

**Physical Therapist Licensing Board
Board Meeting
June 6, 2008**

MINUTES

Friday, June 6, 2008

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

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

Legal Counsel: Warren Foote, AAG

EXECUTIVE (CLOSED) SESSION

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 licensees; 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 246-07/07

Motion, by Steve Alstot, to issue Stipulated Agreement and Final Order as cited in original Notice of Proposed Disciplinary Action.

Seconded by Cindy Cunningham.

Motion passed by unanimous vote.

Case PT 252-08/07

Motion, by Steve Alstot, to issue Stipulated Agreement and Final Order as cited in original Notice of Proposed Disciplinary Action with the following changes: change the civil penalty from \$5,000 to \$4,000 with \$2,000 stayed; remove any reference to citation of documentation errors and put them in an advisory letter to licensee, remove any violations regarding patient GQ from the Order; change the wording, in the Agreement, to be more generic regarding boundary violations with two patients.

Seconded by Cindy Cunningham.

Motion passed by unanimous vote.

Case PT 233-02/07

Motion, by Steve Alstot, to issue Confidential Advisory Letter citing Board concerns over billing practices; recommend licensee start using time in and time out logs; and that the therapist, providing the actual service, should change the billing records or be consulted prior to any changes being made.

Seconded by Cindy Cunningham.

Motion passed by unanimous vote.

Case PT 254-09/07

Motion, by Steve Alstot, to close the case citing no violations.

Seconded by Cindy Cunningham.

Motion passed by unanimous vote.

Case PT 264-02/08

Motion, by Steve Alstot, to close the case citing no violations.

Seconded by Cindy Cunningham.

Motion passed by unanimous vote.

Case PT 273-04/08

Motion, by Steve Alstot, to issue Stipulated Agreement and Final Order citing licensee for practicing PT with a lapsed license; impose a civil penalty of \$100.00.

Seconded by Cindy Cunningham.

Motion passed by unanimous vote.

Case PT 234-03/07

Applicant appeared, in person, at the Board meeting to discuss the proposed sanction.

Motion, by Steve Alstot, to accept ALJ findings of fact and issue Final Order denying applicant licensure.

Seconded by Cindy Cunningham.

Motion passed by unanimous vote.

Case PT 275-05/08

Motion, by Steve Alstot, to issue Stipulated Agreement and Final Order citing licensee for practicing PT with a lapsed license; impose a civil penalty of \$250.00.

Seconded by Cindy Cunningham.

Motion passed by unanimous vote.

Case PT 268-03/08

Motion, by Steve Alstot, to close the case citing no violations.

Seconded by Cindy Cunningham.

Motion passed by unanimous vote.

Case PT 269-03/08

Motion, by Steve Alstot, to close the case citing no violations.

Seconded by Cindy Cunningham.

Motion passed by unanimous vote.

Case PT 269b-03/08

Motion, by Steve Alstot, to close the case citing no violations.

Seconded by Cindy Cunningham.

Motion passed by unanimous vote.

Case PT 267-03/08

Motion, by Steve Alstot, to close the case citing no violations.

Seconded by Cindy Cunningham.

Motion passed by unanimous vote.

Case PT 267b-03/08

Motion, by Steve Alstot, to close the case citing no violations.

Seconded by Cindy Cunningham.

Motion passed by unanimous vote.

Case PT 270-04/08

Motion, by Steve Alstot, to issue Notice of Proposed Disciplinary Action citing violations for practicing outside the Scope of Practice for a PTA, specifically: ORS 688.140(2)(e), ORS 688.140(2)(a), OARs 848-040-0135(4), 848-015-0020(5), 848-015-0030(1)(c), 848-045-0020(2)(h) and, imposing the following sanctions: 30-day suspension from practice; 3 year probation with conditions; must show copy of the Order to current employers; must work with the on-site supervision of a physical therapist at all times. If licensee allows his license to lapse prior to the completion of the probationary period, and then subsequently reinstates the license, he must satisfy the remainder of the probationary period.

Seconded by Cindy Cunningham.

Motion passed by unanimous vote.

