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AFFAIRS AND BUSINESS
REGULATION

LAYLA R. D'EMILIA
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PROFESSIONAL LICENSURE

Public Meeting Minutes
May 27, 2021

Board Members Present:

Jamie Musler, Chair, AT
Stacy Potvin, Vice Chair, PTA
Andrew Rizza, AT
Deborah Slater, OT
Stephanie Smith, OT
Catherine Lane, PT (left meeting at 10:02 a.m.)
Randy Jean, PT
Melanie Glynn, OTA

Staff Members Present:

Brian P. Bialas, Executive Director
Peter M. Kelley, Board Counsel

Pursuant to Governor Charles D. Baker's Executive Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, s. 20, dated March 12, 2020, all board members and staff appeared by videoconference.

Call to Order: The meeting was called to order at 9:02 a.m.

Board Business

- **Introduction of New Board Member Melanie Glynn, OTA:** Mr. Bialas introduced Ms. Glynn as a new member of the Board. Ms. Glynn described her background and members introduced themselves.
- **Public Meeting Minutes of March 25, 2021:** After a brief discussion, a motion was made by Ms. Potvin, seconded by Ms. Smith, to approve the Public Meeting Minutes of March 25, 2021. The motion passed unanimously.
- **Executive Session Minutes of March 25, 2021:** After a brief discussion, a motion was made by Ms. Slater, seconded by Mr. Rizza, to approve the Executive Session Minutes of March 25, 2021. The motion passed unanimously.



Request for PTCO Experience Waiver

- **Interview with Brett Scott for Barbell Therapy and Performance, LLC:** Mr. Scott appeared with James Kelly, an attorney who works with Mr. Scott, to request a physical therapy facility compliance officer experience waiver. Mr. Scott described his plans for a facility, including hiring a new graduate physical therapist to work in the facility. Mr. Kelly discussed Mr. Scott's network of other physical therapists Mr. Scott would use when he has questions about compliance and running a facility. When asked, Mr. Scott stated that he does not have any experience working in a facility with a compliance officer, beyond clinical rotations. The Board noted that the Compliance Plan Mr. Scott submitted for his waiver request is too general and does not provide enough direction for employees, and the Board determined that Mr. Scott needs more knowledge of practice management before becoming a compliance officer.

After a brief discussion, a motion was made by Mr. Musler, seconded by Ms. Slater, to deny Mr. Scott's request for a physical therapy facility compliance officer experience waiver. The motion passed by a majority vote, with Ms. Smith opposed.

Discussion

- **Board Counsel Report**
 - **CE Regulations Update:** Mr. Kelley reported that the proposed CE regulations must be approved by the Executive Office of Housing and Economic Development and the Office of Consumer Affairs and Business Regulation before they are published and in effect. Mr. Musler stated that the Board should consider multiple means of notifying licensees about the new regulations and would like to discuss this topic during the June meeting.
 - **End of State of Emergency:** Mr. Kelley notified the Board that the state of emergency declared by Governor Baker expires on June 15, 2021, so the June meeting will be in person unless, before that meeting, new legislation allowing public meetings by videoconference passes into law.

Ms. Lane left the meeting at 10:02 a.m.

- **4.22.21 Email from C. Jennings of FSBPT re: Selection of Delegates for 2021 Delegate Assembly:** After a brief discussion, a motion was made by Ms. Smith, seconded by Mr. Rizza, to approve Ms. Potvin as the Board's delegate to the FSBPT 2021 Delegate Assembly. The motion passed unanimously.
- **4.22.21 Email from J. Vacovec re: Interpreters for Patients:** The Board reviewed Mr. Vacovec's question about whether a physical therapist must provide an interpreter to a patient with limited English language proficiency. The Board directed staff to respond that it is unethical for a physical therapist to serve a patient who does not understand the physical therapist. The Board also directed staff to respond that it cannot answer whether participating in federal programs like Medicare and Medicaid might require the use of an interpreter in this situation.

