

BOARD OF PHYSICAL THERAPY MEETING MINUTES MARCH 24, 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 by Chairman Baum at 9:23 am. Members present: Tina Baum, PT, DPT, WCS, ATC, CLT, Chairman; James McKivigan, DC, PT, MPA, MA, Secretary/Treasurer; Sherise R. Smith, PT, MSPT, CBIS, Vice Chairman; Andrea Menicucci, MS, CCC-SLP, Public Member; Brian Fearnley, PT, MPT, Board Member. Non-members present: Richard Dreitzer, Legal Counsel; Sarah Bradley, Legal Counsel; Loretta Ponton, interim Executive Director; Paula Berkley, Lobbyist; Muriel Morin, Licensing Coordinator; for all others in attendance, refer to the sign-in sheet.

2. **Pledge of Allegiance**

3. **Public Comment – No public comment**

4. **Approval of the Minutes of February 15, 2016 (For possible action)**

Motion: Tina Baum made the motion to approve the minutes with no corrections.

Seconded: James McKivigan

Motion Carries Unanimously

5. **Consideration of requests to take the National Physical Therapy Examination for Physical Therapist's Assistants (For possible action)**

- Gary Smith, 5th time
- Emily Luke, 4th time
- Chandra Jeevinmathu, 4th time

Loretta Ponton, Interim Executive Director - There are three individuals that have requested to take the examination. Staff is recommending that the Board ratify or approve these Physical Therapy Assistants to take these examinations.

Recommendations are as follows:

- Approve for up to one (1) year

Per the National Physical Therapy Assistant Association requirements:

Six times per lifetime

Three times annually

Exams are scheduled four times a year

Sherise Smith, Vice Chair – Have the applicants submitted their study plans?

Loretta Ponton, Interim Executive Director - Under NRS 640, the law refers to Physical Therapist, not Physical Therapy Assistants. The role of the Board is to verify competence of an applicant for the health, safety and welfare of the public; these applicants are not licensees. It has been the policy to bring these applicants before the Board, however, that is not a requirement.

Tina Baum, Board Chair – Clarification on Open Meeting Law and Public Comment with Sarah Bradley.

Sarah Bradley, Legal Counsel - NRS 640.100 (4) refers to an applicant of Physical Therapy, not Physical Therapy Assistants.

Rebecca Chema, Director of PIIMA PTA Program - Students would meet before the Board and get approval to take the exam an additional time. Unfortunately, they would not participate in any type of remediation through our program or, as far as we knew, any other type of preparation. They would then go retake the exam and fail, and that is why the Board spoke with some of the Program Directors. We thought it would be beneficial if the State Board had some type of verification from the schools if the student had participated in the study plan. That's why previously, Program Directors would submit a letter to the Board.

Tina Baum, Board Chair - Correction to the National Physical Therapy Assistant Association, it should be the FSBPT (Federation of State Board of Physical Therapy)

Loretta Ponton, Interim Executive Director - Recommended to go with Board Policy, we can research and look at the A.G. opinion and bring this back to the Board.

Motion: Andrea Menicucci made the motion that we do not approve the request to the National Physical Therapy Examination.

Seconded: Sherise Smith

Motion Carries Unanimously

6. Consideration of Request to Extend Application period and take National Physical Therapy Examination for Physical Therapist's Assistants (For possible action)

- Kareem Gwinn

Loretta Ponton, Interim Executive Director - For the record, Mr. Gwinn was also noticed in accordance with NRS 241.033. Mr. Gwinn's application is over one year old. He is requesting an extension so he can take the National PTA Exam. You do have some options, he has only taken the exam one time: you can approve his request and authorize him to take the exam; you can require him to provide an updated application and fingerprints and authorize him to take an exam; you can require him to submit a new application, fingerprints and fee prior to authorizing him to take the exam; or you can deny the request.

Question from unknown Board Member: Do we know why he let his application expire?

(Inaudible comment from public)

Motion: Andrea Menicucci made the motion to grant Mr. Gwinn the opportunity to take the National Physical Therapy Assistant Exam, require an updated application and fingerprints.

