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**Texas Board of Physical Therapy Examiners  
Board Meeting**

**333 Guadalupe, Suite 2-510  
Austin, Texas 78701**

**April 29, 2016  
9:00 am**

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11  
12 **Members Present:** Gary Gray, PT, Chair  
13 Harvey Aikman, PT  
14 Barbara Sanders, PT, PhD  
15 Jeffrey Tout, PT  
16 Shari Waldie, PT  
17 Philip Vickers, Public Member  
18

19 **Members Absent:** Daniel Reyna, Public Member  
20

21 **Legal Counsel:** Kara Holsinger, Assistant Attorney General  
22

23 **Staff:** John Maline, Executive Director  
24 Karen Gordon, PT Coordinator  
25 Mark Turek, Chief Investigator  
26 Cynthia Machado, Licensing Manager  
27

28 **Guests:** Kathleen Manella, Texas Physical Therapy Association (TPTA) Liaison  
29 Don Haydon, TPTA Executive Director  
30 Stacey Mather, TPTA Staff  
31 Amber Townsley, TPTA Staff  
32 Kathy Grant, Texas Association of Acupuncture & Oriental Medicine  
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35  
36 Agenda items listed under several committee reports begin with the letter D intentionally. No items have been  
37 omitted from the board agenda.  
38

- 39 1. Call to order  
40 2. Public comment  
41 3. Approval of minutes from the January 29, 2016 meeting in Austin.  
42 4. Discussion and possible action on Executive Director's Report concerning fiscal and budgetary  
43 matters, performance measures, ongoing projects, agency personnel matters, Sunset Review,  
44 and other agency business.  
45 5. Investigation Committee Report and consideration by the Board of the following items:  
46 A. Review and possible action on Agreed Orders for case #: 15421; 16006; 16012; 16015;  
47 16031; 16037; 16060; 16063; 16071; 16093; 16094; 16104; 16127; 16145; 16154; 16184;  
48 16190; 16199; 16213; 16215; 16226; 16230; 16244; 16246; 16250; 16256; 15259; 16262  
49 16269; 16284 and 16322.  
50 B. Discussion and possible action on the Investigation Committee Meeting of March 29,  
51 2016.  
52 C. Discussion and possible action on investigative activities to date.  
53 6. Discussion and possible action on adopting changes to: §329.2. Licensure by Examination.  
54 7. Rules & Practice Committee Report:  
55 D. Discussion and possible action on proposing changes to §321.1. Definitions including  
56 updating the definition of physical therapy to include dry needling.  
57 E. Discussion and possible action on proposing changes to §341.9. Retired Status; Performing

