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**WVBOT MINUTES:** January 15, 2010

**MEMBERS PRESENT:** Phil Simpson, Kathy Quesenberry, Brenda Hambric

**ABSENT:** Marty Douglas, Gene Brooks

**ALSO PRESENT:** Vonda Malnikoff

**MEETING CALLED TO ORDER:** 11:10 a.m.

Phil motioned to enter Executive Session at 11:10 a.m. to discuss licensee matters. Brenda seconded. Vote 3-0.

### **EXECUTIVE SESSION**

Issue 2009 #60 – Complaint.

Issue 2009 #61 – LP void. **Case closed.**

Issue 2010 #62 - Complaint

Board member applicant.

Phil motioned to end Executive session at 11:25 am. Brenda seconded. Vote 3-0.

With regard to issue 2010#62, Brenda motioned to wait ten days for agency to file complaint; if not, initiate complaint by the Board. Phil seconded. Vote 3-0.

With regard to COTA vacancy on the Board, Phil motioned to send a notice to all COTA's, informing them of the vacancy and requesting interested licensees to respond prior to March board meeting, and also to send letter to applicant regarding this decision. Brenda seconded. Vote 3-0.

Phil motioned to approve November 6 & 25, 2009 minutes. Brenda seconded. Vote 3-0.

### **OLD BUSINESS**

**TOPIC: CE credit for on-line Practice Act review & test**

**FINDINGS/CONCLUSIONS:** Discussed the proposal by Diana Davis to make an on-line presentation of the new Practice Act available to licensees to review and take a test for CE credit. Marty motioned to wait until after new Legislative Rules are passed. Gene seconded. Vote 4-0.

**ACTION/FOLLOW-UP: Vonda to pursue with Diana and Infineon, Inc. regarding website capability to offer during 2011 renewal period.**

**TOPIC: NBCOT Annual Conference**

**FINDINGS/CONCLUSIONS:** Annual conference has been scheduled for October 23-24, 2009 in Baltimore. Conference registration, hotel, and airline reservations made for Kathy. Kathy attended conference as scheduled. Kathy shared several items from conference for Board discussion. See addendum A for list. Discussed AG response to questions.

**ACTION/FOLLOW-UP: Vonda to follow up with AG regarding question #5. Could this be covered by 30-28-6 (17)?**

**TOPIC: LRMRC draft of Legislative Rules**

**FINDINGS/CONCLUSIONS:** Board reviewed revised Leg Rule 13-01 as modified by LRMRC. Most changes involved deleting unnecessary definitions and sections duplicated in in the Practice Act or other rules. Supervision requirements were not changed, but moved from definitions to section 13-1-12. Marty motioned to accept changes. Brenda seconded. Vote 5-0. Rules were passed at the November interim committee meeting on November 17<sup>th</sup>.

**ACTION/FOLLOW-UP: None.**

**TOPIC: Computer upgrades**

**FINDINGS/CONCLUSIONS:** The Board discussed the need to upgrade the office computer and purchase a second laptop for Board member use when traveling. Gene motioned to purchase a new desktop, with upgrade to Windows 7 for existing laptop, and to purchase a new compatible laptop at the same time. Marty seconded. Vote 5-0.

**ACTION/FOLLOW-UP: Vonda to obtain quotes and information regarding a user's license for software for multiple computers.**

**TOPIC: Review of Comments received by WVPTA regarding Legislative Rules.**

**FINDINGS/CONCLUSIONS:** Regarding Legislative Rule 13-01, the Board agreed to the changes proposed by WVPTA to more clearly indicate that only an occupational therapist, and not an occupational therapy assistant, can supervise an occupational therapy student. Occupational therapy assistants can supervise an occupational therapy assistant student. The Board also agreed to modify 12.5.a. to indicate that only an occupational therapist can supervise limited permit holders.

Regarding Rule 13-05, the Board agreed to add the word "applicable" to 4.5.a. to read "(including applicable fieldwork education)"; the Board agreed to add the phrase "as endorsed by the American Occupational Therapy Association or its successor, or as approved by the WVBOT" to 4.5.b.; Phil motioned to changed 4.5.c. to read, "Successful completion of an appropriate continuing education course which includes theory, indications, contra-indications and applications. Gene seconded. The vote was 4-0. Marty motioned to remove 4.5.d. Phil seconded. The vote was 4-0.

