

**Physical Therapist Licensing Board
Board Meeting
March 13, 2009**

MINUTES

Friday, March 13, 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

Absent: Nancy Wilson, PTA Member

Staff: James Heider, Executive Director; Sherri Paru, PT, Clinical Advisor/Investigator

Legal Counsel: Carol Parks, AAG

Board Chair, Joana Freedman convened the Board into Executive Session at 8:30 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 301-10/08

Motion, by Burke Selbst, to issue Confidential Advisory Letter, closing the case, and noting concern that Licensee did not complete a PT evaluation and plan of care prior to treatment of a patient.

Seconded by Steve Alstot.

Motion passed by quorum 4-2, with Fiske and Cunningham opposing the motion.

Case PT 296-9/08

Motion, by Burke Selbst, to issue Notice of Proposed Disciplinary Action, citing violation of ORS 688.140(2)(d), suspending Licensee's PT license until Licensee completes a competency examination approved by the Board.

Seconded by Steve Alstot.

Motion passed by unanimous vote.

Case PT 203-10/05

Motion, by Burke Selbst, report, to appropriate authorities, suspicion of home remedy drug manufacturing, send Licensee another renewal form with a cover letter to latest known address, and continue with the on-going investigation.

Seconded by Steve Alstot.

Motion passed by unanimous vote.

Case PT 246-7/07

Motion, by Burke Selbst, to issue a Notice of Proposed Disciplinary Action, citing violations of ORS688.140(2)(a) and OAR 848-015-0020(2)(h), re-assessing the \$1,000 outstanding civil penalty, assessing a minimum 30-day license suspension period with license to remain suspended until the civil penalty is paid in full, and extending the existing probation from 2 years to 3 years.

Seconded by Steve Alstot.

Motion passed by unanimous vote.

Case PT 298-10/08

Motion, by Burke Selbst, to issue Stipulated Agreement and Final Order, citing all of the same violations and sanctions, as noted, in the Proposed Order of Discipline dated February 2, 2009, but removing the requirement to complete a Board approved documentation course.

Seconded by Steve Alstot.

Motion passed by unanimous vote.

Case PT 300-10/08

Motion, by Burke Selbst, to ratify and accept the Stipulated Agreement and Final Order as written and signed by the Licensee, and for the Executive Director to execute the Order on behalf of the Board.

Seconded by Steve Alstot.

Motion passed by unanimous vote.

Case PT 310-2/09

Motion, by Burke Selbst, to close the case, approving candidate's application for endorsement licensure and proceed with the licensing process.

Seconded by Steve Alstot.

Motion passed by unanimous vote.

Case PT 243-3/07

Motion, by Burke Selbst, to withdraw Final Order from the Court of Appeals for Board reconsideration and, after reconsideration, issue a Final Order of Reconsideration deleting the specific finding of fact, "The applicant did not think the arrest on September 8, 2005 was an issue as it was over 10 years since the original complaint and the charges were dropped after his court appearance", because it was not found to be supported by matter of record.

Seconded by Steve Alstot.

Motion passed by unanimous vote.

Case PT 202-8/05

Motion, by Burke Selbst, to ratify and accept the Stipulated Agreement and Final Order as signed by the Licensee, and for the Executive Director to execute the Order on behalf of the Board.

Seconded by Steve Alstot.

Motion passed by unanimous vote.

