

**Physical Therapist Licensing Board
Board Meeting
June 10, 2011**

MINUTES

Friday, June 10, 2011

Board Members Present: Joana Freedman, PT, Chair; Steve Alstot, PT, Vice Chair; Jason Fiske, PT Member; Burke Selbst, PT Member; Richard Rutt, PT Member; Jennifer Wood, PTA Member; Carol Sutton, Public Member; Troy Costales, Public Member

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

Legal Counsel: Carol Parks, AAG

At 8:45 AM, Chair Joana Freedman 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, current legislation 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 12:38 PM, Board Chair Freedman convened the Board into Public Session. During this portion of the meeting, the Board considered inquiries from licensees and the public; approved the prior Board Meeting minutes; ratified new licenses; reviewed general correspondence; entertained motions; publicly voted on any actions so moved before the Board; and conducted any other Board Public Session business.

The public and interested parties are invited to attend this portion of the meeting. The Public Session was 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 392-4/11

Motion, by Burke Selbst, to issue Stipulated Agreement and Final Order citing violation of ORS 688.140(2)(a), OAR 848-045-0020(2)(r), for the practice of physical therapy without a license, and assessing a civil penalty of \$100.00.

Seconded by Jennifer Wood

Motion passed by unanimous vote 7-0

Case PT 393-4/11

Motion, by Burke Selbst, to issue a Confidential Advisory Letter for failure to disclose an arrest or conviction on a license application.

Seconded by Jennifer Wood

Motion passed by unanimous vote 7-0

Case PT 394-4/11

Motion, by Burke Selbst, to grant issuance of license and to issue a Confidential Advisory Letter for failure to disclose an arrest or conviction on a license application.

Seconded by Jennifer Wood

Motion passed by unanimous vote 7-0

Case PT 382-2/11

Motion, by Burke Selbst, to grant issuance of license and to issue a Confidential Advisory Letter for failure to disclose an arrest or conviction on a license application.

Seconded by Jennifer Wood

Motion passed by unanimous vote 7-0

Case PT 396-5/11

Motion, by Burke Selbst, to issue a Confidential Advisory Letter for failure to disclose an arrest or conviction on a renewal license application.

Seconded by Jennifer Wood

Motion passed by unanimous vote 7-0

Case PT 352-6/10

Motion, by Burke Selbst, to close case until further contact or receipt of application from former licensee.

Seconded by Jennifer Wood

Motion passed by unanimous vote 7-0

Case PT 397-5/11

Motion, by Burke Selbst, to issue PTA license when application process is complete.

Seconded by Jennifer Wood

Motion passed by unanimous vote 7-0

Case PT 398-5/11

Motion, by Burke Selbst, to grant issuance of license when application file is complete and to issue a Confidential Advisory Letter for failure to disclose an arrest or conviction on a license application.

Seconded by Jennifer Wood

Motion passed by unanimous vote 7-0

Adoption of Board 2011-2013 Biennium Budget

Motion, by Burke Selbst, to approve and adopt the 2011-2013 Board Biennium budget as presented.

Seconded by Jennifer Wood

Motion passed by unanimous vote 7-0

Applicant Smith Appeal to Accept NPTE Scores Not Meeting Board Passing Standards

Ms. Smith contacted the Board to request an endorsement application. Ms. Smith is a graduate of a CAPTE Accredited PT program, sat and passed the national PT examination, holds a current license to practice in another jurisdiction and has been practicing successfully, without any actions or encumbrances since 1984.

When Ms. Smith transferred her national exam scores to the Oregon Board, her scores did not meet Board standards, as established by Administrative Rule. Ms. Smith was told if she wanted to be licensed in Oregon she would have to take and pass the national examination for the Oregon Board. Ms. Smith filed an examination application but has appealed to the Board for reconsideration of her transfer scores.

After discussion and consideration the Board determined they did not hold the authority to make exception to current Statute or Administrative Rule. If Ms. Smith wanted to be licensed, in the State of Oregon, she would have to present the Board with passing national examination scores according to the current Administrative Rules.

The Board did instruct staff that the next time the Board reviews rules or initiates rulemaking, the requirement for transfer scores should be on the rulemaking agenda. Staff should research other jurisdictions rules and policies regarding score transfers.

