



MARYLAND
Department of Health

Board Of Physical Therapy Examiners

BOARD MEETING OPEN MINUTES

September 17, 2019

The meeting was called to order at 2:29 pm by Board Chair, Dr. Sumesh Thomas.

Call to Order

There was a motion and a second to close the open session at 4:25 p.m. to discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom this public body has jurisdiction; any other personnel matter that affects one or more specific individuals in accordance with General Provisions Article, Section 3-305 (b) (1). Unless recused, all Board members and staff who were present for the open session were also in attendance for both the closed and administrative sessions.

Board Members Present:

Michelle Finnegan, DPT

Karen Gordes, PT, DScPT, PhD

Rebecca Holsinger, DPT

Meredith Levert, Consumer Member

Donna Richmond, Consumer Member, RN, MPH

Sumesh Thomas, DPT

Enjeen Woolford, PTA

Also Present:

Ogu Isaac Okehie, Acting Executive Director

Brett Felter, Assistant Attorney General, Board Counsel

Andrew Rosenfeld, Investigator

Deborah Jackson, Licensing Coordinator

Patricia Miller, Administrative Assistant

Michelle Cutkelvin, Project Manager

Absent:

Eleanor Wang, DPT

Also Absent:

John Bull, Chief of Compliance and Data Analysis

Guests:

Kelly Brukiewa, Cecil College Faculty

Cara Felter, Director of Education, APTA of Maryland

Kim Gustafson, PTA

Kimberly Lang, Director of Boards and Commissions

Lillian Reese, Legislative and Regulations Coordinator

Lisa Viscuso, PT, UMROI, Sinai Hospital

Minute Taker:

Eric Hebron, Administrative Specialist

Board Chair, Dr. Sumesh Thomas welcomed the Board members and guests. Board Members and staff introduced themselves.

Welcome

The minutes of the July 16, 2019 meeting were presented for approval. Dr. Thomas asked the Board to allow him additional time to clarify the minutes and present it for approval at the next meeting. The Board approved his request.

Minutes

Acting Executive Director, Isaac Okehie reported that the Board's fee schedule request that was submitted for approval is still waiting for a response. Board Counsel, Brett Felter reported that he is still working on the Continuing Education /Professional Development document. Mr. Felter and Mr. Okehie also updated the Board on the outcome of the Board of Chiropractic Examiners dry needling regulation held on September 10, 2019.

Legislative Update

Mr. Okehie reported on the following financial reports: fiscal year 2019 end of year report and revenue report for August 2020.

Revenue & Expense Report

Deborah Jackson, Licensing Coordinator, gave the licensure report. Ms. Jackson reported on licensee trends in August and September of 2019.

Licensure Update

Mr. Okehie reported that the PT Compact Executive Board recently amended its contract with the Licensing Compact Administrative Services Organization (LCASO) to clarify the amount of money that is withheld during each transaction to cover processing fees incurred when collecting compact privilege payments on behalf of the states and the Commission. The LCASO, and in turn the Commission, withhold 3.5%, of the state fee and Commission fee charged on each compact privilege purchased. Essentially the

Compact Processing Fee & Annual Meeting Reminder

Commission will be responsible for collecting PT Compact fees and reimbursement to the Board. For example, if the Board's compact fee is \$125 for a compact privilege, the Commission will collect \$125 plus \$45 for the Board and Commission respectively and reimburse the Board.

PTA
Evaluation &
Re evaluation

A licensee is seeking clarification on whether PTAs can take subjective information and objective measurements periodically as documentation for a patient's re-evaluation. The licensee states he was advised by the supervising PT to open the progress note, make a subjective report, and take a few measurements. The PT would then write the assessment and submit the progress note. The licensee is questioning whether the supervising PT's request is in violation of Chapter 3.02 A (2)(j).

The Board's response is a physical therapist assistant can take objective and subjective measurements but not for the purpose of a re-evaluation. The physical therapist must see the patients and re-evaluate the patients. The Board referenced COMAR 10.38.03.

A licensee is seeking clarification on if there are any updates on military dry needling training. Dr. Thomas apprised the Board that the topic was discussed in May's Board meeting. Mr. Felter apprised the Board that he would draft emergency regulations for military -sponsored courses for dry needling.

Military
Sponsored Dry
Needling
Training

A licensee is seeking clarification on whether Physical Therapists can determine if employees would be appropriate or need further medical intervention before using a respirator.

Respiratory
Fitness Tests

The Board recommended the licensee provide additional information about the respiratory fitness test.

