

**Oregon Physical Therapist Licensing Board  
Board Meeting  
September 12, 2006**

**MINUTES**

**Tuesday, September 12, 2006**

**Board Members Present:** Jerry Nickell, PT, Chair; Joana Freedman, PT, Vice Chair; Steve Alstot, PT; Jason Fiske, PT; Daiva Banaitis, PT, PhD; Nancy Wilson, PTA; Cindy Cunningham, Public Member

**Staff:** James Heider, Executive Director; Sherri Paru, PT, Clinical Advisor/Investigator; Mindy Tucker, Contract Investigator

**Legal Counsel:** Carol Parks, AAG

**PUBLIC (OPEN) SESSION**

Chair Nickell called the meeting to Order in Public Session at 8:30 AM. 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.

**Therapists in an Educational Setting Administrative Rule Committee Presentation**

Diana Godwin, Attorney at Law, Committee Member, presented, to the Board, a document created by the Administrative Rule Committee. The document presented (See Attachment P-2) proposed changes, to the current Board Administrative Rules, relevant to the uniqueness of therapy practice in an educational setting. Upon completion of Ms. Godwin's presentation, with a few exceptions, the Board instructed Staff to continue the rule making process, by drafting the proposed rule changes, and presenting the proposed language to the Board at its November 3, 2006 Board Meeting.

**EXECUTIVE (CLOSED) SESSION**

Citing ORS 192.660(2)(k), at 10:28 AM, Board Chair, Jerry Nickell convened the Board into Executive Session. 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**

Upon completion of the Executive Session, Mr. Nickell brought the Board back into Public Session for Motions and additional 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 219-7/06**

Motion, by Steve Alstot, to close case citing no violation  
Seconded by Nancy Wilson  
Motion passed unanimously

#### **Case PT 138-8/05**

Motion, by Steve Alstot, to accept and execute the Stipulated and Final Order, as presented by Licensee's Counsel and signed by Licensee.  
Seconded by Nancy Wilson  
Motion passed unanimously

#### **Case PT 223-9/06**

Motion, by Steve Alstot, to grant licensure and issue an Advisory Letter citing Board concern for lack of full disclosure.  
Seconded by Nancy Wilson  
Motion passed unanimously

### **Question Regarding CEU Approval for MBA**

Upon consideration, the Board determined that the particular MBA program, in question, was related to the delivery or provision of physical therapy services, and would be eligible for continuing education credit under Board Rule.

### **General Topics/Business**

- 1) FSBPT Conference
  - Director Heider shared, with the Board, the Motions as presented and voted on by the Board Delegate, Chair Nickell.
  - Vice Chair Freedman shared, with the Board, several new programs, concepts and ideas with regards to current licensing and regulatory programs.
- 2) Change to License Print Program
  - Director Heider presented, to the Board, two options for the removal of the mailing address from the front of the printed license. The Board approved the proposed changes to the licensure print program.

### **Future Board Meeting Dates**

As established, by the Board, the future Board meeting dates are as follows: November 3, 2006; and, January 5, 2007. Director Heider presented, to the Board, proposed meeting dates for 2007 and asked the Board to review and be prepared to confirm at the November 3, 2006 Board Meeting. Meeting dates, Notices, and published Minutes may be found on the Board website at [www.ptboard.state.or.us](http://www.ptboard.state.or.us).

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

The Board was presented a list, of new licensees, for the period of July 14, 2006 through September 11, 2006. 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 July 14, 2006 Board Meeting, and the August 14, 2006 Special Board Meeting, were presented to the Board. The Chair opened the floor for discussion and comments. With no noted changes, the Minutes were approved as written.

### **Other New Business**

1. Director Heider reported to or shared with the Board:
  - Reset of work stations has been completed
  - New file cabinets received and file project completed
  - Results of the Oregon Health Care Workforce Needs Assessment 2006
  - Information regarding the FSBPT Board Members Training Program
2. Director Heider asked for and received Board consensus on the reappointment of Nancy Wilson, on the Board, as the PTA Member. Director Heider will contact Governor's Office for Executive Appointment and start procedure to reappoint Nancy Wilson to the Board.
3. Director Heider reported, to the Board, new capabilities to scan and post final orders, with related public records, on the Board website or, at minimum, as an electronic file to provide to public and interested parties upon request. The Board approved Director Heider's request to proceed with this project.

With no additional other new business cited, Board Chair, Mr. Nickell, adjourned the Board Meeting at 2:45 PM.

NOTE: To review this document in its entirety, see Attachment P-2 below.

