



Board of Physical Therapy Examiners

Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Robert R. Neall, Secretary

BOARD OPEN MEETING MINUTES

April 21, 2020

Call to Order

The Maryland Department of Health Board of Physical Therapy Examiners meeting was called to order at 1:14 pm by Board Chair, Dr. Sumesh Thomas, who reviewed the agenda and established that a quorum was present.

Board Members Present:

Sumesh Thomas, PT, DPT, OCS, CHT, FAAOMPT, Chair
Karen Gordes, PT, PhD, DScPT, Vice Chair
Michelle Finnegan, PT, DPT, OCS, MTC, CCTT, CMTPT, FAAOMPT
Rebecca Holsinger, PT, DPT
Meredith Levert, Consumer Member
Donna Richmond, RN, MPH, Consumer Member
Eleanor Wang, PT
Enjeen Woolford, PTA

Staff Present:

Laurie Kendall- Ellis, PT, CAE, Executive Director
Ogu Isaac Okehie, Deputy Director
Brett Felter, JD, Assistant Attorney General, Board Counsel
John Bull, Chief of Compliance and Data Analysis
Michelle Cutkelvin, Projects
Deborah Jackson, Licensing
Patricia Miller, Administrative Assistant
Lillian Reese, Legislative and Regulations Coordinator
Andrew Rosenfeld, Investigator
Lisa Y. Scott, Administrative Specialist

Public Guests:

Anne Arundel Community College Physical Therapy Assistant students
Dr. Dave Thomas, Assistant Dean to the School of Health Sciences, Arundel Community College
Dr. Patricia Brady, Director of the CACHE Physical Therapist Assistant Program, Anne Arundel Community College
Sonya Johnson-Branch, PTA, A.A.S., CPT, Adjunct Instructor Baltimore City Community College PTA Program

Open Session April 21, 2020

Board Chair Welcome:

Board Chair Thomas opened the meeting with the Board's mission.

Board Chair Thomas welcomed the Anne Arundel Community College (AACC) Physical Therapist Assistant (PTA) students and instructors. Board Chair Thomas asked students when they will be graduating. Steven Wagner, physical therapy assistant student, stated that graduation was originally scheduled for May 13, 2020. Dr. Dave Thomas, Assistant Dean to the School of Health Sciences at Anne Arundel Community College, stated that unfortunately, the PTA students need to complete their final clinical rotation prior to graduation and due to the COVID-19 pandemic, the school administration had to halt sending students to their clinical settings due to concerns of safety. Board Chair Thomas stated that he was sorry to hear about the delay in graduation however he understands that none of us saw this current challenge and the foremost priority is to ensure everyone's safety. Board Chair Thomas opened the floor for questions from the students. Dr. Patricia Brady, Director of the CACHE Physical Therapist Assistant Program at Anne Arundel Community College, thanked Board Chair Thomas for addressing the students and having them involved in the Board meeting. Dr. Brady also thanked Executive Director Kendall-Ellis for adding the discussion on the FSBPT National Physical Therapy Exam (NPTE) to the board's agenda.

Approve March 17, 2020 Open Minutes:

Motion: That the Board of Physical Therapy Examiners approve the March 17, 2020 Open Session Minutes (motion introduced by Board Member Holsinger; motion seconded by Board Vice Chair Gordes). The motion passed unanimously.

Discussion: Board Chair Thomas asked for a correction to his credentials. The draft minutes will be amended to show the correction.

Executive Director Update:

Executive Director Kendall-Ellis welcomed Sharon Harris Friend to the operational staff as Record and Data Entry administrator as the replacement for Jacqueline Moore. Due to COVID-19, Ms. Harris Friend is on administrative leave.

