

**Physical Therapist Licensing Board
Board Meeting
April 1, 2005**

**MINUTES
Friday April 01, 2005**

Board Members Present: Cathy Zarosinski, PT, MS, Chair; Jerry Nickell, PT, Vice Chair; Nancy Wilson, PTA; Joana Freedman, PT; Pat Moore, MD, Physician Member

Board Members Absent: Daiva Banaitis, PT, PhD; Cindy Cunningham, Public Member

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

Legal Counsel: Carol Parks, AAG

PUBLIC HEARING RULE AMENDMENT

Cathy Zarosinski, Hearings Officer convened the public hearing at 8:37 AM. Ms. Zarosinski noted that the purpose of the hearing was to provide an opportunity for public comment on the Board's proposed 2005-2007 budget, Rule OAR 848-005-0010. Jim Heider, Board Executive Director noted that the Notice of Hearing was mailed to all Interested Parties; it was posted in the March 2005 Oregon Bulletin; it was posted on the Boards website; and, it was announced in the Spring 2005 Newsletter mailed to all Licensees on March 17, 2005. Because there was no one signed up to give testimony, Ms. Zarosinski asked Carol Parks, Board Legal Counsel, how long the Board should wait? Ms. Parks suggested the Board wait an additional 7 minutes to see if anyone showed up to testify. Mr. Heider noted that the deadline for written testimony was set for the close of business on Thursday, March 31, 2005. Mr. Heider further noted that the Board office had not received any written testimony in regards to this rule amendment. At 8:45 AM, Cathy Zarosinski, Hearings Officer, closed the hearing.

EXECUTIVE (CLOSED) SESSION

Citing ORS 192.660(2), at 8:35 AM Ms. Zarosinski convened the Board into Executive Session. Pursuant to ORS 192.660(2), 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 Counsel regarding pending contested case hearings.

The entire meeting, including the closed door meeting of the Executive Session, is recorded and labeled on Sides A and B of two recording tapes dated 04/01/05.

PUBLIC (OPEN) SESSION

Upon completion of the Executive Session, Ms. Zarosinski took the Board into Public Session for motions and additional business. The public and interested parties are invited to attend this portion of the meeting.

Board Motions

Rule Amendment

Motion by Joana Freedman to accept the Amendments to OAR 848-005-0010 Board Budget for the biennium 2005-2007.

Seconded by Nancy Wilson

Motion passed unanimously

Case PT 137-06/03

Motion by Joana Freedman to close case citing no violation.

Seconded by Nancy Wilson

Motion passed unanimously

Case PT 181-1/05

Motion by Joana Freedman to issue a Final Order by Default (Revocation of License).

Seconded by Nancy Wilson

Motion passed unanimously

Case PT 182-1/05

Motion by Joana Freedman to close case citing no violation.

Seconded by Nancy Wilson

Motion passed unanimously

Case PT 184-02/05

Motion by Joana Freedman to close case citing no violation.

Seconded by Nancy Wilson

Motion passed unanimously

Case PT 58

Motion by Joana Freedman to approve settlement and stipulation.

Seconded by Nancy Wilson

Motion passed unanimously

Orientation to New Binders for Board Members

Board staff assembled and introduced to Board Members new meeting binders. The binders will be maintained by Board staff and distributed to Board Members at the beginning of each meeting.

The binders are designed to hold current, commonly used references i.e., Statutes and Administrative Rules, and current open case information. The binders will be collected and held by staff at the conclusion of each meeting.

