

Physical Therapist Licensing Board

Board Meeting

January 24, 2003

MINUTES

Present: Board Members: Cathy Zarosinski, PT, MS, Chair; Linda Barbee, PT; Daiva Banaitis, PT, PhD; Jerry Nickell, PT, Vice Chair; Nancy Wilson, PTA; Cindy Cunningham, Public Member. Staff: Sherri Paru, PT, Clinical Advisor/Investigator. Contract Investigator: Frank Mussell. Legal Counsel: Carol Parks, AAG

Absent: Board Members: Pat Moore, MD Physician Member

OPEN SESSION

The meeting was convened by Board Chair, Cathy Zarosinski, PT, MS

Ms. Zarosiski took the Board into Executive Session.

EXECUTIVE SESSION

The Board reviewed investigatory information regarding pending cases and new complaints.

The Board discussed office operations until a new Executive Director is hired, the status of the former Executive Director's departure and hiring of a new Executive Director. The Board outlined the roles of the contract investigator, clinical advisor/investigator and the Board's legal counsel.

Board Counsel will be responsible for the following:

1. settlements and negotiations with attorneys
2. sharing of evidence in investigations
3. preparation of consent orders and notices (with review by Executive Director)

Executive Director will be responsible for the following:

1. rule writing
2. signing of consent orders and notices
3. writing of subpoenas (Board Chair or Vice Chair need to sign)

The Clinical Advisor/Investigator and the Contract Investigator will not make recommendations to the staff re: disciplinary action. They may interact with

attorneys to set up interviews and may follow up with attorneys once a case is settled.

Ms. Zarosinski took the Board out of Executive session and into Open Session.

OPEN SESSION

Case PT 45-2/01

Motion by Mr. Nickell to accept the consent order as proposed by the licensee and his attorney. Ms. Parks is to discuss settlement with the licensee's attorney.
Seconded by Ms. Wilson.
Motion passed unanimously.

Case PT 74-12/01

Motion by Mr. Nickell to offer the licensee a consent order and notice of disciplinary action.
Seconded by Ms. Wilson.
Motion passed unanimously.

Case PT 83-3/02

Motion by Mr. Nickell to modify and reissue a proposed consent order.
Seconded by Ms. Wilson.
Motion passed unanimously.

Case PT 106-10/02

Motion by Mr. Nickell to issue an emergency license suspension and a notice of license revocation.
Seconded by Ms. Wilson.
Motion passed unanimously.

Case PT-109-11/02

Motion by Mr. Nickell to close the case and continue as case #59
Seconded by Ms. Wilson.
Motion passed unanimously.

Applicant- Debra Smitzer Irvine

Board unanimously decided to grant her application for licensure.

Applicant- Grant Stephens

Motion by Ms. Zarosinski to deny application for licensure until investigated further.
Seconded by Ms. Wilson.
Motion passed unanimously.

Patricia Kortekaas, PT and Erik Verdow, PT

There was concern from the Veterinarian Board that these therapists are teaching PT Techniques to vets and practicing PT on animals. The Veterinarian Board has investigated this and it was decided that a Vet will teach the classes with them. The Board does not have any concern about their practice on animals. The licensees have been in contact with the OPTA and are working on changes to the practice act.

Topic- Approval of meeting minutes

The November 24, 2002 meeting minutes were approved as written with one change on page 3 of 3, first bullet point: change "line of shot" to "line of sight".

Topic- Signing of consent orders and notices of disciplinary action

Motion by Mr. Nickell to delegate authority to Sherri Paru to sign all consent orders and notices of proposed disciplinary action until the Board hires a new Executive Director.

Seconded by Ms. Banaitis.

Motion passed unanimously.

Topic- Ratification of PT/PTA licenses and temporary permits

The Board Ratified all licenses issued by staff.

Topic- Are Massage Therapists Medical Professionals?

Ms. Zarosinski attended a legislative meeting of the OPTA. There was discussions with Naturopathic Physicians, Acupuncturists and PT's re" removing "intent to cure" from Massage Therapist's rules. OPTA's lobbyist said that the the Board can ask for an official AG opinion on whether or not LMT's are medical professionals, however, this is very expensive. If they are considered medical professionals, then our Board may need to stop investigating so many LMT's. The lobbyist felt that the rule exists so that insurance companies would pay for LMT services. The Governor's office will follow law to see if the scope of massage practice needs to be limited.

Topic-Item 1a under "old business" on agenda

Motion by Mr. Nickell to assign a case number and offer the licensee a consent order

Seconded by Ms. Wilson.

Motion passed unanimously.

Topic-Item 1b under "old business" on agenda

Motion by Mr. Nickell to assign a case number and offer the licensee a consent order

Seconded by Ms. Wilson.

Motion passed unanimously.

Topic-Item 1c under "old business" on agenda

The Board voted to assign a case number and continue the investigation.

Topic- Federation of State Board of Physical Therapy (FSBPT) meeting

Ms. Zarosinski will attend and if there is a new Executive Director in place by the meeting, he or she may also attend. Ms. Paru will make hotel and travel arrangements.

Topic- Physical Therapist Aide Training Course

Jane Cedar at Mt. Hood Community College had some concern regarding the course content. The Board reviewed the brochure and asked Ms. Paru to contact the instructor and course coordinator to get more details about the course.

Topic- Question from Colorado PT Board re: Masters degree and Foreign Educated PT's

This is not an issue for our Board, we will keep our same policies that we have in place now.

Topic- Approval of Washington University program for Practice Without Referral in lieu of 18 hour course

Motion by Ms. Barbee to approve this program for practice without referral certification. This will apply to applicant Scott Cotes and for future graduates from Washington University.

