

SPECIAL SESSION MEETING MINUTES
June 13, 2006

MEMBERS PRESENT: Helene Fearon, P.T., President
Joni Kalis, P.T., Vice President
Mark Cornwall, P.T., Ph.D., Secretary
Merlin Gossman, Member
Randy Robbins, Member

MEMBERS ABSENT:

OTHERS PRESENT: Heidi Herbst Paakkonen, Executive Director
Peggy Hiller, P.T., Program Compliance Specialist (Investigator)
Carol Lopez, Licensing Administrator
Christine Larson, Director of Professional Standards for the
Federation of State Boards of Physical Therapy (Guest and Presenter)

CALL TO ORDER – 9:00 a.m.

The meeting was called to order by Ms. Fearon at 9:00 a.m..

NOTE: The agenda was reordered as follows

4. Request for Accommodation to the National Physical Therapy Examination In Accordance with the Americans with Disabilities Act

Karyn Reim

Ms. Fearon introduced the agenda item and the Board reviewed the documentation submitted by Ms. Reim to support her request for additional time with which to take the National Physical Therapy Examination (NPTE) due to a physical condition which requires her to stretch and walk every hour. Not only would she need the extra time for the examination, she would also need to separate testing area so as not to distract the other test-takers. The Board discussed the fact that Ms. Reim received these accommodations while a student in the physical therapy program at the University of St. Augustine, and that the letter submitted by Ms. Reim's physician met the requirements of a complete request for an accommodation. Ms. Fearon moved to grant Ms. Reim the accommodations of time and a half with which to take the NPTE and a separate testing room, and that she be granted licensure upon receipt of a passing score. Ms. Kalis seconded the motion. The motion carried by a unanimous vote.

3. Discussion and Possible Action on Filing Proposed Motion(s) with the Federation of State Boards of Physical Therapy (FSBPT) 2006 Delegate Assembly

Ms. Fearon introduced the agenda item and noted that the deadline for filing motions with FSBPT for the Delegate Assembly (to be held on September 11, 2006) is June 14, 2006. The Board members queried Ms. Larson concerning the motions that have already been filed by the FSBPT Board of Directors and the other jurisdictions. Ms. Larson advised the Board that a motion has been filed to correct an error in the motion approved by the Delegate Assembly in 2005 that adopted the passing scores for the Test of English as a Foreign Language (TOEFL). She also commented that a motion could be proposed concerning adoption of "DPT" as the professional designation for licensed physical therapists, and other motions could address the Standards of Practice study. Following discussion, the Board concurred that no motions would be filed by Arizona at the Assembly.

2. Review and Possible Approval of Nominees to Rule Writing Task Force

Ms. Fearon introduced the agenda item and reviewed the list of nominees to the Board's Rule Writing Task Force. The Board noted that the constituencies from which appointments are to be made are home health physical therapist, home health physical therapist assistant, hospital/acute care facility physical therapist, school district physical therapist, private outpatient clinic physical therapist, skilled nursing facility physical therapist, and skilled nursing facility physical therapist assistant. Following discussion, Dr. Cornwall moved the following individuals be appointed: Beth Gibson, P.T. (home health physical therapist); Celeste Interrante, P.T.A. (home health physical therapist assistant); Richard Woolf, P.T. (hospital/acute care facility physical therapist); Judy Neigoff, P.T. (school district physical therapist); Cynthia Driskell, P.T. (private outpatient clinic physical therapist); Diane Killeen, P.T. (skilled nursing facility physical therapist), and Kris Ohlendorf, P.T.A. (skilled nursing facility physical therapist assistant). The motion also identified the following individuals as alternate appointees: Deb Bierwas, P.T. (home health physical therapist); Patty Dorsey, P.T.A. (home health physical therapist assistant); James Tompkins, P.T. (hospital/acute care facility physical therapist); Lisa Akers, P.T. (private outpatient clinic physical therapist); and Susan DeLano, P.T. (skilled nursing physical therapist). Mr. Robbins seconded the motion. The motion carried by a unanimous vote. Ms. Herbst Paakkonen advised the Board that she would notify the appointees within the next few days and attempt to schedule and coordinate a meeting in July. Ms. Fearon and Ms. Kalis stated that they would plan to attend the meeting, and encouraged the remaining members of the Board to attend the meeting as their respective schedules permit.

