

**Physical Therapist Licensing Board  
Board Meeting  
March 16, 2012**

**MINUTES**

**Friday, March 16, 2012**

**Board Members Present:** Steve Alstot, PT, Chair; Jason Fiske, PT, Vice Chair; Ruggie Canizares, PT Member; Burke Selbst, PT Member; Richard Rutt, PT Member; Jennifer Wood, PTA Member; Carol Sutton, Public Member; Troy Costales, Public Member.

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

**Legal Counsel:** Carol Parks, AAG

At 8:45 AM, Chair Steve Alstot convened the Board into Executive Session, citing ORS 192.660(2)(k). Pursuant to ORS 192.660(2)(k)(f), 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, current legislation 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**

At 1:30 PM, Board Chair Alstot convened the Board into Public Session. During this portion of the meeting, the Board considered inquiries from licensees and the public, approved the 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 Board 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.

**Board Motions**

**Case PT 415-11/11**

Motion by Jason Fiske to issue an Order of Proposed Disciplinary Action citing violations of: ORS 688.140(2)(a)&(k); OAR 848-045-0020(2)(h)(l)&(m); OAR 848-045-0020(2)(o)(A) & OAR 848-045-0020(2)(u)(A), and to impose the following sanctions: a civil penalty of \$5,000 with \$2,000 stayed pending the completion of a two year probationary period; completion of a board approved

professional boundaries course within 6 months of the final order with a written report, from the Licensee, to the Board, within 60 days of completing the course, Licensee to continued with mental health counseling as recommended by a Board approved Mental Health Provider and will follow the Providers recommendations for continued treatment, with quarterly progress reports from the Provider to the Board.

Seconded by Carol Sutton.

Motion passed by vote 7-0, Board member Canizares recused himself from the deliberations and vote.

**Case PT 424-2/12**

Motion by Jason Fiske to issue an Order of Proposed Disciplinary Action citing violations of: ORS 688.140(2)(c)&(a); OAR 848-045-0020(2)(a)&(h), and to impose the following sanctions; a Letter of Reprimand and imposing a civil penalty of \$250.

Seconded by Carol Sutton

Motion passed by vote 7-1, Board member Costales voted nay.

**Case PT 411-10/11**

Motion by Jason Fiske to issue an Order of Proposed Disciplinary Action citing violations of: ORS 688.140(2)(a); OAR 848-020-0010(1)&(2); OAR 848-020-0040(2); OAR 848-020-0060(12); and OAR 848-040-0105(3), and imposing a civil penalty of \$5,000 and a one year license probationary period.

Seconded by Carol Sutton.

Motion passed by vote 8-0.

**Case PT 417-1/12**

Motion by Jason Fiske to close case issuing a Confidential Advisory Letter noting the importance of clear patient communications and obtaining a complete background history.

Seconded by Carol Sutton.

Motion passed by vote 8-0.

**Case PT 418-1/12**

Motion by Jason Fiske to close case citing no violation.

Seconded by Carol Sutton.

Motion passed by vote 8-0.

**Case PT 423-2/12**

Motion by Jason Fiske to issue a Stipulated Agreement and Final Order citing violations of: ORS 688.120(2)(a); OAR 848-045-0020(2)(r) and imposing a civil penalty of \$500.00.

Seconded by Carol Sutton.

Motion passed by vote 8-0.

**Case PT 421-2/12**

Motion by Troy Costales to issue a Stipulated Agreement and Final Order citing violations of: ORS 688.020(1)(b); ORS 688.140(2)(a); imposing a civil penalty of \$1,000.00 and upon completion of the application process issuance of an unrestricted Oregon Physical Therapist license.

Seconded by Carol Sutton.

Motion passed by vote 7-0, Board member Fiske recused himself from the deliberations and vote.

### **Case PT 420-1/12**

Motion by Jason Fiske to close case citing no violation.

Seconded by Carol Sutton.

Motion passed by vote 8-0.

### **FSBPT Presentation of Continuing Competency Model**

Heidi Herbst-Paakkonen, Continuing Competence Product Manager for the Federation of State Boards of Physical Therapy (FSBPT) presented the FSBPTs recently completed Continuing Competency Model. The Board is interested in advancing the current CE model to cover a broader spectrum of activities. Effective March 1, 2012 the PT Board did amend its current CE eligibility rules OAR 848-035-0030 to include: courses, seminars, **activities** and workshops sponsored, **certified**, or approved by..... Further expansion of the regulatory requirements moving from a purely continuing education model to a true continuing competency model would require a Statutory change. The one hour FSBPT power point presentation can be made available to any interested party by contacting the Board office directly.

### **CE Rules and Restrictions**

The Board discussed a conflict that has been noted with the March 1<sup>st</sup> amendment of the CE rules. In the new rules, specifically OAR 848-035-0030(b), the Board added “activities approved by another State Board ...” to its list of acceptable CE. Whereas, in OAR 848-035-0030(2) the Board states “Activities which will not satisfy the CE requirement include ...” The conflict arises when you ask the question, what if one of the activities on the Boards restricted list is approved by another state Board as valid CE? Based on a Board Counsel’s legal opinion, the Board has chosen to take the position that a specific reference in Statute or Rule will override a more general statement. In other words, the specific activity restrictions listed in sub (2) would override counting that activity as valid CE in Oregon even if another state Board had approved the activity for CE. Further, the Board instructed staff that language to clarify this conflict needs to be included in any future rule making activity.

