

**Physical Therapist Licensing Board  
Board Meeting  
June 20, 2014  
MINUTES**

**Friday June 20, 2014**

**Board Members Present** Richard Rutt, PT, Chair; Burke Selbst, PT Member; Aubree Benson, PT Member; Alan McAvoy, PT Member; Jennifer Wood, PTA Member; Troy Costales, Public Member (attendance by teleconference); Carol Sutton, Public Member

**Board Members Absent:** Ruggie Canizares, PT, Vice Chair

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

**Legal Counsel:** Carol Parks, AAG

**EXECUTIVE (CLOSED) SESSION**

At 8:39 AM, Chair Rutt 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 12:44 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 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.

**Guests:** Susan Bamberger, PT, Creative PT Solutions.

## **Board Motions:**

### **Case PT 426-3/12**

Motion by Jennifer Wood to close case no action taken.

Seconded by Aubree Benson.

Motion passed unanimously by a vote of 6-0, Board Member Canizares was absent from the vote.

### **Case PT 495-12/13**

Motion by Jennifer Wood to issue a Confidential Advisory Letter requiring the Licensee to complete a Board approved boundaries course within six months of the Letter, and the American Physical Therapy Association Clinical Instructor training course prior to serving as a Clinical Instructor. Also the Licensee must provide a copy of the Letter to his employer and provide the Board with evidence that he has done so.

Seconded by Aubree Benson.

Motion passed unanimously by a vote of 6-0, Board Member Canizares was absent from the vote.

### **Case PT 497-12/13**

Motion by Jennifer Wood to close case no action taken.

Seconded by Aubree Benson.

Motion passed unanimously by a vote of 6-0, Board Member Canizares was absent from the vote.

### **Case PT 499-2/14**

Motion by Jennifer Wood to close case no action taken.

Seconded by Aubree Benson.

Motion passed unanimously by a vote of 6-0, Board Member Canizares was absent from the vote.

### **Case PT 500-2/14**

Motion by Jennifer Wood to issue a Confidential Advisory Letter for failure to disclose an arrest on a license application.

Seconded by Aubree Benson.

Motion passed unanimously by a vote of 6-0, Board Member Canizares was absent from the vote.

### **Case PT 517-4/14**

Motion by Jennifer Wood to issue a Confidential Advisory Letter requiring Licensee to provide the Board with monthly self status reports regarding her progress and treatment for a period of one year. Also that the Licensee provides the Board with evidence that she has successfully completed her court-ordered treatment program.

Seconded by Aubree Benson.

Motion passed unanimously by a vote of 6-0, Board Member Canizares was absent from the vote.

**Case PT 518-5/14**

Motion by Jennifer Wood to issue a Stipulated Agreement and Final Order for violation of ORS 688.140(2)(a)(c) and OAR 848-035-0020(10) for failure to complete the continuing education requirement within the specified certification period and assess a civil penalty of \$450.00.

Seconded by Aubree Benson.

Motion passed by a vote of 5-0, Board Member Costales abstained and Board Member Canizares was absent from the vote.

**Case PT 523-5/14**

Motion by Jennifer Wood to issue a Stipulated Agreement and Final Order for violation of ORS 688.140(2)(a)(c) and OAR 848-035-0020(10) for failure to complete the continuing education requirement within the specified certification period and assess a civil penalty of \$450.00.

Seconded by Aubree Benson.

Motion passed by a vote of 5-0, Board Member Costales abstained and Board Member Canizares was absent from the vote.

**Case PT 520-5/14**

Motion by Jennifer Wood to issue an unrestricted physical therapist assistance license upon successful completion of the national physical therapy examination and to close case with no further action taken.

Seconded by Aubree Benson.

Motion passed unanimously by a vote of 6-0, Board Member Canizares was absent from the vote.

**Case PT 507-3/14**

Motion by Jennifer Wood to close case no action taken.

Seconded by Aubree Benson.

Motion passed unanimously by a vote of 6-0, Board Member Canizares was absent from the vote.

**Case PT 515-4/14**

Motion by Jennifer Wood to issue Notice of Proposed Disciplinary Action for violation of ORS 688.140(2)(c) obtains license by fraud or misrepresentation and ORS 688.140(2)(a) violates board rule, specifically OAR 848-045-0020(2)(d) failure to notify the Board of a misdemeanor conviction within 10 days, and assess a civil penalty of \$1,000.00.

Seconded by Aubree Benson.

Motion passed unanimously by a vote of 6-0, Board Member Canizares was absent from the vote.

**Case PT 504-3/14**

Motion by Jennifer Wood to issue a Confidential Advisory Letter requiring Licensee to provide the Board with monthly self status reports regarding his continued progress for a period of one year. Also that the Licensee provides the Board with evidence that he has successfully completed his court-ordered requirements.