Seconded: James McKivigan

Motion Carries Unanimously

7. Consideration of request for removal from probation - Fritz Griego, PT (For possible action)

Motion: Sherise Smith motioned to go into closed session.

Seconded: James McKivigan

Motion Carries Unanimously

After returning from closed session

Motion: Sherise Smith made a motion to grant termination of probation for Ms. Griego

Seconded: James McKivigan

Motion Carries Unanimously

8. Consent Agenda Items (For possible action)

- Ratification of Licenses approved and issued by authority of the Board; Exhibit A

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

Seconded: Andrea Menicucci

Motion Carries Unanimously

- Ratification of release from probation, Jibu Karian, PT

Loretta Ponton, Interim Executive Director – Applicant has met all requirements for probation, the file was reviewed by Board Chair and determined there is no reason not to terminate probation.

Motion: Tina Baum made a motion to approve ratification to release Jibu Karian, PT from probation. Note: Mr. Karian appeared at the February 15, 2016 Board Meeting and he had not been agenized. The decision was made that he did not have to appear at the March 24th meeting due to clerical error.

Seconded: James McKivigan

Motion Carries Unanimously

9. Legislative Bills (For possible action)

- Legislative Bill and Regulation Revision Process (informational)

Paula Berkley, Lobbyist - Since we are going long this meeting maybe I can cover that in the next meeting? I do have a one page document that we are doing now and this will give you information.

Tina Baum, Board Chair – Defer the Legislative Bill and Regulation Process to the next meeting.

Paula Berkley, Lobbyist – Last Board Meeting we went through a list of proposed regulation and I think we referred a list back to Allison for revision and research, I took that project over. The Legislature requires our bill to be submitted in a proper format, and I have done that.

Andrea Menicucci, Public Member – So you are trying to describe how the proposed legislation will function within the agency?

Paula Berkley, Lobbyist – I went through this and then contacted my Legislative Liaison, Sherise, and we went through it and Loretta was hired on. We started to incorporate her into the equation and we all worked together to create the language. This is the fourth revision since the last Board Meeting. We need to make sure that what we turn in is consistent with language from other agencies.

1. The Board considered changing the number of members to include a Physical Therapy Assistant, instead of leaving this at an even number, I included another Public Member.

Loretta Ponton, Interim Executive Director – I have two Boards with five members, and one has eight members that will drop to a seven member Board. When looking at the number of licensees of an agency vs. Board Members, you have to look at how you function as a Board. It is easier to function with a five member board, three for a quorum. It's less cost associated with meetings, terms are staggered and think of the long term as you are going through your needs.

I have a Board with an Advisory Member now, the Speech and Hearing Board for short. In the last legislative session we merged a Board into an existing Board, this is my eight member Board with two Advisory Members. We use Advisory Members in our work groups to develop new regulations. They work together with Board Members and other interested parties in the field. They participate in the Board Meetings, their position on the Board does not have a voting privilege, so they do not count towards a quorum but, they participate in all the discussions.

Paula Berkley, Lobbyist – The other reason we had Advisory Members is to have a MD on a Board. It is hard to get them to come to participate in the Board Meeting, and they as an Advisory Member can give input and not count towards the quorum.

Loretta Ponton, Interim Executive Director – An Advisory Member can also be involved as a Case Review Member without involving the quorum Board Members.

We have an odd (eight) number of Board Members only because that is what was negotiated when our bill went through the legislature. There was opposition to the bill and this was a legislative compromise.

Sherise Smith, Vice Chair – I have questions, maybe for Richard. One of the things at the FSBPT meeting they commented on was moving Boards to have more Consumer Member Boards. We would have the PTA plus two

Consumer Members which, my understanding after the North Carolina thing, is what they will push us towards.

Richard Dreitzer, Legal Counsel – It is good practice to expand in the direction of the Consumer Member.

Sarah Bradley, Legal Counsel – I would say, even before the North Carolina case that has been the trend nationally because they wanted more representation. The North Carolina case definitely highlighted a need and what that case talks about is control by market participants. So in this situation you would still have a majority of your Board Members in the market place.

Open discussion regarding Advisory Member and creating sub committees utilizing them.

