

Board Members

BRIAN J. FEARNLEY, PT, MPT
Board Chair

JENNIFER NASH, PT, DPT
Board Vice-Chair

EATHAN O'BRYANT
*Board Secretary/Treasurer
Public Member*

Katherine Joines PT, MPT
Board Member

Laura Cerame, PTA
Board Member

STATE OF NEVADA

STEVE SISOLAK
Governor



Staff

CHARLES D. HARVEY, MPA
Executive Director

MURIEL MORIN-MENDES
Licensing Coordinator

CHELSEA WILSON
Administrative Assistant

APRIL RAMIREZ
*Board Operations Support
Specialist*

DEBORAH DIETER, PT
Board Inspector

PHYSICAL THERAPY BOARD

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

BOARD MEETING MINUTES

May 7th, 2021

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

The meeting was called to order at 9:00 a.m. by Chair Fearnley.

Board Members in Attendance: Brian Fearnley, Board Chair; Jennifer Nash, Vice-Chair; Laura Cerame, PTA Board Member; Katherine Joines, Board Member; Ethan O'Bryant, Public Member

Staff in Attendance: Charles Harvey, Executive Director; Michael Detmer, Deputy Attorney General; Deborah Dieter, Investigator; Muriel Morin-Mendes, Licensing Coordinator, April Ramirez Board Operations Support Specialist.

Item 2 - Public Comment

From Jenelle Lauchman, PT, DPT, OCS, Sent in a statement in regards to SMALL BUSINESS IMPACT STATEMENT ON PROPOSED REGULATION CHANGES NEVADA PHYSICAL THERAPY BOARD

1. Page 15 Sec 22 and all other areas that list fees- Requesting the removal of annual from all fees. It was discussed prior about the possibility of going to multi-year licensure to allow for more flexibility and productivity of board staff and this change would allow for this discussion to continue.

2. Page 8-sec 11- 1d- Requesting the deletion of STG requirement as this places an extra administration burden on documentation. Only insurance require this. Most of my client are seen for less that 4 weeks or less than 6 vista so extra step that's not needed so it should be case based not regulation.

3. Page 38- sec 49- 2- requesting discussion on changing regulation to keeping the supervision of 4 but allowing for this to be fluid of no more than 2 tech but allowing for those of us who do not use techs to supervise up to 4 PTAs. This would allow us the be able to treat our clients in a more ethical manner and provide more care for our clients. As the board is striving for evidence based and skilled care this change would allow business to achieve this and remain solvent. (I am not sure why a PT needs more than 1 tech so if need a limit it should be on those extenders not PTAs.)

4. Page 39- Sec 50- 1 -In some cased Techs are ATC which are a licensed person so how by listing unlicensed how will these individuals be monitored when "working" under a PT?

Item 3 - Nevada Physical Therapy Association (APTA NV) Update
Nicole Lange, Secretary provided update: Have New Board Member Sarah, she has been doing work with the Executive Director of the APTA NV website and new organizational processes are being put into place. Carlo is the professional advisor that has been appointed and will assist with new grads and Student special interest group.

Item 4 - Legislative Update-Board Lobbyist Neena Laxalt-No Update given

Item 5- Update on Probationary Licenses

A. Jacob Schulte, A-1315

Mr. Schulte's case has been dismissed by the court. Mr. Schulte will be eligible to petition the Board after July 31st 2021 in order to get released from the Board for probationary license and submit a fingerprint background check.

B. Nolan Daniels, 4407- Board has been given update and no other action to be taken at this time.

Item 6 - Application Review **(For Possible Action)**
Taken Out of Order

A. Review of Application for Anthony Michael Krum for Approval, Denial, or other Administrative Action. This appearance is necessary due to the applicant's absence from the field and work experience. Mr. Krum was brought to the Board to discuss which in time his license was lapsed. The primary reason was to discuss what Mr. Krum has done competency wise while his licensed was lapsed. Mr. Krum has not taken any courses since 2018, Mr. Krum asked if he could take any courses that can get him up to date. Chair Fearnley stated to Mr. Krum that if he does in Continuing competency 30 hours, he will be able to apply and obtain a NV PT License. Licensing Coordinator Muriel

Morin Mendes stated that once the con ed is up to date that Mr. Krum will then be eligible to apply for licensure.

