

**Physical Therapist Licensing Board
Board Meeting
February 29, 2016
MINUTES**

Monday, February 29, 2016

Board Members Present: Richard Rutt, PT, Chair; Ruggie Canizares, PT, Vice Chair; Phil Haworth, PT Member; Aubree Benson, PT Member; Jennifer Julkowski, PTA Member; Carol Sutton, Public Member, Troy Costales, Public Member

Board Members Absent: Alan McAvoy, PT Member

Staff: James Heider, Executive Director; Sherri Paru, PT, Clinical Advisor/Investigator; Rick Sullivan, PTA, Licensing Coordinator

Legal Counsel: Joanna Tucker Davis, AAG

EXECUTIVE (CLOSED) SESSION

At 8:32 AM Chair Rutt convened the Board into Executive Session. Citing ORS 192.660(2)(f) and ORS 192.660(2)(L), this portion of the Meeting is closed to the public.

At 1:47 PM Chair Rutt adjourned Executive Session.

At 3:46 PM Chair Rutt reconvened the Board into Executive Session. Citing ORS 192.660(2)(f) and ORS 192.660(2)(L), this portion of the Meeting is closed to the public.

At 4:09 PM Chair Rutt adjourned Executive Session.

PUBLIC (OPEN) SESSION

At 1:54 PM, Board Chair Rutt convened the Board into Public Session. During this portion of the meeting the Board considered inquiries from licensees and the public, approved 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 Public Session business.

The public and interested parties are 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. Upon the approval of the Board, written public session minutes are published and available on the Board website.

Guests: Diana Godwin, Attorney at Law representing Oregon Physical Therapists in Private Practice (OPTIP); Justin Dunaway PT, DPT representing Oregon Physical Therapy Association and Stacey Kjelkgaard representing Ethics and Boundaries Assessment Services.

Board Motions

Case PT 579-01/16

Motion by Troy Costales to issue Notice of Proposed Discipline citing two violations of ORS 688.140(2)(c), and two violations of OAR 848-045-0020(2)(a) and assessing a civil penalty of \$1,250.00 for each violation for a total assessed penalty of \$5,000.00.

Seconded by Ruggie Canizares

Motion passed unanimously by a vote of 7-0. Board member McAvoy was absent from the vote.

Case PT 577-12/15

Motion by Troy Costales to issue a Notice of Proposed Disciplinary Action (Reprimand) citing violations of ORS 688.140(2)(a), ORS 688.140(2)(c); OAR 848-045-0020(2)(a) and OAR 848-045-0020(2)(u)(A). Further moved to issue permanent license.

Seconded by Ruggie Canizares

Motion passed unanimously by a vote of 7-0. Board member McAvoy was absent from the vote.

Case PT 586-2/16

Motion by Troy Costales to close case no action taken.

Seconded by Ruggie Canizares

Motion passed unanimously by a vote of 7-0. Board member McAvoy was absent from the vote.

Case PT 581-2/16

Motion by Troy Costales to issue a Confidential Advisory Letter citing failure to timely disclose on an application.

Seconded by Ruggie Canizares

Motion passed unanimously by a vote of 7-0. Board member McAvoy was absent from the vote.

Ethics and Boundaries Assessment Services (ebas) Presentation:

Stacey Kjelkgaard, Executive Director of ebas gave a short presentation regarding the offerings of ebas. Ebas is a five part computerized essay examination for licensed professionals. The outcome is an evaluation of a licensee's overall comprehension of accepted professional ethical standards. The cost to an individual is \$1,500.00. The board was going to discuss the value of the examination used as a tool in remediation but determined they needed further information regarding the examination output from Ms. Kjelkgaard.

Board Policy Issues/Review:

National Physical Therapy Examination (NPTE) Appeals – Following Board discussion Troy Costales made a motion to make known that the Board, at this time, is not sponsoring appeals to the lifetime eligibility attempt limits on the NPTE.

Seconded by Ruggie Canizares

Motion passed unanimously by a vote of 7-0. Board member McAvoy was absent from the vote.