Direct Access Policy Issues

The Board staff reviewed current Direct Access policies and issues, with the Board, and after discussion and consideration the Board determined the following:

1. Certification date/period- An individual's initial certification period begin date will be the date the Board issues the certification to practice without referral following the receipt of the final piece of required documentation, including initial medical-screening course completion and/or healthcare provider CPR card.
2. The printed current certification period, including the certification begin and end date, will appear on the Licensee's license. This date will update with each new 3-year-certification period. The original initial certification date will be held on the licensure data base system.
3. For individuals who have graduated, within the prior 3 years of their application date for practice without referral, their initial certification period will begin as noted in (1) above; however, their initial certification period end date will be 3 years from their graduation date. This could make their initial certification period something less than 3 years.
4. For individuals completing the initial 12-hour-medical screening course, within the prior 3 years of their application date for practice without referral, their first certification period will be as noted in (1) above; however, their initial certification period end date will be 3 years from the date they took the course, or acquired the course DVD. This could make their initial certification period something less than 3 years.
5. The current Administrative Rules will be amended to require that a medical screening refresher course be completed by the end of any certification period, eliminating the 18-month timeframe currently in the rules.
6. The current Administrative Rules will also be amended to state that the initial medical-screening course shall be a minimum of 12 hours and that the medical-screening refresher course shall be a minimum of 6 hours.
7. Licensees who have already been given DA based on graduation date after 1998, and are not in compliance with the 3 year refresher course requirement based on their graduation date, will be exempt from discipline because of Board administrative error, but will be sent a letter requiring them to take the refresher course prior to 12/31/2005. Because of Board error, there will be no cost to these licensees for issuing a duplicate license.

Question from Miven Donato, PT- Re: Shoulder Manipulation under Anesthesia

Licensee would like to know where the Licensing Board stands with regards to a particular procedure as it relates to PT Scope of Practice. The issue involves manipulation under anesthesia (specifically, shoulder manipulation under anesthesia). Anesthesia encompasses general or blocks such as interscalene nerve block for shoulders. The anesthesia would be administered by an anesthesiologist (MD) and the manipulation performed by a PT who specializes in manual/manipulative therapy. Here is the scenario:

“The procedure is done in a medical clinic (in my case a pain specialist office). The medical physician (anesthesiologist) administers the anesthesia and the PT performs the manipulation of the shoulder. This is then immediately followed by ROM rehabilitation as usual. Advantages: 1) The patient benefits from this scenario primarily because it is more cost effective than one performed by an orthopedist in the hospital or surgery center, 2) The manipulation is more PT oriented and the functional outcome is likely to be better than the conventional medical approach”.

Answer: The Board determined that it was not within our Scope of Practice for a PT to provide manipulation under anesthesia. The Board expressed concern that in the scenario explained, the PT and anesthesiologist were working on the patient without the orthopedist involved. The Board felt strongly that this type of manipulation should not be done by a PT. The Board did, however, feel that Serial Casting and ROM, following a local block, is appropriate.

Question from Katie Vendrasco, PT Re: Biovalent Systems and Visceral Manipulation –

Are biovalent systems and visceral manipulation within the PT scope of practice?

Answer: The Board discussed the biovalent systems and determined that, similar to myofascial release and craniosacral therapy, it is within the Scope of Practice for PTs. Similar to visceral manipulation, it appears to work on the fascia surrounding the organs, with the goals of improving organ function.

Question from Merv Cole, PTA Re: New Rules

How much of the reassessment can a PTA participate in? Does the PT have to physically see the patient?

Answer: Yes, the PT must see the patient. Even though OAR 848-040-0155 requires that only a PT can perform a reassessment, the Board’s interpretation of the Rule allows for a PTA to participate in the reassessment, to the extent allowed by the PT based on PTs assessment of the PTAs knowledge, skills, and abilities, and prior treatment of the patient.

Question from Board Staff Re: Disclosure of Public Records

As Board policy, what should be considered as public record when the Board receives an inquiry into action taken by the Board against a licensee?

Answer: Regardless of caller’s specific or general inquiry regarding actions or sanctions against a Board licensee, Board staff will offer copies of all public documents related to a Board investigation. This will include cases that have public records where there was no final order, (i.e. a case where a Notice was issued and subsequently withdrawn). All requests for public records will go through the Board investigators.

Stacy Cochran, PT- Request for CEU Approval

Licensee requested approval for continuing education credits for a course titled “Spanish for Physical and Occupational Therapist”. The Board approved this course because it is geared specifically toward physical therapists and the delivery of PT services.