1. Review and Discussion of, and Possible Action on, Proposed Revisions to A.A.C. R4-24-303. Patient Care Management

Ms. Fearon welcomed Ms. Larson to the Board's special meeting and invited her to present her research findings and comparisons of rules and regulations from other U.S. jurisdictions that address general supervision of physical therapist assistants. Ms. Larson advised the Board that the majority of states have defined "general supervision" in their statutes or administrative rules/regulations. She noted that when demand for physical therapists increases, pressure is often placed on state Legislatures and on the regulatory Board or agency itself to relax the regulatory scheme. However, a number of studies have established that this action does not actually address the economic problems and motivations behind those efforts. Ms. Larson also commented that when an outside group seeks changes to statutes not under its authority, technical corrections are

often required as that group often does not understand the meaning and the application of the language. Ms. Larson asked the Board to think about how stringent or how relaxed the general supervision rules should be. She advised the Board that its statutes place a high level of responsibility for patient care management on the physical therapist, and that the rules should be consistent with the statutes. Additionally, Ms. Larson asked the Board to focus on drafting rules that are evidence-based – the same expectation that is established for physical therapy standards of practice. With respect to the temporary restrictions to general supervision that were adopted as session law with HB 2643; Physical therapist assistants, Ms. Larson and the Board concurred that portions of the language are arbitrary, contain redundancies with other statutory language, or have no connection to public protection objectives. The Board stated that it is under no obligation to adopt the session law language into administrative rules which will allow the opportunity to fix these language problems.

The Board and Ms. Larson discussed the fact that the terms found in the definition of general supervision that reference “on call” and “readily available” will need to be defined in the rules as the bill failed to propose definitions for those terms which is rather problematic as it leaves them undefined and open to multiple interpretations. In order for these terms to be defined in the rules, they will also need to appear in the rules. Ms. Larson presented some suggested definitions for the term “on call”, and the Board discussed that any definition must not only address the immediacy with which the supervising physical therapist must be available, it must also address the supervisor possessing the physical and mental capacity to function in that supervisory role and to make clinical decisions. The Board also discussed some possible situations and scenarios concerning “readily available”. A proposed definition of “on call” was crafted for presentation to the Rule Writing Task Force for purposes of collecting input and feedback.

Ms. Larson and the Board reviewed the session law restriction that stipulates a physical therapist assistant must be within 50 miles of the supervising physical therapist. The Board commented that this language seem arbitrary when comparing a 50 mile distance in a rural setting versus an urban setting, versus a setting where geography could present transportation challenges. Ms. Larson again noted the inconsistency with the language as it relates to the fact that this restriction places the responsibility on the part of the physical therapist assistant when all other statutes addressing supervision place responsibility with the supervising physical therapist. The Board debated the logic, rationale and likely genesis for this restriction. The Board also discussed whether this restriction is intended to ensure that the physical therapist can actually get to the patient, or if it is important relative to co-signing the notes of the physical therapist assistant. Ms. Larson asked the Board to contemplate whether the draft definition of “on call” might ameliorate the need for this type of language. She also presented to the Board the rule language found in the Louisiana administrative code for consideration as it addresses how a physical therapist must be available in a general supervision arrangement. The Board opted to propose draft language that states the physical therapist must be immediately accessible by page or mobile telephone as well as within a 50 mile radius and 60 minutes travel time of the physical therapist assistant for the Rules Task Force to review and to provide the Board with input and feedback.

The Board then reviewed the session law restriction that stipulates the physical therapist assistant must document evidence of general supervision for each treatment visit which identifies the supervising physical therapist. Ms. Larson discussed the administrative rules for Kansas and Louisiana that place the burden on the regulatory Board of registering the physical therapist assistant that are supervised by specific physical therapists. The Board and staff noted that the

administrative responsibilities associated with this strategy are significant and costly. The Board also discussed whether a co-signature requirement would satisfy the need to have a record of supervision, and questioned whether the physical therapist assistant should have responsibility to document contacts with the physical therapist and, if so, how frequently. The concurrence was that this responsibility should not lie with the physical therapist assistant, consistent with the Board's existing statutes. The Board proposed drafting rule language that would state the physical therapist is responsible for identifying the physical therapist assistant(s) who will work under that therapist's supervision, as well as requiring the co-signature of the physical therapist whenever the physical therapist assistant generates a treatment note. In a related discussion, the Board reviewed A.R.S. §32-2051 as it relates to whether the Board has authority to require physical therapists and physical therapist assistants to wear name tags that appropriately identify their licensing and certification credentials or professional designations.