2. Paula Berkley, Lobbyist – Allison had suggested changing the expiration of the renewal date to birthdays. The Board is changing their computer system, it would be able to handle all of the changes as necessary. I put the following language in:

A date established by the Board, which would not be less than one year renewal. I added the Physical Therapist's Assistant as well.

Sherise Smith, Vice Chair – Currently, there are more licensing Boards that have two year renewals than one year. It is approximately 26 to 15, and then 31 Boards have their license expire on one date, six actually do birth dates.

Open discussion regarding doubling fees for a two year license. Application fee vs. licensing fee, updating NAC vs. NRS, if the license is not renewed within 30 days the license may be reinstated, this is clean up language.

Tina Baum, Board Chair – I am concerned about how long this is going to take and can we put this on hold.

3. NRS 640.140 remove this section due to SB 68 that passed in the 2015 Legislative Session. We will need to modify to include the terminology PTA. Federal Law requires that we verify they are lawfully able to work in the United States. Utilize language in both bills.

4. The Board does not do examinations. We would like to remove NRS 640.100

5. NRS 640.230 remove age requirement of at least 18 years old.

6. Change the name of The Board to Board of Physical Therapy, Nevada State Board of Physical Therapy.

7. NRS 640.050 add language to evaluate and determine qualifications of a Physical Therapist or a Physical Therapist's Assistant.

Sarah Bradly, Lobbyist – I would add something about discipline, comments of records and retention.

Open discussion – Define what limited activity is, correct Therapist's to Therapist where applicable. Language submitted by public, from other Physical Therapy State Boards. Discussion of changing regulations (NAC) through subcommittee in the even years, we must get the bill passed prior to changing the NAC. While correcting the ('s) change Physical Therapist's Technician to the correct spelling by eliminating the 's.

- **Proposed revisions to NRS 640, Board bill draft and NPTA bill draft**

Public Comment, Jenelle – NRS 640.029 (3) we do not like to advertise or hold ourselves out to all Health Care Boards. The Board is here to protect the public and we feel this would not accomplish your mission.

Paula Berkley, Lobbyist – Healing Arts Generally NRS 629.031 defines a "Provider of health care" and NRS 629.076 defines the standard for advertisement. The Legislature tries to use uniform language throughout the NRS.

Open discussion of practice act, initials after the Physical Therapist's name and moving the profession towards that. 2014 passage of regulations from the House of Delegates, a person can have a DPT and not be licensed. Are we going to say they cannot use that designation? Discussion about a doctorate degree, earning the degree and could potentially found guilty of a misdemeanor if they are not licensed.

Hal Taylor – Discussion of NRS 640.170 we can utilize these terms when someone misrepresents themselves.

Sarah Bradley, Legal Counsel – Most Boards have an unlicensed activity or expired license, something that is grounds for discipline. Violation of this chapter or acting in this sort of way is a misdemeanor. I'm not aware of anyone very often being prosecuted.

Public Comment, Jenelle – NRS 640.024 we are proposing to add a language as proposed in our handout.

Tina Baum, Board Chair - Why are we keeping the word massage and not using the word manual therapy?

Public Comment, Jenelle – It was brought to us to not change too much stuff.

Discussion of a Wellness Counselor vs. Physical Therapist. Do we want to list NRS for PTA as well? If that does not go through, then we will have to add it to this.

We will need to place this on the Agenda at a later meeting.

10. Board Administration, Policies and Contracts for Services (For possible action)

a. Review and Approval of Board Personnel Policies and Procedures Manual (For possible action)

Loretta Ponton, Interim Executive Director – Enclosed are the policies and procedures that are utilized by my other Boards.

Addendum add security of office

Selection process – Do we plan on doing a back ground check on applicants?

Compensation of employees

Resignation of two weeks' notice

Vacation has always been two weeks' notice. PTO is utilized as sick time also.

Who does the Executive Director report to? The full Board, for practical matter, the ED reports to the Chairperson.

Classification for Licensing Coordinator, enclosed is the pay scale for an Administrative Assistant II.

Performance evaluation for all Board Staff

Motion: Andrea Menicucci made a motion to approve the Policies and Procedures Manual with the change of the dollar amount for the Licensing Coordinator.

