



WEST VIRGINIA BOARD OF PHYSICAL THERAPY
101 DEE DRIVE

LESLEIGH B. SPROUSE
Board Chair

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PATRICIA A. HOLSTEIN
Executive Secretary

MINUTES
Monday, June 7, 2010
10:00am

Members present: Shannon Snodgrass, Melanie Taylor, John Spiker, Don Sensabaugh, Lesleigh Sprouse.

Members present by phone: Jack Spatafore

Members not present:

Non Members present: Bryan Balajadia, PT; James Prefecto; Eric Shaw, PT; ,Eric Tarr, PT, Jason Webb, Lobbyist

Non Members present by phone: Cynthia Fox, Investigator

Minutes taken by: Trish Holstein

I. Motion to call meeting to order

- a) Lesleigh made the motion to call the meeting to order at 10:15am.

II. Public Comment TOEFL Score Process

- a) Bryan Balajadia and James Prefecto spoke on behalf of Christina Simbul regarding combining her TOEFL scores.
- Explained that the Board combined TOEFL scores previously from different test dates so that himself and other foreign applicants were eligible for a Temporary Permit.
 - Stated that Christina De Simbul is still in the Philippines and has until July 1, 2010 to apply for an HV1 Visa. However, she can not apply without a temporary license in the US.
 - Bryan explained that Christina Simbul has not applied for licensure in any other states in the US.
 - Christina's TOEFL scores were discussed. The first exam she passed all of the required fields except the speaking part. The second exam she did not pass the speaking part. The third time she did however pass the speaking part of the exam.

III. Executive Session at 10:30am

- Don motioned to go into Executive Session. John seconded motion with all in favor.
- Details were discussed regarding TOEFL scores being combined.

Melanie made a motion to come out of the executive session at 10:30am. Lesleigh seconded the motion with all in favor.

- Don made a motion to accept for licensure any TOEFL scores for any foreign applicant who has taken the examinations as of this date and has not passed all of the fields in one score as long as they have passed them all in a series of test within a two year period can be combined. However, from this day forward a person has to pass all the sections in one test. Shannon seconded the motion with all in favor.

IV. Approval of Minutes

- a) March 17, 2010
- Jack advised to add Lesleigh Sprouse to Members Present.
 - Melanie motioned to approve March 17, 2010 minutes with one amended change. Jack seconded the motion with all in favor.

V. Chairman Report

- a) CE Audit Complaint
 - The Board discussed answering the CE Audit complaint letter from HealthSouth.
 - Don made a motion to respond to the letter to HealthSouth answering and addressing their questions and concerns. Seconded by Melanie with all in favor.
 - The Board made policy that future CE audits need to have all communications in writing explaining that the licensee has the option to have the CE approved or to have the Board review the CE. If the licensee choose to have the Board review their CE's during the next Board meeting and the Board does not approve the CE, their license could go into lapsed status immediately.
- b) aPTitude Model for FSBPT
 - The Board verified the CE information from the FSBPT and approved the accuracy of the aPTitude form.

VI. Executive Secretary Report

- a) Financial Report March, April, May Budget
 - Shannon recommended an audit be performed by the Legislative office. Don suggested that Trish create a list by object codes and compare this year to last two year. At that point the Board can then identify categories where expenses were higher, examine the information and decide if an audit is necessary. The Board agreed to have Trish create a spreadsheet for past and current expenditures and email it to all of the Board members. The Board members will further discuss in a future meeting once we receive information to decide whether and audit is needed.
- b) Budget 2010/2011 Approval
 - Trish went over the Budget and the Board approved.
- c) Unemployment Remaining
 - Trish advised the Board that the remaining Unemployment is \$2166.00 and that it would be paid in July.
- d) Expenditures
 - Trish advised that the expenditures are reducing due to less postage, office supplies, etc.
- e) Office Purchases
 - Trish requested to buy two office chairs, a laptop, and two office phones. Shannon motioned to approve the office purchases and Melanie seconded with all in favor.
- f) Retirement Health Benefits Trust (RHBT) Annual Required Contribution (ARC)
 - Trish explained that we currently owe approx. \$17,000 for the ARC and it's accumulating \$600-700 a month per employee. Trish advised that she was told by the Budget office that we were not required to budget for this expense and this is a growing problem and was advised that the State is getting a team to check what is owed by other state agencies.
 - Shannon requested that Trish find out additional information regarding (ARC) and she would like this discussed at the next Board meeting.
- g) Personnel Billing
 - Trish informed the Board that the personnel billing is not new and it is \$50 per quarter per employee, for a total of \$400 a year to Department of Personnel (DOP). Kate Campbell with the Attorney General's Office did research for the Board of Barbers and advised that if you have exempt employees you do not have to pay this bill and that it would be up to the Board if they wanted to pay. Kate advises the bill be paid due to the fact that we use DOP for a lot of reasons. Trish informed the Board that other Boards have paid this bill in the past. The Board agreed to continue with this payment.
- h) Holiday Time
 - Trish requested that the office staff be allowed to work unconventional holidays and bank the days to use at another date. The Board agreed that the office staff would be allowed to bank up to 3 holidays at one time.