Executive Director Kendall-Ellis thanked the staff team and remarked on the excellent collaboration in supporting each other while staying safe and continuing to do their best. The Board's operational hours remain the same as posted on our website, 8:00 am to 4:30 pm. The Board's website is regularly updated to provide COVID-19 information and the Governor's executive orders. The staff team's voicemails and out of office email messages provide updates on our status so we are clear as to how we are ensuring responsiveness to the public and licensees. We have modified in-office hours to ensure staff safety. One staff member is in the office each day with a goal to complete critical mission paperwork. When not in the office, the staff team is teleworking.

On April 13, 2020, a virtual education session about the Board of Physical Therapy Examiners was held for the third-year physical therapy students at the University of Maryland Eastern Shore. Board member Holsinger, Licensing Coordinator Jackson, Chief of Compliance and Data Analyst Bull, and Executive Director Kendall-Ellis provided the session. The agenda explained what the

Board of Physical Therapy Examiners is, Board member roles and responsibilities, Licensure by Exam requirements, compliance and discipline, when board meetings are held, as well as website and staff contact information. Executive Director Kendall-Ellis thanked Cindy Holder Gill, PT, DScPT, Med, Associate Professor, Department of Physical Therapy for the invitation to present.

Legislative and Regulation Update:

Legislative and Regulations Coordinator Reese stated that the legislative session ended on March 18, 2020, which was three weeks earlier than planned due to COVID-19. Legislative and Regulations Coordinator Reese stated that there was a discussion about having a special legislative session as of April 20, 2020 however that will not be occurring.

Senate Bill 692 Health Occupations – Physical Therapists and Physical Therapist Assistants – Qualifications (for the purpose of establishing a certain educational qualification for an applicant for a physical therapist assistant license who was educated in limited physical therapy outside of any state; altering certain educational qualifications for certain applicants for physical therapy licenses or physical therapist assistant licenses who were educated in any state; making technical and conforming changes; and generally relating to qualifications for physical therapy licenses and physical therapist assistant licenses.) was passed March 16, 2020 and will be in effect July 1, 2020.

Legislative and Regulations Coordinator Reese discussed pre-proposal concept paper development for the 2021 Legislative session. It is estimated that concept papers will be due around May 22, 2020 to the Office of Governmental Affairs. Legislative and Regulations Coordinator Reese coordinates the submission of concept papers for review by the Maryland Secretary of Health and supports the proposal development which includes a draft of the bill and a fiscal note. The due date will likely be July 17, 2020. Legislative and Regulations Coordinator Reese will keep the board informed of updated timelines.

Board Member Holsinger asked about COMAR 10.38.08 Continuing Education revised regulation review status. Board Counsel Felter stated that there has been no update since the last Board discussion on the proposed revisions other than a request for additional information in support of the proposed revisions.

HB 448 Emergency Bill Update and Discussion:

Motion: That the Board of Physical Therapy Examiners establish a Telehealth Subcommittee for exploration of possible telehealth regulation development (motion introduced by Board Vice Chair Gordes; motion seconded by Board member Holsinger). The motion passed unanimously.

Discussion: Board counsel Felter apprised the Board that House Bill 448 Health Care Practitioners – Telehealth and Shortage, was in process before COVID -19. The purpose of this bill initially was to address passed telehealth regulations for the Board of Physicians which restricted the use of asynchronous telehealth, but included simultaneous real-time face to face conversations between a patient and a practitioner. COVID-19 transformed the bill to an emergency telehealth bill which allows any health care practitioner who is licensed, certified, or authorized by law to practice under the health occupations article and to establish a practitioner-patient relationship through synchronous or asynchronous telehealth interactions if those interactions meet certain requirements. This bill allows Health Occupational Boards to adopt regulations in the implementation of this subtitle. Board members discussed the statute and the desire to investigate what other Boards have in place for telehealth.

Board members Finnegan, Holsinger, Gordes and Levert volunteered to serve on the Telehealth subcommittee. Board Counsel Felter, Legislative and Regulations Coordinator Reese, and Executive Director Kendall-Ellis will also participate.

