

**Physical Therapist Licensing Board  
Board Meeting  
January 23, 2009**

**MINUTES**

**Friday, January 23, 2009**

**Board Members Present:** Joana Freedman, PT, Chair; Steve Alstot, PT, Vice Chair; Cindy Cunningham, Public Member; Burke Selbst, PT Member; Jason Fiske, PT Member; Daiva Banaitis, PT Member; Nancy Wilson, PTA Member

**Staff:** James Heider, Executive Director; Sherri Paru, PT, Clinical Advisor/Investigator; Mindy Tucker, Contract Investigator

**Legal Counsel:** Carol Parks, AAG

Board Chair, Joana Freedman convened the Board into Executive Session at 9:00 AM, citing ORS 192.660(2)(k). Pursuant to ORS 192.660(2)(k), this portion, of the Meeting, is closed to the public.

In Executive Session, the Board reviewed investigatory information regarding current cases and new complaints. The Board also considered legal advisement, from Board Counsel, regarding investigative cases, pending contested case hearings, Administrative Rule making, and Board policy and administration.

The closed door Executive Session is digitally recorded and stored electronically on the Board's file server.

**PUBLIC (OPEN) SESSION**

At the completion of the Executive Session, Board Chair, Joana Freedman brought the Board into Public Session. In Public Session, the Board considers inquiries from licensees and the public; approves the prior Board Meeting minutes; ratifies new licenses; reviews general correspondence; entertains any motions; publicly votes on any actions so moved before the Board; and conducts any other Board Public Session business.

The public and interested parties are invited to attend this portion of the meeting. The Public Session is digitally recorded and stored electronically on the Board's file server. Audio copies are available, to the public or interested parties, for the administrative cost to reproduce the audio file.

**Board Motions**

**Case PT 297-9/08**

Motion, by Cindy Cunningham, to close the case citing no violations of Statute or Administrative Rule.

Seconded by Nancy Wilson.

Motion passed by unanimous vote.

**Case PT 302-12/08**

Motion, by Cindy Cunningham, to issue a Confidential Advisory Letter requesting Licensee to submit two progress status reports, to the Board, relative to Licensee's condition and continued treatment. One report should be submitted six months from the date of the letter, it should be written by the Licensee's Provider, and another letter should be submitted with the Licensee's 2010 renewal and should be completed by the licensee.

Seconded by Nancy Wilson.

Motion passed by unanimous vote.

**Case PT 303-12/08**

Motion, by Cindy Cunningham, to issue a Confidential Advisory Letter requesting Licensee to submit two progress status reports, to the Board, relative to Licensee's condition and continued treatment. Both reports must be completed by the program providers, one report should be submitted following the licensee's completion of six weeks into the program and another at the completion of the twelve week program.

Seconded by Nancy Wilson.

Motion passed by unanimous vote.

**Case PT 242-5/07**

Motion, by Cindy Cunningham, to close the case citing no violations of Statute or Administrative Rule.

Seconded by Nancy Wilson.

Motion passed by unanimous vote.

**Case PT 298-10/08**

Motion, by Cindy Cunningham, to issue a Notice of Proposed Disciplinary Action, citing violations of ORS 688.140(2)(e), OAR 848-045-0020(2)(h) and OAR 848-040-0110(1). Board to impose sanctions requiring Licensee to: work with on-site supervision of a physical therapist; complete a Board approved refresher course within 60 days of the Final Order; if the Board can find an appropriate PTA refresher course, complete that refresher course within 60 days of a Final Order; pay a civil penalty of \$500 and provide a copy of the Final Order to future employers.

Seconded by Nancy Wilson.

Motion passed by unanimous vote.