VII. Adverse Actions

- Lesleigh explained the definition of an Adverse Action to the Board and how the Federation sends the office notices of new actions.
- Trish stated that we received adverse actions on applicants and licensee's who are being disciplined in various states for not completing continuing education requirements and other penalties. The board made it a policy that an audit be done for on applicants and/or licensees who have had adverse actions taken against them regarding their CEU's.
- The Board decided that the lapsed/inactive PT/PTA's with adverse actions against them would need to be documented in case they would ever want a WV License again. The Board made it a policy that in the future if the office staff would receive an adverse action on a PT/PTA regarding CE, they would need to mail an audit letter to the licensee.

VIII. Executive Session at 11:30am

- Lesleigh made the motion to go into executive session at 11:30 am and Melanie Seconded the Motion with all in favor.
- The Board discussed disciplinary and adverse actions.

Don motioned to come out of Executive Session at 12:40 pm. Melanie seconded the motion with all in favor.

IX. Adverse Actions

- Lesleigh discussed an Adverse Action that was sent to the Board for an active WV licensee. The licensee lapsed in 2009 and re-activated their license in 2010. On the application to re-activate their license, they marked that they did not have their license or registration suspended or revoked under the Laws of another state. The adverse actions showed that they lost their license by 2 other Boards before the licensee signed their application. The applicant signed the application that they “affirm that this Application contains no willful misrepresentation or falsifications and that this information given by me is true and complete to the best of my knowledge”.
- Melanie made a motion to file a Complaint against the licensee regarding the adverse action. Kate will need to write a complaint for fraudulently obtaining a license and Lesleigh will need to sign it. John seconded the motion with all in favor.

X. Disciplinary Committee Report (Don Sensabaugh and Jack Spatafore)

- a) **Case No. 2008-01** (Original complaint received 04/01/2008, 18months = 10/01/2009)
- Shannon reported her findings for random visit on 03/17/10.
 - Cynthia Fox (Investigator) reported her findings for the random visit on 05/26/10.
 - Trish was requested by the Board to overnight Shannon’s findings from her random visit to Cynthia.
 - Cynthia requested additional documents from the respondent. Trish will generate a letter requesting the needed documents.
 - The Board requested a report to be generated from Cynthia on the next Board Meeting June 18, 2010.
 - Don motioned to pay Cynthia & Shannon’s invoices for investigation. Melanie seconded the motion with all in favor. Shannon abstained from voting.
- b) **Case No. 2009-02** (Original complaint received 01/29/2009, 18 months = 07/29/2010)
- The Board reviewed the complaint and discussed.
 - Trish gave an update on this case. The person who has the complaint against him signed the consent. License were suspended.
- c) **Case No. 2010-01** (Original complaint received 03/16/2010, 18 months = 09/16/2011)
- The Board reviewed the complaint and discussed.
 - Disciplinary Committee motioned there is probable cause to believe they are in violation of WV code 30-20-10. 3; b-3; b-4;b-7, and recommend license be suspended for 1 year and to offer a Consent Decree Agreement in lieu of a hearing. John seconded the motion with all in favor.
 - Melanie made a motion; Shannon seconded with all in favor that the Board will need to request more information from the Complainant regarding the PT supervising visits. Board wants to request the dates and times of the visits that were reported as fraud, who was the PT supervising the PTA, did the PT have knowledge of this situation (and if not why).
 - Trish will generate the letter to Complainant.
 - Trish will consult with Kate regarding the Statement of Charges and the Consent Agreement & Order and Lesleigh will sign.
- d) **Case No. 2010-02** (Original complaint received 05/14/2010, 18 months = 11/14/2011)
- The Board members left the room, while Jack and Don reviewed this case together. The Board returned once the decision was made.
 - Don motioned to dismiss due to no finding of probable cause and that the Complainant and Respondent should be advised. Melanie seconded the motion with all in favor.