General Office Update

License renewal update

The Executive Director reported to the Board that the 2005-2006 renewals were completed with no backlog in processing. The Board processed 3574 renewals, noting 196 non-renewals compared to 214 non-renewals the prior year. Total renewal income was \$284,700 compared to \$248,165 the prior year. The increase is due primarily to the increase in the Practice Without Referral fee from \$15.00 to \$50.00.

New office phone system & numbers

The Executive Director informed the Board that the new phone system was to be installed April 1st. The Director provided the Board a copy of the new Board phone number, (971) 673-0200 and the direct dial lines for the Board staff. The Director indicated that the new Board numbers were published on the Board website at www.ptboard.or.us and will be published in the next Board Newsletter.

Office move update

Executive Director reported to the Board that the preliminary plans for the new space were approved by DAS and the other Health Related Licensing Boards. The target date for the move is still scheduled for August 2005. Again, this move is to accommodate the need for additional space, by the Board of Nursing, and none of the Health Related Licensing Boards, in Suite 407, should incur added expense because of the mandated move.

Letters from licensees

The Executive Director shared with the Board three personal letters: one from a licensee whom the Board had considered her Petition for Renewal; one from a licensee non-renewing because he was retiring; and, one from the partner of a former licensee who lost her life to cancer.

Board e-mail- Reminder, do not “reply to all”.

The Executive Director reminded the Board that, when responding to canvassed emails from the Board staff, they should respond directly, and only to, the sender. If they “reply to all” it could be interpreted as a meeting, subject to public meeting laws and notice.

Financial Report

Total Income is over budget by \$37,000

The Board’s current accounting system is on an accrual basis. When accounting on an accrual basis, instead of accounting for the actual receipt or disbursement of large income and expense items as they occur, you spread the projected income or expense equitably over the entire accounting period, in this case 12 months, 7/1/04-6/30/05.

The Board’s projected income for the fiscal year 04-05 is budgeted at \$309,800. This is accrued at \$25,816/month (\$206,533 to date). Actual income booked through 2/28/05 equals \$243,582; this creates the budget surplus of \$37,049.

January, February and March are license renewal months, and the Boards primary income months. March income is projected to be around \$95,000, and the income for the remaining fiscal period through 6/30/05 is estimated to be an additional \$30,000. This would bring the estimated total income for fiscal year 04-05 to \$368,582. The total budgeted 04-05 income is set at \$309,800. I estimate the Boards 04-05 income will be in surplus to budget by approximately \$60,000. This is due, in part, to the increase in the Practice Without Referral renewal fee from \$15 to \$50 (\$30,000), and the conservative initial budget projections on part of the Executive Director.

Total Expense is over budget by \$8,600

5100 Payroll Costs are \$24,400 over budget as a combination of several expense factors:

Expense Classification	Over Budget	Under Budget
Salaries	\$24,400	
Payroll Taxes	\$ 2,100	
Unemployment benefits	\$ 4,500	
PERS Bond Debt Obligation	\$ 7,000	
PERS Employer Admin		(\$5,700)
PEBB Medical Premiums		(\$5,200)
Employee Training		(\$1,500)
Board Stipends		(\$1,200)

Narrative: Salaries are over budget by \$24,400 due to the reclassification of the contract investigators fees from contracted services to hourly wage. (Note: the wage amount budgeted through 2/05, for contract investigator, was \$20,000. We are 20% over that budgeted amount, due to

the additional use of the contract investigator during the primary investigators 3-month family medical leave); payroll taxes are over budget by \$2,100, due to the application of the FICA rate of 7.65% to the over budgeted salaries; the final payments for the prior director’s unbudgeted unemployment claim this fiscal year total \$4,500; the new unbudgeted monthly PERS Debt Obligation Bond repayment totals \$7,000 to date; The PERS Employers rate is 2/3 the budgeted amount, due to the institution of the debt bonds (\$5,700); healthcare expense is down by (\$5,200), due primarily to an employee selecting the opt-out option; employee training expense is below projected amounts (\$1,500); and, Board stipends are below projected amount by (\$1,200), due to the Board Chairs election not to accept the stipend payments.