Seconded by Mr. Nickell.

Motion passed unanimously.

Case PT-111-12/02- Investigation ongoing

Topic- Michael Giebelhaus, LMT- complaint from Karen Elton, PT

The Board decided not to take action on this complaint. Mr. Giebelhaus did not claim to be a PT nor did he say that he was practicing physical therapy.

Topic- APTA Medical Screening Class/Boissinnault Class

Ms. Paru will continue to look into these classes and Board will look at approving these classes when new rules re: Direct Access are adopted.

Case PT-77-11/01 Chris Whetstine, LMT

Board staff has made numerous attempts to schedule an interview with Mr. Whetstine, Ms. Parks will issue a subpoena for an interview at the Board's office.

Case PT-90-4/02 Dan Taylor. LMT

Investigation ongoing

Topic- Committee to Update Board Policies and Procedures

Ms. Cunningham and Ms. Wilson volunteered to take this on.

Topic- Committee to Interview Applicants for Executive Director

Mr. Nickel, Ms. Banaitis and Mr. Zarosinski will conduct the interviews.

Ms. Paru will send resumes to Mr. Nickel and Banaitis for review.

Topic- Nominations for Board Chair

Motion by Ms. Banaitis to nominate Catherine Zarosinski.

Seconded by Ms. Wilson.

Motion passed unanimously.

Topic- Nominations for Board Vice Chair

Motion by Ms. Zarosinski to nominate Jerry Nickell.

Seconded by Ms. Banaitis.

Motion passed unanimously.

Topic- Next Board meeting

The next Board meeting is March 24, 2003.

Ms. Zarosinski adjourned the meeting.

Physical Therapist Licensing Board

Emergency Board Meeting

February 21, 2003

MINUTES

Present: Board Members: Cathy Zarosinski, PT, MS, Chair; Linda Barbee, PT; Daiva Banaitis, PT, PhD; Jerry Nickell, PT, Vice Chair (via telephone) Staff: Sherri Paru, PT, Clinical Advisor/Investigator Legal Counsel: Carol Parks, AAG

Absent: Board Members: Pat Moore, MD Physician Member; Nancy Wilson, PTA; Cindy Cunningham, Public Member.

OPEN SESSION

The meeting was convened by Board Chair, Cathy Zarosinski, PT, MS

Case PT 106-10/02

Motion by Ms. Banaitis to issue Emergency Suspension order.

Seconded by Ms. Barbee.

Motion passed unanimously.

Physical Therapist Licensing Board

Emergency Telephone Board Meeting

March 6, 2003

MINUTES

Present: Board Members: Cathy Zorosinski, PT, MS, Chair; Linda Barbee, PT; Nancy Wilson, PTA; Jerry Nickell, PT, Vice Chair; Charles Pat Moore, MD; Cindy Cunningham Staff: Sherri Paru, PT, Clinical Advisor/Investigator Contract Investigator: Frank Mussell Legal Counsel: Carol Parks, AAG

Absent: Board Members: Daiva Banaitis, PT, PhD

OPEN SESSION

The meeting was called to order by Board Chair, Cathy Zorosinski, PT, MS at 4:05 pm

EXECUTIVE SESSION

Case PT 123-2/03

The Board discussed details and facts of the case.

Carol Parks, AAG reviewed disciplinary options with the Board members

OPEN SESSION

Motion by Dr. Moore to issue an Emergency License Suspension order.
Seconded by Mr. Nickell.
Motion passed unanimously.

Ms. Zorosinski thanked Mr. Nickel and Ms. Banaitis for participating in the hiring of a new Executive Director. His references all spoke very highly of him and he is very excited to start on March 31.

Next Board meeting is March 21, 2003

Meeting Adjourned

Physical Therapist Licensing Board

Board Meeting

March 21, 2003

MINUTES

Present: Board Members: Cathy Zarosinski, PT, MS, Chair; Linda Barbee, PT; Daiva Banaitis, PT, PhD; Jerry Nickell, PT, Vice Chair; Nancy Wilson, PTA; Cindy Cunningham, Public Member. Staff: Sherri Paru, PT, Clinical Advisor/Investigator. Contract Investigator: Frank Mussell. Legal Counsel: Carol Parks, AAG

OPEN SESSION

The meeting was convened by Board Chair, Cathy Zarosinski, PT, MS

Ms. Zarosinski took the Board into Executive Session.

EXECUTIVE SESSION

The Board reviewed investigatory information regarding pending cases and new complaints.

Case PT 122-1/03

The Board decided to invite the licensee to the next Board meeting on May 16, 2003. Beforehand, we will ask her to send three patient files and her appointment books from the time period in question. We will also have her send two current files for comparison.

Ms. Zarosinski took the Board out of Executive session and into Open Session.

OPEN SESSION

Case PT 119-1/03

Motion by Ms. Zarosinski to deny his application for licensure. If the applicant wishes to reapply, he must be evaluated by a Board designated psychologist or psychiatrist.

Seconded by Mr. Nickell.

Motion passed unanimously.

Topic- New Executive Director- The New Executive Director starts on March 31, 2003. His name is James Heider. He has a strong background in finance and human resources and comes highly recommended.

Topic- FSBPT Spring Meeting- Ms. Zarosinski and Ms. Paru gave an update on the meeting which was held March 14-16 in Salt Lake City, UT. The major thing that was learned was that we need to report all disciplinary actions to the HIPDP data base. Both attendees felt that it was a beneficial meeting and that it was good to learn how rules and views vary from state to state.

