

MINUTES OF THE NORTH DAKOTA BOARD OF PHYSICAL THERAPY
ANNUAL MEETING – May 10, 2021

Present: In person: board members Marcus Hieb, Jeanne DeKrey, Cassie Christensen; executive officer Bruce Wessman and board counsel Jack McDonald. Via phone: board members Justin Berry and Daniel Conn; American Physical Therapy Association-North Dakota (APTA-ND) physical therapist liaison Brittany Anderson; and APTA-ND physical therapist assistant liaison Wendy McGinley.

Board president Jeanne DeKrey called this Annual Meeting of the North Dakota Board of Physical Therapy (NDBPT) to order at 9:00 am on Monday, May 10, 2021, at the office of board counsel Jack McDonald at 220 N. 4th St., Bismarck, ND 58501-4004.

Approval of Minutes: At the board's September 21, 2020, meeting it voted to allocate funds to the three physical therapy schools in the state for specifically identified equipment and seminar needs contingent on determination from counsel that this was allowed under state law. After board discussion and clarification that it was subsequently determined such allocations were not allowed under state law and thus never completed, it was moved by Dan Conn, seconded by Cassie Christensen, and approved unanimously to accept the minutes of the September 21, 2020, meeting.

Complaint Process: Bruce Wessman said the new complaint policy discussed at the board's September 21, 2020, meeting has now been implemented and will be posted on the board's web page.

Administrative Law Judge's Decision in Kehrwald v Leer and Engel: Prior to this meeting the board had received the Administrative Law Judge's (ALJ) decision in this case that upheld the board's prior decisions. Jack McDonald said the board, if it agreed with the decision, had to issue its final order or, if it did not agree, then had to issue its own findings of facts, conclusions of law and order. McDonald presented a proposed order (attached) for board review. After discussion it was moved by Marcus Hieb, seconded by Justin Berry, and approved unanimously to accept the proposed order that will be signed by board president DeKrey and served on Dr. Kehrwald, the Office of Administrative Hearings and counsel for Drs. Leer and Engel.

Review of Dr. Kehrwald's Risk Fund Claim: Jack McDonald presented a claim Dr. Kehrwald had made with the State of North Dakota's Risk Management Fund for some of his expenses in connection with his ongoing actions involving the board and Drs. Leer and Engel. The state denied the claim.

Disciplinary Matters: Bruce Wessman updated the board on three ongoing issues regarding complaints/pending disciplinary action and denial of licensure. A physical therapist's license application was denied due to failure to disclose criminal arrest activity. A consumer complaint will be dismissed as it was determined the licensee did not violate any provisions of the North Dakota Century Code or the North Dakota Administrative Code relating to the practice of physical therapy. Finally, the board was made aware of a pending complaint regarding a licensee's domestic disturbance arrest.

2021 Legislative Update: Jack McDonald discussed two bills passed by the recently-adjourned 67th Legislative Assembly of interest to the board. One was Senate Bill 2148 that added physical therapists to the list of defined health care providers under Workforce Safety & Insurance (WSI). The other was Senate Bill 2122 that authorizes physical therapists with a clinical doctorate degree or that have completed board approved medical imaging training to order plain film radiographs. These changes take effect August 1, 2021.

Requirements for ordering imaging: Discussion was held regarding allowing transitional Doctors of Physical Therapy (tDPT) to order x-rays. It was moved by Dan Conn, seconded by Cassie Christensen, and approved unanimously that a tDPT can order imaging based on their advanced education. Discussion then focused on board approved formal imaging courses. The NDBPT will ask the APTA-ND for assistance in identifying courses that, upon completion, would ensure a non-DPT physical therapist competent to order plain radiographs. The board will hold a conference call meeting later this summer to compile a list of approved courses to post on its web page.

Question from Licensee: The board received a letter asking, in light of SB 2148, if a physical therapist will now be able to refer an injured worker on WSI for occupational therapy evaluation. Bruce Wessman told the board physical therapists have had direct access privileges for many years and are required by the practice act to refer to the appropriate health care provider any individual that has needs beyond a physical therapist's scope of practice. He said therefore the passage of SB 2148 does not change current physical therapy practice regarding referrals.