General Topics/Business

- Governor's Cost Saving Strategy – The Director presented the Board with a copy of the Governor's 2007-2009 cost saving strategies. Included, in the strategies, are proposals for mandated staff furlough days, a roll back of 2008 salary step increases and a salary freeze. The Board discussed the fact that, as a Semi-Independent Board, they were not subject to the Governor's plan. However, the Board has also set a policy to follow DAS personnel guidelines. The Board determined that in good faith, and for prudent economic reasons, the Board would abide by the Governor's plan of freezing salaries and implementing the required furlough days for the remainder of 2009. The Board staff did not recognize the top step increases implemented by the Governor's 2008 Executive Management Compensation Plan, so will not be impacted at this time. Lastly, the Board will also abide by the salary freeze and mandated furlough days proposed by the Governor for the 2009-2011 biennium commencing July 1, 2009. The total impact of that proposed plan is yet to be determined pending the outcome of the negotiations with the State Union Representatives.
- The Board reviewed its membership with regards to current members term dates and possible succession planning. After discussion of its current leadership roles, Burke Selbst moved to reinstate Joana Freedman, PT as the Board Chair, and Steve Alstot, PT as Board Vice Chair for another year. Steve Alstot seconded the motion. The motion passed unanimously.

2009 Legislative Update

The Director reviewed, for the Board, numerous House and Senate Bills that he is tracking. The Board took position on several of the Bills and delegated authority to the Director to represent the Board's position regarding the Bills.

Board 2009-2011 Budget

The Director presented, to the Board, the proposed Board 2009-2011 biennium budget. The Director also submitted a narrative comparing the 2009-2011 budget to the previous biennium. The proposed 2009-2011 budget will have an overall expense increase of 9% and is a deficit budget drawing on resources from the Board's reserves to cover the total proposed expenses of \$938,000. The Board approved the proposed 2009-2011 Biennium Budget and instructed the Director to proceed with the Rule Making Hearing process. Copies of the budget and narrative can be found in an addendum to these minutes.

Board 2007-2009 Budget

The Director presented, to the Board, proposed rule making that would amend OAR 848-005-0010 Board Budget for the current biennium. The Director cited that the current budget is in balance and on target; however, there is absolutely no room for any variance between January and June 2009. Also noted were the increased costs for a large contested case hearing that has exceeded any planned numbers for the biennium. To be on the conservative side, the Director proposed an amendment to the rule that would cover the Board's position in the event that the 2007-2009 expenses did exceed the budget. The Board approved the proposed amendment and instructed the Director to proceed with the Rule Making Hearing process.

Case PT 271-4/08: Gil Guzman

Motion, by Burke Selbst, to close case.

Seconded by Steve Alstot.

Motion passed by unanimous vote.

Board Approval of FSBPT Practice Review Tool (PRT) for Continuing Education

The Board approved the FSBPT practice review tool for continuing education. After review and discussion, the Board determined it would allow for 12 continuing education contact hours for anyone who elected to sit for the PRT exam and passes, and 6 continuing education contact hours for anyone who sits for the PRT but does not pass. The Board will allow a max of 12 CE contact hours per CE certification period, per each PRT specialty.

Letter to Board Regarding the Regulation of Personal Trainers

In a letter to the Board Colin Hoobler, PT cited his concerns regarding the unregulated practice of personal training. Mr. Hoobler was primarily concerned with the area of exercise as it relates to rehabilitation. Mr. Hoobler has personally witnessed personal trainers referring to themselves as “rehab experts” and even using the initials “PT” after their names, referencing that they are a Personal Trainer. The Board shares some similar concerns cited by Mr. Hoobler, and the Board would support legislative efforts in the regulation of personal trainers. However, the Board is not politically, statutorily, or financially poised to lead the quest to regulate the profession of personal training.

Compass Ethics

The Board cancelled the May 8, 2009 Compass Ethics presentation scheduled by the Executive Director. The Board delegated the Compass Ethics program review and acceptance to its Director and its Clinical Advisor/Investigator.

Spring 2009 Board Newsletter

The Board discussed the timing of the Spring 2009 Newsletter debating whether it needed to be published and distributed prior to March 31, 2009, as a reminder to those who have not yet renewed their licenses, or published in the first part of April. The Board determined the Spring Newsletter would be published in the first part of April and give Notice of Proposed Rule Making Hearing with regards to the proposed 2009-2011 biennium budget.

