

**Physical Therapist Licensing Board
Board Meeting
April 27, 2007**

MINUTES

Friday, April 27, 2007

Board Members Present: Jerry Nickell, PT, Chair; Joana Freedman, PT, Vice Chair; Steve Alstot, PT Member; Daiva Banaitis, PT, PhD Member; Jason Fiske, PT Member

Board Members Absent: Nancy Wilson, PTA Member; Cindy Cunningham, Public Member

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

Legal Counsel: Carol Parks, AAG

EXECUTIVE (CLOSED) SESSION

Following the adjournment of the Administrative Rules Hearing, Board Chair, Jerry Nickell, convened the Board into Executive Session, 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.

At the completion of the Executive Session, Board Chair Jerry Nickell brought the Board into Public Session to entertain any motions, and publicly vote on any actions so moved before the Board.

PUBLIC (OPEN) SESSION

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 154-2/04

Motion, by Joana Freedman, to close case citing no violations.

Seconded by Daiva Banaitis

Motion passed, by quorum; absent, for the vote, were Board members Cindy Cunningham and Nancy Wilson.

Case PT 185-2/05

Motion, by Joana Freedman, to issue Stipulation and Final Order citing: violations noted in A, B and C from the Proposed Order; assessing a civil penalty of \$5,000 with \$2,500 stayed; one year probation; and, issuance of a Confidential Advisory Letter citing concerns for adhering to standards for reassessment and allowing aides to perform joint mobilizations.

Seconded by Daiva Banaitis

Motion passed, by quorum; absent, for the vote, were Board members Cindy Cunningham and Nancy Wilson.

Case PT 236-3/07

Motion, by Joana Freedman, to issue Stipulation and Final Order citing violation of OAR 848-045-0020(2)(r), practicing physical therapy with a lapsed license, and assess a civil penalty of \$1,000.00.

Seconded by Daiva Banaitis

Motion passed, by quorum; absent, for the vote, were Board members Cindy Cunningham and Nancy Wilson.

Case PT 235-3/07

Motion, by Joana Freedman, to issue a Confidential Advisory Letter citing violation of OAR 848-045-0020(2)(d) and use of poor judgment.

Seconded by Daiva Banaitis

Motion passed, by quorum; absent, for the vote, were Board members Cindy Cunningham and Nancy Wilson.

Case PT 234-3/07

Motion, by Joana Freedman, to issue Notice of Denial for Renewal License citing practicing PT without a license, failure to disclose arrest and violation of terms of probation, and issuance of a letter to cease and desist practicing PT without a license.

Seconded by Daiva Banaitis

Motion passed, by quorum; absent, for the vote, were Board members Cindy Cunningham and Nancy Wilson.

Case PT 226a-10/06

Motion, by Joana Freedman, to issue a Confidential Advisory Letter to review policies and procedures with regards to incident reports and the definition of witnesses, and the requirements and policies regarding the supervision of students handling Medicare patients.

Seconded by Daiva Banaitis

Motion passed, by quorum; absent, for the vote, were Board members Cindy Cunningham and Nancy Wilson.

Case PT 226b-10/06

Motion, by Joana Freedman, to close case citing no violations.

Seconded by Daiva Banaitis

Motion passed, by quorum; absent, for the vote, were Board members Cindy Cunningham and Nancy Wilson.

Case PT 139-6/03

Motion, by Joana Freedman, to notify licensee, in writing, that the terms of probation have been met and licensee's license is now in good standing.

Seconded by Daiva Banaitis

Motion passed, by quorum; absent, for the vote, were Board members Cindy Cunningham and Nancy Wilson.

Case PT 237-3/07

Motion, by Joana Freedman, to close case citing no violations, and send letter of support inviting Licensee to keep the Board posted, on a quarterly basis, of her continued progress.

Seconded by Daiva Banaitis

Motion passed, by quorum; absent, for the vote, were Board members Cindy Cunningham and Nancy Wilson.

Case PT 238-4/07

Motion, by Joana Freedman, to issue Stipulation and Final Order citing violation of OAR 848-045-0020(2)(r), practicing physical therapy with a lapsed license, and assess a civil penalty of \$100.00.

