

**Oregon Physical Therapist Licensing Board**  
**Board Meeting**  
**July 14, 2006**

**MINUTES**

**Friday, July 14, 2006**

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

**Absent:** Nancy Wilson, PTA

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

**Legal Counsel:** Carol Parks, AAG

**EXECUTIVE (CLOSED) SESSION**

Citing ORS 192.660(2)(k), at 9:15 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 recorded and labeled, on Sides A and B of three recording tapes, dated 07/14/2006.

**PUBLIC (OPEN) SESSION**

Upon completion of the Executive Session, Mr. Nickell convened the Board into Public Session for motions and additional business. The Public Session is recorded and labeled, on sides A and B of one recording tape, dated 07/14/2006. The public and interested parties are invited to attend this portion of the meeting.

**Board Motions**

**Case PT 200-8/05**

Motion, by Daiva Banaitis, to accept and execute the Stipulated and Final Order, as presented by Licensee's Counsel and signed by Licensee.

Seconded by Cindy Cunningham

Motion passed unanimously

**Case PT 216-6/06**

Motion, by Daiva Banaitis, to send Licensee an Advisory Letter regarding the Board's concern and new policy of practicing with a license where the check was returned for non sufficient funds.

Seconded by Cindy Cunningham

Motion passed unanimously

**Case PT 217-6/06**

Motion, by Daiva Banaitis, to send Licensee an Advisory Letter regarding Board's concern and new policy of practicing with a license paid for with a check returned for non sufficient funds.

Seconded by Cindy Cunningham

Motion passed unanimously

**Case PT 208-3/05**

Motion, by Daiva Banaitis, to issue a Notice of Proposed Discipline citing violations to: ORS 688.140(2)(d) 2003; OAR 848-010-0050(1)(i)(C) 2003; OAR 848-010-0050(3)(b) 2003; OAR 848-040-0000(1) 2003; OAR 848-040-0000(2)(a) 2003; OAR 848-040-0010(2) 2003; OAR 848-040-0020(1);(2) 2003; OAR 848-040-0030(4) 2003; OAR 848-040-0040(1);(2) 2003; and, OAR 848-040-0050(1);(2);(3);(4) 2003 and issuing penalties as follows: a civil penalty of \$5,000; 2 years of probation subject to a practice review by the Board; practice limitations to include indefinite use of a chaperone in the treatment room while treating female patients; completion of a boundaries course that provides one-on-one coaching; and, completion of a documentation course. Both courses are to be pre-approved by the Board.

Seconded by Cindy Cunningham

Motion passed unanimously

**Case PT 203-10/05**

Motion, by Daiva Banaitis, to issue a Notice of Proposed Discipline citing violations to: ORS 688.140(2)(d) 2003; OAR 848-040-0110(1);(2);(3);(4); and/or(7) 2005; OAR 848-040-0110(11) 2005; OAR 848-040-0130(7) 2005; and, OAR 848-045-0020(2)(j);(o);(p)(B);(q);(v)(A) 2005; and issuing penalties as follows: a civil penalty of \$5,000; 2 years of probation subject to a practice review by the Board; completion of a documentation course to be pre-approved by the Board.

Seconded by Cindy Cunningham

Motion passed unanimously

**Case PT 138-8/05**

Motion, by Daiva Banaitis, to ratify Second Amended Notice of Proposed Disciplinary Action dated June 21, 2006.

Seconded by Cindy Cunningham

Motion passed unanimously

**Case PT 138-8/05**

Motion, by Daiva Banaitis, to issue a Stipulated and Final Order including all the violations cited in the Second Amended Notice of Proposed Disciplinary Action, and taking out the proposed one week suspension of Licensee's license to practice.

Seconded by Cindy Cunningham

Motion passed unanimously

### **Case PT 123-2/03**

Motion, by Daiva Banaitis, to accept proposed Stipulated and Final Order as presented by Licensee's Counsel, to the Board, return Stipulated Order to Licensee's Counsel for Licensee's signature.

Seconded by Cindy Cunningham

Motion passed unanimously

### **Advisory Group Meeting with Therapists in a School Setting**

The Executive Director presented, to the Board, an update from the Sub-Task Group representing therapists in a school setting. The Director reported the group had met on June 28<sup>th</sup> and did a preliminary review of the entire Administrative Rules, noting possible areas of interest or concern for therapists in a school setting. The group needs to meet again to finalize their findings and then start drafting proposed language changes. The Director reported that, during the groups review, several areas of definition and clarification were noted that would apply to all therapists, not just those within the school setting. The Board instructed the Director to continue to move the project forward.

