

**Physical Therapist Licensing Board
Board Meeting
November 20, 2009**

MINUTES

Friday, November 20, 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; Nancy Wilson, PTA Member

Board Members Absent: Daiva Banaitis, PT 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 9:30 AM, Board Chair Freedman recessed Executive Session and convened the Board into a special Public Session. During this portion of the Public Session, the Board invited the Oregon Medical Board (OMB) and its Acupuncture Committee to address the Board regarding their concerns, with the Board's recent declaration, which stated "dry needling" was in the scope of physical therapy practice. After the PT Board's statement was made public, the OMB determined that "dry needling" constituted the practice of acupuncture. Presenting for the OMB and its subcommittee were: Kathleen Haley, Director of the OMB, Malvin Finkelstein LAc, Chair of the OMB Acupuncture Committee, Ellen Shefi LAc, Committee Member, and Hilary Laferriere, LAc. Upon completion of the testimony, the Board invited responsive comments from Susan Bamberger PT, OPTA President, and Sean Roach, PT.

When all interested parties present had the opportunity to speak, Board Chair Freedman recessed this special portion of the Public Session and reconvened into Executive Session to finish the Board's Executive Session business.

At the end of the Executive Session, Chair Freedman convened the Board back into Public Session. During this portion, of the Public Session, 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 were 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 248-7/07

Motion, by Burke Selbst, to close the case citing no violations of Statute or Administrative Rule.

Seconded by Nancy Wilson.

Motion passed by unanimous vote 5-0.

Case PT 272a-4/08

Motion, by Burke Selbst, to issue a Confidential Advisory Letter citing the importance of maintaining proper and consistent billing practices.

Seconded by Nancy Wilson.

Motion passed by unanimous vote 5-0.

Case PT 272b-4/08

Motion, by Burke Selbst, to issue a Confidential Advisory Letter citing the importance of maintaining proper and consistent billing practices.

Seconded by Nancy Wilson.

Motion passed by unanimous vote 5-0.

Case PT 272c-4/08

Motion, by Burke Selbst, to issue a Confidential Advisory Letter citing the importance of maintaining proper and consistent billing practices.

Seconded by Nancy Wilson.

Motion passed by unanimous vote 5-0.

Case PT 313-3/09

Motion, by Burke Selbst, to issue a Notice of Proposed Disciplinary Action citing violations of ORS 688.140(2)(a); and, OARs 848-020-0010(1), 848-020-0040(1)&(2), 848-020-0050(2)(a), 848-040-0110(4)&(15), 848-040-0135(1) and 848-040-0145(1). Licensee must submit aide training records, stop using the daughter as an aide for providing patient care, take and pass the Board Jurisprudence Examination, provide the Board with a written explanation of changes made in Licensee's clinical practice to comply with Statute and Rules, payment of a civil penalty of \$5,000.00 and work under a probationary license for a period of two years.

Seconded by Nancy Wilson.

Motion passed by unanimous vote 5-0.

Case PT 325-10/09

Motion, by Burke Selbst, to issue a Stipulation and Final Order citing violation of ORS 688.140(2)(j) and payment of a civil penalty of \$500.00. If License does not agree to the stipulation, the Board will issue a Notice of Proposed Disciplinary Action.

Seconded by Nancy Wilson.

Motion passed by unanimous vote 5-0.

Case PT 308-1/09

Motion, by Burke Selbst, to issue a Confidential Advisory Letter requiring Licensee to take and pass the Board Jurisprudence Examination.

Seconded by Nancy Wilson.

Motion passed by unanimous vote 5-0.

Case PT 308b-1/09

Motion, by Burke Selbst, to close the case and refer the case to the Oregon Board of Massage.

Seconded by Nancy Wilson.

Motion passed by unanimous vote 5-0.

Issues Regarding Dry Needling by Physical Therapists

As noted above, the Board heard the testimony of the Oregon Medical Board regarding their concerns with the PT Board's recent declaration which stated "dry needling" was in the scope of physical therapy practice. Upon further consideration, the Board issued the following statement which was initially communicated to all the interested parties attending the meeting; it was also posted on the Board's website and included in a Winter Newsletter mailed to all Licensees:

November 20, 2009. Upon further discussion, the Physical Therapist Licensing Board believes that the dry needling of trigger points is likely within the physical therapist Scope of Practice (excluding PTAs).

The Board acknowledges that the dry needling of trigger points is an advanced intervention requiring post physical therapy graduate training and education.

Further, the Board recommends that the acupuncture committee, physical therapist and medical Boards work in partnership, with their professional associations, to define a minimum competency by which a physical therapist can safely practice the intervention of dry needling of trigger points.

