

**Physical Therapist Licensing Board
Board Meeting
December 03, 2004**

MINUTES

Friday December 03, 2004

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

Board Members Absent: None

Staff: James Heider, Executive Director; Sherri Paru, PT Clinical Advisory/Investigator
Frank Mussell Contract Investigator

Legal Counsel: Carol Parks, AAG

Pursuant to ORS 192.660 (1)(k) Cathy Zarosinski, Board Chair, convened the meeting in Executive Session at 8:32.AM. The Board considered legal advisement from Counsel regarding the pending Administrative Rule changes. Following Counsel's advisement, Ms Zarosinski adjourned Executive Session and re-convened the meeting in Public Session.

Topic-Board Public Testimony Propose Administrative Rule Changes

The Board reviewed the minutes of the 10/22/04 public hearing on the proposed Administrative Rule changes and a summary of each piece of testimony presented at the Hearing and in the Board office. The Board considered each piece of testimony and, based on that discussion, voted to amend, repeal, or adopted each of the proposed rule changes. The Board's detailed discussion of each proposed rule change, and Board consideration of the public testimony, can be heard on Tape 1, Side A from the 12/03/04 Board Meeting. Also, a copy of the Minutes from the 10/22/04 Proposed Rule Change Public Hearing are published on the Board website, www.ptboard.state.or.us .

Case PT-90-4/02- Dan Taylor, LMT

The Board considered the Investigative Report with regards to a complaint filed, against Mr. Taylor, alleging he was practicing physical therapy, which is beyond his scope of practice. The Board found no violation and voted to close the case.

Topic- Miquel Alonso-Diez, Foreign Educated PT

Mr. Heider reported that Mr. Alonso-Diez had successfully completed his clinical internship, with Sacred Heart Medical Center, and would be applying for licensure by examination.

Topic-Sean M. Roach, PT- Petition for Medical Screening Course Approval

Mr. Roach requested the Board's approval of the Differential Diagnosis course taught, by Rocky Mountain University, as the pre-requisite 12-Hour Initial Medical Screening

course required for Certification to Practice Without Referral. After consideration of the course syllabus, the Board did not approve the Differential Diagnosis course, in itself. However, the Board did approve completion, of the Rocky Mountain University Transitional DPT program, as satisfying the content requirement for the 12-Hour Initial Medical Screening Course.

General Office Update

DAS Proposed Move of Suite 407 Boards-Mr. Heider reported on the status of the proposed move of the health related licensing Boards out of Suite 407. Initial plans have been approved by DAS and reviewed with the various Boards. The Boards would remain on the 4th floor of the PSOB and take the space currently occupied by the Pharmacy Board. The Suite number would not change, saving the cost of printing new business cards, letterhead, etc. Preliminary floor plans have been developed and the anticipated move date is targeted for August 2005.

Joint Legislative Audit Committee Report to Governor-The Review of Small Regulatory Agencies Report was finalized and presented to the Governor's Committee on December 1, 2004. For a complete copy of the Report, contact the State of Oregon, Legislative Fiscal Office.

Proposed Board Policies and Procedures for handling of complaints- Mr. Heider presented an outline, to the Board, of proposed policies and procedures for handling of incoming complaints against licensees. The Board approved the outline, and Mr. Heider will complete the details to present to the Board at its February 04, 2005 Board meeting.

Renewals-Mr. Heider reported that the renewal process is on schedule. All the stock has been ordered and received; the form updates are pending the outcome of the proposed Administrative Rule changes. The actual renewal forms will be printed 12/16 & 12/17, and all renewal applications will be mailed out to licensees the week of 01/03/05.

2005-2007 Budget-Mr. Heider will present a preliminary 2005-2007 Budget, to the Board, at its February 04, 2005 Board meeting. The Notice of Hearing will immediately follow and is scheduled as part of the April 01, 2005 Board meeting public session. The effective date of the new Budget will be July 1, 2005.

Re-appointment of Dr. Moore as Physician Board Member-Dr. Moore's first term, as Physician Board Member, expires on March 31, 2005. Dr. Moore agreed that he would be interested in serving a second term. The Board approved Mr. Heider's request to start re-appointment procedures for Dr. Moore.