Motion: To approve Mr. Krum's Licensure pending the completion of continuing competency and verification of continuing competency from Colorado in 2018, Mr. Krum must complete 15 hours of Continued Competency units for year 2019 and year 2020.
Brian Fearnley

Second: Katherine Joines

Motion Passes unanimously

Item 7-

Disciplinary Action (**For Possible Action**). The Board will hold formal hearings wherein it may impose disciplinary action, approve a complaint for future prosecution or accept a stipulated settlement agreement, if one is presented, in the following case(s):

A. Case 2019-04

DAG Mike Detmer gave the Board an update on case 2019-04. It is still believed that this matter may be resolved by a settlement agreement, the Board office has not received the settlement agreement signed, the respondent may have second thoughts on the settlement agreement, Today's review will be able to place this complaint on an upcoming meeting, NAC 640.590, NAC 640.620.

Motion: To approve the complaint 2019-04 as written. Brian Fearnley

Second: Jennifer Nash

Motion Passes unanimously

B. Case# 2018-15 and 2019-26

DAG Detmer gave the Board an update on Case # 2018-15 and 2019-26 this complaint is being brought to the Boards review and possible approval for prosecution. The facts are the respondent has failed to provide timely produce medical records for two different patients, and in addition to that improper delegated services and incorrect and incomplete records. This violates the NAC 640.590 and NAC 640.610.

Motion: To approve the complaint 2018-15 and 2019-26 as written. Brian Fearnley

Second: Jennifer Nash

Motion Passes unanimously

Item 8- Investigation Department Update (For Possible Action)

A. Review and Discussion of Outstanding Cases Status Report

DAG Mike Detmer provided an update on outstanding cases.

- I. Mr. Ward has been reassigned and will no longer be working with the Board. DAG Mike Detmer has taken over the cases that were assigned to Mr. Ward.
- II. Currently there are varying levels of investigation and prosecution which includes substantiation, investigation, possible settlement as well as issuance of formal complaints. 2018-13, 2019-10, 2019-26, 2020-01, 2020-02, 2020-07 have all been sent 233B letters.
- III. At the last Board meeting there were two cases submitted to the Board for review for a hearing, those two cases were not brought before the Board at this meeting as there are possible settlement agreements being contemplated.

B. Review of Cases Recommended for Determination of Possible Disposition-**No cases are being recommended for dismissal at this time.**

C. Review and discussion of New Board Citation Form

I. DAG Mike Detmer gave the Board a brief overview on the New Board Citation as well as an active demonstration of the citation form. This citation form would be used when an inspector views an active violation while doing an inspection.

II. The Fines for the citable offenses will need to be discussed and added to our regulation. The Board will need to make the necessary changes to the regulations to figure out the fine amounts.

Motion: To accept the new citation form with the recommended corrections. Brian Fearnley

Second: Katherine Joines

Motion Passes unanimously

Recess at 10:00 AM

Item 9 - Review, discuss, amend, and approve Board Meeting Minutes (For Possible Action)

A. March 5th, 2021

Motion: Motion to approve March 5th, 2021 meeting minutes with the edits provided: Brian Fearnley

Second: Laura Cerame

Motion Passes Unanimously

Item 10- 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: Motion to ratify the licenses as presented: Brian Fearnley

Second: Katherine Joines

Motion Passes Unanimously

Item 11- Advisory Committee on Continuing Competency (ACCC) **(For Possible Action)**

A. Consideration of ACCC recommendations for continuing competency courses reviewed at the April 2021 meeting.

Motion: Motion to Accept the ACCC recommendations as presented. Brian Fearnley

Second: Ethan O'Bryant

Motion Passes Unanimously

B. Discussion on Advisory Committee membership, alternate course approval processes.

i. Director Harvey updated the Board that we currently have Four members on the advisory committee, the proposed NAC changes currently written reduce the number of members to no more than 5 no less than three, Staff believes that is the necessary level to review courses in a timely matter.