Seconded by Daiva Banaitis

Motion passed, by quorum; absent, for the vote, were Board members Cindy Cunningham and Nancy Wilson.

Case PT 240-4/07

Motion, by Joana Freedman, to issue Stipulation and final Order citing violation of OAR 848-045-0020(2)(r), practicing physical therapy with a lapsed license, and assess a civil penalty of \$100.00.

Seconded by Daiva Banaitis

Motion passed, by quorum; absent, for the vote, were Board members Cindy Cunningham and Nancy Wilson.

Case PT 241a-4/07

Motion, by Joana Freedman, to issue Stipulation and final Order citing violation of OAR 848-045-0020(2)(r), practicing physical therapy with a lapsed license, and assess a civil penalty of \$100.00.

Seconded by Daiva Banaitis

Motion passed, by quorum; absent, for the vote, were Board members Cindy Cunningham and Nancy Wilson.

Case PT 241b-4/07

Motion, by Joana Freedman, to issue a Confidential Advisory Letter to Employer, who is a Licensee of the Board, for permitting the practice of physical therapy by an employee whose license has lapsed.

Seconded by Daiva Banaitis

Motion passed, by quorum; absent, for the vote, were Board members Cindy Cunningham and Nancy Wilson.

Case PT 228a-11/06

Motion, by Joana Freedman, to issue Stipulation and Final Order citing violation for use of the term doctor on business cards, website and laminate marketing materials; assess a civil penalty of \$1,000.00.

Seconded by Daiva Banaitis

Motion passed, by quorum; absent, for the vote, were Board members Cindy Cunningham and Nancy Wilson.

Board Administrative Rules-Board Budget

Motion, by Joana Freedman, to adopt the 2007-2009 proposed Biennial Budget, as presented in Notice of Proposed Rule Making and at Public Hearing.

Seconded by Daiva Banaitis

Motion passed, by quorum; absent for the vote were Board members Cindy Cunningham and Nancy Wilson.

General Topics/Business

- Consideration for appointment of new Board Chair – Daiva Banaitis nominated Joana Freedman, PT Board Vice Chair, for the position of Board Chair. Joana accepted the nomination and the Board voted unanimously to elect Joana as the new Board Chair. Because the Vice Chair position will be vacant, nominations for Vice Chair were considered. Daiva Banaitis nominated Steve Alstot for the position of Vice Chair. Steve accepted the nomination and the Board voted unanimously to elect Steve as the new Board Vice Chair. The Board also determined that it would set a time period of two years on its appointments to the positions of Chair and Vice Chair.
- Delegates for FSBPT Annual Meeting – The Board selected its new Chair, Joana Freedman, as the Board's Delegate to the FSBPT National Conference in Memphis, Tennessee. The Board also selected its new Vice Chair, Steve Alstot, as the Board's Alternate Delegate to the Conference. The Conference will also be attended by the Board Administrator, Jim Heider. Travel and accommodations, for all three positions, are funded by the FSBPT. The Board has also agreed to fund one position, for a Board Member, to attend the CLEAR Conference in Atlanta in September.
- Director's leave of absence – The Board Director reported, to the Board, that he was released from medical leave to return to work part time, effective Monday, May 14, 2007. The Director will be on a part-time schedule, from May 14th through June 29th, returning to work fulltime Monday, July 2nd.
- The Director reported, to the Board, that he had changed the Board's banking situation with US Bank. Currently, the Board has one deposit account, a non-interest bearing DDA account that holds all Board cash deposits and reserves. The Director has established a new, interest bearing Money Market account that will hold the Board reserves, and pay the Board interest income on reserve balances. The Director, along with the Board's bank Representative, will monitor the Reserve and DDA accounts

monthly, moving dollars between the accounts to best facilitate the Board's current financial position.

- Welcome New Board Member- The Board welcomed the newest PT Board Member, Burke Selbst, PT. Burke was in attendance at the April 27th meeting. Burke's term is effective May 04, 2007 through April 30, 2011.
- Welcome New OPTA Liaison – The Board greeted and introduced themselves to the new OPTA Liaison, Dylan Hogan, PT.