Topic-Board Financial Report Narrative

Mr. Heider presented, to the Board, a Financial Report covering the period 7/01/2004 through 10/31/2004. The narrative of that report is as follows:

4000 Actual Gross Profit is (\$74,241) under budget

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 that 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 fiscal year '04-'05 is budgeted at \$309,800. This is accrued at \$25,816/month (\$103,267 to date). Actual income booked to date equals \$29,025; this creates the budget deficit of (\$74,242). The vast majority of that income will actually be received Jan-Mar '05.

This is not an item for concern at this point.

5100 Payroll Costs are \$11,405 over budget

Payroll Costs are over budget, by \$11,405, as a combination of several expense factors: salaries are over budget, by \$9,834, due to the reclassification of the contract investigators paid from contracted services to hourly wage (Note: the wage amount budgeted through 10/31 for investigative contract services is \$10,000, so we are on budget), the dollars are just reclassified; the final payments for the prior director's unbudgeted unemployment claim this fiscal year total \$4,486; the new unbudgeted monthly PERS Debt Obligation Bond repayment totals \$3,510 to date; the Board healthcare expense is down by (\$2,606), due primarily to the opt out option; PERS is down by (\$2,219) because of no salary increases and no salary paid for FMLA leave during August; and, training and Board stipends are down by (\$1,400) jointly.

5600 Travel Cost are (\$2,364) under budget

This is purely based on a monthly accrual of \$99 per month and no expense to date.

6190 Dues and Subscriptions are \$1,667 over budget

In October, we paid the Board annual membership dues of \$2,500 to the FSBPT, we are accruing \$208 per month to cover this cost.

6400 Contracted Services are \$1,720 over budget

Contracted Services are over budget, by \$1,720, as a combination of several expense factors: the reclassification of the contract investigator's pay from contracted services to hourly wage, resulted in a reduction to this expense class of (\$10,000); the fees for CPA were budgeted at (\$1,400), however, we have not had to used CPA service/advisement for the past 18 months; legal fees are over budget by \$8,540, due primarily to increased usage attributed to 4 contested case hearings (all pending completion), complaint activity, and administrative rules review and rewrite. The fee for outside audit services came in at \$4,312, for the fall 2003 bi-annual financial audit that was budgeted for in 2003; lastly, we had a non-budgeted IT support item costing \$260.

6600 Background Checks are \$1,040 over budget

This is a matter of timing, again. By the end of the '04-'05 fiscal year, we should be in a break even-position.

Future Budget Variance Concerns:

The Board will continue to experience the impact of the non-budgeted PERS Obligation Bond Debt repayment at \$1,000/month. In addition, we have opened three new requests for contested case hearings. This will continue to escalate the costs for contracted services to include legal fees and expert witness fees. In addition, the costs for use of the Employment Department Hearings Officer Panel will exceed projections.

*** If the new rule requiring license application candidates to pay for their own background check takes affect in January '05, the Board will be over accrued for the fiscal year in this expense class.

Topic-Terry Rose, PT Rehab Director Generations Therapy

Mr. Rose presented, to the Board, a description of his facility and a program called, "Fit as a Fiddle," which is essentially a restorative/maintenance program carried out by restorative aides. Mr. Rose's question was, "Does the PT doing the initial evaluation, prior to program participation, need to have Direct Access"? The answer to Mr. Rose's question is, "No". The physical therapist is exempt from having Direct Access, as per OAR 848-030-0010 (2)(b)(C). Town Center Village qualifies as a residential facility; therefore, the PT does not need to have Direct Access.

Ratification of PT/PTA License & Temporary Permits

The Board was presented with a list of new licensees issued for the period of October 01, 2004 through December 02, 2004. The Chair opened the floor, for discussion, with regards to the new licensees. Without noted discussion, the Board voted unanimously to ratify new licenses issued for the above-noted period.

Topic-October 01, 2004 Board Meeting Minutes

The minutes, from the October 01, 2004 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 October 01, 2004 Board Meeting Minutes, as submitted.

