours of training they had received.

Chairperson Smith stated that Director Harvey could respond with an accurate count.

- B. Lauren Lamoth- Comment regarding eligibility approval for the NPTE and request for exception due to a processing error.
- C. Dwayne Steel, OMD- Comment regarding the Board's apparent disregard for public safety. I think the public workshop today was a public workshop in form but not in substance. There has been an apparent lack of interest in the relevant facts regarding the topics of the public workshop and I find it sickening to be frank.
- D. Lisa Grant, OMD - Asked if the Board intends to revise any of the regulations dealing with the medical and ethical concerns raised by public members in the public workshop. In particular, the need for specific guidelines that outline a significant and meaningful amount of training in actual Dry Needling techniques; training requirements for anyone using acupuncture needles to understand clean needle techniques and how to protect public safety in terms of needling technique; acknowledgement that Dry Needling is a technique of acupuncture which should be regulated at a minimum level of educational requirements that medical doctors and the AMA have agreed are necessary to protect public safety.
- E. Jennelle Lauchman, PT #- I am a member of the dry needling committee. I wanted to thank the board for its time and input and countless hours that we put forth in the committee to come up with these regulations and I think it is a great first step.

Item 15 – Adjournment

Meeting was adjourned at 10:17 a.m.