Topic- University of Oregon Aide Training Course – Ms. Paru reviewed the course syllabus and outline and presented it to the Board. The Board did not have any problem with the content of the course.

Case No. PT 77-11/01 Chris Whetstine, LMT- The Board decided to wait on a decision until they receive information from the Massage Therapy Board re: Consent Order on file.

Case No. PT 90-04/02 Dan Taylor, LMT- Investigation ongoing.

Case No. PT 111- 12/02 Fitness Creators Studio- Investigation ongoing.

Topic- Approval of Meeting Minutes- meeting minutes approved as written from Jan 24, 2003, February 21, 2003 and March 6, 2003

Topic- Ratification of PT/PTA Licenses- All licenses ratified.

Topic- Avon Walk for Breast Cancer- question was about what can in-state and out-of-state PT's do as volunteers during this walk. The Board decided that out-of-state PT's can only perform first aid. Oregon licensed PT's with direct access can see walkers/crew as appropriate and Oregon licensed PT's without direct access must have a referral from an approved referral source prior to evaluation or treatment. All Oregon PT's must keep records of any treatment that they provide beyond first aide.

Topic- Question from Washington County Early Intervention PT's- The question was about length of time between PT reassessments in the school setting. The Board would like this group to resubmit this letter for consideration when the Board files proposed new rules regarding reassessments.

Topic- Mary Ann Gard, PT Requesting Continuing Education Credits for Courses on Spiritual Pain- The Board voted not to accept any of these courses for Direct access based on OAR 848-030-0000 (4), which states that the content of the course must relate to the delivery of clinical physical therapy services.

Topic- Stuart Stark, PT Requesting Continuing Education Credits for Courses on Yoga- The Board voted not to accept any of these courses for Direct access based on OAR 848-030-0000 (4) (5)(c), which states that the content of the course must relate to the delivery of clinical physical therapy services and that entertainment or recreational meetings do not satisfy the continuing education requirements.

Topic- DMV Mandatory Reporting- The new reporting system is due to begin in May (in certain counties) and PT's are mandatory reporters. If the patient has a primary care

provider, the PT is only responsible for alerting the primary case provider and then the primary care provider must fill out the required forms.

Topic- Physical Therapy at Vet Clinics- There has been a number of phone calls from PT's asking about Veterinarians that provide PT services. The PT Licensing Board has no jurisdiction over the Vets and we have referred the PT's concerns to the Veterinary Licensing Board.

Topic- Question about PTA's doing Home Visits- A PTA in a SNF asked whether she could perform a home visit/assessment prior to a patient being discharged home for a SNF. The Board decided "NO" a PTA can not perform a home visit since it is an assessment/home evaluation.

Topic- Board Member Open Position- There was one applicant for Linda Barbee's Board position. This applicant is Joanna Freedman. The Board voted unanimously that Ms. Freedman is a good candidate and Board staff will be in touch with the Governors office to arrange for her to be appointed. In addition, Jerry Nicholl wished to be appointed for a second term and all Board members approved.

Topic- Proposed Senate Bills 373, 274 and 835- These are all bills that will have impact on the Board if passed. Carol Parks, AAG did not feel strongly that these bills will pass.

Topic- Board Policy Allowing a Licensee to Argue Their Case Before the Board Following a Hearing- Carol Parks, AAG explained this policy to the Board and discussed the fact that the Board may have other policies regarding hearing that the present Board members are not aware of
Motion made by Ms. Zarosinski that the Board will rescind all policies that pertain to contested case hearings. The Board will follow the Attorney General's guide and any rules adopted regarding contested case hearings.
Seconded by Ms. Barbee.
Passed unanimously.

Topic- Next Board meeting- The next Board meeting is May 16, 2003.

Ms. Zarosinski adjourned the meeting.

Physical Therapist Licensing Board

Board Meeting

May 16, 2003

MINUTES

Present: Board Members: Cathy Zarosinski, PT, MS, Chair; Daiva Banaitis, PT, PhD; Jerry Nickell, PT, Vice Chair; Pat Moore, MD Physician Member, Nancy Wilson, PTA; Board Member Appointee: Joana Freedman; James Heider, Executive Director; Sherri Paru, PT, Clinical Advisor/Investigator. Contract Investigator: Frank Mussell. Legal Counsel: Carol Parks, AAG

Absent: Board Members: Cindy Cunningham, Public Member.

OPEN SESSION

The meeting was convened by Board Chair, Cathy Zarosinski, PT, MS

Pursuant to ORS 192.660 (1) (k), Ms. Zarosinski took the Board into Executive Session to discuss licensee investigations.

EXECUTIVE SESSION

The Board reviewed investigatory information regarding pending cases and new complaints.

The Board discussed including Emergency Suspension Orders in the newsletter and decided that YES Emergency Suspension Orders would be published. Under the heading "Reason for Discipline" it will only list "investigation ongoing". The reason will not be listed until a final order has been issued.

The closed door meeting of the executive session is recorded and labeled on sides A and B of two recording tapes.

Ms. Zarosinski took the Board out of Executive session and into Open Session.

OPEN SESSION

Case PT 116-1/03

Motion by Ms. Banaitis to close the case. No violation.

Seconded by Dr. Moore.

Motion passed unanimously.

Case PT 114-1/03

Motion by Ms. Banaitis to close the case and send the licensee a letter of concern regarding his communication with patients.

Seconded by Dr. Moore.

Motion passed unanimously.

Case PT 135-4/03

Motion by Ms. Banaitis to grant his application for licensure.

Seconded by Dr. Moore.

Motion passed unanimously.

Case PT 133a-4/03

Motion by Ms. Banaitis to impose a civil penalty of \$100.00 on the licensee

Seconded by Dr. Moore.