- **4.23.21 Email from T. Snediker re: Goodpath and Physical Therapy:** The Board reviewed Mr. Snediker’s questions about an online business. The Board directed staff to inform Mr. Snediker that he is seeking legal advice that the Board cannot provide and that, in general, if anyone in that business is practicing physical therapy, those people must be licensed.
- **4.26.21 Email from M. Kelly re: Whether Orthotics and Prosthetics are within Occupational Therapist Scope of Practice:** The Board reviewed Ms. Kelly’s question whether occupational therapists may design, fabricate, apply, recommend, and instruct in the use of orthotics and prosthetics. The Board directed staff to respond that the answer is yes and to cite the definition of “occupational therapy” in G.L. ch. 112, § 23A.

Monitoring

- **Chang Goo Yoon, 2018-000760-IT-ENF, Submission of CEs and Letter re: Future Practice:** The Board reviewed Mr. Yoon’s CE submissions for his consent agreement. After a brief discussion, a motion was made by Ms. Smith, seconded by Mr. Rizza, to accept the CEs submitted by Mr. Yoon except the “HIPAA and Telehealth” course (one credit) for the Billing category, the “Alabama Jurisprudence Essentials for Alabama Physical Therapists, Physical Therapist Assistants, and Students (2020 Version)” (two credits) for the Ethics category, and “The Physical Therapist as a Primary Care Provider for Patients with Low Back Pain” course (two credits) for the Documentation category. The motion passed unanimously.

Open Session for Topics Not Reasonably Anticipated by the Chair 48 Hours in Advance of Meeting

Mr. Musler informed the Board that Governor Baker recently filed legislation to move the Allied Health Board and other health care boards from the Division of Professional Licensure to the Department of Public Health within 18 months, should the legislation pass.

Investigative Conference (Closed under G.L. ch. 112, § 65C)

At 10:27 a.m., a motion was made by Ms. Smith, seconded by Ms. Slater, to exit open session and enter closed session under G.L. ch. 112, § 65C to conduct investigatory conferences. The motion passed unanimously.

The Board entered closed session at 10:27 a.m.

During the investigative conference, the Board took the following actions:

Cases

2020-001101-IT-ENF (LP):	Dismiss
2021-000139-IT-ENF (MF):	Refer to Office of Prosecutions
2021-000155-IT-ENF (JR):	Dismiss
2021-000063-IT-ENF (DF):	Tabled until next month. Mr. Jean recused himself from the consideration and voting on the case.

At 11:04 a.m., a motion was made by Ms. Smith, seconded by Ms. Potvin, to exit closed session and return to open session. The motion passed unanimously.

The Board returned to open session at 11:04 a.m.

Adjournment

At 11:05 a.m., a motion was made by Ms. Smith, seconded by Ms. Slater, to adjourn the meeting. The motion passed unanimously. The meeting adjourned at 11:05 a.m.

The above minutes were approved at the public meeting held on June 24, 2021.



Brian Bialas, Executive Director

List of Documents Used by the Board at the Public Meeting:

- Agenda for Meeting of May 27, 2021
- Draft Public Meeting Minutes of March 25, 2021
- Draft Executive Session Minutes of March 25, 2021
- Application of Brett Scott for PTCO Experience Waiver for Barbell Therapy and Performance, LLC and supporting materials
- 4.22.21 Email from C. Jennings of FSBPT re: Selection of Delegates for 2021 Delegate Assembly
- 4.22.21 Email from J. Vacovec re: Interpreters for Patients
- 4.23.21 Email from T. Snediker re: Goodpath and Physical Therapy
- 4.26.21 Email from M. Kelly re: Whether Orthotics and Prosthetics are within Occupational Therapist Scope of Practice
- Chang Goo Yoon, 2018-000760-IT-ENF, Submission of CEs and Letter re: Future Practice