- 1 Voluntary Charity Care regarding requirements for initiation and renewal of retired status.
- 2 F. Discussion and possible action on proposing changes to §322.1. Provision of Services
- 3 regarding (d) Reevaluation.
- 4 G. Discussion and possible action on proposing a rule review as required by §2001.039 of the
- 5 Government Code: Chapter 321. DEFINITIONS; Chapter 322. PRACTICE; Chapter 323.
- 6 POWERS AND DUTIES OF THE BOARD; Chapter 325. ORGANIZATION OF THE BOARD;
- 7 Chapter 327. COMPENSATION; Chapter 329. LICENSING PROCEDURE; Chapter 335.
- 8 PROFESSIONAL TITLE; Chapter 337. DISPLAY OF LICENSE; Chapter 339. FEES;
- 9 Chapter 341. LICENSE RENEWAL; Chapter 342. OPEN RECORDS; Chapter 343.
- 10 CONTESTED CASE PROCEDURE; Chapter 344. ADMINISTRATIVE FINES AND
- 11 PENALTIES; Chapter 346. PRACTICE SETTINGS FOR PHYSICAL THERAPY; and
- 12 Chapter 347. REGISTRATION OF PHYSICAL THERAPY FACILITIES.
- 13 H. Discussion and possible action on proposing changes to §322.1. Provision of Services,
- 14 regarding adding (f) Telehealth to include a request for approval of a telehealth pilot study
- 15 through the University of Texas Medical Branch (UTMB) Physical Therapy and the Texas
- 16 Department of Criminal Justice (TDCJ).
- 17 8. Education Committee Report:
- 18 D. Discussion and possible action on the Texas Physical Therapy Association (TPTA)
- 19 Continuing Competence Approval Program (CCAP) report, including auditing TPTA.
- 20 E. Discussion and possible action on proposing changes to §329.1. General Licensure
- 21 Requirements and Procedures, and §329.2. Licensure by Examination regarding the
- 22 Federation of State Boards of Physical Therapy (FSBPT) alternate path for exam eligibility
- 23 approval.
- 24 F. Discussion and possible action on proposing changes to §329.5. Licensing Procedures for
- 25 Foreign-Trained Applicants, including upcoming FSBPT changes and Duke University
- 26 online module on the US healthcare delivery system.
- 27 G. Discussion and possible action on proposing changes to §321.1. Definitions, 323.1. Types
- 28 of Examination, §329.1. General Licensure Requirements and Procedures, §341.1.
- 29 Requirements for Renewal, §341.2. Continuing Competence Requirements, 341.3.
- 30 Qualifying Continuing Competence Activities, §341.6. License Restoration, §341.8.
- 31 Inactive Status, §341.9. Retired Status; Performing Voluntary Charity Care, and §341.20.
- 32 Licensees Serving as a Military Service Member regarding combining the jurisprudence
- 33 exam and the ethics/professional responsibility requirement into an online Jurisprudence
- 34 Assessment Module (JAM).
- 35 H. Discussion and possible action on a request for an appeal to re-take the National Physical
- 36 Therapy Examination (NPTE).
- 37 I. Discussion and possible action on issues related to physical therapy entry-level education
- 38 and continuing competence.
- 39 9. Vision Committee Report:
- 40 D. Discussion and possible action regarding the Federation of State Boards of Physical
- 41 Therapy, including the Leadership Issues Forum, July 30-31, 2016; and election of
- 42 delegate and alternate delegate to the Annual Meeting in Columbus, Ohio, November 4-5,
- 43 2016.
- 44 E. Discussion and possible action regarding the Sunset Staff Report, upcoming Sunset
- 45 hearings, and the 2017 legislative session.
- 46 F. Discussion and possible action regarding the Physical Therapy Licensure Compact and
- 47 the upcoming 2017 legislative session.
- 48 10. Discussion and possible action on the Board Coordinator's report concerning any item listed on
- 49 the agenda and on events that have occurred between this meeting and the Board's last
- 50 meeting.
- 51 11. Discussion and possible action on the Board Chair's report concerning any item listed on the
- 52 agenda and on events that have occurred between this meeting and the Board's last meeting.
- 53 12. Discussion and possible action on long-term planning for future meetings, including future
- 54 meeting dates and agenda items.
- 55 13. Adjournment
- 56
- 57

The Board may meet in closed session on any agenda item listed above as authorized by the Texas Open Meetings Act, Texas Government Code Chapter 551.

1 **1. Call to order**

2  
3 Mr. Gray called roll and determined that a quorum existed. He called the meeting to order at 9:27  
4 a.m. He announced that the Governor had made appointments to the PT Board, and that Harvey  
5 had been reappointed, and that Liesl Olson, PT had been appointed to replace Melinda Rodriguez,  
6 PT and Glenda Clausell had been appointed to replace René Pena as a public member.

7  
8 **2. Public comment**

9  
10 There was no public comment.

11  
12 **3. Approval of minutes from the January 29, 2016 in Austin.**

13  
14 Motion: To approve the minutes as corrected.  
15 Made by: Harvey Aikman  
16 Second: Shari Waldie

17 Motion passed unanimously.

18  
19 **4. Discussion and possible action on Executive Director's Report concerning fiscal and**  
20 **budgetary matters, performance measures, ongoing projects, agency personnel matters,**  
21 **Sunset Review, and other agency business.**

22  
23 Mr. Maline gave the Executive Director's Report which included the following:

- 24 • Agency budget and fiscal status for FY 2016 through the 3<sup>rd</sup> Q to date  
25 • Performance Measures  
26 • Sunset Staff Report and upcoming hearings  
27 • Board per diem and travel audit  
28 • Upcoming personnel retirements

29  
30 **5. Investigation Committee Report and consideration by the Board of the following items:**

31  
32 **A. Review and possible action on Agreed Orders for case #s:** 15421; 16006; 16012; 16015;  
33 16031; 16037; 16060; 16063; 16071; 16093; 16094; 16104; 16127; 16145; 16154; 16184;  
34 16190; 16199; 16213; 16215; 16226; 16230; 16244; 16246; 16250; 16256; 15259; 16262  
35 16269; 16284 and 16322.

36  
37 The Board reviewed and ratified the following Agreed Orders presented by Mr. Turek:  
38 16006; 16012; 16031; 16037; 16060; 16093; 16154; 16184; 16190; 16199; 16213; 16230;  
39 16250; 16269; and 16322.