In the interest of public safety, until training and education can be determined, the Board strongly advises its licensees to not perform dry needling of trigger points.

2009-2011 First Quarter Financial Report

The Director presented the Board with a copy of its first quarter 2009 Financial Statement. The Statement included a narrative. The Director gave a verbal review and asked for questions. With no noted questions or concerns, the financials were approved by a consensus of the Board. Board financial statements can be found on the Board website at www.ptboard.state.or.us.

Rules Advisory Committee Report

The Director presented the Board with a summary of the findings and proposed drafted language for rule changes from the 2009 Administrative Rules Committee. After review, consideration, and a few minor changes to the Committee's drafted language, the Board instructed the Director to proceed with the Notice of Proposed Rule Making Hearing. Further, the Board directed staff to produce and issue a special newsletter that included the Notice of Rule Making Hearing, the availability of the new on-line renewal system, and the new requirements for the completion of both the mandated pain management CE and the demographics survey.

Tom Watson, PT Scope of Practice Question

At its meeting on November 20, 2009, the Board reviewed Mr. Watson's letter regarding the use of aromatherapy. The Board does not have jurisdiction over the practice of aromatherapy. In fact, aromatherapy is not regulated by any Board in the State of Oregon. The PT Board determined that if a therapist has expertise in the area, they may recommend the use of such oils to patients. However, since Mr. Watson consults with various other providers, the Board suggested that it may be wise to refer the patients to these providers regarding the risks and interactions.

General Topics/Business

- **Public Records Scanning Project Update** – The Director reported that the scanning of public records was complete and pending publication to the Board website. The project came in ahead of schedule and under projected budget.
- **Online Renewal Project Update** – The Director reported that the online renewal project was not on schedule. Problems, with the bridge programming between the US Bank merchant account system and the Board's data base system, have to be worked out by the Board's IT provider. The Board approved the Director's request to mail the renewal forms out the second week in January instead of the first week in January, if necessary.
- **2007-2009 Independent Audit Report** – The Director reported that the Board received a favorable independent financial audit. The final audit report was due mid December. The audit was performed by Moss Adams and Associates from Eugene. They were selected by the Secretary of State Office. The cost of the 2007-2009 biennium audit was twice the budgeted amount, coming in just over \$10,000.

Approval of Board Meeting Minutes

The drafted Minutes, from the September 11, 2009 Regular Board Meeting and the October 15, 2009 Special Board Meeting, were presented to the Board. The Board Chair opened the floor for additional discussion and comments. With a few corrections noted, Chair Freedman moved to adopt and publish the minutes as corrected. The Motion was seconded by Nancy Wilson and passed by a unanimous vote 4-0. Banaitis, Fiske and Selbst were not present for the vote.

2010 Board Meeting Dates

As established by the Board, the future Board Meeting dates are as follows: February 5, 2010; April 30, 2010; July 16, 2010; September 10, 2010 and November 12, 2010. Meeting Dates, Meeting Notices, and published Minutes may be found on the Board website at www.ptboard.state.or.us.

Case PT 283-6/08 Tamara Felix

The Board Clinical Advisor/Investigator stated that no further action had been taken on this case, and the actions of the Board are pending the outcome of the Massage Board's investigation into Ms. Felix's practice.

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 September 11, 2009 through November 19, 2009. The Board Chair opened the floor for discussion. Without noted discussion, Chair Freedman moved to ratify the list of new licensees. The Motion was seconded by Nancy Wilson and passed by a unanimous vote 4-0. Banaitis, Fiske and Selbst were not present for the vote.

Other New Business

Credentialing Simplification Project/Process – The Director advised the Board that a group referring to themselves as the Credentialing Work Group made up of numerous healthcare facilities, hospitals, third party payers and a couple of health regulatory boards, is preparing a legislative concept by which the State, by Statute, would establish a Central Verification Organization (CVO). The concept, which is still in development, introduces a “Golden Egg” (as they call it). It would **“create a single source (state mandated and accredited) that provides primary source verification (to the highest standard) used by all credentialing entities for all licensed providers.”** Although the passage of such legislation would have far reaching effects on regulatory Boards, it is unclear, at this time, what those total effects would be. This will be an initiative to closely follow during legislative session.

Information Security Policy Signature Statements – The Director asked for, and collected, the remaining Information Security Policy Signature Statements from the remaining Board members.

With no additional new business cited, Board Chair Freedman adjourned the Board Meeting at 3:33 PM.

END OF PUBLIC SESSION AGENDA