**Case PT 306-7/08 (case renamed from PT 288-7/08 because it was a duplicate case number)**

Motion, by Cindy Cunningham, to issue a Confidential Advisory Letter citing Board concern over providing professional treatment to co-workers without first performing an evaluation developing a plan of care or documenting the treatment. Also issue a Notice of Proposed Disciplinary Action, citing violations of ORS 688.140(2)(m), OAR 848-045-0020(2)(k) and OAR 848-045-0020(2)(L). Board to impose sanctions requiring the Licensee to: complete a Board approved boundaries course within 60 days of the Final Order and pay a civil penalty of \$1,000.

Seconded by Nancy Wilson.

Motion passed by unanimous vote.

**Case PT 306b-7/08 (case renamed from PT 288b-7/08 because it was a duplicate case number)**

Motion, by Cindy Cunningham, to issue a Confidential Advisory Letter citing Board concern over providing professional treatment to co-workers without first performing an evaluation developing a plan of care or documenting the treatment.

Seconded by Nancy Wilson.

Motion passed by unanimous vote.

**Case PT 300-10/08**

Motion, by Cindy Cunningham, to issue a Stipulated Agreement and Final Order, citing violation of ORA 688.140(2)(e). Board to impose sanction requiring Licensee to work with on-site supervision of a physical therapist and provide a copy of the Agreement to future employers. If Licensee elects not to sign the Agreement, the Board will issue a Notice of Proposed Discipline. Also, pursuant to ORS 688.140(3)(g), to issue an Order for a mental and chemical dependency evaluation, by a Board approved provider, to be completed within 45 days of the Order.

Seconded by Nancy Wilson.

Motion passed by unanimous vote.

**Case PT 261b-12/07**

Motion, by Cindy Cunningham, to rescind vote to issue Stipulated Agreement and Final Order so moved by the Board at its November 14, 2008 Board meeting. To issue a Confidential Advisory Letter citing Board concern over Licensee's failure to maintain current documentation records of completion of the required continuing education. And, putting the Licensee on notice that they will be selected for continuing education audit in 2010.

Seconded by Nancy Wilson.

Motion passed by unanimous vote.

**Case PT 301-1/09**

Motion, by Cindy Cunningham, to close the case citing no violations of Statute or Administrative Rule.

Seconded by Nancy Wilson.

Motion passed by unanimous vote.

**Case PT 305-1/09**

Motion, by Cindy Cunningham, to issue an Emergency License Suspension. Also, pursuant to ORS 688.140(3)(g), to issue an Order for a mental evaluation, by a Board approved provider, to be completed within 45 days of the Order.

Seconded by Nancy Wilson.

Motion passed by unanimous vote.

**Federation of State Boards of Physical Therapy (FSBPT) Competency Presentation**

FSBPT President Dargan Ervin and Vice President Susan Layton presented the Oregon Board members the FSBPT model for continuing competency. The presentation was 90 minutes and included the FSBPT Member Boards directive for development of the model, the planning and development of the model and the proposed rollout for the model. The Oregon Board invited the FSBPT to its meeting because the Board is interested in moving beyond just the traditional requirement for continuing education with regards to continuing competency. The Board is interested in all aspects of professional development and the FSBPT's competency model encompasses many of these aspects. An electronic copy of the FSBPT PowerPoint Presentation may be requested by contacting the Oregon Board Director.

**General Topics/Business**

- Second Quarter Financial Report – The Director presented the Board with the July 1 through December 31, 2008 financial report and narrative. A copy of the report and the narrative can be obtained by contacting the Board office.

- OTA letter to the Board regarding adoption of new rule language – The Director presented the Board with a copy of the OTA letter, dated December 8, 2008, thanking the Board for consideration of their request to amend certain Administrative Rule language.
- FSBPT 2009 budget – The Director presented the Board with a copy of the FSBPT 2009 operating budget. FSBPT bylaws require that all Board members, of member boards, receive a copy of the adopted budget. The Board guest Dargan Ervin, FSBPT President, answered questions for the Board regarding the budget and financial status of the FSBPT.
- Written versus electronic verification for endorsement licensure applicants – The Board Director had asked Board counsel for a ruling on the Board’s ability or limitations in the acceptance of electronic verifications of licensure for endorsement applicants. Currently, by policy, the Board will only accept written primary source verification of licensure from other states regarding the licensure status of endorsement applicants. Counsel indicated, to the Board, that there was nothing in Statute or Rule that would prohibit the Board from accepting electronic verifications. The Board instructed the Director that acceptance of the electronic verifications would be acceptable to the Board.