ii. Director Harvey wanted to bring to the Boards attention that the proposed regulations make another change that is important, the language in the regulations defines that recognized providers of continuing competency that is approved by the board or Federation of state Boards. At the time, the FSBPT had been using Procort for course approval. Procort is no longer being used.

iii. Director Harvey wanted to bring to the Boards attention to possibly consider additional course approval options. Director Harvey has been doing research on other state Boards on how they approve continuing competency. Nevada has some of the cheapest approval processes.

iv. Chair Fearnley requested that we put on this on a future meeting agenda to review a couple of Ideas and processes for private entities.

- C. Consideration of Applicants for Advisory Committee on Continuing Competency.
 - i. Gina Tulimero

Motion: Motion to approve Gina Tulimero to the ACCC Committee
Brian Fearnley

Second: Jennifer Nash

Motion Passes Unanimously

Item 12- Board Operations Update (**For Possible Action**)

A. FSBPT Delegate Selection Update-

- i. Laura Cerame PTA Board Member will be the voting Delegate for the following FSBPT Conferences Dated October 22nd and 23rd 2021 via Video/ Teleconference.

Motion: Motion to send Laura Cerame to FSBPT Conferences October 22nd and 23rd 2021 Brian Fearnley

Second: Ethan O'Bryant

Motion Passes Unanimously

B. Board Inspections-

- i. April Ramirez Board Operations Specialist gave a brief update to the Board. Year to date our inspectors have completed 87 inspections, Director Harvey has updated the inspections forms and has added Dry Needling questions. (**No Action Taken**)

C. Board Financials

- i. Director Harvey gave the Board an update on Board Financials. Director Harvey provided Board financial review as of March 31st 2021 819,608.00 YTD revenue 378,783.00 YTD expenditure 292,590.00 YTD bank Fees 6,940.00. The Bulk of our revenue comes from Renewal fees. Board expenditures bulk of it going to personal services. Vendor expense summary, trend analysis over the last four years and our income has risen over the last four years.

D. Board Software & Technology

- i. Director Harvey Provided an overview of the software evaluation process that we have used to make decisions to modify and satisfy the Boards Need. Recently we have participated in fact finding discussions with other state agencies to identify best practices. Through our research we have narrowed our list of licensing systems to three different systems. At this time, we are ready to have discussion with the Board on how we shall proceed. We would like to invite the Vendors to participate in a brief vendor Demo for the Board. 15-to-20-minute demo would be ideal. Per

Chair Fearnley; this Item to be placed on next agenda and three vendor Demos to be completed.

ii. Director Harvey presented Proposal to replace existing copier contract. Due to the Dollar amount this must be approved by the Board to move on the Board of Examiners. Our existing equipment lease will be expiring in August 2021. The automatic renewal would cause a 3% cost increase. We have received three proposals for new office equipment, the one presented to the Board best fits our needs.

Motion: Motion to accept the new lease agreement from xerox:

Brian Fearnley

Second: Katherine Joines

Motion Passes Unanimously

Item 13- Review, Discussion and Possible Action regarding Nevada Administrative Code 640 (For Possible Action). The Board will Review NAC Chapter 640 and possibly approve revisions or other additional actions.

- i. Director Harvey gave the Board a brief history on proposed revisions to our NAC 640. In 2018 the Board sent over the revised provisions to the LCB and sat at the LCB for two years. The revisions were then rediscovered and sent back to the Board. The Board overlooked the draft revisions and made some changes. The Board then resubmitted the Draft revisions to the LCB and were planning an Adoption Hearing April 2021. Due to staffing issues at the LCB the Draft NAC 640 revisions have not been sent back to us and now we have some additional changes that can be made so we can resubmit the NAC 640 revisions.
- ii. Chair Fearnley suggest that we go through the NAC 640 revisions during a future meeting. This will include new edits that need to be added to the existing NAC 640 revisions. Chair Fearnley suggest we add this to our next agenda. A word Copy has been provided to the Board to add their changes. Board staff will assist with tracking changes and consolidate the changes.

