

S C DEPARTMENT OF LABOR, LICENSING & REGULATION

Thursday, April 8, 2010, 10:00 a.m.
Synergy Business Park, Kingstree Building
110 Centerview Drive, Room 108
Columbia, SC 29211

Board Members Present

Marilyn Swygert, P.T., Member, Chairperson
W. Dixon Reeves, P.T.A., Member
Cindy Ellis Witherspoon, P.T., Member
Darlene Pope, P.T., Member
Roy Christopher Junkins, P.T.A, Member
James A. O'Leary, M.D., Member

Others Present

Veronica Reynolds, Administrator
Paula Magargle, Advice Counsel
Carolyn Coats, Board Assistant
Janice Meetze, Board Assistant

EXCUSED ABSENCE

Jane E. Julian, P.T., Vice Chairperson
E. Dargan Ervin, P.T., Member

Public notice of this meeting was properly posted at the SC Board of Physical Therapy Examiners Office, the lobby Kingstree Building, and provided to all requesting persons, organizations, and news media in compliance with Section 30-4-80 of the South Carolina Freedom of Information Act. A quorum was present at all times.

CALL TO ORDER

Ms. Swygert, Chairperson, called the meeting to order at 10:10 a.m. The meeting was held in Room 108, Kingstree Bldg., 110 Centerview Drive, Columbia, South Carolina.

ADOPTION OF AGENDA

The April 8, 2010 agenda was presented for review and approval.

Motion: Mr. Junkins made a motion to amend the agenda to add a discussion item regarding the need for licensure of a clinical fellowship instructor who is licensed and practicing in good standing in another state and is providing instruction to post-professional student fulfilling clinical fellowship training in South Carolina. The motion was seconded by Ms. Witherspoon and approved.

APPROVAL OF MINUTES

The Minutes of the January 14, 2010 meeting were presented for review and approval.

Motion: Ms. Witherspoon made a motion to accept the minutes of the January 14, 2010 meeting as written. The motion was seconded and approved.

ADMINISTRATOR'S REPORT

Advisory Opinions, Office of General Counsel: None at this time.

Legislative Update: Ms. Reynolds stated she would communicate with the legislative liaison at the conclusion of the Board.

OIE Report – Office of Investigations and Enforcement: Mr. David Love reported the following statistics for the calendar year 2009: Of the fourteen (14) complaints received, three remain active; five cases closed; one pending board hearing; three pending IRC recommendation; one pending rescheduling; and one pending respondent's agreement. For the calendar year January 1, 2010 through March 31, 2010, there is one active investigation. At the IRC meeting held March 30, 2010 recommendations were made for two dismissals by way of Letter of Caution and one formal complaint to come before the board.

Motion: Ms. Witherspoon made a motion to accept the recommendations made by the IRC. The motion was seconded and approved.

OGC Report –Office of General Counsel: Ms. Magargle reported there are three open cases, i.e., one is pending a hearing and two are pending final order hearings.

OLC Report – Office of Licensure and Compliance: In the absence of a representative from OLC, Ms. Reynolds stated that effective March 1, 2010 Professional and Occupational Licensing was moved to the third floor, which included the loss of two staff members, Mr. Ron Adams and Mr. Mack Williams. Ms. Jan Meetze has been assigned to both the Physical Therapy and Speech-Language Pathology & Audiology Boards, and Ms. Carolyn Coats, Dentistry Board, will act as back-up. Renewals, reinstatements, and non-routine issues will be handled by the Office of Licensure and Compliance, and any issues that cannot be resolved at staff level will be placed on the agenda to be brought before the Board. As of January 1, 2010 through April 8, 2010, fifty (50) licenses have been issued for physical therapists and forty-nine (49) physical therapy assistants.

Administrator's Remarks: Ms. Reynolds reminded Board members that Statement of Economic Interest forms were due to be filed by April 15, 2010. A recent article in The State newspaper regarding budget cuts for the State of South Carolina will require streamlining processes and monitoring spending to keep services effective with available staff resources. Financial information is available upon request. CE compliance will be refined within the new database to maintain checks and balances in the random selection of licensees who have previously been audited by the board. Non-compliance of CE would prompt a hearing before the board, or the negotiation of a Consent Agreement within parameters established by the Board.

UNFINISHED BUSINESS:

Medication Reconciliation: Designated staff was unavailable. The topic was deferred to the July 8, 2010 meeting.

House Bill 4329: The Board discussed House Bill 4329 at the January 14, 2010 meeting and determined there was not enough information for the legislative liaison to take a position and the Board took no action. House Bill 4329 will be coming before the Full Committee at the Blatt Building, Tuesday, April 13, 2010, 2:30 p.m.

Motion: Ms. Witherspoon made a motion that the Board reject and oppose House Bill 4329. The motion received three votes in support of rejection and opposition of House Bill 4329, two votes go against opposing House Bill 4329, and the Chair abstained from voting. The motion carried with a majority vote in opposition and rejection of House Bill 4329.

Senate Bill 1031: *Motion:* Ms. Witherspoon made a motion that the Board reject Senate Bill 1031. The motion received three votes in favor of rejection and opposition of Senate Bill 1031 and two votes going against opposing Senate Bill 1031. The motion carried with a majority vote of three to reject Senate Bill 1031.

Senate Bill 1132: Senate Bill 1132 proposes changing the number of times for taking the exam from three to four with a year pending between the third and fourth time without stipulation of any required study or course work. Senator Scott had been approached by someone who failed the exam over three times to being compliant with what is allowed on the national level. After three fails the Board would have to set parameters as to requirement of additional course or college work.