Seconded by Aubree Benson.

Motion passed unanimously by a vote of 6-0, Board Member Canizares was absent from the vote.

#### **Case PT 510-3/14**

Motion by Jennifer Wood to close case no action taken.

Seconded by Aubree Benson.

Motion passed unanimously by a vote of 6-0, Board Member Canizares was absent from the vote.

#### **Case PT 525-6/14**

Motion by Jennifer Wood to close case no action taken.

Seconded by Aubree Benson.

Motion passed by a vote of 5-0, Board Member Costales abstained and Board Member Canizares was absent from the vote.

#### **Remediation Management and Tracking**

Board Clinical Advisor/Investigator Paru shared a concern with the Board relative to the Board assigning a remediation time frame when considering a sanction for a license to take an action. In the future, Investigator Paru would like the Board to consider the timing of subsequent Board meetings when assessing a remediation sanction so, if plausible, the action would be completed prior to the subsequent board meeting date. That way the remediation can be reviewed with the board and the case can closed sooner. This will help with the Boards statistics on compliance and performance measurements reported bi-annually to the Governor's office.

#### **Welcome New Board Member Alan McAvoy**

The Board welcomed Alan McAvoy, PT to the board as its newest professional PT member. Alan's appointment by the Governor and confirmation by the Senate commenced on June 1, 2014 and extends through May 31, 2018. In 2005, Alan earned his DPT from University of St. Augustine in Florida. He was initially licensed in Oregon in 2008, works for Gentiva Health Services providing home health care and currently resides in Portland.

#### **CC Question from Susan Bamberger, PT**

Ms. Bamberger provided the Board with a summary of a new business venture by which she wanted to award CCUs for completion of specific educational programs she plans offering to therapists. Although the PT Board does not approve specific courses, they did review and discuss Ms. Bamberger's outline and determined that the program offerings did meet the standards for CC as published in Division 35 of the Board's administrative rules. The Board did make it clear that CC completion certificates had to meet certain guidelines and be distributed at the completion of a program.

#### **Telehealth Follow-Up**

At its April 11, 2014 meeting the Board requested a legal opinion from its counsel regarding its legislative authority or restrictions relative to the development of rule standards governing a PTs use of telehealth within their scope of practice. Also the Board asked staff to investigate what other jurisdictions and healthcare professions might be doing or have done relative to telehealth. The Director reported that counsel advised current statute and rule were silent on the issue and

that there was nothing in statute or rule or relating statutes and rule that would prevent the Board from developing standards and guidelines governing the provision of telehealth in Oregon. The Director also reported that there are only two states, Alaska and Washington that have published standards for the provision of telehealth in both statute and rule but Kentucky is currently looking at the issue. The Federation's Ethics and Legislative Committee is currently working on a Telehealth Resource Paper (Paper) that will be published in the fall following its annual meeting in September. The Paper will provide jurisdiction with proposed best practices and standards relative to the provision of telehealth. After discussion, the Board determined that it did want to move forward with the development of telehealth standards through the rule making process at this time. However, the Board did instruct staff to wait until the Federation of State Boards of Physical Therapy (FSBPT) publishes its Telehealth Resource Paper before beginning rulemaking and standard setting process.

### **Board Policy Issues**

Per the Board's prior instruction, the Director presented the Board for ratification, drafted copies of two new policies it adopted at its April 11, 2014 Board meeting. After review the Board ratified the policies on requiring a Social Security Number for licensure, and the requirement that continuing competence credits be fully completed prior to processing a license renewal application.

Motion by Jennifer Wood to ratify the drafted policies as written.

Seconded by Aubree Benson.

Motion passed unanimously by a vote of 6-0, Board Member Canizares was absent from the vote.

### **General Topics/Business**

- **AAG Parks attendance at the Federation of Association of Regulatory Boards' (FARB) Annual Regulatory Law Seminar** – The Director asked for and was granted the authority to send the Board's Senior Assistant Attorney General to the FARB Seminar in Annapolis. The Director did share with the Board that in years prior the cost of sending the AAG to this seminar was shared with two other regulatory boards and so far one of those boards has agreed to share this years cost. This is a budgeted item.
- **Clinical Advisor/Investigator Paru attendance at the Council on Licensure, Enforcement & Regulation's Annual Educational Conference (CLEAR)** – The Director asked for and was granted the authority to send the Board's Investigator to the CLEAR conference in New Orleans. This is a budgeted item.
- **Clinical Advisor/Investigator Paru invitation to speak at the FSBPT Annual Conference** – The Director reported that the Mark Lane, Director of Professional Assessment from the FSBPT had contacted Ms. Paru and asked if she would consider presenting at the Federations annual meeting in San Francisco. The Federation will pay all Ms. Paru's travel expenses and she will be able to attend all educational offerings during the programming. It is an honor to Ms. Paru and the Oregon Board that she has been nationally recognized and invited to speak on the topic of investigations.