To address the question as to how the Board will know if OTA's actually receive the training on new PAM competencies, Phil motioned to add 4.6.a. to the rule stating, "The Board shall conduct random audits of occupational therapy assistants to substantiate competency in physical agent modalities." Gene seconded. The vote was 4-0.

Modifications to the Rules were forwarded to WVPTA on 11/30/09. On 12/21/09, a response from WVPTA indicated they had additional concerns. These concerns were discussed and a response drafted. Phil motioned to respond to WVPTA, striking "(including applicable fieldwork education)" from 13-5-4.5.a. and documenting why the Board believes no further changes are necessary. Brenda seconded. Vote 3-0

**ACTION/FOLLOW-UP:** Vonda to make modification to the Rules as discussed and send response to WVPTA and Charlie Roscovensky (LRMRC).

**PURCHASE CARD TRANSACTIONS**

The Board reviewed all purchases made on the Purchase Card since the last board meeting. Phil motioned to accept all purchases. Brenda seconded. Vote 3-0.

**TREASURER'S REPORT**

Cash Balance as of January 1, 2010

\$179,034.27

**DEPOSITS SINCE LAST BOARD MEETING**

November 5, 2009	\$ 2,590.00
November 13, 2009	3,100.00
November 19, 2009	5,210.00
November 25, 2009	6,430.00
December 4, 2009	7,910.00
December 11, 2009	13,470.00
December 18, 2009	17,230.00
December 23, 2009	6,530.00
December 30, 2009	6,175.00

TOTAL DEPOSITS \$68,645.00

**DISBURSEMENTS SINCE LAST BOARD MEETING**

November	\$ 6,793.35
December	\$ 6,044.79

**NEW BUSINESS**

**TOPIC: Elect officers for 2010**

**FINDINGS/CONCLUSIONS:** Phil motioned to keep current officers for 2010. Brenda seconded. Vote 3-0.

**ACTION/FOLLOW-UP: None.**

**TOPIC: 2010 License renewal update**

**FINDINGS/CONCLUSIONS:** OTR non-renewals: 29 of 517; COTA non-renewals: 35 of 303.

Of these 37, 2 are now OTR's. Number of licensees as of 1/13/10: 488 OT's, 268 OTA's. (approximately 10 renewals are still pending).

**ACTION/FOLLOW-UP: None.**

**TOPIC: Review of proposed PT Practice Act**

**FINDINGS/CONCLUSIONS:** See addendum B for list of comments/concerns

**ACTION/FOLLOW-UP: Vonda to send list to WVPTA and WV Board of PT.**

## financial

VENDOR	DATE REC'D	AMOUNT	NOTE
1 AG's Office	11/16/2009	\$21.00	October questions
2 Auditor's Office	11/16/2009	\$10.00	Transactions for October 2009
3 IS&C	11/18/2009	\$15.48	WVFIMS transactions for October 2009
4 Auditor's Office	12/14/2009	\$19.00	Transactions for November 2009
5 IS&C	12/14/2009	\$17.14	WVFIMS transactions for November 2009
6 AG's Office	12/16/2009	\$14.00	Review Board meeting minutes
7 WV Div of Personnel	1/11/2010	\$32.50	Personnel billing 3rd Qtr FTE's
8 Auditor's Office	1/13/2010	\$11.00	Transactions for December 2009
9 IS&C	1/14/2010	\$15.50	WVFIMS transactions for December 2009

Phil motioned to pay all bills. Brenda seconded. Vote 3-0.

## correspondence

<u>correspondence</u>	<u>date rec'd</u>	<u>issue</u>
1 Stateline	11/10/2009	October 2009 issue
2 Governor's Office	11/12/2009	Memo re: State-owned vehicle logs
3 Nat'l Coucil on Compensation Ins.	11/16/2009	NCCI Classification Inspection notice
4 Purchasing	12/1/2009	The Buyers Network - December 2009
5 WV Director of Personnel	12/10/2009	Info re: PLANS project to update Classification & Compensation plans
6 Brickstreet	12/28/2009	Inside Brickstreet - Winter 2009
7 State Budget Office	12/29/2009	Reduction of General Revenue Expenditures
8 Purchasing	1/4/2010	The Buyers Network - January 2010
9 NPDB-HIPDB	1/11/2010	Data Bank News - January 2010

Meeting adjourned at 2:55 following the signing of applications. The next regular Board meeting is scheduled for Friday, March 5, 2010 at 11:00 a.m. at the Morgantown office.