Motion: Motion to task Board Members to reviewing and submitting any possible edits they may have before the next scheduled Board Meeting: **Brian Fearnley**

Second: Ethan O'Bryant

Motion Passes Unanimously

Item 14- Review, Discussion and possible Request for Attorney General Opinion on Dry Needling Educational Requirements. **(For Possible Action)**

i. DAG Mike Detmer needs more clarification as to what the question was before he did any more research on it, His belief was the Board was seeking an official Attorney General opinion. The Attorney General's office there is nothing statutorily requiring an opinion to be issued. If it comes down to a matter of interpretation of the Boards specific practice act there is a chance that the opinion will come back with some insight on the potential interpretation. It would be up to the Board to interpretate themselves.

ii. Chair Fearnley stated that the question in regards to the Dry Needling regulation and how it is written in our regulations. The educational requirements and the situation with Mr. Pensivy two Board Meetings ago there was some ambiguity on the educational requirements. Vice Chair Nash stated the question is what type of education is acceptable regarding the 125 hours of didactic education versus the 25 hours of post graduate course which is often the dry needling certification course required. The Board needs clarification on the verbiage. DAG Detmer stated that he will look into this further and seek additional research for the Board on the language in regards to the Dry Needling regulations. **(No Action Taken)** This is to be followed on next Board meeting agenda.

Item 15- Discussion on Cultural Awareness, Humility, Responsiveness Education Training as a possible requirement for initial PT licensure and renewal. **(For Possible Action)**

i. Vice Chair Nash updated the Board that we had started a discussion with the Board two meetings ago on mandating continued competency units for Nevada licensure renewals that must include cultural Awareness, Humility, responsiveness education and training. Vice Chair Nash asked DAG Detmer for guidance on the process of adding a mandate to all licensees. , DAG Detmer stated that anytime there is a rule of general applicability this requires a regulation change. Member Katherine Joines stated that all the courses she has taken under the umbrella of Cultural Diversity have not been approved by the ACCC so she questioned if these courses would have to go in front of the committee for approval. Licensees would have to submit the courses taken. Public Member Ethan O'Bryant asked in any of the members have taken Cultural awareness courses. Laura Cerame stated that there are many courses on the CSM website but if you are not a member of the APTA the Courses can get a little pricey. Member. Katherine Joines recommended that research be done to ensure that there are courses out there and possibly create resources to assist licensees with finding these types of courses. Vice Chair Nash suggested that the Licensee would not have to go through the ACC Committee. They would however have to include a certificate for proof that Cultural Diversity Course has been completed with renewal application. Chair Fearnley stated as long as this is not a burden on our ACCC and Licensees then it sounds like it is a

great idea. Chair Fearnley supports Cultural Awareness, Humility, Responsiveness Education Training as a possible requirement be added to the NAC 640 revisions that the Board Members will be working on. (No Action Taken)

Item 16- Future Agenda Items **(For Possible Action)**. Board members may request that items be added to the next Board meeting agenda and future meeting dates may be scheduled or changed, as needed.

i. Katherine Joines suggest a discussion on possibly posting the Live Board Meetings to our Website as well as our PDF Meeting Minutes. As of June 1st, 2021 Board meeting will begin to have a physical Location. The Board office will serve as our Physical Location.

ii. DAGMike Detmer would like to add future agenda Item a complaint has been filed with the Board that called for a summary suspension has been issued. Pursuant to statute 233B.127 Sub 3 a hearing has to be held 45 days of issuance, this falls around mid-June, June 17th or 18th. It is possible that this hearing could be continued, non the less we have to anticipate that it will go forward in that 45-day period. A quorum minus the chairman has to be available. The Board agreed on June 17th, 2021.

Item 17- Report from Board Chair

i. The FSBPT Virtual Board Member and Administrative trainings are coming up. The meeting will be available for future viewing. Email and link will be sent from Chair Fearnley.

ii. Our Social Media Outreach has gotten some positive feedback on the content that the Board Office has put out.

Item 18- Public Comment (None)

Item 19- Adjournment

Meeting adjourned at 11:54 A.M.