Approval of Board Meeting Minutes

The drafted Minutes, from the April 8, 2011 Regular Board Meeting, were presented to the Board. The Board Chair opened the floor for additional discussion and comments. With one noted correction, Burke Selbst moved to accept the minutes as amended.

Seconded by Jennifer Wood

Motion passed by unanimous vote 7-0

Ratification of PT/PTA Licenses & Temporary Permits

The Director presented the Board with a list of new licensees and temporary permit holders for the period of April 8, 2011 through June 9, 2011. The Board Chair opened the floor for discussion. Without noted discussion, Burke Selbst moved to ratify the issuance of the new licenses and permits as submitted.

Seconded by Jennifer Wood

Motion passed by unanimous vote 7-0

Election of New Board Chair and Vice Chair

The Board's Director opened the floor to nominations for the position of Board Chair. Burke Selbst nominated Steve Alstot. Alstot accepted the nomination. Jennifer Wood seconded Alstot's nomination. The Board's Director asked for any other nominations, hearing none, the Board voted unanimously to elect Steve Alstot as the new Board Chair.

The Board's Director opened the floor to nominations for the position of Board Vice Chair. Burke Selbst nominated Jason Fiske. Fiske accepted the nomination. Jennifer Wood seconded Fiske's nomination. The Board's Director asked for any other nominations, hearing none, the Board voted unanimously to elect Jason Fiske as the new Board Vice Chair.

General Topics/Business

- **Board Appointments** – The Director reported that the Governor’s Office of Executive Appointments had not yet completed the review and appointment of a replacement for Board member Freedman whose second term expired 6/30/11. In addition, the Governor’s office had not yet reviewed and confirmed the reappointment of Board member Selbst, whose first appointment expired 4/30/11. Board Counsel, Carol Parks, informed the Board that until appointments and confirmations were made, the current members could choose to continue in their roles and could legitimately attend future Board meeting as voting members.
- **Staffing** – The Board Director reported that Dot Danovich, Licensing Coordinator, would be retiring after twelve years of dedicated service to the Board. Dot’s plan was to take the month of July off using the majority of her accumulated vacation balance. Dot’s official retirement date is August 1, 2011. The position of Licensing Coordinator will be filled by a contract associate of the Board, Rick Sullivan. Rick has been working with the Board under a personal services contract for the past three years. Rick is a licensed PTA and has proven instrumental handling the last two Board CE audits. Rick’s starting date is set for Friday June 24, 2011 to allow for overlap training time with Dot.
- **OPTA request for Board Boundary Presentation in Bend and Eastern Oregon** - Sherri Paru, PT, Board Clinical Advisor and Investigator introduced Tim Esau, PT. Tim is the new OPTA Liaison to the PT Board. The Board welcomed Tim.

Sherri further discussed with the Board a request that she had received from the OPTA. Sherri, along with Carol Shunk, PT had presented a program at the OPTA Spring Conference relative to boundary issues. The program was well received. The OPTA has asked Sherri if she would be willing to present the same or a similar program in September in La Grande and in October in Bend. Sherri had asked the OPTA if they would cover her travel expenses. The OPTA indicated that they were hoping the cost for her travel would be covered by the Board, as part of the Board community outreach. That this would allow for a Board educational opportunity and access to therapists in more rural areas of the State. Sherri told the OPTA that she needed to bring the request back to the Board for approval of her time out of the office and the traveling expenses. After discussion and consideration the Board determined it would support Sherri’s participation in the OPTA’s program request and would absorb the cost of travel for the programs.

The Board instructed staff, for future planning purposes, to consider a line item in the budget for community outreach and budget a specific dollar amount for that out reach each year. As a policy, if the dollars and staffing are available, the Board would encourage participation. If the dollars are not available, unless an exception is made by the Board, participation would be declined.

- **FARB Attorney Conference-Funding for Board AAG to attend** – After a discussion and consideration, the Board approved funding its Senior Assistant Attorney General, Carol Parks, to attend the annual Federation of Associations of Regulatory Boards (FARB) Attorney Certification Seminar in Professional Regulatory Law Seminar. Last year the Veterinary Examiners Board funded AAG Parks attendance to the conference. Next year, it is anticipated, that one of Park’s other regulatory Boards will fund her attendance. Although

the seminar is schedule for September 2011, the Board instructed its Director to pre-pay or accrue the expense so it will be incurred in the current biennium.