### **Request for CEU Approval for Required Worker's Comp Training**

As part of a new State requirement, under OAR 436-010-0265, any therapist, who wants to be compensated for conducting an independent medical examination (IMEs) on a worker compensation patient, must first be placed on the Director of the Departments of Consumer and Business Services eligibility list. To be placed on the eligibility list, the therapist is required to complete approximately 3 hours of program training. The Board has been asked to approve this required training for CE under the new Division 35 Administrative Rules. After consideration, the Board voted 4 to 2 to approve CE credit for this training.

### **Use of Legal Names by Licensee's on Their License**

The Executive Director reviewed, with the Board, the issue regarding the use of legal names on therapists' licenses, and the Board's legal requirements and/or restrictions with regards to maintaining a legal name on file with the Board. The Board's only statutory requirement is to maintain a current list of all persons regulated under ORS 688.010 to 688.201. The Administrative Rule requirement is a licensee's requirement; the licensee must keep their "legal name" on file with the Board. After discussion, the Board determined they had no strong feelings one way or another with regards to the licensee's name, as it appears on their license. The Board asked the Executive Director to look into programming options and administrative feasibility to carry the legal name on file and print a different name on the license. The Board also wanted the Director to determine if there was a way to suppress the printing of the licensee's mailing address on the front of the license document. The Director told the Board that the printing of the address on the front of the license was an administrative workflow issue, allowing the use of window envelopes and the mailing of the 4,000 annual renewal licenses. The Board wanted the Director to investigate solutions or options to work around this issue and report back to the Board.

### **Board Financial Report - Fiscal Year-End June 30, 2006**

The Executive Director presented, to the Board, the following financial statement and fiscal year-end narrative report:

	Jul '05 - Jun 06	Budget	Variance
Ordinary Income/Expense			
Income			
4000 · Income	453,514.00	339,400.00	114,114.00
Total Income	453,514.00	339,400.00	114,114.00
Gross Profit	453,514.00	339,400.00	114,114.00
Expense			
5100 · Payroll Costs	232,807.11	284,995.00	-52,187.89
5600 · Travel Costs	7,415.84	7,150.00	265.84
6100 · General Office Expenses	15,158.76	24,550.00	-9,391.24
6190 · Dues and Subscriptions	2,500.00	2,500.00	0.00
6200 · Postage	7,345.60	12,000.00	-4,654.40
6400 · Contracted Services	57,301.80	44,150.00	13,151.80
6500 · Rent and Occupancy	11,616.80	14,400.00	-2,783.20
6600 · Background Checks	11,177.00	0.00	11,177.00
6650 · Investigation Expenses	180.43	600.00	-419.57
6800 · Computers & Accessories	4,637.49	4,000.00	637.49
Total Expense	350,140.83	394,345.00	-44,204.17
Net Ordinary Income	103,373.17	-54,945.00	158,318.17
Net Income	103,373.17	-54,945.00	158,318.17

**July 14, 2006 Board Meeting  
Financial Report Narrative  
Reporting Period Fiscal Year End 07/01/05- 06/30/06**

**Total Income is over budget by \$114,114**

Income is over budget due in part to: larger than anticipated numbers of new and endorsement license applications. PT applications are up by 17%, and PTA applications are up by 31% over budgeted numbers; the Board also raised the application fee from \$150.00 to \$190.00 to cover

the cost of the national criminal background check; additionally, to cover lost revenue from the repeal of the Direct Access Certification, and to cover the anticipated budget deficit, the Board raised the renewal fee for PTs from \$75.00 to \$100.00, and from \$50.00 to \$65.00 for PTAs.

**Total Expense is under budget by (\$44,204)**

**5100 Payroll Costs** are **(\$52,188)** under budget as a combination of several expense factors:

Expense Classification	Over Budget	Under Budget
Salaries		(\$38,167)
PERS Bond Debt Obligation		(\$1,461)
Payroll Taxes		(\$3,048)
PEBB Medical Premiums		(\$906)
PERS Employer Admin		(\$3,734)
Employee Training		(\$2,192)
Board Stipends		(\$2,680)

Narrative: Salaries are under budget due to the reclassification of the part-time investigator from hourly back to a contracted status, and the medical leave of the Executive Director covered by a third party short-term disability insurance policy; payroll taxes are under budget as a direct result of lower salaries; PERS Bond Debt Obligation and PERS ER Admin Contributions are both under budget, due to lower than projected administrative rates; employee training is under budget, but will catch up during the next fiscal year; Board Stipends are under budget due to a change in the Board Statute lowering the Stipend from \$100 per Board Member, per meeting, to \$35 per meeting.