Approval of Board Meeting Minutes

The drafted Minutes, from the January 23, 2009 Regular Board Meeting, and the March 6, 2009 Emergency Board Meeting were presented to the Board. The Board Chair opened the floor for additional discussion and comments. With noted written corrections, from absent member Nancy Wilson, to both the January and March drafted Minutes, Burke Selbst made a Motion to ratify the minutes with corrections. The Motion was seconded by Steve Alstot and the Motion passed by a unanimous vote.

2009 Board Meeting Dates

As established by the Board, the future Board Meeting dates are as follows: May 8, 2009; July 17, 2009; September 18, 2009; and, November 13, 2009. After reconsideration and discussion, the Board changed two of the remaining 2009 meeting dates. The meeting date for September 18, 2009 will be changed to September 11, 2009; and, the meeting date for November 13, 2009, will be changed to November 20, 2009. Meeting Dates, Meeting Notices, and published Minutes may be found on the Board website at 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 January 23, 2009 through March 12, 2009. The Board Chair opened the floor, for discussion, with regard to the new licensees and permit holders. Without noted discussion, Burke Selbst made a Motion to ratify issuance of the new licenses. The Motion was seconded by Steve Alstot and the Motion passed by a unanimous vote.

Board Delegation of Authority to Share Confidential Information

ORS 676.177 gives a health professional regulatory Board the statutory authority to share otherwise confidential information with another public entity. Burke Selbst moved to delegate the authority to determine what information to share with another entity to Board Staff, who will use the guidance of Board Legal Counsel in making the determination. Steve Alstot seconded the motion. The motion passed unanimously.

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 2:48 PM.

**SCROLL DOWN TO SEE
2009-2011
PROPOSED BOARD BUDGET WITH NARRATIVE**

OREGON PHYSICAL THERAPIST LICENSING BOARD

2009-2011 PROPOSED BIENNIUM BUDGET

	Jul '09 - Jun 10	Jul '10 - Jun 11	TOTAL Jul '09 - Jun 11
Ordinary Income/Expense			
Income			
4000 · Income			
4100 · Physical Therapists			
4110 · PT Exam Applications	16,000.00	16,000.00	32,000.00
4120 · PT Endorsement Applications	30,000.00	30,000.00	60,000.00
4125 · PT Temporary Permits	2,000.00	2,000.00	4,000.00
4130 · PT Renewals	300,000.00	300,000.00	600,000.00
4140 · PT Delinquent Renewals	2,000.00	2,000.00	4,000.00
4150 · PT Duplicate Licenses	1,000.00	1,000.00	2,000.00
4160 · PT Wall Certificate	200.00	200.00	400.00
4170 · PT Civil Penalties	9,000.00	9,000.00	18,000.00
Total 4100 · Physical Therapists	360,200.00	360,200.00	720,400.00
4200 · Physical Therapist Assistants			
4210 · PTA Exam Applications	6,000.00	6,000.00	12,000.00
4220 · PTA Endorse Applications	6,000.00	6,000.00	12,000.00
4225 · PTA Temporary Permits	600.00	600.00	1,200.00
4230 · PTA Renewals	48,000.00	48,000.00	96,000.00
4240 · PTA Delinquent Renewals	1,000.00	1,000.00	2,000.00
4250 · PTA Duplicate Licenses	100.00	100.00	200.00
4260 · PTA Wall Certificate	100.00	100.00	200.00
4270 · PTA Civil Penalties	2,000.00	2,000.00	4,000.00
Total 4200 · Physical Therapist Assistants	63,800.00	63,800.00	127,600.00
4300 · PT & PTA Combined			
4330 · PTand/or PTA Mailing Diskette	18,000.00	18,000.00	36,000.00
Total 4300 · PT & PTA Combined	18,000.00	18,000.00	36,000.00
4400 · PT/PTA License Verification Fee	8,000.00	8,000.00	16,000.00
Total 4000 · Income	450,000.00	450,000.00	900,000.00
 Total Income	 450,000.00	 450,000.00	 900,000.00
 Gross Profit	 450,000.00	 450,000.00	 900,000.00
Expense			
5100 · Payroll Costs			
5132 · FICA (SS + Medicare)	17,180.00	17,800.00	34,980.00
5133 · FICA Administrative Fee	20.00	20.00	40.00
5110 · Gross Salaries	224,444.00	232,700.00	457,144.00
5136 · Mass Transit Tax	1,400.00	1,444.00	2,844.00
5140 · Employee Benefits			
5141 · PERS ER Paid EE Cont	13,464.00	13,960.00	27,424.00
5142 · PERS ER Admin Contribution	4,620.00	4,796.00	9,416.00
5143 · Obligation Bond Debt Repayment	13,356.00	13,844.00	27,200.00
5144 · Workers Compensation	180.00	180.00	360.00

