

**Physical Therapist Licensing Board
Board Meeting
November 04, 2011**

MINUTES

Friday, November 04, 2011

Board Members Present: Steve Alstot, PT, Chair; Jason Fiske, PT, Vice Chair; Joana Freedman, 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 8:34 AM, Chair Steve Alstot convened the Board into Executive Session, citing ORS 192.660(2)(k). Pursuant to ORS 192.660(2)(k)(f), 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 2:03 PM, Board Chair Alstot 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 389-4/11

Motion by Richard Rutt, to issue Notice of Denial of Licensure citing violations of ORS 688.140(2)(h) and OAR 848-010-0044(3) & (7). It was further moved to provide the Jackson County DA's office with all the public records in the case.

Seconded by Joana Freedman

Motion passed by vote 7-0, Board member Selbst was not present for the vote.

Case PT 383-2/11

Motion by Richard Rutt to release a copy of the psychological evaluation report to Licensee, and issue a Confidential Advisory Letter recommending the Licensee follow the recommendation as noted in the report.

Seconded by Joana Freedman

Motion passed by unanimous vote 7-0 Board member Selbst was not present for the vote.

Case PT 340-4/11

Motion by Richard Rutt to issue an Amended Notice of Proposed Disciplinary Action (Revocation of License) citing additional violation of failure to report an arrest on license renewal application. ORS 688.140(2)(c) and OAR 848-045-0020(2)(a)(i).

Seconded by Joana Freedman

Motion passed by unanimous vote 7-0 Board member Selbst was not present for the vote.

Case PT 403-7/11

Motion by Richard Rutt to issue Confidential Advisory Letter cautioning Licensee to be more cognizant of facility protocols and procedures.

Seconded by Joana Freedman

Motion passed by unanimous vote 7-0 Board member Selbst was not present for the vote.

Case PT 387-4/11

Board Counsel notified the Board that an Administrative Hearing took place on October, 26, 2011. ALJ issued an Order and Licensee has 30 days to file exceptions. Board will discuss case at the January 20, 2012 and vote to issue Final Order if Licensee did not file exceptions.

Case PT 410-9/11

Board Investigator reported that Applicant failed to disclose an arrest on his application for licensure. The Board requested additional information and Applicant has not responded to the request. Case will be discussed at January 20, 2012 Board Meeting, and the Board will determine if case should stay open or be closed for now. Board policy is that applications are held on file for one year from date of receipt of application.

General Topics/Business

- Board Chair report from 2011 FSBPT annual Meeting – Report moved to the January 20, 2012 Board Meeting.
- Board Member report from CLEAR conference - Report moved to the January 20, 2012 Board Meeting.
- Board Counsel report from FARB Attorney Conference - Report moved to the January 20, 2012 Board Meeting.
- Review of legal questions on application and renewal forms – The Board Counsel and Board Director discussed the legal disclosure questions posed on the applications for initial licensure and renewal. After discussion the Board instructed its Legal Counsel and Director to work together to finalize the language to be used on the initial and renewal licensure applications.
- Board Appointments – The Board Director confirmed the Governor’s reappointment of PT Board Member Burke Selbst to a second term on the Board and the new appointment of

Ruggiero (Ruggie) Canizares, PT to a first term on the Board. Both Selbst and Canizares are subject to final Senate confirmation on November 16, 2011. Mr. Canizares will fill the vacancy left by PT Member Joana Freedman. Ms. Freedman, formerly Board Chair, served over two full terms on the Board.

- Affirmative Action Plan – The Board Director confirmed the Governor’s Office of Affirmative Action had approved the Board’s 2011-2013 Affirmative Action Plan (AAP) as adopted by the Board at their August 26th 2011 Board Meeting. The Board’s AAP is posted, and can be viewed, on the Board’s website at www.ptboard.state.or.us.
- FSBPT APTitude presentation - Aptitude is an online tool that will help licensees track their CE and Continuing Competency Activities. It has reminder calendars build into it that can send email messages to licensees with regards to upcoming renewal due dates and CE certification requirements. It can prove especially helpful to those therapists who hold licenses in multiple States. Aptitude is being offered at no cost to licensed therapists. The Board Director had indicated that the Federation of State Boards of Physical Therapy was interested in presenting Aptitude to the Board. After discussion, the Board felt that an Aptitude presentation would be more beneficial if it was given to a large group of professionals. PTA Board Member Wood suggested that maybe the presentation would be better served if it was presented at the OPTA Spring Conference. The OPTA liaison to the Board, Tim Esau,PT, was present at the meeting and he will discuss this with the OPTA Board.