**ATTACHMENT P-2**

**RECOMMENDATIONS OF THE RULES ADVISORY COMMITTEE  
REGARDING THERAPISTS IN A SCHOOL SETTING**

<b>DIVISION</b>	<b>RULE</b>	<b>SUMMARY OF PROPOSED RULE AMENDMENTS OR ADDITIONS (Note: New language to be added is <u>underlined</u> and existing language to be deleted is in [brackets] and <i>[italics]</i>).</b>
Division 1	No Changes Proposed (See note below)	
Division 5	No Changes Proposed	
Division 10	No Changes Proposed (See note below)	
Division 15	848-015-0010	Add new subsection (3) to define "patient" as including a student in a school setting, a child receiving early intervention services, a resident of a care facility, or an animal.
	848-015-0020(1), (2) & (3)	Amend to read as follows:  (1) <u>For purposes of the provision of physical therapy services</u> a physical therapist assistant shall practice solely under the <u>clinical</u> supervision and direction of a physical therapist.  (2) A physical therapist assistant may provide <u>physical therapy</u> treatment only when a supervising physical therapist is available. As used in this rule "available" means that at all times a supervising physical therapist is readily accessible for consultation with the assistant, either in person or by means of telecommunications.  (3) A physical therapist assistant may provide <u>physical therapy</u> treatment only after a physical therapist has performed an initial evaluation and prepared a plan of care. <u>"Plan of care" may include the individualized family services plan ("IFSP") or in a school setting, "plan of care" may include the individualized education plan ("IEP") for the student.</u>
	848-015-0020	Add new subsection (6) to permit a PTA to provide

		limited services to a student in a school setting, to include consultation for purposes of coordination of care, screening, instruction in physical management techniques for a teacher or education or instruction assistant or aide, even though a PT has not yet done a re-assessment or new evaluation of the student.
Division 20	848-020-0000(1)	Amend to read as follows: (1) "Physical therapist aide" or "aide" means a person who is not licensed as a physical therapist or physical therapist assistant, who aids a physical therapist or physical therapist assistant by performing treatment-related tasks or by performing non-treatment, patient-related tasks. <u>Although they may be providing services to a patient pursuant to direction or instruction from a physical therapist or physical therapist assistant, the following persons are not considered physical therapist aides:</u> <u>(a) educational or instructional aides or assistants working in a school setting; and</u> <u>(b) nurses aides, restorative aides or personal care assistants.</u> Persons performing facility maintenance, equipment assembly and maintenance, housekeeping, clerical, or other similar tasks are not considered aides.
Division 40	848-040-0100	Update and add new definitions to this section for "patient", "plan of care", IEP, IFSP, "record", "permanent record", "consultation", "screening", "monitor" and "student".
	848-040-0110(1)	Change "an" to "and" to correct typographical error
	848-040-0110(3)	Re-order to be subsection (2) and amend to read: <del>[(3)]</del> (2) The <u>permanent</u> record shall be prepared on the date of service.
	848-040-0110(2)	Re-order to be subsection (3) and amend to read: <del>[(2)]</del> (3) <del>[The]</del> A record shall be prepared on the date of service.
	848-040-0110(4)	Delete subsection (4) because it is redundant and re-number remaining subsections.
	848-040-0110(6) (re-numbered as (5))	Amend to read as follows: <del>[(6)]</del> (5) Non-licensees, including <u>physical therapist aides</u> , may prepare <u>physical therapy</u> treatment-related entries for the <u>permanent</u> patient record for authentication by the treating licensee. The requirement for authentication shall not apply to records not related to treatment.

	848-040-0110 new (6)	Add a new subsection (6) to read as follows: <u>(6) The permanent record of a patient treated by a licensee may also include entries or information of services provided by non-licensees, such as persons who are members of a student's IEP/IFSP team or persons providing early intervention services to a pre-school age child. The requirement for authentication shall not apply to such entries or information.</u>
	848-040-0110(7)	Amend to read as follows: (7) Either the permanent record or <i>[the]</i> <u>a</u> record prepared on the date of service shall be readily accessible to a licensee prior to when that licensee provides subsequent treatment to the patient. <u>"Readily accessible" means the licensee is able to produce the record immediately upon request.</u>
	848-040-0110(8)	Amend to read as follows: (8) All entries shall be legible and <u>permanent</u> handwritten records shall be in ink.
	848-040-0110(10)	Amend to read as follows: (10) When an error in <i>[a]</i> <u>the permanent</u> record is discovered, the error shall be identified and corrected. The erroneous entry shall be crossed out, dated and initialed or otherwise identified as an error in an equivalent written manner by the author of the erroneous entry.
	848-040-0110(11)	Amend to read as follows: (11) Late entries or additions to entries <u>in the permanent record</u> shall be documented when the omission is discovered with the following written at the beginning of the entry: "late entry for (date)" or "addendum for (date)" and authenticated;
	848-040-0117(3)(a)	Amend to read as follows: (3)(a) The individual is a child or a student eligible for special education, as defined by state or federal law, <u>or eligible under Section 504 of the federal Rehabilitation Act of 1973,</u> and is being seen pursuant to the child's or the student's individual education plan or individual family service plan;
	848-040-0125(1), (2) & (3)	Amend to read as follows: (1) Prior to initiating the first physical therapy treatment, a physical therapist shall perform an initial evaluation of each patient and determine a plan of care as provided in OAR 848-040-0135. <u>A physical therapist may provide consultation screening services for a patient prior to an initial evaluation and such service shall not constitute the initiation of physical therapy treatment for purposes</u>

