

**Physical Therapist Licensing Board  
Board Meeting  
July 17, 2009**

**MINUTES**

**Friday, July 17, 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

**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 319b-4/09**

Motion, by Daiva Banaitis, to issue a Confidential Advisory Letter, citing concerns for failure to disclose a second arrest on the renewal application. Motion to request biannual progress reports from licensee's two mental health providers for one year.

Seconded by Nancy Wilson.

Motion passed by unanimous vote 5-0; Board member Selbst abstained from the vote.

### **Case PT 312-3/09**

Motion, by Daiva Banaitis, to close case citing no violation of Statute or Rule.

Seconded by Nancy Wilson.

Motion passed by unanimous vote.

### **Case PT 260-3/07**

Motion, by Daiva Banaitis, to issue Amended Stipulated Agreement and Final Order removing the requirement that licensee must practice with on-site supervision.

Seconded by Nancy Wilson.

Motion passed by unanimous vote.

### **Case PT 320-5/09**

Motion, by Daiva Banaitis, to issue Stipulated Agreement and Final Order, citing licensee for violation of OAR 848-045-0020(2)(r) (practicing with a lapsed license), and imposing a civil penalty of \$250.00.

Seconded by Nancy Wilson.

Motion passed by unanimous vote.

### **Case PT 287-7/08**

Following a contested case hearing and ALJ issuance of proposed order, motion, by Daiva Banaitis, to issue Final Order, citing licensee for violations of ORS 688.140(2)(a) and OAR 848-045-0020(2)(q)(D) (using the title doctor) and assessing a civil penalty of \$1,000.

Seconded by Nancy Wilson.

Motion passed by unanimous vote.

### **General Topics/Business**

- **FSBPT Probe PT Ethics Class** – The Board reviewed the announcement made by the Federation of State Boards of Physical Therapy regarding the first pilot of the Probe Ethics remediation program for physical therapists. The pilot is scheduled for December 11<sup>th</sup> through the 13<sup>th</sup>, 2009 in New Jersey. An overview of the Probe program will be presented at the FSBPT Delegate Assembly, in October, in San Diego CA. The cost of the program is \$1,500 plus cost for the licensee to travel and stay.
- **State of Oregon Mandated Furlough Days** – The Director shared, with the Board, the most recent communication, from the Department of Administrative Services (DAS), regarding mandated furlough days. The Director indicated that although the Board had adopted, and followed, DAS personnel policies in the past, the Board had the option to do something different with regards to the furlough requirement. After consideration, the Board determined it would continue to follow DAS personnel policy and the Board staff would take the unpaid furlough days as directed by DAS.
- **Board Project Queue Update** – The Executive Director reported that the project to scan and publish all public records, relative to Board actions, on the Board website was approximately 50% done. With the cutbacks in spending on contracted services and the mandated furlough days, continuance of the project would be placed on hold, pending priority given to the on-line renewal and electronic payment project. The Director indicated he would advance the project as time and dollars allowed. The Board suggested using the salary savings, from the furlough days, to contract help to get the project done. The Director indicated that although the scanning project itself was not a difficult task, the exposure risk of error and the consequences require direct supervision of the project, and the Director's time just is not going to allow it now. In addition to the scanning project, the on-line renewal, and credit payment project, the Board is now going to have to start Administrative Rule making to

incorporate the statutory changes as mandated by the outcome of the 2009 Legislative Session. The Director indicated staff could not get this all done at the same time. Further, the Director indicated that the legislative rule changes and on-line renewal system, with electronic payment, should take precedence over the scanning of public documents. The Board noted the importance of all the projects but seemed to understand and agreed with the priorities as set.

### **Governor's Letter Calling for Elimination, Suspension and Consolidation of Boards**

The Director reviewed the June 8, 2009 letter from Governor Kulongoski to the President of the Senate and the Speaker of the House. The letter encouraged the Senate and the House to consider the elimination, suspension and consolidation of several boards in an effort to further balance the State's budget. The Director wanted to know if the PT Board was going to take a position on the Governor's plan to consolidate the health boards into one large umbrella board. After consideration, the Board determined it was too early to take a position. The Board would need to know exactly how the PT Board would be impacted. However, if in the efforts to consolidate, the PT Board lost its autonomy with regards to a stand alone unique profession, the Board would oppose the consolidation proposals.

### **Board Information Security Policy**

The Director presented the Board with a draft of the Board's proposed Information Security Policy. The policy requires that all staff, Board members, contractors and vendors read and sign off on the policy. After review and consideration the Board voted to adopt the policy as written and instructed the Director to file the policy with the State Enterprise Security Office. Once the policy has been approved by the policy division, the Director will collect the written compliance statements from the Board members, staff and other appropriate parties. A copy of the policy may be obtained by contacting the Director and making a request.