Renewal Deadline: Bruce Wessman said the board currently shuts down the renewal system at the end of the renewal cycle. This was implemented, he said, to ensure anyone that failed to renew on time was flagged for possibly practicing without a valid license. However, he said this practice did not work well and created extra administrative burdens and time lapses for licensees. He said the computer-based application system and renewal process will be updated next year to take care of this problem.

Minimum Date Set (MDS): Bruce Wessman reminded the board that the MDS will be included in this year's renewal process. Previously, the board approved requiring the MDS survey be completed every other year. This data is included in the Biennial Report University of North Dakota.

Budget: Bruce Wessman presented a draft of the board's proposed budget for the coming year. He said the proposal eliminates the charges for name change and license verifications. It was moved by Cassie Christensen, seconded by Dan Conn, and approved unanimously to approve the elimination of these charges. It was moved by Cassie Christensen, seconded by Justin Berry, and approved unanimously for a \$5,000 sponsorship of a continuing education seminar to be hosted the APTA-ND. It was moved by Marcus Hieb, seconded by Dan Conn, and approved unanimously to spend \$33,000 for an upgrade to the board's web page, online application and renewal processing and data storage capabilities by Albertsons, our information technology consultants. A motion to approve the overall budget for July 1, 2021-June 30th, 2022, with the aforementioned changes, was made by Justin Berry, seconded by Cassie Christensen, and approved unanimously.

Audit and Financial Statement, Licensing Statistics: Bruce Wessman distributed the board's Audited Financial Statements for the years ending June 30, 2020, and 2019, done by Brady Martz. Wessman also provided the board with the current balance figures, and licensure statistics as of May 1, 2021, that showed 1001 licensed physical therapists, 186 physical therapy assistants and 33 current compact privilege holders.

Continuing Competence: The board discussed continuing competence reports that include departmental in-services and decided not to accept these as they do not meet the board's unit standards. After general discussion concerning recorded learning for continuing competence activity, it was moved by Cassie Christensen, seconded by Marcus Hieb, and approved unanimously to accept a recorded version of a live offering if the course:

1. Meets the unit standards in the board's administrative rules,
2. Has a post test, and
3. Has the ability to answer submitted questions

Physical Therapist Assistant Questions: Bruce Wessman said there was a question from licensees regarding the wording in the board's administrative rules regarding the 6th day visit rule. Administrative Rule 61.5-05-02 10 provides that at least once after a sixth physical therapist assistant (PTA) visit or at least once every thirty calendar days, whichever occurs first, a physical therapist (PT) must visit the patient. It was the board's consensus this means that if the PT completes the initial evaluation, the PTA may then see the patient for the next 6 treatment dates after which the PT will then see the patient and reassess for changes to the treatment plan. A PTA should never see a patient for more than 6 treatment days without a PT visit. There was also a question if a PTA could see the patient for discharge if the PT writes the notes. The board's consensus on this was no, and that a PT must complete the discharge visit and write the note. The board understood that sometimes a patient might not show up for the final visit and that the final visit might have been done by the PTA. In cases such as this of an unplanned discharge, the board concluded that the PT should consult with the PTA and write a final discharge note.

Election of Officers: Jeanne DeKrey and Justin Berry were elected, respectively, as president and vice president.

FSBPT Credentialing: Marcus Hieb was elected as a delegate, Cassie Christensen as an alternate delegate and Bruce Wessman as an administrator to virtually attend the October 2021 Federation of State Boards of Physical Therapy annual meeting.

Next Meeting Date: A conference call is anticipated prior to August 1, 2021, to discuss the requirements for ordering x-rays. The board's next annual meeting will be May 9, 2022.

No further business appearing, President DeKrey adjourned the meeting at 11:35 a.m.

/S/ Bruce Wessman
Executive Officer

/S/ Jeanne DeKrey
Board President