5600 Travel Cost is (\$4,800) under budget:

This is based on a monthly accrual of \$900 per month, with less than anticipated employee travel to date. The primary expense associated this year with travel is reimbursement of mileage, meals and lodging to Board members for meetings.

6100 General Office Expenses are (\$1,000) under budget:

This can be attributed primarily to Bank charge expenses accrued, but not yet incurred. This number will catch up with itself.

6195 Depreciation Expense is (\$1,600) under budget:

This is attributed to the auditor’s instruction to charge off all assets under \$5,000. Once the Board made the entries, there is no longer any depreciation expense to book.

6400 Contracted Services are (\$7,900) under budget as a combination of several expense factors:

Expense Classification	Over Budget	Under Budget
Attorney General Fees	\$9,800	
Audit Charges	\$4,300	
Other Services	\$1,600	
Investigators Fees		(\$20,000)
CPA Accounting Fees		(\$2,800)
Emp Hearing Officer Panel		(\$1,200)

Narrative: Attorney General Fees are over budget by \$9,800, due primarily to increased usage attributed to 6 requests and preparation or negotiation on contested case hearings, of which, all but two have been settled or

withdrawn, advisement on increase complaint activity, and Administrative Rules review and rewrite; 2003 Audit Charges were \$4,300, the audit, and the expense for the audit, was budgeted for fall of 2003, the expense was actually charged in July of 2004; the charges for Other Services \$1,600, represents payment for the cost of expert witness fees, and transcription fees not budgeted; the reclassification of the Contract Investigators fee to hourly wage, resulted in a reduction to this expense class of (\$20,000); the fees for CPA were budgeted at (\$2,800), however we have not had to use CPA service/advisement for the past 24 months; although the requests for contested case hearings is at an all-time high, Board and Board Counsel have avoided the actual expense of a hearing, saving (\$1,200) in this expense class.

6600 Background Checks are \$1,000 under budget:

This can be attributed primarily to background screening charges now being charged back to the applicants. This is an expense that is budgeted, but will no longer be incurred.

Future Budget Variance Concerns:

As we approach the end of the 2004-2005 fiscal year, other than the non-budgeted PERS Obligation Bond Debt repayment at \$1,000/month, and a projected surplus in income, I am not anticipating any other variance concerns.

With the proposed adoption of the 2005-2007 Budget, I have taken into account the PERS Obligation Bond Debt repayment, and adjusted projections for increase in fee income.

OPTA'S Proposed Legislation

The Board reviewed and discussed the OPTA's proposed amendments to House Bill 3260. The Board had a few noted exceptions. The Board instructed the Executive Director to work with the OPTA Legislative Committee to resolve the Board's concerns. If the Board's concerns were resolved, the Board would testify, in favor of the Amendments, at the Public Hearing to be held Friday, April 8, 2005.

Future Board Meeting Dates

June 3, 2005; August 5, 2005; September 30, 2005; December 2, 2005. Meeting dates, notices, and published minutes may be found on the Board website at www.ptboard.stateor.us.

Ratification of PT/PTA Licenses & Temporary Permits

The Board was presented with a list of new licensees for the period of February 4, 2005 through March 31, 2005. The Chair opened the floor, for discussion, with regards to the new licensees. Without noted discussion, the Board voted unanimously to ratify new licensees issued for the above-noted period.

Approval of Meeting Minutes

The minutes, from the February 4, 2005 Regular Board Meeting and the February 18, 2005 Emergency Board Meeting, were presented to the Board. The Chair opened the floor for discussion and comments. Without any noted discussion, the Board voted unanimously to accept the February 4, 2005 and February 18, 2005 Board Meeting Minutes, as submitted.

Call for Other New Business

No other new business.

Ms. Zarosinski adjourned the meeting at 1:41 PM.