

Board Members

- SHERISE SMITH, PT, MSPT, CBIS
Board Chair
- BRIAN J. FEARNLEY, PT, MPT
Board Vice-Chair
- JENNIFER NASH, PT, DPT
Board Secretary/Treasurer
- VACANT, PTA
Board Member
- EATHAN O'BRYANT
Board Public Member

STATE OF NEVADA

STEVE SISOLAK
Governor



PHYSICAL THERAPY BOARD

3291 North Buffalo Drive, Suite 100
Las Vegas, NV 89129

Staff

- CHARLES D. HARVEY, MPA
Executive Director
- MURIEL MORIN-MENDES
Licensing Coordinator
- CHELSEA WILSON
Administrative Assistant
- DANIELLE DEVINE
Administrative Assistant

BOARD MEETING MINUTES

September 20, 2019

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

Meeting called to order at 9:07 a.m. by Chairperson Smith.

Board Members in Attendance: Sherise Smith, PT, MSPT, CBIS, Chairperson; Brian Fearnley, PT, MPT, Vice-Chairperson; Jennifer Nash, PT, DPT, Secretary/ Treasurer; Eathan O’Bryant, Public Member.

Staff in Attendance: Charles Harvey, Executive Director; Danielle Devine, Administrative Assistant; Deborah Dieter, Investigator; Sarah Bradley, Senior Deputy Attorney General.

Item 2 - Pledge of Allegiance

Item 3 - Public Comment

A. Edward Ernst, PTA

Mr. Ernst addressed the Board regarding two concerns. 1) The requirement for 2000 hours for physical therapy assistants. Next, Mr. Ernst referred to an email conversation with Director Harvey where he wanted to make the argument that physical therapy assistants should be allowed to use spinal peripheral mobilizations. His argument was that spinal peripheral mobilizations do not require unique skills and judgment of a physical therapist. Mr. Ernst believed that the Board should consider allowing physical therapists to determine whether physical therapist assistants have the knowledge to perform a treatment.

Chairperson Smith commented that the 2000-hour requirement is currently with the Legislative Counsel Bureau for drafting and will need to be ratified before the requirement is removed. Mr. Ernst was informed that the treatments he was asking be allowed would require changes to our regulation. Chairperson Smith invited Mr. Ernst and all with similar concerns to participate in the next review of statutes and regulations.

B. David Rovetti, DC, Northern Nevada Director of the Nevada Chiropractic Association.

Dr. Rovetti expressed concern with two courses approved by the Advisory Committee for Continuing Competence. He believed these courses to be outside the physical therapy scope of practice. The courses were listed as #1 and #82 from the committee meeting dated July 19, 2019. Dr. Rovetti read NRS 640.024 to mean that these courses were outside the scope of physical therapy. Documents were provided to the Board in support of Dr. Rovetti's position.

Item 4 - Review, discuss, amend, and approve Board Meeting Minutes (**For Possible Action**)

A. July 19, 2019 - Public Meeting

Motion- I make a motion to accept the minutes as presented; Brian Fearnley

Second- Jennifer Nash

Motion passes unanimously

B. July 26, 2019 - Public Meeting and Workshop

Motion- I make a motion that we approve the July 26, 2019 minutes with the edits as presented; Sherise Smith

Second- Brian Fearnley

Motion passes unanimously

Item 5 - Nevada Physical Therapy Association (NVPTA) Update
Nicole Lange, Secretary for the NVPTA.

The Nevada Physical Therapy Association will be holding a tri-state meeting on October 12-13, which will include physical therapists and physical therapist assistants from Arizona and California. This meeting will be held at the South Point Hotel and Casino. One day will be the annual membership meeting where the results from association elections will be announced. Topics will include chronic pain, medical marijuana, telehealth, animal rehabilitation, dry needling, and business management.

