

**Physical Therapist Licensing Board
Board Meeting
October 26, 2012**

MINUTES

Friday, October 26, 2012

Lane County Community College

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

Board Members Absent: Steve Alstot, PT, Chair

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

Legal Counsel: Carol Parks, AAG

EXECUTIVE (CLOSED) SESSION

At 8:32 AM, Vice Chair Jason Fiske, 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 12:40 PM, Board Vice Chair Fiske 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 428-4/12

Motion by Richard Rutt to issue a Confidential Advisory Letter to Licensee and a Letter of Concern to the Employer.

Seconded by Ruggie Canizares.

Motion passed by vote 7-0; Board member Alstot was absent from the vote.

Case PT 447-9/12

Motion by Richard Rutt to issue a Stipulated Agreement and Final Order for violations of ORS 688.140(2)(a) and OAR 848-035-0020(10) and assess a civil penalty of \$100.

Seconded by Ruggie Canizares.

Motion passed by vote 7-0; Board member Alstot was absent from the vote.

Case PT 448-9/12

Motion by Richard Rutt to issue a Stipulated Agreement and Final Order for violations of ORS 688.140(2)(a) and OAR 848-035-0020(10) and assess a civil penalty of \$100.

Seconded by Ruggie Canizares.

Motion passed by vote 7-0; Board member Alstot was absent from the vote.

Case PT 449-9/12

Motion by Richard Rutt to issue a Stipulated Agreement and Final Order for violations of ORS 688.140(2)(a) and OAR 848-035-0020(10) and assess a civil penalty of \$100.

Seconded by Ruggie Canizares.

Motion passed by vote 7-0; Board member Alstot was absent from the vote.

Case PT 450-9/12

Motion by Richard Rutt to issue a Stipulated Agreement and Final Order for violations of ORS 688.140(2)(a) and (c) and OAR 848-035-0020(10) and assess a civil penalty of \$450.

Seconded by Ruggie Canizares.

Motion passed by vote 7-0; Board member Alstot was absent from the vote.

Case PT 457-10/12

Motion by Richard Rutt to issue a Stipulated Agreement and Final Order for violations of ORS 688.140(2)(a) and (c); OAR 848-035-0020(10) and OAR 848-045-0020(2)(u)(E) and assess a civil penalty of \$700.

Seconded by Ruggie Canizares.

Motion passed by vote 7-0; Board member Alstot was absent from the vote.

Case PT 459-10/12

Motion by Richard Rutt to issue a Notice of Proposed Disciplinary Action for violations of ORS 688.140(2)(a) and (c); OAR 848-035-0020(10); OAR 848-045-0020(2)(u)(B) and OAR 848-045-0020(2)(z) and suspend license until licensee completes or provides proof of completed CE and pays a civil penalty of \$550.

Seconded by Ruggie Canizares.

Motion passed by vote 7-0; Board member Alstot was absent from the vote.

Case PT 431-5/12

Motion by Richard Rutt to issue close case with no violation.

Motion passed by vote 7-0; Board member Alstot was absent from the vote.

Case PT 455-10/12

Motion by Richard Rutt to issue close case with no violation.

Seconded by Ruggie Canizares.

Motion passed by vote 7-0; Board member Alstot was absent from the vote.

Case PT 454-10/12

Motion by Richard Rutt to issue a Stipulated Agreement and Final Order agreeing to issue initial license with restrictions; requiring onsite supervision of a physical therapist or rehab manager for a minimum of one year and submission of a monthly status report of recovery efforts. To remove restriction after one year, Licensee must provide evidence of compliance to the Board order and that he can practice safely and competently without supervision pursuant to ORS 688.140(2)(i).

Seconded by Ruggie Canizares.

Motion passed by vote 7-0; Board member Alstot was absent from the vote.

Case PT 458-10/12

Motion by Richard Rutt to issue initial license.

Seconded by Ruggie Canizares.

Motion passed by vote 7-0; Board member Alstot was absent from the vote.

Case PT 433-4/12

Motion by Richard Rutt to issue close case with no violation.

Seconded by Ruggie Canizares.

Motion passed by vote 7-0; Board member Alstot was absent from the vote.

Case PT 453-9/12

Motion by Richard Rutt to issue close case with no violation.

Seconded by Ruggie Canizares.

Motion passed by vote 7-0; Board member Alstot was absent from the vote.

Special Guest Presentation – Drugs and alcohol and nexus to practice

Trooper Evan Sether, Drug Recognition Expert (DRE) & Regional Coordinator for Oregon State Police provided the Board, and its guests, with an overview of the drug evaluation and classification (DEC) program and commonly abused pharmaceuticals. Trooper Sether was instrumental in providing the Board with statistics and information relevant to the process the Board uses when considering applicants and licensees drug and alcohol related offenses and the possible nexus to professional practice.

PTA and PT Aide Utilization for PTs in Private Practice

Jennifer Wood, PTA, PTA Board Member presented, to the Board, a document produced through the collaboration of the OPTA Reimbursement Committee, OPTA PTA Caucus

Committee and Mt. Hood and Lane Community Colleges PTA programs. The document clearly defines Medicare reimbursement of PTA and PT Aide services in an outpatient setting. It also compares the differences between the use of a PTA and a PT Aide as defined by the Oregon Revised Statutes and the Oregon Administrative Rules. Ms. Wood asked the Board to consider a shared sponsorship of the document. Upon further discussion the Board determined that, although it was satisfied with the current content of the document, it did not want to put the Board's name on the document because the Board did not control the content and any probable changes that may occur in the future to Statute and Rule. The Board agreed to leave the Board's contact information on the form as a resource for questions regarding current statute and administrative rule.