XI. New Business

a) Newsletter

- The Board members agreed that the newsletter be mailed out by August 1, 2010. Trish will need to send a copy of the newsletter to the Board members to review before mailing out. Melanie is working on the CE part of the newsletter, including the changes, where to find approved CE’s and how many hours are required. The Board

recommended Trish to put various things in the newsletter such as picture of Governor signing the Statue, new Statue and our new location, TOEFL Scores, Disciplinary, and introduce the new executive secretary.

b) WV License Software Purchase Update

- Trish explained that she discussed with other Boards who they use and the cost.
- Trish informed the Board that she had a meeting with Bill McClanahan at the Office of Technology. At this time there is nothing that can be purchased from them. The Office of Technology is working on one standard software design that would be efficient for all WV Boards. Trish will inform the Board of any further updates.

c) Rent Payment Update

- Trish informed the Board that she spoke to David Bailey and advised the Landlord agreed to waive the outstanding balance.

d) Additional Investigators

- Trish informed the Board that Lesleigh and Shannon have both asked to bring up hiring additional investigators.
- Shannon suggested searching for an Active PT to send to training to become an investigator for the Board.
- Lesleigh gave the Board members information for Clear training in Nashville, TN in September.
- Shannon made the motion to secure an additional investigator and authorizes the cost for Clear training. Don seconded the motion with all in favor.

XII. House Bill 4140 Rule Changes

a) Public Comment - Eric Tarr, Eric Shaw and Jason Webb expressed their suggestions for the proposed Rule Changes.

- Jason Webb spoke regarding Continuing Education, fees, and general regulations. He recommended that Continuing Education hours and Fees be separated into their own rules.
- Eric Tarr suggested changes to the proposed Rule.
 - Add to the definition of “Physical Therapy Aide” section 2.4.a. “A physical therapy aid works under the direct supervision of a physical therapist”.
 - Request section 5.3. state that it is a separate series.
 - Add a section regarding Ethics in 8.2.
 - Request in section 9.1., supervision may be general or onsite. Regardless of the level of supervision required, the PT will make the initial visit and PT will make the final decision discharge.
 - Request to include that PTA’s must have 1,000 hours of experience would have to take place for a PTA to work in an outpatient or hospital setting only.
- Requested changing Continuing Education hours from 20 to 24 hours and volunteers to have 20 hours.
- Jason Webb discussed that the Statue states that the 30-20-6 (18.b) Board shall promulgate an Emergency rule.
- Lesleigh discussed the Emergency Rule and the Proposed Rules need to be turned into the Secretary of State’s office by June 30, 2009. She went over the process of Comment Period and advised we have to allow 30 days for comment.
- Jason Webb explained the process of the Emergency Rule process and explained that we need to do the Proposed Rule and the Emergency Rule. His opinion is that we should only suggest the supervisory ratio for the Emergency Rule.

b) The Board discussed changes to House Bill 4140 Rule.

- Add all definitions to match the Statue.
- Add to the definition of “Physical Therapy Aide” section 2.4.a. “A physical therapy aid works under the direct supervision of a physical therapist”.
- Add to section 5.3 “...20 contact hours of Board approved continuing education within the two year licensing period. If the licensee does not complete the 20 contact hours within the license period, that the licensee will be placed on delinquent status and will be subject to all fees associated with delinquent status”.
- Add sections 5.5 and 5.6 to further explain the continuing education and when we could make the license delinquent and they would be paying delinquent fees. 5.5. “Delinquent licensee is responsible for penalty fees including but not limited to: application fee, delinquent license fee, and the current year renewal fee. A licensee must also complete and show proof of Board approved continuing education requirements. 5.6. “To reinstate an “inactive” license, the licensee must submit an application for renewal along with a non- refundable application fee and license renewal fee.”
- Jack and John will review the Association’s proposal of CE hours and will report recommendations to the Board at the next Quarterly meeting and that time the Board will discuss and decide on CE policy.
- Expand on the CE requirements on the internet.
- Put sections 16-1-6. and 16-1-7. together. “Temporary Permit for PT and PTA”.
- Add to section 6.2 “W. Va Code 30-20-8, 30-20-10, and 30-20-12”.

- Add Ohio Ethics language and Sunset Committee will revise.
- Move section 8.1.c. to beginning of Section 16-1-8.
- Add to section 8.1. "Except in an emergency section as described in 8.4".
- Add language "In an emergency situation such as the ratio of supervision can be expanded for not more than 3 consecutive days".
- The Sunset Committee will finish the Emergency section and will email it out to the Board members to review.

XIII. House Bill 3152.

- Lesleigh advised what is still needed for Athletic Trainers Rules and that we will have a conference call to go over these Rules.
 - Determine disciplinary action and issue orders.
 - Only registering athletic trainers.
 - Discipline.
 - Pull other State Boards requirements.
 - Fee schedule for 2 year registration.
 - Need to be nationally certified unless grandfathered in.
 - Prove they passed NATE.
 - Use same application as we use for PT/PTA's.
- Trish is to contact Matthew with WV Design to find out the cost of adding the Athletic Trainers to the software and to create certificates.

XIV. Next Board Meeting Date

- Conference call on June 18, 2010 at 12:15.

XV. Meeting Adjourned

- Melanie motioned to adjourn the meeting at 3:00. John seconded with all in favor.