Seconded: James McKivigan

Motion Carries Unanimously

b. Review and Approval of Board Operating Policies (For possible action)

Loretta Ponton, Interim Executive Director – This document lists the requirements of our office procedures and how the office is required to run.

Financial Policy and Procedures, Internal Control, The business account only has one signature needs to be changed, Security access and keys

Motion: Andrea Menicucci made a motion to approve the Board Operating Policies with the amendments as discussed, leaving the other policies not mentioned in place

Seconded: James McKivigan

Motions Carries Unanimously

c. Review of Proposals, Selection, Approval to Contract(s) for Legal Services (For possible action)

- State Attorney General's Services

Sarah Bradley, Deputy Attorney General's office - Currently I am in the Boards and Government Division. We have a new Chief, Brett Kandt, and he wants to apologize that he could not attend this meeting.

Open Meeting Law Deputy that reviews all OML complaints - We are the division that investigates OML complaints and things of that nature. I do a lot of public records work for the state and training as well as working with approximately 14 clients and agencies. We are happy to provide whatever legal service your agency may need. Our hourly rate is \$145.36 per hour and travel is billed at ½ time. The Attorney's General's Office has a statutorily roll that we can provide, please refer to the letter Mr. Kandt sent. All lawsuits must be filed through the AG's Office.

With some of the Agencies that have outside Board Council, we attend the Board meetings to assist the Board in making decisions with discipline; I will refer back to Mr. Kandt's letter.

The AG's office makes their meeting rooms available for video conferencing as well, this is potentially a cost savings for the Board.

I have been with the AG's office for nine years in June; we have staff in the Las Vegas office as well. So if you have cases or hearings we can utilize that option too.

We bill monthly and for actual hours expended, there is no retainer fee.

We also publish the Board and Commissions Manual, we also have an Open Meeting Law Manual as well as the Rule Making Manual. Those resources are available on the website for you.

Tina Baum, Board Chair – The Board has been faced with quite a few changes and we are just trying to figure out which way we want to go.

Sherise Smith, Vice Chair – When we utilize your office, is it always the same council or is it whoever is available?

Sarah Bradley, Legal Counsel – It depends on what you choose, if you hire the Attorney General's Office as your board council, you will be assigned a Deputy and that is the person that you would interact with. If you have outside council as your prosecutor and you have board council, normally what you would do is, you would have a person in the North assigned and a person in the South assigned and you would generally have the same person in your meetings. There is a potential for over schedule of meetings. We try to avoid unnecessary cost to save the Board money.

The meeting location is as follows: Las Vegas, 555 E. Washington Street and the Carson City location is 100 N. Carson Street. You would contact the Carson City front office and make reservations and we would make those available for you. There are several options for video conferencing available to you.

- Richard Dreitzer, Esq., Wilson Elser Moskowitz Edelman & Dicker, LLP
Richard Dreitzer – (Inaudible) He was hired about (Inaudible) years ago and there was a backlog of cases. The Attorney General's Office was working with the Board. I was going to be sitting for Board Meetings and working prosecutions that were new. For the last eight years, this Board has had tremendous challenges with cases in the Nevada Supreme Court, the District Court and the Commission of Ethics in the State of Nevada. I am proud to say that while on my watch in the eight years that I have been working with this Board, not a single decision of this Board has been turned over by a Court or any reviewing body. Please refer to the proposal that was submitted, those numbers are actual hard numbers that I pulled from the immediate past years as Board Council. I am available for this Board 24 hours a day, if a Board Member needs something from me outside of normal business hours, I always make myself available. I represent the Podiatry Board; however, they are a much smaller Board. If the Physical Therapy Board needs something, I drop what I am doing and assist in any way. I am asking for the opportunity to continue to work with this agency.

Question – How many outside litigation cases are there currently?

Richard Dreitzer, Legal Counsel – I want to say two.

Andrea Menicucci, Public Member – Given the outstanding legal fees, I understand that some are from 2014, has that been considered within your proposal and this is more of a going forward thing?

Richard Dreitzer, Legal Counsel – It is, and I noticed that from the Budget you have proposed you only have a smidge of that left. You have my commitment that I will not go beyond that amount.