Clinical Instructor Certification Programs

Sherri Paru, PT, Clinical Advisor/Investigator reviewed the Division 35 Rules requiring a licensee be certified as a Clinical Instructor (CI) in order to receive continuing education credit for performing as a CI. The question before the Board was, what certification programs will be accepted? The programs in question were the APTA Credentialed CI training program, the CI training program from the Texas PT Consortium and the APTA 2 hour online training module with instruction on how to use the Clinical Performance Instrument (CPI). Upon further discussion the Board determined that both the APTA CI credentialing course and the Texas Consortium CI training course would satisfy the certification requirements under Division 35. Although the APTA 2 hour online training course in the use of the CPI awards a completion certificate, it is not considered a certified CI training course for purposes of Division 35. The CE earned for taking the online course however, can be use to satisfy the overall CE requirements. The Board also delegated the authority, to the Clinical Advisor/Investigator, to approve other CI certification programs and instructed staff to bring any questionable programs to the Board.

Board Policy Issues:

Board Policy Regarding Disclosure of Public Records on Board Website – The Board discussed the following policy for ratification:

In the interest of public safety and protection, the Oregon Physical Therapist Licensing Board will adopt a policy requiring the posting of all final disciplinary actions, and public documents leading to a final or stipulated order, on the Board website for public viewing.

Policy:

The Board has determined that, in the interest of public safety and protection it will make available for public viewing, on the Board website, all public documents leading up to and including the final order, all interim stipulated agreements and emergency suspensions.

Motion by Richard Rutt to ratify policy for posting of public records on the Board website.
Seconded by Ruggie Canizares.

Motion passed by vote 7-0; Board member Alstot was absent from the vote.

Board Policy Regarding Disclosure of a Conviction of a Misdemeanor or the Arrest or Conviction of a Felony Within Ten (10) Days of the Event – The Board discussed the following policy for ratification:

Purpose:

ORS 676.150(3) A licensee who is convicted of a misdemeanor or felony or who is arrested for a felony crime shall report the conviction or arrest to the licensee's board within 10 days after the conviction or arrest. In the event a physical therapist or physical therapist assistant reports the arrest and/or conviction of a felony or the conviction of a misdemeanor the Board will apply the following policy.

Policy:

The Board will review all reported incidences. In order to accommodate the Board's review, the Board Investigator will open a case, gather the appropriate documentation and summarize the events and circumstances in an investigative report. Depending on the severity of the circumstances, and in consultation with the Board Director and Board Legal Council, the case will either be brought before the Board in a special meeting or presented to the Board at its next scheduled regular meeting.

Arrests and convictions reported to the Board within the ten day timeframe will also have to be disclosed on the Licensee's subsequent license renewal application. And, if applicable, any new documentation in the legal case shall be presented.

Motion by Richard Rutt to ratify policy for handling of conviction and arrest reports.

Seconded by Ruggie Canizares.

Motion passed by vote 7-0; Board member Alstot was absent from the vote.

General Topics/Business

Report from FSBPT and CLEAR annual conferences – Tabled for a future meeting.

2013 Renewal fees – The Board discussed a proposal to implement a "one-time" fee reduction for 2013 renewals. The Director provided the Board with an analysis of Board reserves and the impact on reserves relative to a proposed "one-time" partial renewal fee reduction. Upon further discussion the Board determined that it would support a renewal fee reduction.

Motion by Ruggie Canizares to approved the "one-time" fee reduction of 25%.

Seconded by Carol Sutton.

Motion passed by vote 7-0; Board member Alstot was absent from the vote.

2013 renewal fees for PTs will be \$75 and for PTAs will be \$48.75. Board staff will have to file a temporary rule to accommodate the change.

2012 Board Meeting Dates

As established by the Board, the 2013 Board Meeting dates are as follows: January 11th; March 8th; May 17th; July 19th; September 20th and November 15th. Meeting Dates, Meeting Notices, and published Minutes may be found on the Board website at www.ptboard.state.or.us.

The Board reviewed the current Statute relative to Board meeting unexcused absences. The Statute states that absences need to be approved by the Governor's offices and if a member misses two consecutive meetings unexcused they will automatically be removed from the Board.

Approval of Board Meeting Minutes

The drafted minutes, from the August 10, 2012 Regular Board Meeting were presented to the Board. The Board Chair opened the floor for additional discussion and comments. Hearing none, Carol Sutton moved to accept the meeting minutes as submitted.

Seconded by Burke Selbst.

Motion passed by vote 6-0; Board members Alstot and Canizares were absent from the vote.

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 August 10, 2012 through October 24, 2012. The Board Chair opened the floor for discussion. Without noted discussion Richard Rutt moved to ratify the list of licensees and temporary permit holders.

Seconded by Burke Selbst.

Motion passed by vote 6-0; Board members Alstot and Canizares were absent from the vote.

Board Member Reports/Other New Business

During the latest CE audit it became apparent to Board staff that a large number of Licensees were abusing the use of online CE. There were numerous examples of Licensees completing the entire required amount of credit in the final week or even on the final day of the certification period. This was not the intent of the implementation of CE. The intent was to encourage lifelong learning and the development of continuing competencies for Licensees. Sherri Paru, PT Clinical Advisor/Investigator suggested to the Board that staff convene a task force to review Division 35 in its entirety and bring recommendations for improvement back to the Board for consideration. The Board agreed with this plan of action.

Vice Chair Fiske asked if there was any other new business. Hearing none Vice Chair Fiske adjourned the meeting at 3:30 PM.