FSBPT Jurisprudence Assessment Module (JAM):

Board Investigator Paru summarized her role as Oregon's Subject Matter Expert in the development of the JAM questions. Ms. Paru reported that the time involved in the writing, editing, rewriting, review and approval of some 200 possible test questions was a time intensive task. She does however feel that having two valid and reliable forms of the 50 question exam will be well worth the Board's investment of time and money. Board Director Heider estimates the new exam will save the Board between 5 to 8 hours a week in processing and that the online open delivery mechanism will be beneficial to the applicants. The next step, once the questions are written, will be for the Board to hold a standards setting meeting which will include Oregon therapist to take the test. The Director is anticipating rolling out the JAM 4th in the 4th quarter of 2016. The exam will be used for initial licensure only, however the Board may consider offering continuing competency credit for any licensee choosing to take the exam. Some states mandate the JAM as a requirement of renewal. At its October 2015 meeting the Board voted to subsidize the cost of exam development by \$40,000 bringing the initial cost of the exam to an applicant down from \$60 to \$48. This investment includes the costs to maintain the currency, reliability and validity of the exam.

SB 1504 Compact Legislation:

Board Director Heider reported on the status of Senate Bill 1504 (Bill) the Physical Therapist Interstate Licensure Compact. Board Assistant Attorney General Tucker Davis reported that the Department of Justice had concerns that some of the language in the Bill was unconstitutional. After a meeting with all interested parties a resolve was determined and Legislative Counsel introduced amendments to the original bill to the satisfaction of all parties. As of the time of the Board meeting the Bill had passed the Senate Health Care Committee and the Senate floor by a vote 23-3 with 2 excused absences and the House Health Care Committee and the House floor by a vote of 60-0. The Bill is now pending the signature of the Governor. When the Governor signs the Bill, Oregon will be the first State/jurisdiction in the US to adopt the Compact language.

License Renewal Update:

Board Director Heider reported that, as of the meeting date, the Board still had an estimated 3,000 renewals to process for the month of March. This is twice the volume normally remaining at this time in a renewal period. Further, Director Heider anticipates that the majority of these renewals will come in during the last two weeks of the month. Mr. Heider attributes the delay in licensees renewing to the change in renewal policy that mandates a licensee complete their continuing competency requirement prior to renewal and that they list the activities and courses as part of that renewal process. In years past a licensee could attest to the fact that they had completed the continuing competency requirement or that they would complete the requirement prior to the end of the certification period. Mr. Heider said that this workload was unprecedented and wanted the Board's approval to allow for overtime and/or bring in temporary help to handle the volume. The Board approved his request.

The Board had a request from a licensee to consider the creation of "Retiree" licensure status - after review of current Board Statute and Rule the Board's Assistant Attorney General Tucker Davis advised the Board that they do not have the authority to issue a "Retiree" Emeritus status.

Continuing Competency Update Questions:

Request for continuing competency credits relating to the specialized training and education needed to provide physical therapy services to Raptors – after discussion the Board determined that it would allow a onetime credit for the hours spent and documented in the specialized training necessary to provide services to Raptors but would not allow for credit for the actual volunteer hours spent providing the services.

Request for continuing competency credits relating to the specialized training and education necessary to safely and competently apply Yoga techniques in the provision of physical therapy services – after discussion the Board determined that it would allow continuing competency credit for the specialized Yoga training and education.

The Board received three continuing competency policy/rule change requests. Two of them were for the Board to consider allowing a licensee with continuing competency credits in excess of the current certification requirement to carry over those credits into the subsequent continuing competency certification period. The second request was for the Board to consider allowing continuing competency credit for volunteering to serve on a board or committee of an Organization that aided in the advancement of the profession. – after discussion the Board determined that both these requests would require an amendment to the current Division 35 Continuing Competency Rules. They requested the Board’s Director to include these issues in a Rules Advisory Committee discussion forum.

2015 External Audit Report:

In accordance with ORS 182.464 and ORS 182.472 each biennium the Board is audited by an independent Certified Public Accountant. The completed audit report with a management letter in response to any material findings is submitted to the Governor, the President of the Senate, the speaker of the House and the Legislative Fiscal Office. The Board Director provided the Board with a draft copy of the 2013-2015 Board Financial Review. There were no material findings.