Inaudible conversation about the Agenda item

Loretta Ponton, Interim Executive Director – We are reviewing the Agenda items.

Richard Dreitzer, Legal Counsel – If backlogged cases are discovered in the office, I will do whatever needs to be done to correct the problem going forward.

- Hal Taylor, Esq., Attorney at Law
Hal Taylor – (Inaudible – Mr. Taylor was sitting farther away from the recorder)

I've been working with licensing boards since 1984 (discussed different licensing boards he has worked with). I have worked on both sides with prosecuting and as a defense attorney. I bring a lot of experience to the table. Uncertain of the problems with the way cases have been handled, I have spent a lot of time with boards in general and I have a vested interest in them. I know Sarah; we see each other every year at the FARB meetings. I love putting facts together, connecting things and creating things.

Loretta Ponton, Interim Executive Director – Can you tell us what the number of consumer complaints vs. the type of administrative complaint?

Hal Taylor, Esq. – I would say 20% / 80%, I would say one out of five are consumer complaints.

Loretta Ponton, Interim Executive Director – Let me clarify, I am talking about a consumer filing a complaint vs. an investigator doing an inspection and that turning into a case?

Hal Taylor, Esq. – I would say seven out of 10 are from an outside complaint. Types of violations: failure to update address, charting issues and then consumer complaints.

Open discussion about complaints, the complaint process and the formal hearing process. Discussion of the roles of each of the attorneys and how they will be involved with each case.

Loretta Ponton, Interim Executive Director – Discussion of legal fees over the last four years, coming close to \$100,000.00. The way legal fees were paid before were retainer based vs. hourly.

Andrea Menicucci, Public Member – Can we do a combination of these options?

Loretta Ponton, Interim Executive Director – Yes.

Tina Baum, Board Chair – Discussion on the backlog of cases

Public Comment, Janelle – I would like to tell you my experience with the Board. The Association at one point had to retain an attorney to get clarification on some points. I feel if we had the Attorney General's office that we could have gotten clarification without going outside for an attorney.

Open discussion about the value of keeping the history in the agency. Discussion of how Richard will bill our agency going forward. Discussion on where the

breakdown is in the system and we need to identify where the issues are and institute a policy to correct the issues.

Sarah Bradley, Legal Counsel – The AG's office is the default agency, we do not need a contract. However, I know Brett would like our roles defined as much as possible to make sure we are not missing something.

Andrea Menicucci, Public Member – If we used the AG's Office for our Board Meetings, would we still need to have a retainer with Richard?

Richard Dreitzer, Legal Counsel – Are you requesting to have two attorneys at each Board Meeting? If you use the AG's office as Board Council and we do not have any Formal Hearings then I would leave the meeting and not create an extra cost.

Loretta Ponton, Interim Executive Director – Richard's and Hal's contracts would need to go through the BOE with the State. The AG's office does not require a contract.

Tina Baum, Board Chair – If we want the AG's office, then would we need to pay Richard the retainer?

Richard Dreitzer, Legal Counsel – If the retainer is an issue for the Board, I can revise the quote and bill the Board hourly if they so choose.

Public Comment, Jenelle – I have a question: Are you saying that we are out of compliance with the services of Richard?

Loretta Ponton, Interim Executive Director – We are only out of compliance with the procurement of Richard's Contract.

Discussion regarding contract requirements with the State of Nevada and who is responsible for the implementation of them, Board Council vs. Executive Director. Moving forward operations of the Board will be done differently.

Motion: Tina Baum made a motion to retain the AG's office for services of the Board Meetings. The Board retains Richard Dreitzer for the past cases at \$200.00 and retain Hal Taylor as an alternative as needed for special situations.

Seconded: Andrea Menicucci

Motion Carries Unanimously

Sarah Bradley, Legal Counsel – I just want to clarify, the AG's office for the day to day duties and meetings?

Answer - Correct.

Approximately at 4:30:

Tina Baum, Board Chair – We have formally received a resignation from Richard Dreitzer for his services mentioned earlier. Document was read into record. Mr. Dreitzer's resignation was accepted.