Ms. Larson then questioned whether the temporary session law restriction that stipulates a physical therapist assistant must have 2000 hours of experience under on-site supervision is arbitrary, or does it have some relation to public protection. The Board surmised that intent of this requirement likely relates to some assurance that the physical therapist assistant has worked in that capacity for approximately one year prior to being allowed to work under the general supervision of a physical therapist assistant, as opposed to allowing someone with very little clinical experience to work in this capacity. Ms. Larson asked the Board to also contemplate whether any restrictions should be in place concerning the minimum amount of hours that a supervising physical therapist may have worked prior to supervising a physical therapist assistant in a general supervision arrangement. Following lengthy discussion, the Board elected to present this debate to the Task Force for purposes of obtaining a recommendation concerning whether physical therapist assistants must meet certain requirements prior to being allowed to work under the general supervision of a physical therapist.

The Board reviewed the temporary restriction language addressing the supervisory ratios, and noted that it could have multiple interpretations due to its lack of clarity and contradictions with existing rule language at R4-24-303(E). Ms. Larson suggested the Board determine whether this type of restriction relates to public protection. The Board reached concurrence and agreed that two clearly stated ratios should be adopted in Board rule – one specific to on-site supervision and another specific to general supervision that are independent of one another and that shall not be combined or blended. The Board discussed options to include a ratio of no more than 2 physical therapist assistants and 1 physical therapy aide. The Board also noted that the rules should clearly state that an aide may never work under general supervision. The rules should be clear that if a physical therapist is supervising assistive personnel both on-site and under general supervision, the total number of assistive personnel supervised may not exceed 3.

The discussion then focused on the session law language establishing that the supervising physical therapist must see patients at least every 6 visits or 14 calendar days – whichever comes first – when the patient is receiving treatment interventions by a physical therapist assistant working under general supervision. The Board commented that the statutes and rules already, and appropriately, require the physical therapist to evaluate and discharge a patient, but that the session law restriction would potentially allow a patient to receive his or her entire course of care from a physical therapist assistant. For a number of patients, 6 treatment visits and 14 days could comprise an entire episode of care. Ms. Larson noted that Louisiana's rules require the supervising physical therapist and the physical therapist assistant to have periodic conferences concerning each patient. There was

additional debate concerning whether rule language should be drafted that requires a physical therapist to re-examine a patient prior to the discharge, and whether this requirement ameliorates the Board's concerns with the session law restriction #2. The Board proposed that rule language reduce the number of treatment visits from 6 to 3, and eliminate any reference to calendar days as it is arbitrary. The Board's rationale for requiring the supervising physical therapist to see the patient every third treatment visit is the best way to ensure that the physical therapist is providing adequate management of the patient's care and is aware of the patient's rehabilitation status.

The Board's review of the final temporary session law provision yielded concurrence that the language was redundant as A.R.S. §32-2043 clearly places the responsibility of determining the use of assistive personnel with the supervising physical therapist. The Board proposed drafting language that would state instead that the physical therapist is responsible for the care providing to patients when treatment interventions have been delegated to a physical therapist assistant under a general supervision arrangement, and that general supervision does not negate the physical therapist's patient care management responsibilities identified in §32-2043.

The Board concluded the review and discussion by thanking Ms. Larson for her research, guidance, and input on the subject of general supervision of physical therapist assistants. The Board directed staff to draft a Substantive Policy Statement that would attempt to clarify the problematic language of the temporary session law, but acknowledged that there will be topics that cannot be clarified due to the potential for multiple and varied interpretations of the language. Ms. Herbst Paakkonen advised the Board that she will prepare a document that captures the discussion points and options for proposed rule language that were identified during the discussion so that the Task Force members will clearly understand their charge. Additionally, she will research options for contracting with a rule writer for purposes of drafting the language and preparing the filings with the Governor's Regulatory Review Council.

CALL TO THE PUBLIC

None.

ADJOURNMENT

The meeting adjourned at 1:40 p.m.

Prepared by,

Heidi Herbst Paakkonen
Executive Director

Approved by,

Mark Cornwall, P.T., Ph.D.
Secretary