



Maryland

DEPARTMENT OF HEALTH

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

Board of Physical Therapy Examiners

BOARD OPEN MEETING MINUTES

March 17, 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

Also 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, Project Manager
Deborah Jackson, Licensing Coordinator
Patricia Miller, Administrative Assistant
Lillian Reese, Legislative and Regulations Coordinator
Andrew Rosenfeld, Investigator
Lisa Y. Scott, Administrative Specialist

Public Guests:

Joseph Holmes, PT

Executive Director Welcome:

Board Chair Thomas introduced and welcomed Laurie Kendall-Ellis as the Board's new Executive Director. Ms. Kendall-Ellis is a licensed Physical Therapist and Certified Associate Executive. Ms. Kendall-Ellis is the former Executive Director of the Alliance for Continuing Education in the Health Professions and the American Physical Therapy Association, Private Practice Section. Ms. Kendall-Ellis is experienced in governance, strategic planning, fiscal management, board relations, operations, and management. Ms. Kendall-Ellis has won numerous awards. Ms. Kendall-Ellis stated that she is honored and excited to join the Board.

Board Chair Thomas thanked the Board staff for their dedication and patience during the executive director search. Board Chair Thomas gave a special thank you to Deputy Director Okehie for his work as Interim Executive Director, Board Member Meredith Levert for her human resources expertise, and Board Counsel Brett Felter for his legal advice.

Staff Update:

Ms. Lisa Scott has joined the Board staff as Administrative Specialist as of March 4, 2020 to replace Eric Hebron. Welcome.

Approve February 18, 2020 Open Minutes:

Motion: That the Board of Physical Therapy Examiners approve the February 18, 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 the Board to explain why it voted to approve the recommendation to annually report complaint statistics, revenues and expenses. Board Member Holsinger stated that the Board voted in favor of the recommendation because monthly reporting did not give the whole picture and could be misinterpreted by the public. Board Member Finnegan stated there was redundancy and the Board considered the value and impact of monthly reporting in their decision making.

Action: Information will continue to be compiled by the staff monthly for the end of the year reporting to the Board.

Motion: That the Board of Physical Therapy Examiners establish an executive committee to monitor key performance indicators (motion introduced by Board Chair Thomas; motion not seconded; motion failed).

Legislative & Regulation Update:

Executive Director Kendall-Ellis apprised the Board the comment period for amendments to Regulation .03 under COMAR 10.38.12 Dry Needling: To allow physical therapists trained in dry needling while in active military service to practice in Maryland, ended on March 16, 2020. Legislative and Regulations Coordinator Reese reported that no comments were received and recommended that Board adopt the proposal.

Motion: That the Board of Physical Therapy Examiners adopts the Dry Needling regulation as proposed (motion introduced by Board member Levert; motion seconded by Board Vice Chair Gordes). The motion passed unanimously.

Legislative and Regulations Coordinator Reese stated that the legislative session is ending on March 18, 2020 due to the COVID-19 virus. There will be a special legislative session the last week of May 2020.

Legislative and Regulations Coordinator Reese apprised the Board of the passing of Senate Bill 692 as amended and is waiting for the Governor's signature. The companion bill, House Bill 551, crossed over to the Senate. Legislative and Regulations Coordinator Reese thanked Board Chair Thomas for an outstanding testimony on behalf of the Board to the House and Senate Committees in support of HB551/SB692. Board Chair Thomas was an integral part to getting the bill passed. Board Chair Thomas thanked Legislative and Regulations Coordinator Reese for guiding him and sharing her legislative expertise.

Also reported, the Interstate Physical Therapy Licensure Compact fee schedule amendment has been approved by the Governor's office and has been sent to the Secretary of the Maryland Department of Health for signature.