Temporary Licensure Discussion:

Motion: That the Board of Physical Therapy Examiners establish a Temporary Licensure Subcommittee for exploration of possible statutory changes related to licensure application requirements. (motion introduced by Board member Holsinger; motion seconded by Board member Finnegan). The motion passed unanimously.

Discussion: Board Chair Thomas stated that prior to 2008 the Board issued temporary licensure, specifically for students that finished their educational program but had not taken the NPTE. Board Counsel Felter added that in 2008, the Board voted and completed the process to have the statute rescinded because there was no longer a delay in taking the NPTE. The Board discussed that FSBPT since then, eliminated rolling examinations and currently has set testing dates which may delay the taking of the NPTE for students.

Public guest, Dr. Patricia Brady, Director of the CACHE Physical Therapist Assistant Program at Anne Arundel Community College raised the possibility of the Board considering an amendment to the Title 13 Practice Act to allow for physical therapy students to take the NPTE upon completion of their educational requirements but before graduation. Dr. Brady stated that from discussions with her counterparts in several college/university programs, this option would be of benefit to students who have no more coursework but are awaiting their final clinicals before graduation. Dr. Brady asked the Board to consider a temporary allowance during COVID-19 with clear parameters and stipulations.

Board members Finnegan, Holsinger, Gordes and Woolford volunteered to serve on the Temporary Licensure subcommittee. Board Counsel Felter, Legislative and Regulations Coordinator Reese, and Executive Director Kendall-Ellis will also participate.

Licensure Update:

Licensing Coordinator Jackson gave the licensure report for March 2020. There were 18 new licenses issued, 31 new applicants, and a total of 9,230 total of active licensees.

Scope of Practice Discussion:

The Board received the following inquiry: In an infants and toddler settings, we have joint visits where two therapists one is the primary service provider (PSP), which could be an occupational therapist, speech therapist or special educator and the other is the joint visitor go together. Our team has decided that for these visits that the PSP will be the one on the video call via doxy me with the family and that the joint visitor will be on the phone with the PSP. If I am the joint visitor and I am "at the session" via phone with the PSP, does that constitute telehealth per the Maryland practice act or would I be in violation of it by doing this? I do realize that this is not a billable service since it is over the phone, but I am not sure if it is in violation of my practice act or license. Or has it been "relaxed" during this time?

The Board's response:

The Board has not officially defined telehealth. Licenses are not prohibited from utilizing communication technologies, including audio-only.

Audio-only calls are within the scope of physical therapy. The Board cited its current telehealth policy and practice act. (The practice of physical therapy, via telehealth or otherwise, in the State of Maryland must be in accordance with the Annotated Code of Maryland, Health Occupations Article, Title 13, and The Code of Maryland Regulations (COMAR), 10.38.01 – 10.38.11. Adopted by the Board: February 19, 2019. You can participate in an audio-only call as a physical therapist and engaging a client over the phone is in accordance with the practice act.

Scope of Practice Discussion:

The Board received the following inquiry: Does the Maryland Physical Therapy Practice Act include the ability for Maryland licensed physical therapists to perform fine wire needle electromyography specifically for evaluation/management of facial motor rehab patients?

The Board's response:

Yes, it is within the scope of practice for a physical therapist. The Board cited Title 13 Article 13:101.1 and 13:101.2.

Scope of Practice Discussion:

The Board received the following inquiry: Questioning the legality of my company's recent decision to confine physical therapist to performing evaluations and admissions to home care only and having all revisits passed on to the PTAs. They want, eventually, to replace PTs for all revisits to decrease their cost per visit due to changes in in-home care reimbursement. The question I have is multifaceted. First, they have taken the decision away from the PT regarding who is appropriate for the PTA given their skill set, experience or the complex needs of the client. Second, this agency currently has no mechanism for any sort of on-site supervision. The PTA gets the client, they treat them until their reassessment is due, then the PT sees them once and they either continue or are discharged. The PT never actually has a covisit to observe anything. In-home care, we are obviously not working in the same facility. Finally, when a new PTA is hired they are mentored by one PT for a short while then they are going to take over all revisits.

