

Physical Therapist Licensing Board

MEETING MINUTES

Friday August 05, 2005

Board Members Present: Cathy Zarosinski, PT, MS, Chair; Jerry Nickell, PT, Vice Chair; Nancy Wilson, PTA; Joana Freedman, PT; Daiva Banaitis, PT, PhD; Cindy Cunningham, Public Member

Board Members Absent: Pat Moore, MD, Physician Member

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

Legal Counsel: Carol Parks, AAG

EXECUTIVE (CLOSED) SESSION

Citing ORS 192.660(2) at 9:01 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 investigative cases, pending contested case hearings, Board policy and administration.

The entire meeting, including the closed door meeting of the Executive Session, is recorded and labeled on Sides A and B of three recording tapes dated 08/05/05.

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

Case PT 166a -5/04

Motion by Nancy Wilson to close case citing no violations.
Seconded by Cindy Cunningham
Motion passed unanimously

Case PT 166b-5/04

Motion by Nancy Wilson to close case citing no violations.
Seconded by Cindy Cunningham
Motion passed unanimously

Case PT 166c-5/04

Motion by Nancy Wilson to close case citing no violations.
Seconded by Cindy Cunningham
Motion passed unanimously

Case PT 166d-5/04

Motion by Nancy Wilson to close case citing no violations.
Seconded by Cindy Cunningham
Motion passed unanimously

Case PT 183a-01/05

Motion by Nancy Wilson to issue Proposed Notice of Disciplinary Action citing improper use of aides, improper billing practices, and record keeping violations. Proposing one week suspension of Licensee's license to practice; a civil penalty of \$5,000; two years license probation with Board scheduled reviews on use of aides and documentation reviews; attending a course regarding the independent/private practitioner's participation in the Medicare program; and a Board approved course in documentation; and, providing the Board with evidence of successful completion of both courses within six months of the execution date of the Final Order.
Seconded by Cindy Cunningham
Motion passed unanimously

Case PT 183b-01/05

Motion by Nancy Wilson to issue Proposed Notice of Disciplinary Action citing improper use of aides, and improper billing practices. Proposing a civil penalty of \$3,000.
Seconded by Cindy Cunningham
Motion passed unanimously

Case PT 183c-01/05

Motion by Nancy Wilson to issue Proposed Notice of Disciplinary Action citing improper use of aides, and improper billing practices. Proposing a civil penalty of \$3,000.
Seconded by Cindy Cunningham
Motion passed unanimously

Case PT 183d-01/05

Motion by Nancy Wilson to issue Proposed Notice of Disciplinary Action citing improper use of aides, and improper billing practices. Proposing one week suspension of Licensee's license to practice; a civil penalty of \$5,000; two years license probation with Board scheduled reviews on use of aides; attending a course regarding the independent/private practitioner's participation in the Medicare program; and, providing the Board with evidence of successful completion of the course within six months of the execution date of the Final Order.
Seconded by Cindy Cunningham
Motion passed unanimously

Case PT 138-6/03

Motion by Nancy Wilson to issue Proposed Notice of Disciplinary Action citing improper billing practices, and record keeping violations. Proposing one week suspension of Licensee's

license to practice; a civil penalty of \$5,000; two years license probation with Board scheduled reviews on record keeping and billing practices; attending a course regarding the independent/private practitioner's participation in the Medicare program; and, providing the Board with evidence of successful completion of the course within six months of the execution date of the Final Order.

Seconded by Cindy Cunningham

Motion passed unanimously

Case PT 189-4/05

Motion by Nancy Wilson to close case citing no violations.

Seconded by Cindy Cunningham

Motion passed unanimously

Case PT 196-7/05

Motion by Nancy Wilson to close case citing no violations.

Seconded by Cindy Cunningham

Motion passed unanimously

Case PT 195-7/05

Motion by Nancy Wilson to close case citing no violations.

Seconded by Cindy Cunningham

Motion passed unanimously

Case PT 197-7/05

Motion by Nancy Wilson to issue Stipulation and Final Order citing practice without a valid license, and assessing a civil penalty of \$375.00; and, providing proof of Licensee's letter to employer disclosing working without a valid license.