PTA Home
Care

A licensee is seeking clarification on if it is within the scope for a PTA to relay a few patient goals as being met without the PT performing a home visit. The licensee is also seeking clarification on whether a PT can document the communication with the PTA and end goal on the plan of care without performing a home visit. The Board's response was that physical therapists can update goal status and plans of care whereas physical therapist assistants cannot update goal status or plans of care. COMAR 10.38.03

PTs
Performing the
Brigance Test

A licensee is seeking clarification on whether a Physical Therapist can administer the Brigance Standardized Test in its entirety.

The Board questioned whether Physical Therapists can perform all aspects of the test. The Board determined that PTs can perform some aspects of the Brigance Standardized Test and should work within their competency. The PT may also decline to administer the test if it outside of the PT's competency. COMAR 10.38.03.02A

Grade 2
Medical
Device
"Neubie"

A licensee is seeking clarification on whether Personal Trainers can use the grade 2 medical device called Neubie.

The Board's response was that the licensee should refer their inquiry to the Board of Physicians.

Utilizing
Nutritional
Information
in Patient
Care

A licensee is seeking clarification on whether Physical Therapists can share nutritional information.

The Board's response was that Physical Therapists may distribute general nutritional literature (COMAR 10.56.01.01B(2)). And they must use sound professional judgement and work within their competency (COMAR 10.38.03.02A(2)(f)).

PT &
Medication
Management

A licensee is seeking clarification on Physical Therapist and medication management. He states he is aware that home health PTs in Maryland are routinely reviewing medications with clients including instructing on medication labels, discussing potential side effects, reconciling medication bottle labels with what inpatient discharge instructions state and calling physicians or physician offices for clarifications when discrepancies are noted. Some of these clients are under the umbrella of a home health agency, some under a rehab agency, and others just outpatient PT private practice while doing home visits. He states that it was brought to his attention that Maryland is one of only two states in the country with such strict and limiting requirements that many of the above mentioned routine tasks related to medication management are not allowed in Maryland to be performed by physical therapists. Does the Board agree? The patient must clarify, reconcile and correct discrepancies with changes needed by having the patient speak directly with a nurse, physician assistant or the physician. The PT is not permitted to relay medication information/clarification directly to the client.

Diagnostic
Imaging

The Board's response is yes as long as it relates to the scope of physical therapy, PTs can perform medication management. Reconciling medication, not prescribing and explaining the potential side effects of a prescription for a patient's engagement in physical therapy. PTs should use sound professional judgment and work within their competency. The Board cited COMAR 10.38.03.02A(2)(f).

The APTA of Maryland asked if physical therapists are ordering diagnostic imaging? The Board's response is yes, however, the Board does not maintain a registry.

Wellness &
Personal
Training

A licensee is seeking clarification. She asks is "wellness" and "personal training" within the scope of practice for a PT in Maryland?

The Board's response is physical wellness as it relates to the definition of physical therapy is within the scope of practice. Personal training is not within the scope of practice. The Board cited §13-101(i).

National
Registry of
Certified
Medical
Examiners

The Board received the following inquiry. Does Maryland allow doctors of physical therapy to sit for the National Registry of Certified Medical Examiners, who determine the eligibility of bus/ truck drivers and others ability to perform tasks.

The Board tabled its response. Acting Executive Director, Isaac Okechie will do further research into the matter and respond later.

PTA
Supervision

A licensee is seeking clarification about PTA supervision. He states previously he worked for a home health agency where PTAs were able to treat without the direct supervision from a PT, but with ongoing supervision. After reviewing the practice act for Maryland, the licensee asks for further clarification on the following: 1. What is the state's requirement for PTA supervision as the practice act does not specifically state that it needs to be direct supervision but it specifically states direct supervision for PT aides? 2. What is the supervision level of PTAs who perform outpatient treatment that is rendered only in patient's residences, and if it is direct supervision, how can home health agencies have PTAs in the home with ongoing supervision?

Continuing Education

The Board's response is direct supervision is not required however ongoing supervision is a requirement. The Board cited §13-310(b).

The Board voted to **approve** the following CEU course application:

'Nutritional Management (Darby)' and 'Implementing Evidence Based Practices in Early Intervention'

The Board voted to **deny** the following CEU course applications because they are not substantially related to the PT practice.:

'Can You Answer Patients' Questions About Clinical Trials'; 'Making Metrics Matter: Strategies for Utilizing Metrics to Maximize Productivity and Reimbursement'; 'Medicare Targeted Probe and Education Review: Why Would They Pick You'; 'The Neuroscience Behind Impactful Conversations: Simple Practical Applications for Leaders and their Teams'; 'Draft Pick to Hall of Famer: The Roadmap to Expertise'; 'Preventing Medical Errors for Physical Therapists'; and 'Calming the Cognitively Impaired'.