Motion: Ms. Witherspoon made a motion that the Board support approval of Senate Bill 1132. The motion was seconded and approved.

Motion: Ms. Witherspoon made a motion to go into Executive Session. The motion was seconded and carried.
Time Recessed: 10:45 a.m.

Motion: A motion was made to reconvene in public session. The motion was seconded and carried.
Reconvened: 11:30 a.m.

NEW BUSINESS

Disciplinary Hearing

1. Ms. Heather Nicole Faas: Ms. Faas made a personal appearance before the Board.

Motion: Mr. Reaves made a motion the Board go into Executive Session to receive legal advice under Section 30-4-70 of the South Carolina Freedom of Information Act. The motion was seconded and approved.

Motion: Mr. Reaves made a motion to come out of Executive Session. The motion was seconded and approved.

Motion: In open session, Ms. Witherspoon made a motion to accept the Memorandum of Agreement to include a sanction of a Five Hundred (\$500.00) Dollar fine, a public reprimand, and the completion of a pre-approved board ethics course within a six-month period. The motion was seconded and approved.

Reinstatement Hearing:

Julie Clark: Ms. Clark made an appearance before the board to request reinstatement of her license due to being inactive for over a five-year period (expired on December 31, 2002).

Motion: In open session, Mr. Junkins made a motion that Ms. Clark be granted a provisional license under the guidelines of the Practice Act 101-06 and be reinstated at such time as she completes her 1,000 hours within one year. The motion was seconded and approved.

Application Hearings:

1. Tiffani Bacon: Ms. Bacon made an appearance before the board to request licensure in South Carolina after being notified of the three times law in terms of taking the exam after having passed the exam on the fifth time.

Ms. Bacon's application was denied on the basis of South Carolina law, which currently limits taking the exam three times. Discussion and reference was made to Senate Bill 1132 which has been filed and proposes changing the number of times for taking the exam from three to four with a year pending between the third and fourth time without stipulation of any required study or course. However, at this time the current law would not allow a license to be granted.

2. Abby Maiorano: Ms. Maiorano made a personal appearance before the Board to request licensure in South Carolina.

Motion: In open session, Ms. Witherspoon made a motion to grant Ms. Maiorano a license. The motion was seconded and approved.

Request for Approval for NPTE 3rd Administration

1. Christopher Garavito: Mr. Garavito made a personal appearance before the Board. Mr. Garavito requested the Board approve him to sit for the third (3rd) and final administration of the National Physical Therapy Examination (NPTE).

Motion: In open session, Ms. Witherspoon made a motion to approve Mr. Garavito to sit for the third (3rd) and final administration of the NPTE. The motion was seconded and approved.

2. April Wheeler: Ms. Wheeler made a personal appearance before the Board. Ms. Wheeler requested the Board approve her to sit for the third (3rd) and final administration of the National Physical Therapy Examination (NPTE).

Motion: In open session, Ms. Witherspoon made a motion that upon receipt of the certificate of completion of the prep course from the Center of Excellence at Winston-Salem State attended by Ms. Wheeler on December 12-13, 2009, and documentation of her name change due to marriage, she will be approved to sit for the third (3rd) and final administration of the National Physical Therapy Examination (NPTE). The motion was seconded and approved.

Lunch Break: 1:15 p.m.

Reconvened in Public Session: 1:40 p.m.

Topics of Discussion:

Orders for medication, report values for labs, x-rays, and delegated duties from nursing practice act delegate rule:

Ms. Melody Morehouse appeared before the Board with questions arising from an electronic communication regarding home care physical therapists and medical management in South Carolina, which she asked was it within the physical therapy scope of practice in South Carolina to communicate and obtain orders for medications, take orders and report values for labs and x-rays, and perform delegated duties from the nursing practice act, thus changing the entire paradigm. Ms. Dantzler stated each licensed professional who holds a license in South Carolina must practice only within the scope of the license conferred; however, non-professional tasks may be assigned by an employer. The delegation issue in medical management has become legally difficult because each practice has a different definition of what can be delegated and how it is done. Physical therapists cannot practice outside the scope of Section 40-45-20. Ms. Morehouse was advised to consult the SC Board of Pharmacy, the SC Board of Medical Examiners, and the SC Nursing Board regarding delegation practices of front-line medical management.

Managing Supplemental Oxygen:

Clarification was requested on the Board position or opinion whether or not it is within the scope of practice for physical therapists and physical therapy assistants to manage supplemental oxygen. Discussion followed citing Section 40-45-20, Definitions, whereby supplemental oxygen is considered as medication within the scope of practice and risk management.

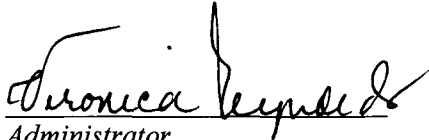
Licensure of a clinical fellowship instructor who is licensed and practicing in good standing in another state and is providing instruction to post-professional student fulfilling clinical fellowship training in South Carolina.

Under Section 40-45-270(3), "A physical therapist or physical therapist assistant licensed in another state who is teaching or participating in special physical therapy education projects, demonstrations, or courses in this State," is covered as teaching.

Motion: Upon advice from LLR Advice Counsel, Ms. Dantzler, Mr. Reaves made a motion to replay the tape recording portion of the discussion of House Bill 4329 at the January 14, 2010 board meeting. The motion was seconded and approved.

ADJOURNMENT

There being no further business, Mr. Junkins made a motion to adjourn the meeting at 3:10 p.m. The motion was seconded and approved.


Teronica Reynolds
Administrator

07-13-10
Date

Next meeting is scheduled July 8, 2010, Kingstree Building, Room 108, 10:00 a.m.