### **Oregon Board of Massage Scope of Practice Declaration**

In its 01.09.12 Board meeting minutes, the Massage Board made the following declaration via a motion regarding a Scope of Practice Inquiry –

The Board received a communication from an insurance company inquiring about scope of practice pertaining to specific billing codes. Bennouri moved to state that the following CPT codes are within the current definition of the massage scope of practice in the State of Oregon: 97012; 97034; 97001; 97002; 95831; 95851; and 97535. Second the Motion: Collier In favor: Bennouri, Calise, Collier, McMillin, Morin and Fredrickson. Opposed: None. Motion carries. It was noted that all LMTs are subject to appropriate training in all techniques in which they are practicing. For clarification purposes: The OBMT does not regulate or approve CPT codes. This particular topic was brought forth by an insurance company asking if the practices classified under these CPT codes are within the scope of practice for a massage therapist in the State of Oregon. While the motion was for the codes, it truly covers the practice that each code stands for. 97012: application of a modality to one or more areas, traction, mechanical; 97034: application of a modality to one or more areas; contrast baths; 97001: Physical therapy evaluation; 97002: Physical therapy re-evaluation; 95831: Muscle testing, manual with report; extremity \*excluding hand\* or trunk; 95851: Range of motion measurements and report (separate procedure); each extremity (excluding hand) or each trunk section (spine); 97535: Self-care/home management training (eg activities of daily living (ADL) and compensatory training, meal preparation, safety procedures, and instructions in use of

adaptive equipment) direct one on one by provider. Additionally, massage therapists have always been able to bill insurance for anything that they do as a medical professional (LMT) that is within 1) the scope of practice 2) their personal scope of training and 3) does not violate any restrictions they may have on their license.

CPT codes 97001 and 97002 are for the exclusive use of those health care professionals who, within their scope of practice, can perform a PT evaluation and PT re-evaluation. The issue was brought to the PT Boards attention via the OPTA who had determined they were going to draft a letter to the Massage Board questioning this declaration. After discussion, the PT Board determined that they too would send a letter in opposition to this declaration by the Massage Board. Further, at the invitation of the Massage Board's Director, and in partnership with the OPTA's President, the PT Board's Director would attend the Massage Board's next meeting to be held Friday March 30, 2012, to discuss the matter.

### **Approval of Board Meeting Minutes**

The drafted minutes, from the January 20, 2012 regular Board Meeting and the drafted minutes from the January 20, 2012 Administrative Rules Hearing, were presented to the Board. The Board Chair opened the floor for additional discussion and comments. Jason Fiske moved to accept the January 20, 2012 regular meeting minutes and the administrative rules hearing minutes as amended. Seconded by Richard Rutt.

Motion passed by unanimous vote 8-0.

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

The Director presented the Board with a list of new licensees and temporary permit holders for the period of January 20, 2012 through March 15, 2012. The Board Chair opened the floor for discussion. Without noted discussion, Jason Fiske moved to ratify the issuance of the new licenses and permits as submitted.

Seconded by Richard Rutt.

Motion passed by unanimous vote 8-0.

### **General Topics/Business**

- Board Member report from CLEAR conference – Board member Jason Fiske attended the 2011 CLEAR Educational Conference in Pittsburgh, PA. Fiske reported that the hottest and most interesting topic at the CLEAR conference was a segment on social media. The take-a-way from that topic was to educate professional licensees on the proper use of social media in a professional setting. He cited, as an example, the use of separate sites for personal information verses professional information. Vice Chair Fiske has had the opportunity to attend both the annual CLEAR conference and the FARB conference. Fiske recommended, to the Board, that with limited resources the FARB conference is a much better investment of Board time and finances.
- Board Counsel report from FARB Attorney Conference - Report moved to the June 1, 2012 Board Meeting.
- Renewals – 1,000 remaining renewals between the 16<sup>th</sup> and 31<sup>st</sup> of March. Based on past years estimate approximately 300 will not renew, leaving 700 to process. The on-line renewal system and the automated payment system are working extremely well and it is expected that we will have well over 90% usage this year. The Board further discussed the cost and resource of completing the random CE audit and determined it would not make a change in policy or the percentage of licensees audited at this time.

### **2012 Board Meeting Dates**

As established by the Board, the future Board Meeting dates are as follows: June 1, 2012, August 10, 2012, and October 26, 2012. The October 26, 2012 meeting is scheduled to be held at Lane Community College in Eugene, OR. Meeting Dates, Meeting Notices, and published Minutes may be found on the Board website at [www.ptboard.state.or.us](http://www.ptboard.state.or.us).

### **Board Member Topics/ Other New Business**

Chair Alstot asked if there was any other new business.

Board member Burke Selbst reported that he will be serving as a volunteer physical therapist at the Olympic Trials this June in Eugene. Selbst asked if there had been any follow-up to the question of whether a therapist, licensed out-of-state, was exempted from licensure in Oregon while volunteering as a therapist to the athletes. Board counsel and staff reiterated that no, an out-of-state therapist cannot come into Oregon and treat an athlete unless they hold an Oregon license. To change the current Statute would require a proposed legislative concept that passes through the legislative process, and if successful would change the law allowing the exemption.

Chair Alstot call for any other new business with none noted, Chair Alstot adjourned the Board Meeting at 4:07 PM.