### **2009 Legislative Update**

The Director presented the Board with a matrix of all the legislation being tracked by the Board. The matrix identified any legislation passed that may impact the Board and require administrative rule making changes. Below are some of the highlights presented:

#### **Legislation that passed in Salem that will affect PTs includes:**

- Effective January 1, 2010, PTs holding a doctoral degree may use the title doctor on written or printed material or in connection with advertising, billboards, signs or professional notices. He or she must designate the health profession in which the doctoral degree was earned.
- Effective January 1, 2010, PTs and PTAs are added to list of mandatory reporters of child abuse.
- Effective January 1, 2010, PTs and PTAs have a mandatory requirement to report unprofessional conduct/crimes of other healthcare professionals.
- Effective January 1, 2010, PTs and PTAs now have a mandatory requirement to report their own conviction of misdemeanor or felony; or arrest for felony to Licensing Board within 10 days of the event.
- Licensee's personal e-mail, phone number and address may be held from public record disclosure.
- Fingerprinting authority given to PT Licensing Board; however, the Board is not contemplating requiring finger printing at this time.

### Other issues impacting all health licensing boards:

- Licensing Boards: appointments, public members, terms, hiring directors.
- Additional oversight and reporting for the health-related licensing boards.
- Collection of data in applications and renewals for healthcare workforce needs assessment.
- Changes to Administrative Hearings Office (where discipline cases are appealed).
- Uniform impaired practitioner program.

### **Board Discussion Regarding Use of Dry Needling**

The Board Clinical Advisor presented the Board with a significant amount of current research and literature regarding physical therapy and use of dry needling. After consideration and discussion of the issue, the Board determined that dry needling is in the scope of PT, as long as the licensee has the appropriate training.

### **Board Discussion Concerning Rochville University and Affordabledegrees.com**

The Board Clinical Advisor presented the Board with information regarding her investigation into the Rochville University and Affordabledegrees.com program. The Board received a request for a licensure application by examination from a candidate who insisted that the PTA program he completed at Rochville University was an accredited program. After researching the program, it was determined that Rochville University was not CAPTE accredited and that Affordabledegrees.com was a diploma mill. The Board instructed the Clinical Advisor to report her findings to the Oregon Office of Degree Authorization.

### **2009 Fiscal Year-End Financial Report**

The Director presented the Board with a copy of the 2008-2009 fiscal year-end financial report with a variance narrative. The Board reviewed and approved the report. A copy of the Board's 2008-2009 fiscal year-end report, with the narrative, can be found on the Board website at [www.ptboard.state.or.us](http://www.ptboard.state.or.us).

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

The drafted Minutes, from the May 8, 2009 Administrative Rules Hearing and Regular Board Meeting, were presented to the Board. The Board Chair opened the floor for additional discussion and comments. With a few corrections noted, Daiva Banaitis moved to adopt and publish the minutes as written. The Motion was seconded by Nancy Wilson and passed by a unanimous vote.

### **Questions Regarding Animal Rehabilitation**

The Board Clinical Advisor invited the Director of the Veterinary Board to discuss the issue of animal rehabilitation as related to physical therapy. The PT Board and Director of the Vet Board reviewed both Boards' statutes and rules. It was determined, by both Boards, that in order to practice any form of rehabilitation on animals, you need to either be a licensed physical therapist, working under a referral from a licensed veterinarian, or an individual working under the supervision of a veterinarian. An individual working as a physical therapist aide, treating animals, must work under the supervision of a licensed physical therapist who has received a referral from a veterinarian.

### **2009 Board Meeting Dates**

As established by the Board, the future Board Meeting dates are as follows: September 11, 2009 and November 20, 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). Board members were asked to bring their calendars with them to the September 11, 2009 Board meeting so the 2010 meeting dates could be established.

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

The Board was presented a list of new licensees and temporary permit holders for the period of May 8, 2009 through July 16, 2009. The Board Chair opened the floor, for discussion. Without noted discussion, Daiva Banaitis moved to ratify the list of licensees and temporary permit holders. The Motion was seconded by Nancy Wilson and passed by a unanimous vote.

### **Other New Business**

The Board Chair called for other new business. Cindy Cunningham shared, with the Board, a document she had drafted relevant to the discussions she had participated in at the most recent FSBPT Ethics and Legislative Committee meeting. Cindy reviewed several model practice act language changes that the Board may want to consider the next time legislation warrants changes to the physical therapist practice act. There were also several issues that could be resolved in the upcoming Administrative Rules changes as dictated by the most recent legislative session. The Board asked the Director to take all of these proposed updates and housekeeping issues into consideration during the next Administrative Rules Committee process. Further, the Board instructed the Director to also include review of the Board's current rule offering temporary permits. The Board would like an advisory committee to consider the repeal of offering temporary permits. With no additional new business cited, Board Chair, Joana Freedman adjourned the Board Meeting at 2:25 PM.

**END OF PUBLIC SESSION AGENDA**