Motion passed unanimously.

Case PT 133b-4/03

Motion by Ms. Banaitis to impose a civil penalty of \$500.00 on the licensee

Seconded by Dr. Moore.

Motion passed unanimously.

Case PT 132a-4/03

Motion by Ms. Banaitis to impose a civil penalty of \$100.00 on the licensee

Seconded by Dr. Moore.

Motion passed unanimously.

Case PT 132b-4/03

Motion by Ms. Banaitis to impose a civil penalty of \$500.00 on the licensee

Seconded by Dr. Moore.

Motion passed unanimously.

Case PT 128a-4/03

Motion by Ms. Banaitis to impose a civil penalty of \$100.00 on the licensee

Seconded by Dr. Moore.

Motion passed unanimously.

Case PT 128b-4/03

Motion by Ms. Banaitis to impose a civil penalty of \$500.00 on the licensee

Seconded by Dr. Moore.

Motion passed unanimously.

Case PT 127a-4/03

Motion by Ms. Banaitis to impose a civil penalty of \$100.00 on the licensee
Seconded by Dr. Moore.
Motion passed unanimously.

Case PT 127b-4/03

Motion by Ms. Banaitis to impose a civil penalty of \$500.00 on the licensee
Seconded by Dr. Moore.
Motion passed unanimously.

Case PT 130a-4/03

Motion by Ms. Banaitis to impose a civil penalty of \$100.00 on the licensee
Seconded by Dr. Moore.
Motion passed unanimously.

Case PT 125a-4/03

Motion by Ms. Banaitis to impose a civil penalty of \$2000.00 on the licensee
Seconded by Dr. Moore.
Motion passed unanimously.

Case PT 125b-4/03

Motion by Ms. Banaitis to impose a civil penalty of \$562.50 on the licensee and place the licensee on 2 years probation.
Seconded by Dr. Moore.
Motion passed unanimously.

Case PT 132-4/03

Motion by Ms. Banaitis to impose a civil penalty of \$75.50 on the licensee.
Seconded by Dr. Moore.
Motion passed unanimously.

Case PT 129-4/03

Motion by Ms. Banaitis to impose a civil penalty of \$100.00 on the licensee and to send a letter to the licensee's employer regarding licensure requirements.
Seconded by Dr. Moore.
Motion passed unanimously.

Case PT 136a-5/03

Motion by Ms. Banaitis to impose a civil penalty of \$250.00 on the licensee.
Seconded by Dr. Moore.
Motion passed unanimously.

Case PT 136b-5/03

Motion by Ms. Banaitis to close the case. No violation.
Seconded by Dr. Moore.
Motion passed unanimously.

Case PT 136c-5/03

Motion by Ms. Banaitis to close the case. No violation.
Seconded by Dr. Moore.
Motion passed unanimously.

Topic-Request for refund of renewal fee from Megan Scudder, PT- The Board can not refund Ms. Scudder the fee from renewing her license since her license was already issued. The only way to take back a license that was already issued would be to revoke her license. Ms. Paru will contact the licensee and tell her that she can not get a refund.

Topic- Incomplete license renewal form from Julie Maslen, PT- Ms. Maslen mailed her renewal application on time, however she neglected to answer one question on the application, therefore her license could not be issued. She did not know that her application was incomplete so she worked for 1 day without a license. The Board decided that since her application was timely, she will not be penalized.

Case No. PT 77-11/01 Chris Whetstine, LMT- The Board continues to wait for information from the Massage Therapy Board re: Notice on file. The Board decided to give the Massage Board 6 more weeks to produce the documents.

Case No. PT 90-04/02 Dan Taylor, LMT- Investigation ongoing.

Case No. PT 111- 12/02 Fitness Creators Studio- Investigation ongoing.

Topic- Approval of Meeting Minutes- meeting minutes approved as written from March 21, 2003 with 2 corrections. On page one "Mr." Zarosinski should be changed to "Ms." Zarosinski. On page two, under heading "Avon Walk for Breast Cancer", first "Aide" should be changed to first "aid".

Topic- Ratification of PT/PTA Licenses- All licenses ratified.

Topic- License Renewal Forms- The suggestion was made to change the deadline for postmarking renewal forms to March 15th. That way licensees can have their license IN HAND by April 1st and employers will have time to make sure that all employees are licensed.

Topic- Mary Ann Gard, PT Requesting Continuing Education Credits for Courses on Spiritual Pain- The Course Provider was going to send Board staff some additional information regarding these continuing ed courses that the Board voted not to approve at the March 21, 2003 meeting. The information was not received by this meeting so this topic was not discussed.

Topic- Question from Home Health PT at Kaiser? Can PT's remove staples from a surgical site? The Board decided that it is OK for a PT to remove staples if under the direction of a physician to do so.

Topic- Question from Rick Martin? Is the use of low level lasers within the scope of practice of PT in Oregon? The Board would like Ms. Paru to gather more information about the lasers and their clinical application. The Board especially wants to find out what the lasers are used to treat and are they FDA approved.

Topic- Question from Aaron Saari PT regarding exemption from initial medical screening course for direct access- Mr. Saari graduated from Central Michigan University in 2001 and the Board determined that his coursework taken has exempted him from taking the initial medical screening course. The Board desired to send Mr. Saari a letter stating that he now can be certified for practice without referral and the reason is because of his schooling, not due to the PT shortage at his clinic.

Topic- Proposed Rule Changes- Board staff discussed timelines for rule filing and hearing dates with the Board. The Budget rules hearing will be on June 24, 2003 at 12pm and the hearing for other proposed rules (direct access and record keeping) will be on July 18, 2003 at 9am. The will take place at the beginning of the Board meeting.