**6100 General Office Expenses** are **(\$9,391)** under budget.

General office expenses are under budget due to three separate issues: publishing expense is down (\$1,500) because the Board changed the issuance of their Newsletter from four to three issues a year; Bank Service Fees and charges are down because they were better offset by the earnings credit in the Board reserve account (\$3,500); and, the budget dollars allocated for new furniture, file cabinets and moving expenses were not incurred because the move was postponed to August 2006.

**6200 Postage Expense** is **(\$4,654)** under budget.

This is attributed to use of an outside vendor for mass mailings instead of the in-house State mailroom services. And, as mentioned above, the Board went to three mailings of the Board Newsletter instead of four during the fiscal year.

**6400 Contracted Services** are **\$13,152** over budget as a combination of several expense factors:

Expense Classification	Over Budget	Under Budget
Attorney General Fees	\$10,471	
Investigators Fee	\$17,789	
Audit Charges		(\$5,169)
Computer Support		(\$4,582)
Emp Hearing Officer Panel		(\$4,036)
CPA Accounting Fees		(\$1,200)
Other Services		(\$121)

Narrative: Attorney General Fees are over budget due primarily to increased usage attributed to requests and preparation, or negotiation on contested case hearings, of which all but two cases have been settled or withdrawn. Both, of the two remaining cases, are staff intensive. Investigator Fees are over budget due to the reclassification of the part-time investigator, from hourly status back to a contract status. This is not a total wash, as noted above in salaries, there was a saving on the part of the Board because the new contract investigator rate and hours allocated were less than originally budgeted. Audit charges are under budget due to a timing difference, the actual 2005 fiscal audit was conducted in May of 2006, the actual expense will occur in the 2006-2007 biennium. Computer Support charges are under budget due to a switch in vendors, moving from a State support system to an outside private vendor. Hearing Officer Panel expense is under budget due to the Board's Legal Counsel's success in negotiating and settling cases prior to going through a full hearing. CPA charges are under budget due to the ability of the Executive Director to handle the Board finances and accounting issues, without the need to seek outside professional help.

**6500 Rent and Occupancy** is (\$2,783) under budget.

This is attributed to the allocation of additional rent for additional office space anticipated in the Suite 407 move. As noted above, the move was postponed to August 2006.

**6600 Background Checks** are \$11,177 over budget.

As noted in the income variance section, the cost of background checks has been passed onto the applicants and added to the application fee. No expense dollars were allocated for the payment of these background fees. Generally Accepted Accounting Principles do not allow for the netting of this expense from an income account. So, instead of netting the fees out of application income, they are being charged to the existing expense account, of which there is no planned budgeted expense.

#### **Fiscal Year '05-'06 Summary:**

The original '05-'06 budget projected a fiscal year-end spending deficit of (\$54,945). Because total income was over plan, by \$114,114 and total expenses were under plan, by (\$44,204), the net impact to Board reserves was an increase of \$158,318.

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

As established, by the Board, the future Board meeting dates are as follows: September 12, 2006; November 3, 2006; and, January 5, 2007. 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 License & Temporary Permits (05/19/06 – 07/13/06)**

The Board was presented with a list, of new licensees, for the period of May 19, 2006 through July 13, 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 May 19, 2006 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.

### **General Topics/Business**

- FSBPT Conference September 2006 – The Executive Director reminded the Board that there were training dollars available, in the Budget, if any of the Board members wanted to attend the FSBPT Delegates Assembly in September.

### **Other New Business**

- The Executive Director reported, to the Board, that at the Board's prior directive he had ordered a new Sony Digital Recorder for use by the Board and its Staff. The new recorder will be used for recording of meetings and Board interviews relative to investigative case work. The new digital capability will improve recording quality, allow for electronic storage and play back, and will save administrative time in producing recorded copies for interested parties.

With no additional other new business cited, Board Chair, Mr. Nickell, adjourned the Meeting at 3:22 PM.