		<p><u>of this section.</u></p> <p>(2) In the course of performing an initial evaluation the physical therapist shall examine the patient, obtain a history, perform relevant system reviews, assess the patient's functional status, select and administer specific tests and measurements and formulate clinical judgments regarding the patient. <u>A physical therapist may incorporate by reference medical history or system review information about the patient prepared by another licensed medical provider.</u></p> <p>(3) Only a physical therapist may perform an initial evaluation. A physical therapist shall not delegate the performance of an initial evaluation to a physical therapist assistant or to an aide. (No Changes)</p>
	848-040-0130(4), (5) & (9)	<p>Amend subsections (4), (5) and (9) to read as follows:</p> <p>(4) Pertinent medical <u>or physical therapy</u> diagnoses, medications if not otherwise accessible in another part of the patient's medical record, history of presenting problem and current complaints and symptoms, including onset date;</p> <p>(5) Prior or concurrent services related to the <u>[present episode of physical therapy care] provision of physical therapy services;</u></p> <p>(9) Patient's goals (with family input <u>or family goals</u>, if appropriate). <u>Goals may be as provided in an applicable ISP or IFSP.</u></p>
	848-040-0135(1), (3) & (5)	<p>Amend subsections (1), (3) and (5) to read as follows:</p> <p>(1) Prior to initiation of treatment, <i>[the physical therapist who performed the initial evaluation shall determine]</i> a <u>physical therapy</u> plan of care for the patient <u>shall be determined by a physical therapist.</u></p> <p>(3) <i>[The]</i> <u>A</u> physical therapist shall identify appropriate treatment tasks to be delegated to a physical therapist assistant or aide.</p> <p>(5) <i>[The]</i> <u>A</u> physical therapist shall make modifications to the plan of care any time there are significant changes in the patient's condition or status that would affect the <u>physical therapy goals.</u></p>
	848-040-0145(3)	Amend to read as follows:

		(3) <u>Except as provided in OAR 848-040-0155(1)(b),</u> a physical therapist or physical therapist assistant shall not continue to provide treatment to a patient unless a reassessment has been performed when required by OAR 848-040-0155.
	848-040-0155(1) & (2)	Reverse the order of existing subsections (1) and (2) and further amend them to read: <del>[(2)]</del> (1) <u>The physical therapist shall perform a reassessment for each patient.</u> In the course of performing the required reassessment, the physical therapist shall <u>personally</u> examine the patient, assess the patient's functional status, select and administer specific tests and measurements, and formulate clinical judgments regarding the patient.  <del>[(1)]</del> (2) The physical therapist shall perform a reassessment for each patient: (a) At least every 30 days, or at every visit if the patient is seen less frequently; (b) <del>[At least every 60 days if the patient is being treated in an educational setting; or]</del> <u>At least every 60 school days if the student/child is being treated in an educational setting or at the physical therapist's next scheduled visit with the student/child if the scheduled visit is less frequent;</u> <u>or</u>
Division 45	No Changes Proposed	
Division 50	No Changes Proposed	

**NOTE:**

In addition to the rule changes suggested by the current Advisory Committee, there are several "administrative" rule changes that need to be made. They are:

**848-001-0010 Time for Requesting a Contested Case Hearing**

A request for a contested case hearing must be in writing and must be received by the Board within twenty-one (21) days from the date the *[contested case notice]* proposed notice of disciplinary action was served.

**848-010-0015 Examinations**

Amend subsections (3)(b)(C) to read as follows:

(C) Verification that the applicant has achieved the following minimum scores for each category of the new internet based TOEFL (ibTOEFL) examination: writing, 24;

speaking, 26; reading, [18] 21; listening [21] 18; with an overall score of not less than 89.

#### **848-010-0033 Yearly Renewal of License Required**

Add a new subsection (6) to read as follows:

(6) Each currently licensed physical therapist and physical therapist assistant must complete the continuing education as provided in Division 35 of these new rules by March 31<sup>st</sup> of each even-numbered year.

#### **848-010-0035 Renewal of Lapsed Licenses**

Amend subsection (1) to read as follows:

(1) Any license that is not renewed before April 1 of each year shall automatically lapse. No person whose license has lapsed shall practice until the license is renewed. Failure to receive a renewal notice shall not excuse any licensee from the requirements of renewal. The Board may renew any lapsed license upon payment of all past unpaid renewal and delinquent fees, and documentation of completion of the continuing education requirements for the prior certification period as provided in Division 35 of these rules.