Occupational License and Certificates – Application Determinations use of Criminal History:

Board Counsel Felter apprised the Board of House Bill 22 which passed during the 2019 legislative session (Chapter 568 of Laws of 2019). House Bill 22 made modifications to a section of law that determines how health and occupational boards use criminal background history when determining licensure. The policy of the State is to remove any barriers for employment for anyone that has been convicted of a non-violent offense. A Board cannot deny an application for licensure based on criminal background unless it is determined there is a direct relationship with the previous conviction and a specific occupational license, or the issuance of the license would be an unreasonable risk to the safety and welfare of specific individuals or the general public. Provisions of the bill include a crime for which someone has to register as a sex offender and a person who has been convicted of a crime of violence as defined by the Maryland law. If seven (7) years or more has passed since the person has completed serving the sentence, supervision, parole or probation and there are no further convictions, the Board cannot deny an application solely on the basis of that crime, unless it is a sexual crime or crime of violence.

Governor's COVID-19 Executive Orders:

Board Counsel Felter reviewed the Executive Order of the Governor of the State of Maryland issued on March 12, 2020 - Extending certain licenses, permits, registrations, and other governmental authorizations, and authorizing suspension of legal time requirements. This order applies to all licenses, permits, registrations, and other authorizations issued by the State of

Maryland, any agency of the State of Maryland, or any political subdivision of the State of Maryland, including without limitation, driver's licenses, vehicle registrations, and professional licenses, that would otherwise: a) expire during the state of emergency and catastrophic health emergency; and b) be renewable during the state of emergency and catastrophic health emergency under applicable laws and regulations. The expiration date of each covered authorization is hereby extended to the 30th day after the date by which the state of emergency is terminated and the catastrophic health emergency is rescinded. Board Counsel Felter stated that the Board can continue to accept and process renewals to the extent that the Board staff is able to do so. The Executive Order also allows for the Board to request an extension of deadlines from the Maryland Secretary of Health relating to disciplinary actions such as hearings. Details can be found in the Executive Order.

Executive Director Kendall-Ellis apprised the Board of the notice posted to the Board's license renewal website landing page in compliance with the Governor's Executive Order. Executive Director Kendall-Ellis states that the Board office is currently fully operational however the mailing of the paper licenses may be delayed. Licensees may verify their license through the website and provide the verification to their employers until the paper license is received.

Licensing Coordinator Jackson stated the Board has received inquiries about extending the deadline to earn continuing education units. Licensing Coordinator Jackson asked if the Board would consider extending the March 31st CEU deadline.

Motion: That the Board of Physical Therapy Examiners extend the CEU requirement deadline for 2020 license renewals to the 30th day after the date by which the state of emergency is terminated and the catastrophic health emergency is rescinded (motion introduced by Board Member; motion seconded by Board Member Finnegan). The motion passed unanimously.

Discussion: Motion discussed by the Board for clarification that the CEU requirement extension pertains to 2020 license renewals only.

Board Counsel Felter reviewed the Executive Order of the Governor of the State of Maryland issued on March 5, 2020 – Relating to various health care matters. This Executive Order only applies to a "health care facility" as defined in Section 19-114(d) of the Health-General Article and (ii) also includes any other facility designated or established by the Secretary for treatment, isolation and/or quarantine. Any person who holds a valid, unexpired license as a health care practitioner that is issued by another state may, at a health care facility in Maryland, engage in the activities authorized under such license without first obtaining a license or practice letter from the applicable Maryland licensing agency or board. Details can be found in the Executive Order.

Licensure Update:

Licensing Coordinator Jackson gave the licensure report for February 2020. There were 34 new licenses issued, 51 new applicants, and a total of 9,210 active licensees.

Action: The Board of Physical Therapy Examiners accepted the February 2020 Licensure Update report as presented.

Federation of State Boards of Physical Therapy (FSBPT) Delegate, Alternative Delegate and Funded Administrator Selection:

The Federation of State Boards of Physical Therapy (FSBPT) will be holding Regulatory Training June 19-21, 2020, the Leadership Issues Forum July 18-19, 2020, and the FSBPT Annual Meeting October 22-24, 2020. The cost for travel, hotel, and meals is covered by FSBPT. Board Member Finnegan was nominated to be Board's Delegate. The Delegate attends the Leadership Issues Forum and the FSBPT Annual Meeting.

Motion: That the Board of Physical Therapy Examiners approves Board Member Finnegan to serve as the Board's FSBPT Delegate (motion introduced by Board Member Holsinger; motion seconded by Board Vice Chair Gordes). The motion pass unanimously.