40  
41 **B. Discussion and possible action on the Investigation Committee Meeting of March 29,**  
42 **2016.**

43  
44 Mr. Turek reported that the Committee reviewed 142 cases, held 6 informal conferences, and  
45 issued 31 agreed orders.

46  
47 **C. Discussion and possible action on investigative activities to date**

48  
49 Mr. Turek reported on performance measures, school visits, and unannounced onsite investigations  
50 completed since the last meeting.

51  
52 **6. Discussion and possible action on adopting changes to: §329.2. Licensure by**  
53 **Examination.**

1 Motion: To adopt changes to §329.2. Licensure by Examination as proposed.  
2 Made by: Harvey Aikman  
3 Second: Jeff Tout  
4 Motion passed unanimously.

5  
6 There were no comments or discussion on this amendment.

7  
8 (See Attachment A for the adopted amendment)

9  
10 **7. Rules & Practice Committee Report:**

11  
12 **D. Discussion and possible action on proposing changes to §321.1. Definitions including**  
13 **updating the definition of physical therapy to include dry needling.**

14  
15 Mr. Aikman reported that the Attorney General's Opinion in response to RQ-00068 regarding  
16 whether dry needling is within the physical therapy scope of practice had not been rendered, so the  
17 Committee took no action. An opinion is scheduled by May 9, 2016.

18  
19 **E. Discussion and possible action on proposing changes to §341.9. Retired Status;**  
20 **Performing Voluntary Charity Care regarding requirements for initiation and renewal**  
21 **of retired status.**

22  
23 Mr. Aikman reported that an attestation of voluntary charity care will be added to the Retired Status  
24 application, and that no rule change was required.

25  
26 **F. Discussion and possible action on proposing changes to §322.1. Provision of Service**  
27 **regarding (d) Reevaluation.**

28  
29 Mr. Aikman reported that the Board had received a request to amend the section on reevaluation to  
30 eliminate the requirement that includes a reexamination which implies completion of a  
31 comprehensive screening and testing process including patient history, systems review, and tests  
32 and measures. Several proposals that were submitted with the request were discussed, and the  
33 Committee is recommending adding "direct physical therapist-to-patient interaction" and elimination  
34 of "onsite reexamination" from the requirements.

35  
36 Motion: To recommend proposing an amendment to §322.1. Provision of Service (d)  
37 Reevaluation to add "direct physical therapist-to-patient interaction" and to  
38 eliminate "onsite reexamination" from the requirements.

39 Made by: Rules & Practice Committee  
40 Second: none required

41 Motion passed unanimously.

42  
43 (See Attachment B for the proposed amendment)

44  
45 **G. Discussion and possible action on proposing a rule review as required by §2001.039**  
46 **of the Government Code: Chapter 321. DEFINITIONS; Chapter 322. PRACTICE;**  
47 **Chapter 323. POWERS AND DUTIES OF THE BOARD; Chapter 325. ORGANIZATION**  
48 **OF THE BOARD; Chapter 327. COMPENSATION; Chapter 329. LICENSING**  
49 **PROCEDURE; Chapter 335. PROFESSIONAL TITLE; Chapter 337. DISPLAY OF**  
50 **LICENSE; Chapter 339. FEES; Chapter 341. LICENSE RENEWAL; Chapter 342. OPEN**  
51 **RECORDS; Chapter 343. CONTESTED CASE PROCEDURE; Chapter 344.**  
52 **ADMINISTRATIVE FINES AND PENALTIES; Chapter 346. PRACTICE SETTINGS FOR**  
53 **PHYSICAL THERAPY; and Chapter 347. REGISTRATION OF PHYSICAL THERAPY**  
54 **FACILITIES.**

1 Mr. Aikman reported that the Board is required to determine whether the reasons for adopting the  
2 above rules continue to exist, and whether the rules should be repealed, readopted, or readopted  
3 with amendments every four (4) years pursuant to §2001.039 of the Government Code.  
4

5 Motion: To propose a rule review of Chapter 321. DEFINITIONS; Chapter 322.  
6 PRACTICE; Chapter 323. POWERS AND DUTIES OF THE BOARD;  
7 Chapter 325. ORGANIZATION OF THE BOARD; Chapter 327.  
8 COMPENSATION; Chapter 329. LICENSING PROCEDURE; Chapter 335.  
9 PROFESSIONAL TITLE; Chapter 337. DISPLAY OF LICENSE; Chapter  
10 339. FEES; Chapter 341. LICENSE RENEWAL; Chapter 342. OPEN  
11 RECORDS; Chapter 343. CONTESTED CASE PROCEDURE; Chapter 344.  
12 ADMINISTRATIVE FINES AND PENALTIES; Chapter 346. PRACTICE  
13 SETTINGS FOR PHYSICAL THERAPY; and Chapter 347. REGISTRATION  
14 OF PHYSICAL THERAPY FACILITIES.