**Addendum A**  
**Notes from NBCOT Annual Conference**  
**(AG response in red)**

**Questions for AG:**

- Are Board members serving on expired terms covered by immunity clause?
  - o Yes, per W.Va. Code 30-28-5(e), they serve until their successor is appointed.
- Do we need a motion to adopt agenda at the beginning of each Board meeting?
  - o No. Note that the agenda needs to be approved 3 days prior to the meeting.
- What does WV recognize as the definition of a “meeting”?
  - o See W.Va. Code 6-9a-2(4) for the definition of meeting. Also found on WV Ethics Commission website, [www.wvethicscommission.org](http://www.wvethicscommission.org).
- Is it, or does it need to be, stated in Code or Rules that the Executive Secretary has the authority to approve applications for licensure without Board approval?
  - o Current practice of the approval of applications for licensure is an appropriate method. And you need not have this method as stated in the regs nor the statute.
- If the Board wanted to perform supervision audits at facilities, does this need to be stated in the Rules as a Power and Duty of the Board?
  - o Yes. If that is something the Board wants to do since it does not currently have that authority nor does it license facilities. I would advise that it be placed within the statute.
- If the Board wanted to require applicants to provide a criminal background check and fingerprinting as a requirement for licensure, does this need to be included in Code or Rules? Yes. It would need to be included within the statute.
  - o If the applicant falsely answers the questions on the application related to criminal background, would the Board be liable if there was an issue? I would not think that the Board would be liable if the applicant falsely answered questions on the application.
  - o Do other licensing Boards in WV require criminal background checks for licensure? The RN Board requires this check, and the Chiropractor Board has the applicants obtain such a criminal check which is then sent on to the Board.

**Other items for consideration:**

- Do we need to state in the minutes the reason to enter executive session?
  - o Yes. Need to state there was a motion and the basis for such a motion.
- Are the consequences of Board members not attending meetings and conditions for removal from the Board stated in State Code?
  - o Not heard of someone being removed for non-attendance.
- We should request a written opinion from AG for any legal question.
- The question on the licensure application related to criminal history should be modified to read, “Have you ever been arrested, charged, convicted, expunged, or pardoned of a felony?”
  - o I do not see how you can ask about the expunged or pardoned because technically, it does not exist ... and the applicant can truthfully answer no convictions.
- Washington DC now requires licensees to have a picture on their license.

## Addendum B

### Comments / Concerns with PT Practice Act as proposed

- **WVBOT concurs with list from Debbie Shamblin dated January 5, 2010.**
- **30-20-3 Definitions**
  - o (c) Why only “through telecommunications”?
  - o (d) Needs to define “immediate treatment area”
  - o (e) Do not agree that telecommunications alone would provide adequate consumer protection; this seems to imply that all face-to-face supervision could be eliminated; agree with Debbie’s note re: definition of General Supervision
  - o (k) Needs to define “routine tasks”; agree with Debbie’s note that there needs to be a differentiation between “client-related” and “nonclient- related” tasks and the supervision required for each
  - o (l) “under the supervision of” needs to further define the level of supervision required
- **30-20-5 Powers and duties of the board**
  - o (5) “Prepare, conduct, administer and grade examinations for professional licenses and certificates”; Does the WV PT Board do this? If so, this is inconsistent with 30-20-8 (5) which states applicants must “pass a national examination as approved by the board.”
  - o (6) Same question as (5); Do they really determine the passing grade for the examination? (just curious)
- **30-20-6 Rulemaking**
  - o (9) Shouldn’t “scope of practice” and “supervision of PTA’s” be defined in the Act? If in Leg Rules, we need to see those.
  - o (10) Same question as (9); we think these should be defined in the Act; if not, we need to see it adequately defined in the Rules
  - o (12) “Provided, that the board may increase the ratio by legislative rule” For what reason would this occur?
  - o (13) Would advise that “emergencies, safety, and temporary situations” be further clarified
  - o (14) Need to define “emergency situation”
- **30-20-9 Scope of practice of a physical therapist**

If this section is specific to “physical therapist”, where is the “Scope of practice of a physical therapist assistant?”

  - o (2) Agree with Debbie’s note re: addition of “in relation to motor function and mobility”
  - o (5) What is the intent of this?
- **30-20-10 License to practice physical therapist assistant**

Shouldn’t this read “License to practice as a physical therapist assistant”?

  - o (5) and (6) seem to be duplicates 1/20/2010