Topic- Board Budget/Financial Report- The Executive Director discussed the budget for 2003-2005 with the Board. He explained that the increase in the budget is in part due to the following:

1. There are now 3 employees that are all receiving health benefits and will all be receiving PERS benefits.
2. The new Executive Director's salary is higher than the previous Executive Director's salary. And the prior biennium budget included 18 months of expense for an investigator as opposed to 24 months.
3. Use of the contract investigator and the DOJ AAG is expected to maintain or even increase over the next biennium given that the number of case files to investigate has quadrupled over the past 2 years.

Further discussed was by adoption of the proposed budget the Board would be operating in a deficit over the next two years. Noted was that there is enough in the reserve account to support this operation but when considering long term planning, consideration need be taken with regards to raising fees.

The Board discussed raising fees for licensure in 2004. There was also discussion about raising the application fee for PT's who are applying for licensure through endorsement but not for PT's who are applying for initial licensure.

Topic- Contract Investigator's Contract-The Executive Director discussed the Contract Investigator's contract with the Board. This year the cap on his contract was set at \$75, 000. The recommendation was to decrease the cap to \$50, 000. All were in agreement that the Contract Investigator will continue to be utilized in the future.

Topic- Secretary of State Audit- The Executive Director reviewed the audit findings and the proposed audit responses with the Board. The audit responses are due back to the audit division by May 20, 2003. The final report has still not been issued. The Executive Director and the Board are very frustrated with the cost of the audit and with the fact that another separate audit will have to be done this year. The Executive Director has appealed the audit and may appeal to the Secretary of State.

Topic- Next Two Board meeting- The next two Board meetings are July 18, 2003 and September 19, 2003.

Ms. Zarosinski adjourned the meeting.

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Physical Therapist Licensing Board

Board Telephone Meeting
June 24, 2003

MINUTES

Present: Board Members: Jerry Nickell, PT, Vice Chair; Nancy Wilson, PTA; Pat Moore, Physician Member; Joana Freedman, PT; Staff: Jim Heider, Executive Director; Legal Counsel: Carol Parks, AAG

OPEN SESSION

The meeting was convened by Board Vice Chair, Jerry Nickell, PT.

Topic-Amend OAR 848-010-0105 – vote to adopt the Board's budget for the 2003-2005 biennium.

Jerry Nickell asked for any feedback or testimony from the public hearing held prior to the Board meeting. Jim Heider responded reported there were no personal appearances at the hearing or written response or comments relative to the adoption of the new budget.

Jerry Nickell asked for any questions or input from the other Board members.

There was no response.

Jerry Nickell opened the floor for a motion to adopt the budget; Pat Moore motioned to adopt the budget, Nancy Wilson seconded the motion.

The Board voted 4 to 0 to amend OAR 848-010-0105 and adopt the new 2003-2005 biennium budget.

Jerry Nickell asked for any other business.

There was no response.

Mr. Nickell adjourned the meeting.

Physical Therapist Licensing Board

Board Meeting

July 18, 2003

MINUTES

Present: Board Members: Cathy Zarosinski, PT, MS, Chair; Daiva Banaitis, PT, PhD; Jerry Nickell, PT, Vice Chair; Pat Moore, MD Physician Member, Nancy Wilson, PTA; Joana Freedman; Cindy Cunningham, Public Member. Staff: James Heider, Executive Director; Sherri Paru, PT, Clinical Advisor/Investigator. Legal Counsel: Carol Parks, AAG

PUBLIC (OPEN) SESSION

The meeting was convened by Board Chair, Cathy Zarosinski, PT, MS

Pursuant to ORS 192.660 (1)(k), Ms. Zarosinski took the Board into Executive Session to discuss licensee investigations.

EXECUTIVE SESSION

The Board reviewed investigatory information regarding pending cases and new complaints.

The closed door meeting of the executive session is recorded and labeled on sides A and B of two recording tapes.

Ms. Zarosinski took the Board out of Executive session and into Open Session.

PUBLIC (OPEN) SESSION

Case PT 115-1/03

Motion by Mr. Nickell to close the case. No violation.
Seconded by Ms. Wilson.
Motion passed unanimously.

Case PT 124-3/03

Motion by Mr. Nickell to close the case and send the licensee a letter of concern and send the witnesses' attorney a letter explaining HIPAA regulations.
Seconded by Ms. Wilson.
Motion passed unanimously.

Case PT 140-6/03

Motion by Mr. Nickell to close the case. No violation. Licensee to be sent a letter explaining Medicare requirements versus Oregon Law.

Seconded by Ms. Wilson.

Motion passed unanimously.

Case PT 134-4/03

Motion by Mr. Nickell to impose a civil penalty of \$100.00 on the licensee

Seconded by Ms. Wilson.

Motion passed unanimously.

Case PT 133b-4/03

Motion by Mr. Nickell to accept Stipulation and Final Order as modified by licensee and her attorney.

Seconded by Dr. Moore.

Motion passed unanimously.

Case PT 119-1/03

Motion by Mr. Nickell to issue a Final Order on default- denying application

Seconded by Ms. Wilson.

Motion passed unanimously.

Case Applicant E.R.

Motion by Mr. Nickell to grant her application for licensure.

Seconded by Ms. Wilson.

Motion passed unanimously.

Case PT 136a-5/03

Motion by Mr. Nickell to issue a notice of proposed discipline with civil penalty of \$250.00

Seconded by Ms. Wilson.

Motion passed unanimously.