Item 6 – Review and Decision Regarding Pending Licensure Applications. (**For Possible Action**)

The Board will review, discuss and possibly decide the following pending licensure applications. The Board may grant or deny the applications, and the Board may grant licensure to the applicants under specific terms and conditions as specified in the meeting. If the applicant is present, the Board may ask questions of the applicant, and the applicant will have an opportunity to address the Board regarding his or her licensure application.

A. Tiberius Tolliver

Mr. Tolliver was present for the meeting. Mr. Tolliver addressed a few of the items that were not disclosed in his application. The Board determined that all of the occurrences stemmed from the same incident.

Motion- I make a motion that we accept the licensure application for Tiberius Tolliver; Brian Fearnley

Second- Eathan O'Bryant

Motion passes unanimously

Item 7 – 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 ratify the licenses as presented; Sherise Smith

Second- Jennifer Nash

Motion passes unanimously

Board Member O'Bryant briefly left the room and did not participate in this vote.

Item 8 - Consideration of recommendations of the Advisory Committee on Continuing Competence for continuing competence courses reviewed at the Advisory Committee on Continuing Competence Meeting. (**For Possible Action**)

A. July 19, 2019

Chair Smith informed the board members that the courses mentioned by Dr. Rovetti in his public comment are in this agenda item. Board member Nash noted that manipulation is taught in physical therapy programs and they are not chiropractic adjustments. It was also noted that a PT is the instructor of the courses. Chairperson Smith noted that the attorney general clarification of opinion letter from May of 2013 included a statement that the practice of physical therapy prohibits chiropractic adjustment, but that the opinion does not intend to say that all manipulation is prohibited.

Motion- I make a motion that we approve the courses as recommended by the ACCC on July 19, 2019; Sherise Smith

Second- Jennifer Nash

Motion passes unanimously

B. September 13, 2019

Vice-Chair Fearnley asked exactly how the hours were decided. Board Member Nash discussed that the providers provide suggested hours, but the committee goes through each course and determines the actual number of hours awarded.

Motion- I make a motion that we approved the courses as listed in item 8B from July 26, 2019; Brian Fearnley

Second- Jennifer Nash

Motion passes unanimously

Item 9- Investigation Department

A. Review and Discussion of Outstanding Cases Status Report

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

i. 2019-17- DAG Bradley recommended this case for dismissal as there was no reason to follow up.

Motion- I make a motion that we dismiss case 2019-17 as recommended; Sherise Smith

Second- Eathan O'Bryant

Motion passes unanimously.

- C. Status of Inspectors and Inspection Training (**For Possible Action**). The Board will review, discuss and select applicants to fill vacant Board Inspector positions.

Director Harvey informed the Board of the status of the inspector training. The Board has received a few letters of interest for the inspector positions in both northern and southern Nevada. Chairperson Smith stated that she and Director Harvey have discussed 2 inspectors in the north and 3 in the south. She also stated that she knew both inspector applicants from the north and will be recusing herself from this vote.

Motion- I make a motion that we approve all 3 applicants; Brian Fearnley

Second- Jennifer Nash

Motion passes unanimously

Director Harvey stated that he and Investigator Dieter would be doing the primary training and including DAG Bradley and board members when they are available.

Item 10- Board Operations Update

A. 2019 Year-to-Date Budget

Director Harvey gave the board a brief overview of the budget. Chairperson Smith asked questions regarding the shifting of line items. Director Harvey explained that a few items have been moved to more accurately depict the status of board financials.

B. Annual Audit of Board Financials

Director Harvey stated that the contract for the financial audit had been approved. The financial audit began shortly after the approval.

C. Board Position Vacancies

i. PTA Board Member

Director Harvey stated that a candidate may have been selected but no announcement had been made. DAG Bradley stated that the Governor's office had been thoroughly vetting appointees, which has made their process a little longer.

ii. Advisory Committee on Continuing Competence

Director Harvey noted that several licensees from southern Nevada have expressed interest in this position but the opening is for northern Nevada.