Board Member Woolford was nominated to be the Board's Alternate Delegate. The Alternate Delegate attends the FSBPT Annual Meeting.

Motion: That the Board of Physical Therapy Examiners selects Board Member Woolford to serve as the Board's FSBPT Alternate Delegate (motion introduced by Board Member Holsinger; motion seconded by Board Vice Chair Gordes). The motion pass unanimously.

Action: The Board of Physical Therapy Examiners designated Executive Director Kendall-Ellis to serve as the Board's FSBPT Funded Administrator. The Funded Administrator attends the Regulatory Training, Leadership Issues Forum, and FSBPT Annual Meeting.

No Board member is available to participate in the Regulatory Training.

Federation of Associations of Regulatory Boards (FARB) 2020 Forum:

Board Chair Thomas thanked the Board for allowing him and Project Manager Cutkelvin the opportunity to attend the 2020 FARB Forum in January. Board Chair Thomas stated the conference and training were both informative. During the meeting Board Chair Thomas had the opportunity to meet Board Chair Jilanis of the Maryland State Board of Massage Therapy Examiners and Executive Director Oliver of the Maryland State Boards of Chiropractic and Massage Therapy Boards. Board Chair Thomas stated that they discussed the potential of working collaboratively to sponsor a FARB Comprehensive Regulatory Training in our jurisdiction. Project Manager Cutkelvin reported that a FARB representative has reached out and she will be following up as well as compiling the associated costs for hosting the training in the Fall of 2020 or in 2021. Executive Director Kendall-Ellis apprised the Board that Project Manager Cutkelvin, Executive Director Oliver of Chiropractic and Massage Therapy Boards and herself had an initial conversation and will present the topic, at a later date due to the COVID-19 state of emergency, to the other Board's Executive Directors.

Board Financial Disclosure:

Board Chair Thomas reminded Board members to submit their annual financial disclosures.

Board Strategic Planning:

The date for the next Board strategic planning meeting will be determined after the COVID-19 state of emergency ends.

Motion: That the Board of Physical Therapy Examiners Board establish a strategic planning subcommittee (motion introduced by Chair Thomas; motion seconded by Board Member Holsinger). Motion withdrawn by Chair Thomas.

Discussion: The purpose of the subcommittee's purpose was discussed and Deputy Director Okehie stated that the venue has been selected and a facilitator chosen. The Board moved to reconsider the motion.

Action: Board staff will poll Board members to identify a strategic plan meeting date.

Board Chair & Vice Chair Elections:

Board Chair Thomas apprised the Board members of the upcoming Chair and Vice Chair elections. The Board was asked to send Executive Director Kendall-Ellis an email by April 7, 2020 expressing their interest and qualifications. Voting will take place in May 2020.

Scope of Practice:

The Board received the following inquiry: What does DC with PT privileges mean?

The Board's response:

Refer to the Chiropractic Practice Act.

Scope of Practice:

The Board received the following inquiry: Can a physical therapist provide health, wellness, and coaching services as non-physical therapy services?

The Board's Response:

The scope of the physical therapy license authorizes a licensee to practice physical therapy while the license is effective (§ 13-309). It does not limit their right to practice another occupation that they are legally authorized to practice. If the health, wellness, or coaching services are designed, modified, and implemented as interventions to either prevent disability or rehabilitate clients with a disability then it is considered physical therapy, outside of this it is not considered physical therapy. (§ 13-101)

Continuing Education Units (CEU):

The Board voted to **deny** the following CEU course applications because it is not specific to the clinical practice of Physical Therapy:

“What’s the Difference? Gender Equality in Sports on and off the court”, “Early Sports Specialization: Creating More Harm in Our Youth Athletes” and “Applying Functional Medicine in Clinical Practice.”

The Board voted to **approve** the following course for partial CEU credit: “FARB Annual Forum & CRT.”

Open Session Adjournment:

Motion: That the Board of Physical Therapy Examiners Board moves to adjourn the Open Session at 3:40 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 Chair Thomas; motion seconded by Board Member Holsinger). 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 4:06 pm.

Sumesh Thomas, Chair
Minutes approved by the Board on April 21, 2020