TOPIC- Approval of policies and procedures and delegation of authority to issue new licenses

Motion by Ms. Wilson to approve new policies and procedures and to delegate authority to issue new licenses to Board Chair and Vice Chair.

Seconded by Ms. Banaitis.

Motion passed unanimously.

Case No. PT 111- 12/02

Motion by Dr. Moore to close the case. No violation.
Seconded by Mr. Nickell.
Motion passed unanimously.

Case No. PT 77-11/01 Chris Whetstine, LMT-

Motion by Mr. Nickell to close the case. No violation.
Seconded by Ms. Wilson.
Motion passed unanimously.

Case No. PT 90-04/02 Dan Taylor, LMT- Investigation ongoing.

Topic- Approval of Meeting Minutes- meeting minutes approved as written from May 16, 2003.

Topic- Ratification of PT/PTA Licenses- All licenses ratified for period of May 16, 2003 through July 17, 2003.

Topic- Stuart Stark, PT- requests CEU credit for yoga classes- The Board approved 32 hours of yoga classes he takes because other PT's get CEU credit for taking the classes that Stuart teaches. These hours are approved for the 1999-2002 period only, these will not count for the following three-year period. Sherri Paru will write Mr. Stark a letter and explain this to him.

Topic- Lieselotte (Lotti) Baird, foreign educated PT applying for a license- The Board found the credentialing done by the FCCPT to be inaccurate and asked the Executive Director 1) to write a letter of concern to the FCCPT and 2) to review Mrs. Baird's prior credential evaluation accepted by the PT Board of MN done by International Consultants of Delaware, Inc. for compliance to the Oregon rules. Report findings back to the Board.

Topic- Licensees self reporting to insurance companies- Carol Parks, AAG researched whether the current rules allow the Board to mandate that when a PT is disciplined for working without a current license he or she must report themselves to all insurance companies that were billed during the time that the license was lapsed. Ms. Parks found that at this time, the Board can not do that. She suggested that the Board adopt a new rule that would require a PT or PTA to self report to insurance companies. The Board plans to revise and add several rules within the next few months and they will include this one.

Topic- Miguel Alonzo-Diez, foreign educated PT applying for a license- The FSBPT report stated that Miguel must take a class in anatomy, abnormal or developmental psychology and neurological sciences. Miguel wants to take the classes at University of Oregon and submitted the course descriptions to the Board. The Board approved for Miguel to take the classes at the University of Oregon. He is aware that he needs to retake the TWE test as his score of 4.0 was not passing. He also needs to

provide the Board with proof of 800 hours of clinical affiliations. Sherri Paru will contact him and let him know that his school must send us proof that he did, in fact, complete the required affiliations.

Topic- Reporting conflict of interest- Carol Parks, AAG gave the Board members some written information regarding conflict of interest and when it may be appropriate for Board members to excuse themselves from a discussion and a vote.

Topic- Financial Report- Executive Director presented the biennium financials for 7/1/01-6/30/03. Reporting expenses over plan by \$16,841 and our income exceeded plan by \$14,609. The Executive director also presented the Board with a final copy of the 7/1/03-6/30/05 approved biennium budget.

Topic- Secretary of State Audit- Executive Director presented the Board with a final copy of the Change in Directors Audit as completed by the States Audit Division. Also presented were the policies and procedural changes that were developed as part of the Audit findings. The Board reviewed the new policies and procedures and set them aside for ratification.

Topic-Banking Relationship Analysis- Executive Director presented the Board with a business analysis on the Boards current banking relationship and options with regards to changing that relationship. Based on the detailed analysis the Director recommended addressing the current vendor issues up front and remain in the current situation. The Board chose to accept the Directors recommendation.

Topic-Healthcare Integrity and Protection Data Bank- Executive Director gave the Board a brief mini session on the HIPDB, its origin, requirements and ramifications if not kept current. Director reported to the Board that after 3 years the Board was now current and in compliance with the HIPDB. Additionally the Director has taken steps to go on-line with the HIPDB allowing for a speedier process in reporting.

Topic- Next Two Board meetings- The next two Board meetings are September 19, 2003 and November 14, 2003.

Ms. Zarosinski adjourned the meeting.

Physical Therapist Licensing Board

Board Meeting
September 19, 2003

MINUTES

Present: Board Members: Cathy Zarosinski, PT, MS, Chair; Daiva Banaitis, PT, PhD; Jerry Nickell, PT, Vice Chair; Pat Moore, MD Physician Member, Nancy Wilson, PTA; Joana Freedman, PT; Cindy Cunningham, Public Member. Staff: James Heider, Executive Director; Sherri Paru, PT, Clinical Advisor/Investigator. Contract Staff: Frank Mussell, Contract Investigator Legal Counsel: Carol Parks, AAG

PUBLIC (OPEN) SESSION

The meeting was convened by Board Chair, Cathy Zarosinski, PT, MS

Pursuant to ORS 192.660 (1)(k), Ms. Zarosinski took the Board into Executive Session to discuss licensee investigations.

EXECUTIVE SESSION

The Board reviewed investigatory information regarding pending cases and new complaints.

The closed door meeting of the executive session is recorded and labeled on sides A and B of two recording tapes.

Ms. Zarosinski took the Board out of Executive session and into Open Session.

PUBLIC (OPEN) SESSION

Case PT 118-2/03

Motion by Ms. Wilson to close the case. No violation.
Seconded by Mr. Nickell.
Motion passed unanimously.

Case PT 147-8/03

Motion by Ms. Wilson to issue a notice of proposed discipline with civil penalty of \$500.
Seconded by Mr. Nickell.
Motion passed unanimously.