5146 · PEBB Medical/Dental Insurance	40,950.00	44,982.00	85,932.00
Total 5140 · Employee Benefits	72,570.00	77,762.00	150,332.00
5150 · Employee Training	2,400.00	2,400.00	4,800.00
5190 · Board Stipends	6,600.00	6,600.00	13,200.00
Total 5100 · Payroll Costs	324,614.00	338,726.00	663,340.00
5600 · Travel Costs			
5610 · Instate Travel			
5612 · Lodging	1,800.00	1,800.00	3,600.00
5614 · Airfare/Mileage	3,300.00	3,300.00	6,600.00
5616 · Meals	720.00	720.00	1,440.00
5618 · OtherTravel Costs	120.00	120.00	240.00
Total 5610 · Instate Travel	5,940.00	5,940.00	11,880.00
5620 · Out of State Travel			
5622 · Lodging	1,200.00	1,200.00	2,400.00
5624 · Airfare/Mileage	1,200.00	1,200.00	2,400.00
5626 · Meals	360.00	360.00	720.00
5628 · Other Travel Costs	120.00	120.00	240.00
Total 5620 · Out of State Travel	2,880.00	2,880.00	5,760.00
Total 5600 · Travel Costs	8,820.00	8,820.00	17,640.00
6100 · General Office Expenses			
6110 · Copier	600.00	600.00	1,200.00
6120 · Printing/Copying	6,000.00	6,000.00	12,000.00
6140 · Office Supplies	1,800.00	1,800.00	3,600.00
6145 · Other	240.00	240.00	480.00
6150 · Board Meeting Expenses	900.00	900.00	1,800.00
6155 · Parking Validation Stickers	1,500.00	1,500.00	3,000.00
6160 · Dues	600.00	600.00	1,200.00
6180 · Telecommunications	4,200.00	4,200.00	8,400.00
6185 · Bank Charges/Fees	3,600.00	3,600.00	7,200.00
6186 · Liability Insurance (Risk Mgmt)	1,800.00	1,800.00	3,600.00
Total 6100 · General Office Expenses	21,240.00	21,240.00	42,480.00
6190 · Dues and Subscriptions	2,500.00	2,500.00	5,000.00
6200 · Postage			
6210 · Mail/Mail Room Charges	2,400.00	2,400.00	4,800.00
6240 · Other	6,000.00	6,000.00	12,000.00
Total 6200 · Postage	8,400.00	8,400.00	16,800.00
6400 · Contracted Services			
6410 · Investigators	5,500.00	5,400.00	10,900.00
6420 · Computer Support	6,000.00	6,000.00	12,000.00
6430 · Attorney General-Legal Counsel	36,000.00	36,000.00	72,000.00
6440 · Audit Charges	3,000.00	3,000.00	6,000.00
6450 · Accountant / CPA	600.00	600.00	1,200.00
6460 · Payroll Service Charges	1,800.00	1,800.00	3,600.00
6495 · EmplDept/HearingOfficerPanel	5,040.00	5,040.00	10,080.00
6499 · Other Services	2,486.00	2,484.00	4,970.00
Total 6400 · Contracted Services	60,426.00	60,324.00	120,750.00