Election of Board Chair and Vice Chair:

Board Director Heider announced the nominated candidates for the position of Board Chair and Board Vice Chair. For the position of Board Chair, incumbent Dr. Richard Rutt was nominated. For the position of Board Vice Chair incumbent Ruggie Canizares was nominated. The Director asked for any additional nominations. Hearing none, the slate was closed. Board member Troy Costales moved to elect the officers as slated with a term through February 2017.

Seconded by Ruggie Canizares

Motion passed unanimously by a vote of 7-0. Board member McAvoy was absent from the vote.

General Topics/Business

- Oregon Mandatory New Board Member and Executive Director Training – In 2015 the Legislature passed a law that requires newly appointed Board members and newly hired Executive Directors complete a State sponsored Board training program. The law applies to any new appointment or hire made after January 1, 2016 and must be completed within six months of the individual’s appointment or hire date. The Director noted that although none of the current Board members are subject to the requirement based on their original appointment dates the training was available to them.

- FSBPT New Board Member Training - Annually the Federation of State Boards of Physical Therapy (FSBPT) provides training for new Board members and Executive Directors. This year the training will be held June 24-26 at the FSBPT Headquarters in Alexandria VA. This is a three day intense program with topics covering regulatory law, terminology, board power, responsibilities and roles, the regulation of physical therapy, delegation of authority, board member immunity and a familiarization with FSBPT services. This program is sponsored by the FSBPT. The program costs the Board nothing and the FSBPT pays for the travel, hotel and meals. To date all but two of the Oregon Board members have attended the training. This year Board members Benson and Haworth and Director Heider will attend the program.
- CLEAR Conference – Board Director Heider announced the 2016 Council on Licensure Enforcement And Regulation conference will be held September 15-17 in Portland OR and that any Board member interested in attending the conference should contact him.

Approval of Board Meeting Minutes

The drafted minutes, from the December 18, 2015 Regular Board Meeting were presented to the Board. Board Chair Rutt opened the floor for additional discussion and comments. Member Julkowski noted a few small changes. Noting the changes, Chair Rutt asked if there was a motion to approve the minutes as amended.

Member Costales moved to approve the Minutes as amended.

Seconded by member Canizares.

Motion passed unanimously by a vote of 7-0. Board member McAvoy was absent from the vote.

Future Board Meeting Dates:

The Board dates for 2016 are as follows: Friday, May 6th; Monday, July 25th; Friday, October 7th hosted by George Fox University and Friday, December 16th.

Meeting Notices, Dates, Locations and published Minutes may be found on the Board website at www.ptboard.state.or.us.

Ratification of PT/PTA Licenses & Temporary Permits

Chair Rutt presented the Board with a list of new licensees and temporary permit holders for the period of December 19, 2015 through February 26, 2016. Chair Rutt opened the floor for discussion. With none noted, Chair Rutt asked for a motion to ratify the new licensees and permit holders.

Member Costales moved to approve the Minutes as amended.

Seconded by member Canizares.

Motion passed unanimously by a vote of 7-0. Board member McAvoy was absent from the vote.

Board Member Reports/Other New Business:

Chair Rutt asked for other new business.

Director Heider provided the Board with a copy of a letter received from the Oregon Physical Therapy Association (OPTA). The subject of the letter was dry needling and the request from the OPTA was for the Board to revisit its current position statement regarding PTs use of the

technique. Chair Rutt asked that the letter and the OPTAs request for review be placed on the May 6, 2016 Board meeting agenda for discussion.

Director Heider also provided the Board with a copy of the FSBPT's 2015 NPTE satisfaction survey which is completed by every national examination test taker. For Oregon this represented approximately 263 applicants. On an average 95% of Oregon's applicants stated they were "very satisfied" with the Oregon application process, in the 4th quarter 100% of applicants said they were "very satisfied". Director Heider acknowledged and attributed this high rating to Rick Sullivan, PTA, Licensing Coordinator and the excellent work he continues to do for the Board.

Chair Rutt asked again for other new business, with none noted Chair Rutt adjourned the meeting at 4:09 PM.