### **Board Member Costales Participation in FSBPT Compact Task Force**

Per a FSBPT Delegates Assembly Motion, the Federation has established a Physical Therapy Compact Task Force. Public Board Member Costales was selected to serve on the task force looking at the design and development and implementation of a national physical therapy compact. Board Member Costales summarized the concept of interstate compacts reporting that it would allow PT Compact Members greater mobility and portability between States participating in the Compact. Director Heider solicited discussion of the Board regarding Oregon's possible interest in considering being a Compact State. The Board supports Member Costales in his role on the Task Force and was positive in its response regarding the consideration of being a Compact State. The Board will wait to see what the Compact Task Force and the FSBPT present to its Member Boards.

### **Response to Board from Bill Bowen, MFA, LMT**

After Board review and discussion of Mr. Bowen's latest changes to his website, clarifying the term "psycho-physical therapy" and disclaiming it was in any way associated with physical therapy, the Board determined that it would not proceed with further action at this time.

### **Question/Concern Regarding Bruce Farmer, MD Fitness Therapeutics and Staff**

The Board determined this topic required more investigation/information and was removed from discussion and tabled to a subsequent Board meeting.

### **Future Board Meeting Dates:**

As established by the Board, the remaining 2014 Board Meeting dates are as follows: Friday August 15<sup>th</sup> and Friday October 24<sup>th</sup>. 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). The Director asked the Board to bring their calendars to the August 15<sup>th</sup> meeting so the Board can set meeting dates for 2015.

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

The drafted minutes, from the April 11, 2014 Board Meeting were presented to the Board. Board Chair Rutt opened the floor for additional discussion and comments. With none noted, Chair Rutt asked for a motion to approve the meeting minutes as written.

Motion by Jennifer Wood to approve the Minutes from the April 11, 2014 Board Meeting as written.

Seconded by Aubree Benson.

Motion passed unanimously by a vote of 6-0, Board Member Canizares was absent from the vote.

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

Board Chair Rutt presented the Board with a list of new licensees and temporary permit holders for the period of April 11, 2014 through June 19, 2014. Chair Rutt opened the floor for discussion. With none noted, Chair Rutt asked for a motion to ratify the new licensees and permit holders.

Motion by Jennifer Wood to ratify the list of new permit holders and licensees as presented.

Seconded by Aubree Benson.

Motion passed unanimously by a vote of 6-0, Board Member Canizares was absent from the vote.

### **Question Regarding a Physical Therapist Ordering X-rays**

After consultation and review by the Board legal counsel it was determined that in Oregon a physical therapist cannot order x-ray services. The reference to this limitation can be found in the Radiology Protection Services Oregon Administrative Rule 333-106-0035 **Deliberate Exposure Restricted** the rule goes onto say; “*Persons shall not be exposed to the useful beam except for healing art purposes until the patient has been evaluated, and a medical need for the X-ray/s is determined, and has been **authorized by a physician or Dental Professional** licensed to practice the healing arts in Oregon.*” A physical therapist does not fall under the definition of a physician.

### **Board Member Reports/Other New Business:**

Chair Rutt asked for any other new business.

Director Heider submitted the following information:

1. CAPTE Report on Developing Programs – George Fox University – status indicates that the program is making satisfactory progress towards compliance with accreditation criteria. First graduating class scheduled for May 2015.
2. APTA HOD –
  - Resolution to adopt DPT as the new designator for physical therapists passed. Targeted for nationwide legislative campaign in 2025. State of AZ may move sooner.
  - APTA and House of Delegates will support the Federations efforts in the development and implementation of a physical therapist licensure compact between jurisdictions.
  - HOD rescinded RC 212 introduced and adopted last year that would expand the types of assistive personnel a PT could supervise under their license. i.e. under RC 212 a PT could supervise an Athlete Trainer, Massage Therapist etc.
3. CC Audit – Letters going out next week based on a random selection of 465 licensees. To that list we are adding all therapists that renewed their licenses after the March 31<sup>st</sup> date even though they indicated they completed their required CC. Rutt and Wood will get letters next week.
4. The random LEDs audit will be conducted simultaneously. This will be a separate audit list. In prior years the same list has been used for CC and LED’s audits.
5. In addition to the License Ratification Report, Rick is going to start providing statistics and graphics relative to licensing activity and volumes.
6. SB 879 – Final Rules specifying administrative requirements for health professional student placements in a clinical training setting will go into effect July 1, 2014. Impacts schools, hospitals, health systems, and long-term care residential facilities. (handout)

Chair Rutt again asked for other new business. With none noted Chair Rutt adjourned the meeting at 2:22 PM.