The Board's response:

A physical therapist establishes the needs of the patient and exercises sound professional judgment and works within their competency and within the scope of physical therapy. A physical therapist assistant can determine patient needs and exercise sound professional judgment and work within their competency and within the scope of limited physical therapy. The Board discussion referenced COMAR 10.38.03.02A(2)(j) The physical therapist shall: delegate to the physical therapist assistant only treatment that is within the competency and scope of practice of the physical therapist assistant; COMAR 10.38.03.02A(2)(l) The physical therapist shall: document ongoing communication with the physical therapist assistant regarding changes in a patient's status and treatment plan; COMAR 10.38.03.02B(1)(c) The physical therapist assistant shall: immediately discontinue any treatment procedure that appears to be harmful to the patient and so notify the supervising physical therapist; COMAR 10.38.03.02B(1)(f) The physical therapist assistant shall: work within the physical therapist assistant's competency in treatment that is within the scope of practice of limited physical therapy;

Scope of Practice Discussion:

The Board received the following inquiry: I am a physical therapist with a Maryland County Public School System and see babies in the Infants and Toddlers Program. According to the Maryland State Department of Education (MSDE) and the County Public School System, we are expected to deliver PT services through video or phone or email/text, in a virtual manner, for the remainder of the time that the school system is closed due to the pandemic. Has MSDE been in contact with you about this model of service delivery? Is this model of service delivery consistent with our practice's guidelines in COMAR? How do the PTs in the school systems handle this situation?

The Board's response:

As long as a physical therapist is competent, acting within the standards of care and using clinical judgment that is appropriate, a physical therapist can treat someone by phone, email or telehealth means. Telehealth is within the scope of physical therapy. Physical therapy practitioners must hold a valid Maryland license prior to providing physical therapy services via telehealth to clients physically located in Maryland. The board referenced COMAR 10.38.03 Standards of Practice.

Scope of Practice Discussion:

The Board received the following inquiry: I am a PT licensed in the District of Columbia and work for DCPS. I have a student who is currently residing in Maryland under the DC Homeless Act. I have been asked to provide PT consultations to the family but before doing anything I wanted to gain clarity on what is and what is not allowed by the Maryland Board of PT. Am I allowed to do any of the following: 1. provide virtual PT consultations with the student and her parent? 2. email the family gross motor activities that support her IEP goals with resources? 3. Post information in this student's notebook on the classroom page that the students/parents access via computer?

The Board's response:

1. Physical therapy practitioners must hold a valid Maryland license prior to providing physical therapy services via telehealth to clients physically located in Maryland.
2. If the physical therapist is providing information that's related to a home exercise program based upon the visit that occurred in DC when the student was in DC, notes can be completed.
3. Any additional notes in the student IEP would be considered ongoing and considered a provision of care and would not be permissible now that the student is in Maryland and the therapist is not licensed in Maryland.

Board of Examiners Update:

Board member Eleanor Wang announced that she will be leaving the Board prior to her full term. She has enjoyed her board service and thanked the Board.

Open Session Adjournment:

Motion: That the Board of Physical Therapy Examiners Board moves to adjourn the Open Session at 3:49 p.m. in order to engage in medical review committee deliberations regarding confidential

information in applications for licensure, in accordance with General Provisions Article, Section 3-305 (b)(1). (motion introduced by Board Member Levert; motion seconded by Board Member Finnegan). The motion pass unanimously.

Unless recused, all Board members and Board staff who were present for the Open Session will also be in attendance for the Closed and Administrative Sessions.

The Board Closed and Administrative Sessions were adjourned at 4:10 pm.

Sumesh Thomas, Chair

Minutes approved by the Board on May 19, 2020.