Seconded by Cindy Cunningham

Motion passed unanimously

Board Term Expirations

The Executive Director discussed, with the Board, the need to replace two Board positions: a PT Member in September 2005; and, a PT replacement for the Physician Member in January 2006. A third Board PT Member's position expires in November 2005; however, the incumbent has decided to volunteer for another four year term. The Director shared, with the Board, the three nominees for the open positions as presented by the OPTA. The OPTA's nominees Interest Forms, along with additional interested parties, and a recommendation letter from the Board, will be sent to the Governor's Office of Executive Appointments following the September 30, 2005 Board meeting. The Board Member whose term expires September 15, 2005, will remain on the Board until a successor has been selected.

Staffing Considerations/Issues

Executive Director discussed the current options to meet the temporary staffing needs of the Board. The Board gave the Director the authority to use temporary support or contracted support until a more permanent staffing plan is presented to the Board for approval.

New Practice Act Effective 01/01/06

The Board discussed the many aspects of the Enrolled version of HB 3260, the new PT practice act to be effective 01/01/06. The Executive Director presented a cursory summary of the new Act's impact on the current Administrative Rules. The Board approved the Director's plan to pull together a Rules Advisory Committee and a Continuing Education Sub-Committee to address the need for change, and to update the current Administrative Rules.

Referrals From Certified Nurse Midwives(CMN) and Direct Entry Midwives (DEM)

If a Nurse Midwife is licensed as a Nurse Practitioner, and has the title NMNP, then a PT can take a referral from him or her. But, they must be licensed as a Nurse Practitioner/Nurse with the Nursing Board. If it is a Direct Entry Midwife (DEM), licensed with the Health Licensing Office, then NO, a PT can not take a referral from them. Nurse midwives are not required to be licensed by the state; so, according to the PT Board Statutes, in order for the referral to be valid, it must be from a Midwife that is licensed as a Nurse Practitioner.

Next Generation TOEFL (Test of English as a Foreign Language)

The Board discussed the new internet based iBTTOEFL to become effective in the US on September 24, 2005. The new test will be phased in with the US first; followed by, Canada, France, Italy and Germany in October 2005; and the rest of the world in 2006. Currently, the Board requires proof of English proficiency from all foreign PT applicants, unless they provide evidence that their native language is English, and their PT program was taught in English. The Board reviewed the new passing rates, as proposed by the Healthcare Review Panel, and gave the Board's Delegate, to the FSBPT National Conference, the approval to vote in favor of the proposed scores for the Oregon Board. Lastly, the Board instructed the Executive Director to write a temporary Administrative Rule, to present at the September 30th Board meeting, that will be generic enough to encompass the use of the new TOEFL scores and, at the same time, recognizing the former scores during the transition period.

General Office Update

- **Office move update**

The Executive Director reported, to the Board, the scheduled office relocation to the old pharmacy board space has been cancelled. This was due to lack of funding and support from the 2005 Legislative Assembly in their review of the Nursing Board's 2005-2007 budget and specific request for additional space and monies to fund the move.

- **New IT Support Contract, Confuzer Inc.**

The Suite 407 Health Professional Licensing Boards signed a new IT service contract with Confuzer, Inc. Grant Moyle, President of the company, and his staff installed new server equipment that will allow the Boards to run their own systems; no longer dependent on the Nursing Board’s on-going IT support. After the initial investment, the maintenance costs for the Boards will be less. The functionality has already increased and the confidence level is very high that the needs, of the small Boards, are now priority to the service technicians. The Boards now have remote access capabilities to e-mail (soon to desktop files and the licensure data base), and better spam and junk mail controls.

- **SB 405 Semi-Independent Boards Authority to Borrow Money**

The Executive Director shared, with the Board, the letter from Governor Kulongoski expressing his thoughts and reasons for veto of SB 405. SB 405 would allow Semi-Independent Agencies to borrow money, with the primary interest to buy real estate. This was a Semi-Independent Board Administrators (SIBA) sponsored bill that the PT Board purposefully chose not to support.

Financial Report

Total Income is over budget by \$75,600

This overage is due, in part, to the increase in the Practice Without Referral renewal fee from \$15 to \$50 in fiscal year '04-'05, (\$28,300); and, the conservative initial budget projections on part of the Executive Director for PT and PTA Applications (\$15,500), PT and PTA Renewals (\$18,900), PT Civil Penalties (\$8,100), and Verifications and Mailing Lists (\$4,800).