Case PT 131-4/03

Motion by Ms. Wilson to close the case. No violation.
Seconded by Mr. Nickell.
Motion passed unanimously.

Case PT 113-12/02

Motion by Ms. Wilson to close the case. No violation.
Seconded by Mr. Nickell.
Motion passed unanimously.

Case PT 141-7/03

Motion by Ms. Wilson to close the case. No violation.
Seconded by Mr. Nickell.
Motion passed unanimously.

Case PT 117(a)-2/03

Motion by Ms. Wilson to close the case. No violation.
Seconded by Mr. Nickell.
Motion passed unanimously.

Case PT 117(b)-2/03

Motion by Ms. Wilson to close the case. No violation.
Seconded by Mr. Nickell.
Motion passed unanimously.

Case No. PT 90-04/02 Dan Taylor, LMT- Records received from Rehab Medicine Associates. As per Oregon Statute, they overcharged the Board for copies made. Jim Heider will write a letter and alert them to the legal allowable amount. Investigation ongoing.

Topic- Approval of Meeting Minutes- meeting minutes approved as written from July 18, 2003. Meeting minutes from August 20, 2003 Board meeting approved as written except for changes to the following typographical errors: change "nay" to "any", change "nye" to "nay".

Topic- Ratification of PT/PTA Licenses- All licenses ratified for period of July 18, 2003 through September 18, 2003.

Topic- Readleaf Institute course for gender, sensitivity and boundary issues- Ms. Paru received information from course provider regarding this course. This course may be appropriate for some PT's who through investigation, are found to have issues in these areas. Course provider stated that this course is not for licensees that have been disciplined for sexual abuse. Ms. Paru will review the course material and report back to the Board at a future meeting.

Topic- Bradford Williams, PT- question regarding medical screening refresher class for practice without referral certification- Licensee signed up to take the refresher course this Saturday (Sept 20) and was told by the OPTA that he was too late to take the class. He called the Board office and explained that he took his last refresher course in Sept 2000 and he was allowed to take that course without any problem. The Board had sent him a letter at that time and confirmed that he has met all of the requirements for direct access. After reviewing his file, it was noted that he should not have taken the Sept 2000 class since his original practice without referral date is July 8, 1996. The Board decided that since the Board allowed him to take the class in Sept 2000, his error was not completely his fault and he should be allowed to take the class on Sept 20, 2003. Ms. Paru will send the licensee a letter and explain what the future timeframes are for completion of continuing education hours and taking the refresher course. He will not be allowed to take a late class in the future.

Topic- Shawna Papworth, PTA Applicant- question regarding review courses for the NPTA examination- Applicant has failed the NPTA exam three times. By rule, she must take an exam review course prior to sitting for the exam a fourth time. She called the Board office to get information about Board approved review courses. Review courses are currently offered in 2 formats: online and live. They are offered by three companies. At the present time, the only live courses that are offered are 9 days long and cost \$795 dollars. The courses are all out of state. The two day courses are not being offered for PTA's at this time and the company did not know when they will have a course scheduled. Applicant was questioning if an online course would be approved. The Board reviewed the online course offered by therapy team (www.therapyteam.com) and approved it for any applicant needing to take a review course. The Board felt that it is up to the applicant to choose to take either the online course or the live course, depending on the applicants' individual learning style.

Topic- Jeff Winery, PT-question regarding the use of diagnostic ultrasound and needle EMG by Physical Therapists- Dr. Banaitis recalls that the AG looked into this approximately 20 years ago and determined that a PT must have proof of advanced training to do needle EMG's. She suggested that Carol Parks, AAG and Sherri Paru look into the history of this AG decision years ago. Dr. Moore did not feel that it was appropriate for a PT to do needle EMG's since they require a lot of skill to perform and it takes so much training to interpret the test results. The Board agreed that diagnostic ultrasound is not in the scope of PT in Oregon. Sherri Paru will research the history of the AG decision and correspond with the licensee.

Topic- Jeff Guiletti, PT- question regarding referrals, direct access and 30 day referral requirement- Licensee contacted the Board and was questioning the correct interpretation of ORS 688.132. He felt that this statute gives all PT's the ability to treat certain patient populations without an initial referral and allowed licensees with direct access to treat patients for greater than 30 days without a referral. Board legal counsel, Carol Parks, reviewed the legislative history of this statute and reported to the Board that the original draft of the bill was for all PT's to treat patients in the special populations listed under 688.132 (b)(A) (B) (C) without a referral. However, this is not how the statute was written. The statute, as it is currently written, allows PT's with direct access treating these patients not to obtain a referral after 30 days have passed.

It does not allow PT's without direct access to see these patients without an initial referral.

In researching this question, Sherri Paru found several old newsletters in which the Board answers questions from licensees and gave out incorrect information. Carol Parks, AAG advised the Board that it can not discipline a PT for doing something that the Board initially said was allowed. Ms. Parks will write a letter of clarification to be published in the next newsletter and will ask the OPTA to send out info to its members as well. Licensees will be notified that if they would like to treat these patients without a referral, they will need to take the Medical Screening Course, currently scheduled for April 2004.

Topic- Lieselotte (Lotti) Baird, foreign educated PT applying for a license-

Jim Heider reported to the Board that a written understanding had been reached between Mrs. Baird and the Board regarding Lotti Baird's credentialing deficiencies. See Memo dated August 28, 2003, to Baird's credentialing file for list of agreed upon items and actions.