Rules Advisory Committee

The Director summarized the findings and proposals for administrative rule changes as outlined in the minutes from the October 10th and October 24th Administrative Rules Advisory Committee (RAC) meetings (see RAC meeting minutes attached). After review and discussion the Board determined, with some slight modifications, it would instruct Staff to proceed with the modifications and prepare to start the proposed rule making process with a Proposed Rule Making Hearing to be held prior to the Board’s January 20, 2012 scheduled Board Meeting.

Board Discussion on Fee Splitting & Online Companies such as Groupon & Living Social

Due to time constraints this discussion has been moved to the January 20, 2012 Board Meeting.

Questions From Licensees Regarding use of Class 4 Lasers

Due to time constraints this discussion has been moved to the January 20, 2012 Board Meeting.

Approval of Board Meeting Minutes

The drafted Minutes, from the August 26, 2011 regular Board Meeting, were presented to the Board. The Board Chair opened the floor for additional discussion and comments. Without any noted amendments, Richard Rutt moved to accept the minutes as written.

Seconded by Joana Freedman

Motion passed by unanimous vote 7-0 Board member Selbst was not present for the vote.

2012 Board Meeting Dates

As established by the Board, the future Board Meeting dates are as follows: January 20, 2012, March 16, 2012, June 1, 2012, August 10, 2012, and October 26, 2012. 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 Director presented the Board with a list of new licensees and temporary permit holders for the period of August 26, 2011 through November 3, 2011. The Board Chair opened the floor for discussion. Without noted discussion, Richard Rutt moved to ratify the issuance of the new licenses and permits as submitted.

Seconded by Joana Freedman

Motion passed by unanimous vote 7-0 Board member Selbst was not present for the vote.

Information Regarding PIP Payment for Patients Referred to PT by a Chiropractor

It was brought to the Board Staff's attention that the Chiropractic Board posted a page on their website relative to a physical therapy billing issue. It seems that insurance carriers are denying payment for physical therapy provided by PTs when referred by chiropractic physicians for MVA/PIP covered patients. Although not present at the meeting, Attorney Diana Godwin, attorney for the Oregon Physical Therapists in Independent Practice, provided Board staff with the history and documentation relative to this issue. Ms. Godwin cited the issue as a legislative drafting error at the time the Statute was written. The error omitted the listing of Chiropractic physician's as an acceptable referring provider in cases of personal injury patients to physical therapists. The Board asked Tim Esau, OPTA liaison to discuss this issue with the OPTA Board to see if they would like to work with the Chiropractic Association to legislatively amend the PT statute.

Board Member Topics/ Other New Business

Chair Alstot asked if there was any other new business.

PTA Member Wood asked the Board if they were still interested in holding a future Board meeting at Lane County Community College in Eugene, OR. Since not all the Board members were present to respond to the question, the Board Chair directed staff to poll the entire Board to see if there is a consensus to hold a future meeting in Eugene.

Board Clinical/Investigator Paru received a complaint/concern relative to the use of the initials CPT by personal trainers. CPT stands for Certified Personal Trainer and the individual using the initials provides training in exercise and stretching techniques. After discussion the Board determined that only the initial "P.T.", "RPT", and "LPT" are specifically protected by Statute and the Board has no authority to prevent anyone from using the initials "CPT", and further that the techniques of exercise and stretching are not unique to the PT scope of practice.

Secondly, Ms. Paru brought to the Boards attention another complaint/concern she received relative to a physical therapist that has a doctorate degree in Science advertising as "Doctor" in context of providing physical therapy. The licensee's employer had placed an ad in the newspaper and the ad was brought to the attention of the Board. After discuss with Ms. Paru, the licensee has since modified the ad, and has fully cooperated with Ms. Paru's suggestions to be in compliant with statue and rule. After discussion, the Board determined that, the modified advertisement was acceptable. The PT was identified as "Doctor" but also listed her degree after her name: "doctor of science". Further, the Board determined that if a therapist holds a doctorate degree in another field or specialty and chooses to use the title doctor in association with their name, they must physically indentify their specialty by printing it with the doctor title and name. i.e: Dr. Jane Doe, PT, Doctor of Science.

Chair Alstot call for any other new business with none noted, Chair Alstot adjourned the Board Meeting at 4:03 PM.