6500 · Rent and Occupancy			
6510 · Rent	16,800.00	16,800.00	33,600.00
Total 6500 · Rent and Occupancy	16,800.00	16,800.00	33,600.00
6600 · Background Checks			
6630 · Vantage Data	15,000.00	14,990.00	29,990.00
Total 6600 · Background Checks	15,000.00	14,990.00	29,990.00
6800 · Computers & Accessories			
6810 · Software	1,200.00	1,200.00	2,400.00
6820 · Hardware	2,400.00	2,400.00	4,800.00
6840 · Other - Data Lines, etc.	600.00	600.00	1,200.00
Total 6800 · Computers & Accessories	4,200.00	4,200.00	8,400.00
Total Expense	462,000.00	476,000.00	938,000.00
Net Ordinary Income	-12,000.00	-26,000.00	-38,000.00

Oregon Physical Therapist Licensing Board 2009-2011 Budget Comparative Narrative to 2007-2009

4000 - Total Income

The majority of increase to income, over the last biennium, is attributed to the 2006 increase in renewal fees. Actual income over the past five years has still trended slightly upwards over the past five years. For the biennium 2009-2011, we have to consider three major factors in the income projections: 1) the number of out-of-state endorsement applications has increased by 5 to 10 % over the last three years, 2) because WA State now requires licensure for PTAs, the number of WA PTAs carrying OR licenses is estimated to drop. The drop in licensed PTAs will be anywhere from 10 to 15% (100 to 150 licensees), 3) when the Board implements on-line renewals, the renewal income will drop by 3% for those who choose to use the on-line system. The 3% will be net of the renewal fees to offset the credit card processing costs. Taking into account the pluses and minus', it will be assumed that overall income will remain flat for the 2009-2011 biennium. If anything, depending on the volume of users who use the online renewal system, income may be lower by a few percent.

5100 – Payroll Cost

Payroll costs consist primarily of salaries and benefits. Actual proposed salaries for 2009-2011 are up by 18%. The projected salaries do adhere to the DAS policies, guidelines and salary schedules, as adopted by the Board. The large percentage increase is due to the Governor's Management Salary Plan implemented in 2008. This was an unbudgeted increase in management level salaries of up to 10%. The proposed 2009-2011 salary budget assumes a step (merit) freeze of management salaries (Executive Director and Clinical Advisor). Built into the plan are the DAS standard merit increases for the support position and an annual estimated 3% cost of living (COL) increase for management and support positions. Currently, DAS is considering an across the Board salary freeze (including merit and COL) for all employees. The final determination, regarding a salary freeze, will depend on negotiations with State bargaining units. If the Board were to consider a total

salary freeze for the 2009-2011 biennium, payroll costs (salaries, taxes, and PERS assessments) would drop an estimated \$32,600.

5140 – Employee Benefits

Benefit costs are set by PEBB State contracts and collective bargaining agreements. Costs are estimated to be up a total of 11% which is close to the current trends in premiums and coverages. For the 2009-2011 biennium, a rate of 10% has been used to project medical/dental rate increases. Also, impacting the Board's projected 2009-2011 benefit costs, are the costs associated with an employee, who had previously opted out of the Board medical coverage. Due to a "change of life event", the employee is reinstating their option to participate in the Board medical coverage programs. The PERS administrative fee, based totally on a percentage of salaries, will decrease. The rate for the biennium is projected to decrease by nearly 60%. On the other hand, medical rate increases offset the PERS savings, netting a projected annual increase in employee benefits of nearly 11%.

5600 – Travel Costs

Travel costs are identified in two separate categories. In-State and Out-of-State travel. While projected Out-of-State travel costs remain relatively unchanged for 2009-2011, In-State travel costs are projected to decrease slightly by 3%. This is primarily due to a decrease in the federal mileage reimbursement rates; and, a closer analysis of the cost for out-of-town Board members who pre-arrange air travel to attend the Board meetings. Some of the savings from the air travel was reallocated to the rising costs for accommodations.