15 Made by: Rules & Practice Committee

16 Second: none required

17 Motion passed unanimously.  
18

19 **H. Discussion and possible action on proposing changes to §322.1., Provision of**  
20 **Services, regarding (f) Telehealth to include a request for approval of a telehealth pilot**  
21 **study through the University of Texas Medical Branch (UTMB) Physical Therapy and**  
22 **the Texas Department of Criminal Justice (TDCJ).**  
23

24 Mr. Aikman reported on a request for approval of a telehealth pilot study through the University of  
25 Texas Medical Branch (UTMB) Physical Therapy and the Texas Department of Criminal Justice  
26 (TDCJ), and on the comments received from the Board's legal counsel, Kara Holsinger, AAG that  
27 included 1) the Board does not have the statutory authority to endorse, monitor, approve, etc. a pilot  
28 program; 2) the evaluation rules imply that an evaluation will be performed onsite, and the  
29 reevaluation rules explicitly state that a reevaluation must be onsite; and 3) the Practice Act  
30 requires that PT aides have onsite supervision. He reported that the Committee decided it would  
31 not make a recommendation to the Board to approve the pilot program based on the above.  
32

33 Mr. Gray recessed the meeting at 10:34 a.m. and reconvened at 10:53 a.m.  
34

35 **8. Education Committee Report:**  
36

37 **D. Discussion and possible action on the Texas Physical Therapy Association (TPTA)**  
38 **Continuing Competence Approval Program (CCAP) report, including auditing**  
39 **TPTA.**  
40

41 Dr. Sanders reported on the CCAP report as presented by TPTA and a request to consider  
42 the mentorship of physical therapy students undergoing an Integrated Clinical Experience  
43 (ICE) during their first year at UT Southwestern Physical Therapy Program as a pre-  
44 approved activity for CCU credit.  
45

46 Motion: To approve ICE mentorship for CCU credit.

47 Made by: Education Committee

48 Second: none required

49 Motion failed unanimously.  
50

51 Dr. Sanders also reported that the Committee will be auditing the TPTA's approved courses  
52 through their Accredited Provider Status at the August meeting, and that staff will coordinate  
53 with TPTA for the submission of course materials for the audit.  
54

55 **E. Discussion and possible action on proposing changes to §329.1. General**  
56 **Licensure Requirements and Procedures, and §329.2. Licensure by Examination**

1 **regarding the Federation of State Boards of Physical Therapy (FSBPT) alternate**  
2 **path for exam eligibility approval.**  
3

4 Dr. Sanders informed the Board that the implementation of the alternate path for exam eligibility is  
5 on track for an October 2016 rollout for the January 2017 testing dates, and that amendments to  
6 §329.2. Licensure by Examination (b) Re-examination and (d) Exam Accommodations will be  
7 proposed at the August meeting.  
8

9 **F. Discussion and possible action on proposing changes to §329.5. Licensing**  
10 **Procedures for Foreign-Trained Applicants, including upcoming FSBPT changes**  
11 **and Duke University online module on the US healthcare delivery system.**  
12

13 Dr. Sanders reported that the Committee had reviewed comments from legal counsel, Kara  
14 Holsinger, AAG regarding whether or not the Board has the statutory authority to require a foreign-  
15 trained applicant to take a course such as the Duke's online module as a requirement for licensure.  
16 The Committee discussed the issue and decided not to pursue making the completion of the online  
17 module a requirement for licensure of foreign-trained applicants, and decided that the module could  
18 be used to remediate educational deficiencies instead.  
19

20 **G. Discussion and possible action on proposing changes to §321.1. Definitions,**  
21 **§323.1. Types of Examination, §329.1. General Licensure Requirements and**  
22 **Procedures, §341.1. Requirements for Renewal, §341.2. Continuing Competence**  
23 **Requirements, 341.3. Qualifying Continuing Competence Activities, §341.6. License**  
24 **Restoration, §341.8. Inactive Status, §341.9. Retired Status; Performing Voluntary**  
25 **Charity Care, and §341.20. Licensees Serving as a Military Service Member**  
26 **regarding combining the jurisprudence exam and the ethics/professional**  
27 **responsibility requirement into an online Jurisprudence Assessment Module**  
28 **(JAM).**  
29