Sarah Bradley, Attorney General – We will need to send out Substitution of Attorney in place of Richard Dreitzer to the court so they will know who to contact.

Motion: Tina Baum made a motion to rescind Richard Dreitzer's offer as legal counsel based on the resignation letter read into record.

Seconded: Andrea Menicucci

Motion Carries Unanimously

Motion: Andrea Menicucci made a motion to reconsider Hal Taylor's proposal to provide legal services to the Board.

Seconded: James McKivigan

Motion Carries Unanimously

d. Review of Proposals, Selection and Approval to Contract for Audit Services (For possible action)

- Campbell Jones Cohen, CPA's
- Kohn & Company CPA's

Loretta Ponton, Interim Executive Director – The Board is required to have audits annually or bi annually, this agency has choose not have them bi annually. This is a Government Audit and the parameters are set out before you.

Motion: Tina Baum made a motion to accept the contract for Kohn & Company CPA's for our bi annual audit.

Seconded: James McKivigan

Motion Carries Unanimously

e. Review of Proposal and Approval to Contract for Legislative Services (For possible action)

- Paula Berkley, Lobbyist

Loretta Ponton, Interim Executive Director – For the Board's information, I did do an informal solicitation for lobby services. I got one response.

Paula Berkley, Lobbyist – When Allison contacted me I put my information in immediately.

Motion: Tina Baum made a motion to accept the contract for Paula Berkley, Lobbyist for legislative services to continue with her hourly contract now and asking Loretta and Paula to negotiate the 2017 fiscal year contract up to \$45,000.00.

Seconded: James McKivigan

Motion Carries Unanimously

- f. Review of Proposals to Provide Automated Licensing and Regulatory Software and Services and Approval to Contract, Negotiate Scope, Terms and Costs (For possible action)
- GL Solutions
 - InLumen

Loretta Ponton, Interim Executive Director – The Board wants to go with an automated service for our data solutions. GL Solutions and InLumen have given us quotes for our services. GL is approximately \$25,000 per year. InLumen is proposing a quick start option.

Luke (Inaudible)

Loretta Ponton, Interim Executive Director – They will take your current database and upload into the new system. You will not have to re-enter all that information again. We are currently negotiating credit card payments.

Motion: Tina Baum made a motion to approve the subscription with InLumen for the Quick Start Renewal

Seconded: James McKivigan

Motion Carries Unanimously

11. Interim Executive Director's Report (For possible action)

- Executive Director Recruitment Update

Loretta Ponton, Interim Executive Director – The job description has been out for 2 ½ weeks and I extended the application time due to lack of response. Currently, there are 12 applicants to review. The Board needs to: 1. Establish a meeting date for the interviews. 2. Designate individuals to assist in the review of the applications and narrow them down to whatever the Board feels is appropriate to select the Executive Director from.

Tina Baum, Board Chair – Out of the applications, how many live in the North vs. South?

Loretta Ponton, Interim Executive Director – They are about split 50/50, four or five from Vegas, one from outside the state of Nevada, six are from

Northern Nevada. Initial recruitment was limited to Las Vegas area. With the low turnout of applicants and after speaking with State personnel, they advised to open up the recruitment statewide. The Board is charged with hiring the best applicant for the position and by limiting those to location may limit your field of applicants. It is my recommendation to consider all applicants statewide and through that evaluation, determine the needs of the Board and proceed from there.

Tina Baum, Board Chair – Google searched the Executive Director posting and could not find the post. Concerns of how far is our search reaching? Second concern is the Board's responsibility to the lease in the Las Vegas office. Loretta was asked by Chair if possible to post to a public website for recruitment of more applicants.

Loretta Ponton, Interim Executive Director – The posting on a public website will delay the process, once you have opened it up. This is a public position and is noticed on the State of Nevada Personnel website, NSBPT website and internal contacts. By posting on a national website, I'm sure you'll get a lot of response to the recruitment, 12 is a good number to choose from.

Sherise Smith, Vice Chair – Is there a way for us to estimate what the cost would be, if we relocated the office to Northern Nevada?

Tina Baum, Board Chair – Currently, there are too many variables to be able to answer that right now.