6100 – General Office Expense

General office expense is made up of several expenses categories. While the total expense for this classification remains relatively unchanged, the comparison shows a drop of 10%. There was one category that was over budgeted last biennium. The Board liability insurance was projected at \$7,200 last biennium. The actual expense was \$3,600 for the 2007-2009 biennium and that expense is projected to remain the same for the 2009-2011 biennium.

6200 - Postage

This classification decreased by nearly 10%. The 2007 – 2009 biennium was over projected. The Board started using an outside resource to handle mass mailings saving time and providing a better service and result. There was a reclassification of the postage expense categories. The 2009-2011 budget recognizes just two expense line items - Mail Room Charges and Other. The costs associated with the mailing of the Board Newsletter will now be booked into the Other classification.

6400 – Contracted Services

This classification will have an overall decrease of 10% over the 2007-2009 biennium budget. The decrease comes from the Board's strategic plan to cut costs, eliminating the regular scheduled use of an outside contract investigator. The contract investigator will be utilized on a strictly as needs basis. This savings, to the Board, will offset a 20% increase in the budgeted use of the Board legal counsel. This category has been historically under budgeted, and although the Board Staff has taken on more accountability, with the initial drafting and writing of Board Orders, the staff still has need for prudent usage of the Board AAG. Board legal counsel and staff look for every opportunity to minimize Counsel's intervention into Board activities. The other area of significant increase is in the category of Other Services. Through an informal agreement, between the Semi-independent Boards, the PT Board will continue to participate in the funding of a Lobbyist to support the interest of Semi-independent Boards in the legislative forum.

6600 – Background Checks

This classification was under budgeted for the 2007-2009 biennium. As mentioned in the income section above, initial applications to the Board are on an increase. The \$29,000 expense projected for the 2009-2011 biennium is based on actual usage and trends. This expense is offset by the collection of the criminal background fees as part of the \$190 application fee booked into the income classifications above.

6800 – Computers & Accessories

This classification purposely remained relatively unchanged. It is DAS policy to replace each piece of computer equipment every four years. The Board currently has three computers and purchased a laptop and a printer for staff shared usage in 2008. This gives the Board four computers and three printers for replacement consideration every four years. If the Board follows the DAS replacement policy the Board will be replacing three or four pieces of computer hardware each biennium cycle.

Total Expense

The total projected expense for 2009-2011 biennium is up a total of 9.00%. If the Board determines that it will implement a total salary freeze, or if DAS implements a total salary freeze, the expense for salaries and associated taxes and benefits will drop an estimated total of \$32,600. Then, the projected % increase in expense would be 5%.

Income/Expense Analysis

Regardless of Board approval on the proposed 2009-2011 budget or the proposed budget adjusted for a salary freeze, the Board will be in a deficit position for 2009-2011. This is not a concern as the Board has over \$500,000 in reserve from which to operate and cover the deficit. Agency best practices would dictate that the Board draw down its reserves prior to consideration of any type of fee increase. Also, please note that the last fee increase for the Board was with the 2006 renewals.

Rule Making Process

ORS 182.462 outlines the procedures for the adoption of the Board budget. In accordance to ORS 182.462, once the Board approves a proposed budget, Notice of Rulemaking Hearing will be posted in the Oregon Bulletin and also sent to the Legislature, all Interested Parties, and to all Licensees of the Board. The Board will have a public hearing on the budget and take into consideration any testimony prior to final adoption of the proposed budget.

Lastly, anytime during a biennium if the Board needs to amend an adopted budgeted amount, they must do so through the above Rulemaking Hearing Notice and process. In conjunction with the rulemaking for the 2009-2011 budget, I would propose that the Board amend its 2007-2009 budgeted expense amount by \$41,000 to an even \$900,000. The Board expenses are currently running on plan but it is very tight. There is no room for variance between now and the end of the biennium, June 30, 2009. It is my understanding that the legal fees, between now and June 30th, could be substantial, and I want to make certain that the Board has a cushion and does not overspend its authority. If the expense does exceed current budget levels, the excess will come out of Board reserves.