D. Renewals

Director Harvey touched on some of the challenges the board staff faced during this year's bulk renewal season.

i. Continuing Competence Audit

The board staff has started their continuing competence audit. Approximately 5% of licensees were chosen randomly for this audit.

Chairperson Smith thanked the board staff for their work on the renewals and the audit. Vice-Chair Fearnley asked if our software issues would be corrected with another database vendor. Director Harvey stated that he had looked at other providers and reached out to other jurisdictions to learn which systems they were using and satisfaction with their systems and vendors. He felt that it was best to continue with our current vendor at this time.

Item 11- Report from Board Chair

- A. Update from Jennifer Nash and Danielle Devine re: FSBPT Regulatory Training for

Members and Board Staff

Ms. Devine mentioned that the opportunity to attend the FSBPT Regulatory Training for Members and Board Staff provided great exposure to different boards and FSBPT staff. She stated that it was interesting to speak with other boards about how they operate and to with FSBPT staff about their vision and involvement in the licensing process. Board Member Nash mirrored Ms. Devine's thoughts and added that it was great to have insight from the FSBPT board members that were in attendance.

B. 2019 Annual FSBPT Meeting & Delegate Assembly- 10/24/2019- 10/26/2019

Chairperson Smith recapped the expected attendance of our board at the annual meeting in Oklahoma City, Oklahoma. She stated that she will attend as a speaker while Vice-Chair Fearnley attends as a delegate, Board Member Nash will attend as an alternate delegate, and Director Harvey will attend as the funded administrator. The Board will be sending Investigator Dieter as well. Chairperson Smith added that these meetings are a wealth of knowledge and how great it is to have exposure to other boards.

C. Legislative Update/ Proposed Regulations- Dry Needling

Board Lobbyist Neena Laxalt was not able to attend this meeting, but Chairperson Smith spoke with her about the PT Compact. Ms. Laxalt has been in contact with legislators on interim healthcare committee members, to continue the conversation about compact legislation that we look forward to presenting again. Chair Smith also mentioned that the Dry Needling Regulations are being drafted. There have been a few wording questions that have been addressed.

Item 12- Public Comment

A. Chris Frehner, Director of Therapy at University Medical Center (UMC)

Mr. Frehner described his deep roots in Nevada and his drive to be a physical therapist. He stated that a physical therapist assistant lamented about the lack of assistance available due to regulatory restrictions on the use of physical therapy technicians. Mr. Frehner asked that the board clarify whether this instance would indeed be a misuse of a technician. He asked that the Board have more flexibility with the use of technicians in order to maintain safe patient handling.

Chairperson Smith stated that current regulations state that a physical therapist assistant cannot supervise a technician and that a technician must be within line of sight of the supervising physical therapist. Chairperson Smith stated that the Board could discuss this topic further when reviewing our next update for regulations.

B. Edward Ernst, PTA

Mr. Ernst asked for clarification from the Board and stated that if the practice of physical therapy definition allows grade 5 mobilizations in the practice act, can he as a physical therapy assistant be allowed to perform grade 5 mobilizations.

Chairperson Smith stated that the public comment period is not for question and answer, so he may submit his question in writing his question and ask for an advisory opinion which will be agendized at a later board meeting.

C. Dr. Dave Rovetti, DC

Dr. Rovetti discussed his displeasure that the courses that he discussed during the initial public comment period were approved. Dr. Rovetti asked for clarification as to how the Board justifies the approval of these courses.

Chairperson Smith stated that the public comment period is not for question and answer. Dr. Rovetti asked if there were any comments on how the Board reconciles the approval of these courses. He thanked the board for their time.

Item 13- Adjournment

Motion- I make a motion that we adjourn the meeting; Sherise Smith

Second- Eathan O'Bryant

Motion passes unanimously

Meeting adjourned at 10:34 a.m.