FSBPT – NPTE Fixed-Date Testing and examination fee increase

The Board Director presented the Board with the Federation of State Board of Physical Therapy (FSBPT) letter dated March 16, 2011. The Letter announces a projected fee increase for the National Physical Therapy Examination (NPTE). The fee will go, from its current level of \$370, to \$400 effective January 1, 2013.

The Director announced that continuous testing for the NPTE will end on June 30, 2011. The published fixed test dates for the remainder of 2011, are September 7th, October 26th and December 5th. The fixed test dates have been announced for 2012. The dates are as follow; January 30th, March 29th, July 2nd, July 31st and October 23rd.

The Director announced the FSBPT NPTE Summit at the end of July in Texas. Representation from every jurisdiction and interested parties will be at the summit. There will be over 100 attendees. The purpose of the Summit is to determine the future of the NPTE beyond 2012.

Dry Needling

The Director provided the Board with a copy of the Position Paper on Dry Needling from the Council of Colleges of Acupuncture and Oriental Medicine. The paper was distributed as an informational tool for Board consideration only.

2011 Legislative Session Overview

HB 2381 passed and was signed into law by the Governor. HB 2381 makes the three semi-independent health Boards; PT, Optometry, and Massage, accountable to follow DAS policies relative to the administration of personnel, compensation, benefits and human resources. The Board's Director noted for the Board that when the PT Board went to a semi-independent status it already had adopted and continues to follow DAS HR and Personnel policies. Secondly HB 2381 requires the three semi-independent health Boards to have their biennial budgets approved through the rule making process completed and adopted by and reported to the Governor's office by February 1st of each odd numbered year.

Concern About Use of Title "RPT" by Registered Piano Technicians

The Board's Clinical Advisor/Investigator Sherri Paru, PT, shared correspondence regarding a Licensee's concern over the use of the initials "R.P.T." by Registered Piano Technicians. Paru also shared email correspondence, relative to the issue, rendered from both the APTA and AAOMPT. Both professional associations agreed that, although the professional must remain vigilant with regards to protection of title and terms, they felt the national registered piano technicians posed little threat to public safety. After discussion and consideration the Board reached the same conclusions as did the professional associations. The use of the initials "RPT" by the piano tuners was not misleading or a threat to public safety, and to invest Board/Licensee's time and resources to address this issue was unwarranted.

Discussion on Fee Splitting and Online Companies Such as Groupon

Board Counsel AAG Parks shared concerns that other health Boards are currently experiencing relative to the issue of fee splitting, and whether marketing schemes like Groupon fall into that classification. The question posed was; whether there is Board concern that these types of marketing

schemes would be considered fee splitting and if so, whether that would be direct violation of Board Statute 688.140(2)(1).

The Board asked Counsel what the other health Boards are doing in regards to the issue. Counsel reported they are just in the beginning stages of investigating and addressing the issue.

The Board instructed its Clinical Advisor/Investigator to research Groupon and similar companies' marketing approach. Who receives the payment of the fees? Are the fees split or shared? Shared amongst whom? Ms. Paru will report her findings back to the Board at its August 26, 2011 Board meeting. At that time the Board will determine whether they want their legal counsel to render a legal opinion on whether there is a possible violation of Board Statute and Administrative Rule.

2011 Board Meeting Dates

As established by the Board, the future Board Meeting dates are as follows: August 26, 2011 and November 4, 2011. The 2012 Board meeting calendar will be set at the August 26, 2011 Board meeting. Meeting Dates, Meeting Notices, and published Minutes may be found on the Board website at www.ptboard.state.or.us.

Board Member Topics

None noted.

Other New Business

The Board instructed staff and legal counsel to review its initial licensure application and renewal applications for relevance and completeness of the legal and disclosure questions. Staff was asked to compare the Boards current application forms to other jurisdictions and Boards, and report back to the Board at its August 26, 2011 meeting.

Discussion of the Board's current disciplinary matrix will be added to the August agenda. The discussion will determine whether the Board wants to consider changing the sanction for violations on late renewals that are caught in the first few days of the new renewal period.

The Board asked public member Troy Costales to write a short article for the fall Newsletter. The article should contain interesting factoids relative to use of drugs and alcohol and driving under the influence. The Fall Newsletter will be published and distributed in September or October.

With no additional new business cited, Board Chair Freedman adjourned the Board Meeting at 3:00 PM.

END OF PUBLIC SESSION AGENDA