Case PT 274-04/08

Motion, by Steve Alstot, to issue Stipulated Agreement and Final Order granting applicant licensure, but publicly reprimanding applicant for failure to disclose prior actions taken by another State on her Oregon PT application form, citing ORS 688.140(2)(a) and OAR 848-045-0020(2)(a), also assessing applicant a civil penalty of \$250.00.

Seconded by Cindy Cunningham.

Motion passed by unanimous vote.

Case PT 276-05/08

Motion, by Steve Alstot, to issue Confidential Advisory Letter citing violation of Board Rules requiring licensee to maintain current contact information, with the Board, and to provide written notification of contact information within 30 days of the change, citing OARs 848-005-0030 and 848-045-0020(y). Failure to maintain current contact information, in the future, will result in disciplinary action.

Seconded by Cindy Cunningham.

Motion passed by unanimous vote.

Case PT 277-05/08

Motion, by Steve Alstot, to issue Confidential Advisory Letter that will require licensee to use checks drawn with guaranteed funds for any future license renewal payments.

Seconded by Cindy Cunningham.

Motion passed by unanimous vote.

Case PT 266-02/08

Motion, by Steve Alstot, to issue Confidential Advisory Letter requiring Licensee to immediately take steps to better organize her patient records, making certain she is in compliance with HIPAA regulations relevant to patient records and confidentiality. Additionally, advise Licensee that her clinics are subject to future random inspections by the Board.

Seconded by Cindy Cunningham.

Motion passed, by quorum, 5 to 2. Cunningham and Wilson opposed motion.

Administrative Rule Making

Motion, by Steve Alstot, to amend current Administrative Rules Chapter 848-045-0020 to include a new violation for failure to comply with the recommendations of the Board as outlined in a Confidential Advisory Letter.

Seconded by Cindy Cunningham.

Motion passed by unanimous vote.

General Topics/Business

- The Director discussed Chair Freedman's interest to have a FSBPT staff member come to Portland to present the FSBPT continuing competency model. The Board discussed the topic of continuing competency and instructed the Director to follow through with Ms. Freedman's request to invite the FSBPT to a future Board meeting.
- The Director confirmed that Chair Freedman and Vice-Chair Alstot will represent the Oregon Board, as Delegate and Alternate Delegate, at the September 2008 FSBPT Delegates' Assembly in Minneapolis, MN. Ms. Wilson, Ms. Cunningham, Ms. Banaitis and Board Clinical Advisor, Ms. Paru, also expressed interest in attending the September conference. The Board asked the Director to review the training budget to see if the Board could accommodate any or all the requests.

CE Audit Update

Board Director updated the Board on the status of the 2008 CE Audit. 374 audit request forms were mailed to randomly selected renewal licensees on May 6, 2008. Licensees were given until May 30, 2008 to return the Continuing Education Audit Summary Sheet with the corresponding CE Completion Certificates. To date, all but 24 audit request letters have been received. They have not been checked for completion, accuracy and compliance. The Director informed the Board that budget dollars had been appropriated to cover the cost of hiring a contractor, someone in the profession, to help with the processing, review and follow-up of the audits. The Board approved the Director's request and instructed him to proceed with the contractor and the audit.

Rules Advisory Committee Update

Board Director presented the following Administrative Rules topic updates:

1. Mobilization and manipulation - proposed language drafted, reviewed and approved by the Board, pending Notice of Public Hearing.
 - Adds new definition to OAR 848-040-0100(8) "Physical Therapy Intervention" modeled after the APTA guide to Physical Therapy
 - Definition includes treatments or procedures, listed are.....mobilization and manipulation of soft tissue or spinal or peripheral joints....
2. Screening and consultation services - proposed language drafted, reviewed and approved, by the Board, pending amendment adding the term "animal" to the new definition and pending Notice of Public Hearing
 - Adds new Rule 848-040-0175 Standard for Screening Services
3. PTA role in reassessments - subcommittee to meet and draft proposed language to present to the Board. The Advisory Committee met and has directed the subcommittee to include language that would clearly require the physical therapist to document that they personally reassessed the patient, as required by rule.
4. Aide's role in exercise - proposed language drafted, pending Board review and approval.
 - Add sub-section clarifying that a PT or PTA must administer a PT intervention in its entirety before delegating that task to an aide.
5. Clarification of direct access rules – drafting subcommittee to work on proposed language to present to Board at its 08.01.08 meeting.
6. Endorsement criteria for foreign-educated physical therapists – Executive Director to draft proposed language to present to Board at its 08.01.08 meeting.
7. Pain Management CE requirements - drafting subcommittee to work on proposed language to present to Board at its 08.01.08 meeting.