Future Board Meeting Dates

As established by the Board, the future Board meeting dates are as follows: June 22, 2007; August 10, 2007; October 05, 2007; December 07, 2007. The Board did change the November 30, 2007 date to December 10, 2007. The meeting will be held on the PT campus of Pacific University in Hillsboro. The meeting room has been rescheduled and the web notices have been updated. Meeting dates, Notices, and published Minutes may be found on the Board website at www.ptboard.state.or.us.

Bills in Legislation

HB 2701 – Steve Alstot reported, to the Board, that the work session between the Chiropractic Association and Board, and the Oregon Physical Therapy Association and Board, along with their Legal Counsel, was unsuccessful. It was Mr. Alstot's understanding that the Chiropractic Bill was scheduled for a Committee Hearing the previous day and that the Chiropractic Association was going to withdraw the current Bill. It was an understanding, from the group, that prior to the next legislative session, the two parties were going to have to spend time working together towards a resolve. The issue for the Chiropractic Association and Board is physical therapists using manipulation as part of their Scope of Practice.

SB 717 - Requires Board of Medical Examiners to appoint Scope of Practice Review Committee for regulated health professions when requested to review proposed changes to Scope of Practice of health care profession. Requires committee to report results of proposal review to Board. Requires Board to forward committee report and Board's position on committee recommendations to legislature and Governor. The Board remained neutral on this Bill.

SB 879 – Pain Management Commission to add physical therapist to existing Statute that would require therapists to take mandatory pain management course work, as part of a Continuing Education requirement. After discussion, the Board was neutral on this Bill. However, the Board staff noted, to the Board, that this requirement would have a big impact on staff, who would have to track, and record, and verify that the course completion requirements were complete, prior to renewal.

SB 326 – Create Orthotics and Prosthetics Board of Examiners. Amendments to the Bill will exempt PTs and OTs from having to be dually licensed under this program to apply orthotics.

FSBPT Board Member Training

Due to a lack of time and the absence of the Director and two Board Members, this topic was tabled until the June 22, 2007 meeting. Joana Freedman and Steve Alstot will lead the discussion.

Question Regarding Credit for CE Courses

Brad Henry, PT- Press Ganey Conference – Program directed toward applied management, not approved for CE.

Mary Witcop, PT- Institute for Natural Resources, Emotions, Stress and Disease – Course approved for CE.

Ron Carpenter, PT- CSCS Certification – No mandate or requirement to complete any coursework prior to taking the examination, not approved for CE.

Consonus Staffing – Course developed for Consonus on Pharmaceuticals approved for CE.

Bonnie Saurer- Institute for Natural Resources, Appetite, Mood & The Brain – Course approved for CE.

New Medicare Policy Regarding Inpatient Hospital Services

Transmittal 65 Medicare's proposed changes to Medicare policy changes the requirements for in-patient therapy reimbursement. The proposed change will make in-patient reimbursement requirements the same as out-patient reimbursement requirements. On March 26, 2007, the Centers for Medicaid and Medicare Services rescinded Transmittal 65. APTA says it will be addressed, in an amended format, at a later date.

PT'S Role in Dietary Recommendations

Linda Barbee, PT – Is it appropriate for a therapist to use the PT credential when promoting a diet or food? After discussion and consideration, the Board determined that as long as the recommendations are general, non specific, like protein helps wounds heal, then it is OK.

Approval of Meeting Minutes

The Minutes, from the March 02, 2007 Regular Board Meeting, and the March 27, 2007 and April 19, 2007 Special Board Meetings, were presented to the Board. The Chair opened the floor for discussion and comments. With noted changes, the Minutes were approved.

Ratification of PT/PTA Licenses & Temporary Permits

The Board was presented a list, of new licensees, for the period of March 05, 2007 through April 26, 2007. The Chair opened the floor, for discussion, with regards to the new licensees. Without noted discussion, the Board voted unanimously to ratify the new licensees and permit holders for the above-noted period.

Other New Business

The Board Chair called for other new business. With no additional other new business cited, Board Chair Jerry Nickell adjourned the Board Meeting at 2:30 PM.