Topic-October 22, 2004 Proposed Administrative Rules Hearing Minutes

The Minutes, from the October 22, 2004 Proposed Administrative Rules Hearing, 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 October 22, 2004 Proposed Administrative Rules Hearing Minutes, as submitted.

Future Board Meeting Dates

Dates are set for the first three Board Meetings to be held in 2005. The dates are: Friday, February 4, 2005; Friday, April 1, 2005; and Friday, June 3, 2005. These meetings are currently scheduled to be held in Room 445 of the PSOB, located at 800 NE Oregon Street, and will begin promptly at 8:30 AM.

Topic-Robert Jensen, PT

Mr. Jensen is a licensed PT in the State of Washington. Mr. Jensen currently has restrictions, on his WA practice license, and has petitioned the Oregon Board for consideration of his endorsement application in Oregon. The Board would not review Mr. Jensen's case, citing that he is not eligible to make application in Oregon, because his current license, in Washington, is not in "good standing" OAR 848-010-0020(5).

Board Issue/Question

The new proposed rule OAR 848-010-0015(3), removes the requirement for foreign-educated physical therapists to hold a current license in the country in which they received their education. Even though the proposed rule does not require therapists to hold a current license, if they did, shouldn't the Board require a copy of the license, whether current or not? We now do this with domestic endorsement applicants to assure they are/were in good standing. It was determined that, as with any previously licensed practitioner, the Board would still require proof of good standing if a license was held. Further, it could be considered part of Board policy to require this documentation. However, the Board instructed Mr. Heider to consider writing the requirement into the next set of rule changes.

EXECUTIVE (CLOSED) SESSION

Pursuant to ORS 192.660 (1)(k), Ms. Zarosinski took the Board into Executive Session to discuss licensee investigations.

The Board reviewed investigatory information regarding pending cases and new complaints.

The closed door meeting of the Executive Session is recorded and labeled on sides A and B of three recording tapes dated 12/03/04.

Upon completion of the Executive Session, Ms. Zarosinski took the Board back into Public Session for motions and additional business.

Board Motions

Case PT 79-03/02

Motion, by Nancy Wilson, to issue a Stipulated and Final Order revoking the Licensee's license, and prohibiting licensee from reapplying to the Oregon Board for a period of five years from the date the Stipulated Order is executed by the Board.

Seconded by Joana Freedman

Motion passed unanimously

Case PT 174a-10/04

Motion, by Nancy Wilson, to issue a Stipulated and Final Order, imposing a civil penalty of \$562.50, for practicing physical therapy without a valid license.

Seconded by Joana Freedman

Motion passed unanimously

Case PT 174b-10/04

Motion, by Nancy Wilson, to issue a Stipulated and Final Order, imposing a civil penalty of \$2,000.00, for allowing the practice of physical therapy without a valid license.

Seconded by Joana Freedman

Motion passed unanimously

Case PT 149-09/03

Motion, by Nancy Wilson, to close the case citing no violations.

Seconded by Joana Freedman

Motion passed unanimously

Case PT 175-11/04

Motion, by Nancy Wilson, to issue a Notice of Proposed Discipline and a Stipulated and Final Order, imposing a civil penalty of \$5,000, probation with conditions for 1 year, licensee subject to random documentation audit by the Board.

Seconded by Joana Freedman

Motion passed unanimously

Case PT 158b-04/04

Motion, by Nancy Wilson, to withdraw Notice and close the case.

Seconded by Joana Freedman

Motion passed unanimously

Case PT 161b-04/04

Motion, by Nancy Wilson, to withdraw Notice and close the case.

Seconded by Joana Freedman

Motion passed unanimously

Case PT 168-6/04

Motion, by Nancy Wilson, to issue Amended Notice of Proposed Discipline, citing additional violation of unethical and unprofessional conduct.

Seconded by Joana Freedman

Motion passed unanimously

Additional New Business

Ms. Zarosinski asked for any other business.

Ms. Zarosinski adjourned the meeting at 3:30 PM.