Total Expense is over budget by \$7,400

5100 Payroll Costs are \$34,400 over budget as a combination of several expense factors:

Expense Classification	Over Budget	Under Budget
Salaries	\$34,800	
PERS Bond Debt Obligation	\$11,500	
Payroll Taxes	\$ 3,300	
Unemployment Benefits	\$ 4,500	
PEBB Medical Premiums		(\$9,000)
PERS Employer Admin		(\$6,900)
Employee Training		(\$1,900)
Board Stipends		(\$1,900)

Narrative: Salaries are over budget, by \$34,800, due to the reclassification of the contract investigator’s fees from contracted services to hourly wage, (Note: The fee amount budgeted, through 6/05, for contract investigator was \$30,000. The Board is 16% over that budgeted amount due to the additional use of the contracted investigator during the primary investigator’s 3-month family medical leave); payroll taxes are over budget, by \$3,300, due primarily 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; and, the new unbudgeted monthly PERS Debt Obligation Bond repayment totals \$11,500 for the fiscal year. The PERS Employers rate is 2/3 the budgeted amount due to the institution of the debt bonds (\$6,900); healthcare expense is down, by (\$9,000), due primarily to an employee selecting the opt out option; employee training expense is below projected amounts (\$1,900); and, Board stipends are below projected amounts, by (\$1,900), due to the Board Chair's election not to accept the stipend payments.

5600 Travel Cost are (\$7,100) under budget.

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

6100 General Office Expenses are \$1,800 over budget.

This variance is due primarily to the printing expense associated with the new Administrative Rules, and the unbudgeted, unanticipated excess charge for Board liability insurance.

6195 Depreciation Expense is (\$2,400) 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 (\$19,200) under budget as a combination of several expense factors:

Expense Classification	Over Budget	Under Budget
Attorney General Fees	\$11,000	
Audit Charges	\$ 4,300	
Other Services	\$ 1,600	
Computer Support	\$ 900	
Investigators Fee		(\$30,000)
CPA Accounting Fees		(\$4,200)
Emp Hearing Officer Panel		(\$2,600)

Narrative: Attorney General Fees are over budget, by \$11,000, due primarily to increased usage attributed to 6 requests and preparation or negotiation on contested case hearings. All but two of these cases have been settled or withdrawn, one of the two pending cases is staff intensive; legal 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, represent payment for the cost of expert witness fees and transcription fees not budgeted; the charges for Computer Support are over budget, by \$900, due to additional unplanned data base updates. The reclassification of the Contract Investigator's fee to hourly wage, resulted in a reduction to this expense class of (\$30,000); the fees for CPA were budgeted at (\$4,200), however, we have not used 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 (\$2,600) in this expense class.

Fiscal Year '04-'05 Summary:

The original '04-'05 Budget projected a fiscal year-end spending deficit of (\$60,500). Because income was over plan by, \$75,600, and expenses only slightly over plan, by \$7,400, the net impact to Board reserves is only (\$7,700) for fiscal year-end '04-'05.

For the '03-'05 Biennium, the Budget projected a period-end spending deficit of (\$121,200). Because the Biennium income was over plan by, \$97,000, and the Biennium expenses under plan, by (\$14,100), the net impact to Board reserves is only (\$10,100) for Biennium period-end '03-'05.

Future Board Meeting Dates

September 30, 2005 & December 2, 2005. Meeting dates, 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 Board was presented with a list of new licensees for the period of June 03, 2005 through August 04, 2005. The Chair opened the floor, for discussion, with regards to the new licensees. Without noted discussion, the Board voted unanimously to ratify the new licensees and permit holders for the above-noted period.

Approval of Meeting Minutes

The Minutes, from the June 03, 2005 Regular Board Meeting, and the July 13, 2005 Special 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 June 3rd and the July 13th, 2005 Board Meeting Minutes, as submitted.

Call for Other New Business

The Executive Director shared, with the Board, a letter from an exam licensee applicant. The letter praised the Oregon PT Board for their efficiencies in the application process; noting problems her friends of her were having with the application process in Washington State. "Oregon makes the process simple and easy."

Ms. Zarosinski adjourned the Meeting at 3:02 PM.