30 Dr. Sanders reported that Ms. Gordon had attended the April 15 – 17, 2016 JAM Item Writer  
31 Workshop in Alexandria, VA as the subject matter expert for the jurisprudence portion of the module  
32 being developed for Texas. She also reported that legal counsel, Kara Holsinger, AAG determined  
33 that there would be no problem with leaving the references to jurisprudence exam as they appear in  
34 the rules now until after a change in the language can be made during the next legislative session.  
35

36 She also informed the Board that amendments to §341.2. Continuing Competence Requirements  
37 and §341.3. Qualifying Continuing Competence Activities which will be required prior to the  
38 implementation of the new assessment module would be forthcoming at the August meeting  
39

40 **H. Discussion and possible action on a request for an appeal to re-take the National**  
41 **Physical Therapy Examination (NPTE).**  
42

43 Dr. Sanders reported that the Committee reviewed a request for the Board to appeal for an  
44 additional re-take of the NPTE from an applicant who had already tested 7 times and had the  
45 requisite remediation for re-examination.  
46

47 Motion: To recommend not to appeal on behalf of the applicant due to lack of specific  
48 and compelling reasons.  
49 Made by: Education Committee  
50 Second: none required  
51

51 *Motion passed unanimously.*  
52

53 **I. Discussion and possible action on issues related to physical therapy entry-level**  
54 **education and continuing competence.**  
55

56 Dr. Sanders reported that there was no discussion on this item.  
57

1 **9. Vision Committee Report:**

2  
3 **D. Discussion and possible action regarding the Federation of State Boards of Physical**  
4 **Therapy, including the Leadership Issues Forum, July 30-31, 2016; and election of**  
5 **delegate and alternate delegate to the Annual Meeting in Columbus, Ohio, November**  
6 **4-5, 2016.**

7  
8 Mr. Gray reported that the Committee discussed the upcoming Federation of State Boards of  
9 Physical Therapy (FSBPT) Leadership Issues Forum and the Annual Meeting.

10  
11 Motion: To recommend Harvey Aikman as delegate and Philip Vickers as alternate  
12 delegate to the FSBPT Delegate Assembly.

13 Made by: Vision Committee

14 Second: none required

15 Motion passed unanimously.

16  
17 **E. Discussion and possible action regarding the Sunset Staff Report, upcoming Sunset**  
18 **hearings, and the 2017 legislative session.**

19  
20 Mr. Gray reported that the Committee discussed the Sunset Staff Report and the upcoming Sunset  
21 Advisory Commission hearing in June, and that he will be testifying before the Commission  
22 representing the Board. He also reported that the Committee agreed that recommendations that  
23 need to be addressed in testimony include discontinuation of facility registration with authority to  
24 expunge any administrative violations not just facility- related, removal of the boards' authority to  
25 delegate approval of continuing education and continuing competence, requirement to conduct  
26 criminal background checks not limited to just fingerprint-based of licensure applicants and  
27 licensees, and designation of the presiding officer of the Board by the Governor. It was noted that  
28 Senator Nichols will be carrying the Sunset bill that will be introduced in the Senate, and that other  
29 measures might be included to insulate the Executive Council and both Boards from antitrust  
30 issues.

31  
32 **F. Discussion and possible action regarding the Physical Therapy Licensure Compact**  
33 **and the upcoming 2017 legislative session.**

34  
35 The Committee discussed the inclusion of the recommendation to adopt the Physical Therapy  
36 Licensure Compact (PTLC) in the Sunset Staff Report, and that Oregon was the first state to pass  
37 the PTLC during its 2016 legislative session.

38  
39 **10. Discussion and possible action on the Board Chair's report concerning any item listed**  
40 **on the agenda and on events that have occurred between this meeting and the Board's**  
41 **last meeting.**

42  
43 Mr. Gray reported that he attended the January 7<sup>th</sup> and January 29<sup>th</sup> Investigation Committee  
44 meetings and announced that TPTA has a new Executive Director, Mr. Don Haydon.

45  
46 **11. Discussion and possible action on long-term planning for future meetings, including**  
47 **future meeting dates and agenda items**

48  
49 The Board scheduled the remaining meetings for the year: August 11-12, and October 27-28 in Fort  
50 Worth during the Texas Physical Therapy Association Annual Conference.

51  
52 **12. Adjournment**

53  
54 Motion: To adjourn the meeting.

55 Made by: Harvey Aikman

56 Second: Philip Vickers

57 Motion passed unanimously.

1  
2 Mr. Gray adjourned the meeting at 12:11 p.m.

3

4

5 **Date reviewed by the Board:** 08/12/2016

6 **Action taken by the Board:** approved as submitted

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