There was a motion to close the open session at 4:25 p.m. to discuss: (i) the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of an appointee, employee, or official over whom it has jurisdiction; or (ii) any other personnel matter that affects one or more specific individuals; in accordance with General Provisions Article, Section 3-305(b)(1). Unless recused, all Board members and staff who were present for the open session were also in attendance for both the closed and administrative sessions.

The board meeting was adjourned at 5:04 pm.

Respectfully submitted,



Ogu Isaac Okehie, Acting Executive Director

10/15/19

Date Approved



Sumesh Thomas, DPT, Board Chair

**PRESIDING OFFICER'S WRITTEN STATEMENT FOR CLOSING A MEETING ("CLOSING STATEMENT")
UNDER THE OPEN MEETINGS ACT (General Provisions Article § 3-305)**

This form has two sides. *Complete items 1 – 4 before closing the meeting.*

1. **Recorded vote to close the meeting:** Date: 9/17/2019 ; Time: 2:29pm ; Location: 4201 Patterson Avenue ;
Motion to close meeting made by: Rebecca Holsinger ; Seconded by Karen Gordes ;
Members in favor: All ; Opposed: None ;
Abstaining: None ; Absent: Eleanor Wang .

2. **Statutory authority to close session (check all provisions that apply).**

This meeting will be closed under General Provisions Art. § 3-305(b) only:

(1) "To discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom this public body has jurisdiction; any other personnel matter that affects one or more specific individuals"; (2) "To protect the privacy or reputation of individuals concerning a matter not related to public business"; (3) "To consider the acquisition of real property for a public purpose and matters directly related thereto"; (4) "To consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State"; (5) "To consider the investment of public funds"; (6) "To consider the marketing of public securities"; (7) "To consult with counsel to obtain legal advice"; (8) "To consult with staff, consultants, or other individuals about pending or potential litigation"; (9) "To conduct collective bargaining negotiations or consider matters that relate to the negotiations"; (10) "To discuss public security, if the public body determines that public discussion would constitute a risk to the public or to public security, including: (i) the deployment of fire and police services and staff; and (ii) the development and implementation of emergency plans"; (11) "To prepare, administer, or grade a scholastic, licensing, or qualifying examination"; (12) "To conduct or discuss an investigative proceeding on actual or possible criminal conduct"; (13) "To comply with a specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter"; (14) "Before a contract is awarded or bids are opened, to discuss a matter directly related to a negotiating strategy or the contents of a bid or proposal, if public discussion or disclosure would adversely impact the ability of the public body to participate in the competitive bidding or proposal process." (15) "To discuss cybersecurity, if the public body determines that public discussion would constitute a risk to: (i) security assessments or deployments relating to information resources technology; (ii) network security information . . . or (iii) deployments or implementation of security personnel, critical infrastructure, or security devices."

Continued →

3. For each provision checked above, disclosure of the topic to be discussed and the public body's reason for discussing that topic in closed session.

| Citation (insert # from above) | Topic | Reason for closed-session discussion of topic |
|-----------------------------------------------|---------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| §3-305(b) <input type="checkbox"/> | Executive Director Update | To discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom this public body has jurisdiction; any other personnel matter that affects one or more specific individuals |
| §3-305(b) <input checked="" type="checkbox"/> | Licensing Application | To engage in medical review and deliberation regarding confidential applications for licensure. |
| §3-305(b) <input type="checkbox"/> | | |
| §3-305(b) <input type="checkbox"/> | | |
| §3-305(b) <input type="checkbox"/> | | |

4. This statement is made by Dr. Sumesh Thomas, DPT, Presiding Officer.

WORKSHEET FOR OPTIONAL USE IN CLOSED SESSION: INFORMATION FOR SUMMARY TO BE DISCLOSED IN THE MINUTES OF THE NEXT OPEN MEETING. (See also template for summary.)

➤ For a meeting closed under the statutory authority cited above:

Time of closed session: 4:35 pm
 Place: 4201 Patterson Avenue Baltimore Maryland 21215
 Purpose(s): Review confidential applications for licensure and discuss Executive Director appointment.
 Members who voted to meet in closed session: All Present
 Persons attending closed session: All Board Members and Staff present at Open Session unless recused.
 Authority under § 3-305 for the closed session: 3-305(b)(13) & 3-305(b)(1)
 Topics actually discussed: Two ADA special accommodations applicaitons, Executive Director qualifications & ED job announcement.
 Actions taken: Approve applications, modify qualification requirements for Executive Director & repost job announcement.
 Each recorded vote: All in favor.

➤ For a meeting recessed to perform an administrative function (§ 3-104): Time: 1:01pm

Place: 4201 Patterson Avenue Baltimore Maryland 21215
 Persons present: All Board Members and Staff present at Open Session unless recused.
 Subjects discussed: Board investigations and other disciplinary matters.