Loretta Ponton, Interim Executive Director – This is a state lease, there are provisions for this exact type of situation. Having a physical location in both the north and the south may be beneficial to the licensees, with the Legislative session coming up and access to state facilities. A large number of Boards have a presence in the North or in both regions of Nevada. The posting is on the Nevada Job Connect website that is a national job bank.

The interview will be conducted in an open meeting in accordance with the Open Meeting Law.

I have developed an application review form that you will use to evaluate each applicant. From there the Board will narrow it down to however many applications the Board determines to interview.

Tina Baum, Board Chair – Loretta, can I task you to find out what the implications are if we do want to give up the larger office in Vegas?

Loretta Ponton, Interim Executive Director – We would refer the lease to the Buildings and Grounds to review our “Out Clause”. We don’t have to do it ourselves.

- **Administrative Office Activities**

Loretta Ponton, Interim Executive Director – Kudos to Muriel for the outstanding job she has done in office. I would also like to give kudos to Tina. She has put in many hours keeping the Board functioning and assisting me with keeping things flowing. Going forward this is a very extensive job playing catch up. The contract for my services is being held up at the State Purchasing Office. They do not understand why this Board needed this type of service without going through the RFP process.

Sherise Smith, Vice Chair – I would like to acknowledge the work that Tina, Muriel and Loretta have done. I know it has been extensive and we appreciate your hard work.

- **Financial Reports**

Loretta Ponton, Interim Executive Director – We need to go over the financial report before we go into the process of looking at contracts and creating obligation for the future. Looking at our ability to fund things and looking at our financial stability.

We’ve been working with Carol Woods, the bookkeeper. This is as of February 29, 2016.

Balance Sheet: This shows resources and liabilities, there were numerous outstanding accounts payable; some of this reflects amounts that have been paid. Legal services are the largest outstanding amount based on the invoices we’ve received, in excess of \$50,000.00.

Other Current Assets: Our total Assets are \$581,537.99

Liabilities: You have your accrued vacation, this is vacation that has been earned and has not been taken, and this is the dollar amount of that. Due to General Fund, this would be your fines that you have assessed individuals. According to State Law, fines must be turned over to the General Fund. The agency is not allowed to keep this as a revenue source. This is the balance of what is do, I will find out what needs to be paid.

Tina Baum, Board Chair – Do you know if we’d been paid for these fines?

Loretta Ponton, Interim Executive Director – I do not know the answer to that. Payroll liabilities, employee pay retirement, which is the personnel retirement system, \$9,871.29 is what was, due as of February 29, 2016. UI tax, on the reimbursement account, you report the payroll and do not pay the tax until you have an unemployment claim filed against the account. Currently, the UT tax account is set up as a fee paid account or contributing account. We report

the payroll and pay a fee associated with our agency's percent, with a small staff it is not a large liability.

Tina Baum, Board Chair – Was this something that you did or was this set up like this?

Loretta Ponton, Interim Executive Director – The account was set up like this years ago. Second note, as a Government Employee, we are not subject to Federal Unemployment Tax. This agency has been paying FUT, I have not been able to follow up with IRS to see if they have this agency categorized as a government agency or a business. That will be followed up. Those are your payroll liabilities. Deferred Revenue: A licensee will pay their renewal fees for one year, that amount of money will be deferred through that year. That revenue is recorded into your profit and loss statement each month as it is earned. When you are looking at your Profit and Loss, when you look at the revenue you can take what it shows, plus the deferred revenue shows the total revenue. It's a good way to check where you are at the end of the year.

Tina Baum, Board Chair – Is ConEd included in the deferred revenue?

Loretta Ponton, Interim Executive Director – I do not see that being a deferred revenue.

Sherise Smith, Vice Chair – So Loretta, do you think this is on target?

Loretta Ponton, Interim Executive Director – This is based on your number of licensees and your fees. An analysis of your Profit and Loss, you will add the deferred revenue to what you have actually collected. It is a little bit over what your unapproved budget line item is.

Andrea Menicucci, Public Member – Since we have not established a budget, will this number be accurately reflected?