### **2009 Legislative Update**

The Director reported that HB 2057 would remove the Physical Therapist Licensing Board from semi-independent status. The Board would revert back into state governance under the oversight of both the Executive Branch and the Legislative Branch. Currently, the Board is under only the oversight of the Executive Branch. The Board budget is currently established by Administrative Rule and not through the legislative process. The Board has its own authority for procurement, contracting, banking, accounting and setting policy for personnel. The Director completed and submitted a Fiscal Impact Statement indicating that using State resources, for all the above, would cost the Board approximately 75 to 100 thousand dollars in the 11-13 biennium. The Director and Board Physical Therapist Assistant member attended the January 21, 2009 Public Hearing on HB 2057. The Director and Board Member were prepared to testify in opposition to the bill; however, the Committee ran out of time before they could be called to testify.

### **CASE PT 271-4/08: GIL GUZMAN**

The Contract Investigator reported that Mr. Guzman had not responded to a Board subpoena to appear and address allegations of unlicensed practice. In fact, the Board Investigator was unable to reach Mr. Guzman by telephone or by mail. The Board tabled the discussion of Mr. Guzman to the March 13, 2009 Board meeting asking the Director to contact the Board Legal Counsel, and ask for options available to the Board to move forward with this case.

### **Approval of Board Meeting Minutes**

The Minutes, from the November 14, 2008 Administrative Rules Hearing, the November 14, 2008 Regular Board Meeting, the November 24, 2008 Special Board Meeting, the December 4, 2008 Special Board Meeting and the December 11, 2008 Special Board Meeting, were presented to the Board. The Board Chair opened the floor for additional discussion and comments. With noted corrections to the November 14, 2008 Regular Board Meeting Minutes and the December 11, 2008 Special Board Meeting Minutes, Cindy Cunningham made a Motion to ratify the minutes with corrections. The Motion was seconded by Nancy Wilson and the Motion passed by a Board quorum 4-0. Not present, for the vote, were Board members Fiske and Selbst.

### **2009 Board Meeting Dates**

As established by the Board, the future Board Meeting dates are as follows: March 13, 2009; May 8, 2009; July 17, 2009; September 18, 2009; and, November 13, 2009. Meeting Dates, Meeting Notices, and published Minutes may be found on the Board website at [www.ptboard.state.or.us](http://www.ptboard.state.or.us).

### **Ratification of PT/PTA Licenses & Temporary Permits**

The Board was presented a list of new licensees and temporary permit holders for the period of November 14, 2008 through January 22, 2009. The Board Chair opened the floor, for discussion, with regard to the new licensees and permit holders. Without noted discussion, Cindy Cunningham made a Motion to ratify issuance of the new licenses. The Motion was seconded by Nancy Wilson and the Motion passed by a Board quorum 4-0. Not present, for the vote, were Board members Fiske and Selbst.

### **Request from Nancy Kirsch, PT regarding Ethics Research Study**

The Director presented the Board with a letter from Nancy Kirsch, PT, DPT, PhD. Ms. Kirsch is working on a research project funded by a grant from the FSBPT. The project studies the level of ethical decision making of physical therapists entering the field of physical therapy. Ms. Kirsch has asked the Board for their cooperation in distributing a survey questionnaire, along with its examination packets issued by the Board between March and May of 2009. After consideration and discussion, the Board approved and requested staff to participant in the project.

### **Other New Business**

The Board Chair called for other new business. With no additional new business cited, Board Chair, Joana Freedman adjourned the Board Meeting at 3:40 PM.