Advanced Results Fitness

Board Clinical Advisor/Investigator shared information found on Craig's List relative to the possible misleading advertising and potential practice of physical therapy without a license. The Board instructed the Investigator to open a case and send in the Board's Contract Investigator, under cover, to see if there are violations of Statute and/or Rule.

Unlicensed Practice

Board Clinical Advisor/Investigator shared information relative to Case PT 271-4/08 Gil Guzman. This complaint alleges the unlicensed practice of physical therapy. There is no further information available at the time of this meeting.

Dragonfly Massage Clinic, Kimberly Sprunger, LMT

Board Clinical Advisor/Investigator shared information relative to a potential violation of Board Statute. It was alleged that Ms. Sprunger, a LMT, was advertising that she provided physical therapy. The allegation was derived from a newspaper article in which a Reporter, who interviewed Ms. Sprunger regarding her business and her practice, stated that Ms. Sprunger provided physical therapy. After a phone conversation, between the Board Investigator and Ms. Sprunger, it was clear that Ms. Sprunger was well aware of the article, and had already contacted the Reporter and asked that a correction be printed. In addition, prior to Ms. Paru's phone call to Sprunger, a Department of Justice employee went into the facility and asked questions of Ms. Sprunger. At no point did Ms. Sprunger say she was a physical therapist or that she provided physical therapy. The Board determined there was no other action necessary.

Medicare Regulations Regarding PT and OT

Board Clinical Advisor/Investigator shared information regarding an existing CMS regulation that allows for an individual educated as a PT or OT, to provide and bill for professional therapy services to Medicare patients incident to a physicians services and plan of care. The therapist does not need to hold a professional license to meet the service or billing requirements.

Information from FSBPT Ethics and Legislation Committee

Board Public Member Cunningham also sits on the FSBPT Ethics and Legislation Committee as its Public Member. Ms. Cunningham reported, to the Board, several items of interest and concern currently being addressed by the Ethics and Legislation Committee. Some of the discussion topics included: development of data base to track jurisdictional legislative issues, the controversial referral for financial gain study requested, by the Delegates Assembly, the new disciplinary categories task force, ethics and disciplinary issues, limiting the number of attempts for the NPTE and the requirement for remediation, changes to the model practice act and other issues. From this discussion, the Oregon Board asked that the Director place a discussion item, on a future Board meeting agenda, relative to the Board's current Rule that only allows 5 attempts of the NPTE and requires remediation after the third attempt.

Approval of the April 4, 2008 Meeting Minutes

The Minutes, of the April 4, 2008 Regular Board Meeting, were presented to the Board. The Board Chair opened the floor for additional discussion and comments. With one noted correction, the Board voted 5-0 to approve the Minutes for publication as written, Jason Fiske and Burke Selbst were not present for the vote.

Future 2008 Board Meeting Dates

As established by the Board, the future Board Meeting dates are as follows: August 1, 2008; September 19, 2008; and, November 14, 2008. Meeting Dates, 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 April 4, 2008 through June 5, 2008. The Board Chair opened the floor, for discussion, with regard to the new licensees and permit holders. Without noted discussion, Steve Alstot moved to ratify the list of new licenses and permit holders as submitted.

Seconded by Cindy Cunningham

Motion passed, by quorum 5-0; Jason Fiske and Burke Selbst were not present for the vote.

Other New Business

The Board Chair called for other new business. With no additional other new business cited, Board Chair, Joana Freedman, adjourned the Board Meeting at 3:44 PM.

END OF PUBLIC SESSION