Loretta Ponton, Interim Executive Director – When I prepare the budget for your review, I will go through every single one of those line items and how I came up with those numbers and what I used. Your current liabilities are the \$30,000.00. What is not reflected is the additional \$50,000.00 in legal fees that are due. Your liabilities are closer to \$80,000.00. The legal fees also include litigation for cases, it's not sole Board Meeting fees. Retained Equity is money that you had from previous years. Net Income is your current year profit vs. your current year expense. Income vs. loss, when we add in that \$50,000.00 you will see that you are spending more than you earned this

year. The expense was actually incurred in a previous year. You are coming up on your bi-annual audit period and that is one of the reasons we have the line item in here to select your audit firm, so all of these things will be reconciled over this two year period. Year to Date profit and loss, July 2015 through February 2016. It shows what your income sources are: application, examination, renewal, interest income and ConEd. Your review as of February should be a little over 50% on a fiscal year basis.

Expenses: Are self-explanatory. Salaries: Board salaries; I do not have a record of who or when the last time the members were paid. Please get with Muriel, drop me an email, let me know and we will review the payables and get the members paid.

Tina Baum, Board Chair – I asked Carol and I think we figured out that we were paid in December and we have not been paid for January, I do not know about applications or cases. I do not know if we knew how much we should have been paid. None of our checks were ever itemized.

Loretta Ponton, Interim Executive Director – I do know that your law states you can be paid up to \$150.00 per day and part of that is while you are performing Board functions. That includes all those days you spent working in the Board office. If you would like to get paid for that, please submit your time.

Expenses and operating expenses are self-explanatory. Rent; this is what has been paid as of February 2016. Legal fees; \$48,017.01 this is what was paid as of today. There is still \$50,000.00 outstanding.

In summary – You need to know how much money you have and what our expenses going to be. As you can see you have \$560,000.00. Your actual revenue for the year would be on an annual basis around \$300,000.00. On a good note you already have \$265,000.00. Again, you will be starting your renewal period in June and again, those fees go into deferred revenue.

I will be assisting the auditors and getting things put together for this period. Budgets are a management tool for this Board and to move forward you need to establish an effective budget and that is your fiduciary responsibility.

12. Report from Board Chair (For possible action)

Tina Baum, Board Chair – Loretta is going to give Sherise and I the applications for the Executive Directors position to review. We will score them according to a score report and give them to Loretta. Loretta will then score them and the final will be selected from those. The recruitment will be closed as of March 31, 2016.

- **Future Agenda Items**

Loretta Ponton, Interim Executive Director – Have Brett Kandt come and do the presentation on Open Government for the Board.

- **Next Scheduled Meeting**

First Interview Date - April 11, 2016

May 3, 2016 for the next regular Board Meeting in Las Vegas

13. **Report from Legal Counsel (possible closed session - attorney client privilege)**
14. **Public Comment: None**
15. **Adjournment at 5:00 pm**

Fwd: Resignation

Board Email

Sent: Monday, June 13, 2016 12:30 PM**To:** Lisa Cooper

Tina L Baum, PT, DPT, WCS, ATC, CLT

Begin forwarded message:

From: "Dreitzer, Richard I."**Date:** March 24, 2016 at 3:32:35 PM PDT**To:** Tina Baum**Cc:****Subject: Re: Resignation**

Dear Members of the Board:

Having considered the issue, I am unable to reduce my hourly rate for the few matters that the Board has asked me to continue to handle.

Unfortunately, it is not financially viable for me to proceed in this fashion. I also find it rather demeaning to be asked to accept a reduction in my hourly rate when I have done high quality work for the Board these past years (which no one disputes). For this reason, I have no choice but to resign as counsel for the Board in all respects. Please let me know where you would like the board's files transferred and I will do my utmost to have it done ASAP.

Change is an important thing to embrace and is inevitable, particularly when it comes to agencies that hold a public trust. However, not all change is positive. I respectfully submit that the Board will come to regret letting the AG's office handle any of its work. I say this, not out of bitterness but out of deep concern for an organization I truly care about.

My best to you all. Thank you for eight wonderful years.

Richard

On Mar 16, 2016, at 6:03 PM, Tina Baum

Tina Baum, PT, DPT, WCS, ATC, CLT
Chairman, Nevada State Board of Physical Therapy Examiners