Topic- Financial Report-

Jim Heider presented the current financials reporting all expense categories for period 7/1/03-8/31/03 were in order. He explained the difference between cash accounting system and an accrual accounting system. The Board is on an accrual accounting and budgeting system. Mr. Heider presented the Board with two future budget exceptions. The first is a Risk Management expense classification where the cost for Risk management expense will come in \$3,000 over plan for the biennium 2004-2005, this is due to loss assessments not known or recognized at the time the budget was prepared. Also, the liability for the prevailing unemployment claim from the prior director with her most recent employer will fall back on the Board creating a deficit in payroll expense of \$7,290 for 2003 and possibly up to \$9,000 in 2004.

Topic- General Office Update-

A) Jim Heider presented the Board with copies of the old website pages and the new website pages. The Board reviewed the new pages and with some minor changes, they were enthusiastic about the change. Heider was unable to report to the Board when the new site would be available to the public, noting that it was dependent on the State going live with the new Oregon.gov parent site. Also relative to the new site will be the ability for the public to do a licensure look-up online. Mr. Heider presented two options to the Board for consideration. One option was a quick fix currently used by several of the other Boards who share the same licensure data base. The cost was nominal and the startup time minimal but the look and feel was not very professional, it is cumbersome to use and it does not offer the ability to search for a particular name. The other option had a search engine built in and has a very professional look. The cost associated with the second option was 5 to 10 thousand dollars and had a server charge of \$140.00/month. There was much discussion among the Board members and it was decided to temporarily go with the quick fix until the second option could be further researched. B) Also presented was the PEBB Interagency Agreement to be submitted by the Board for benefit year 2004. The Board agreed to the current benefit levels adding the ability for a Board employee to opt out of the medical plan for a predetermined subsidy incentive. The Board set the subsidy incentive at 50% of the total assessment for coverage less the cost for

mandatory coverage's, i.e. dental and life insurance. Jim Heider will complete the agreement and write the internal policies for the policy to allow an employee to opt out of the medical plan. C) Lastly, for the upcoming licensing renewal period 2004, Jim Heider shared with the Board plans to change the licensing font back to its original font. He cited complaints from the field and his own personal observation that the current font has an unprofessional look and feel. The Board agreed with the change.

Topic- Next Two Board meetings- The next two Board meetings are November 14, 2003 and January 23, 2004.

Ms. Zarosinski adjourned the meeting.

Physical Therapist Licensing Board

Board Meeting

November 14, 2003

MINUTES

Present: Board Members: Cathy Zarosinski, PT, MS, Chair; Daiva Banaitis, PT, PhD; Jerry Nickell, PT, Vice Chair; Pat Moore, MD Physician Member, Nancy Wilson, PTA; Joana Freedman, PT; Cindy Cunningham, Public Member. Staff: James Heider, Executive Director; Sherri Paru, PT, Clinical Advisor/Investigator. Legal Counsel: Carol Parks, AAG

PUBLIC (OPEN) SESSION

The meeting was convened by Board Chair, Cathy Zarosinski, PT, MS

Pursuant to ORS 192.660 (1)(k), Ms. Zarosinski took the Board into Executive Session to discuss licensee investigations.

EXECUTIVE SESSION

The Board reviewed investigatory information regarding pending cases and new complaints.

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Ms. Zarosinski took the Board out of Executive session and into Open Session.

PUBLIC (OPEN) SESSION

Case PT 142-6/03

Motion by Ms. Freedman to close the case. No violation.

Seconded by Ms. Wilson.

Motion passed unanimously.

Case PT 150-10/03

Motion by Ms. Freedman to issue a notice of proposed discipline citing practice of PT without a valid license with an imposed civil penalty of \$1500 and 2 years of probation.

Seconded by Ms. Wilson.

Motion passed unanimously.

Case PT 144a, 144b, 144c-8/03

Motion by Ms. Freedman to close the case. No violation.
Seconded by Ms. Wilson.
Motion passed unanimously.

Case PT 105-9/02

Motion by Ms. Freedman to close the case. No violation.
Seconded by Ms. Wilson.
Motion passed unanimously.

Case PT 139-6/03

Motion by Ms. Freedman to issue an order of proposed discipline citing five separate violations; suspend licensee's license for one month; levy a civil penalty of \$5,000; request a copy of the licensee's clinic's practice and procedures manual; extend the licensee's probationary period to five years from date of execution of the order; and at its discretion, reserve the Board's right to have licensee appear before the Board annually.
Seconded by Ms. Wilson.
Motion passed unanimously.

Case PT 59

Motion by Ms. Freedman to send licensee letter acknowledging progress but noting need for additional improvement. Citing specifically, need for functional and measurable goals and progress specific to those goals, recommend completion of documentation course. Case will close when the Board is satisfied that terms are met.
Seconded by Ms. Wilson.
Motion passed unanimously.

Case PT 148-10/03

Motion by Ms. Freedman to issue an order of proposed discipline citing practice of PT without a valid license with an imposed civil penalty of \$187.50. Noting the reduced penalty because Board accepted a share of the responsibility because a renewal form was not generated and sent to licensee.
Seconded by Ms. Wilson.
Motion passed unanimously.

Case PT 104-09/02

Case closed off probation as of 11/08/2003.
Motion by Ms. Freedman to issue letter of concern, additional improvement needed. Citing specifically, need for functional and measurable goals and progress specific to those goals. Board to revisit in six months.
Seconded by Ms. Wilson.
Motion passed unanimously.

Case PT 143-8/03

Ms. Zarosinski recused herself from this case. Ms. Freedman motioned to issue an order of proposed discipline citing failure to cooperate with the Board with an imposed civil penalty of \$2,500.00 and poor record keeping with an imposed civil penalty of \$1,000.00; also to issue a letter of concern with regards to questionable practice techniques regarding a patients right to privacy; successfully complete a documentation course and probation for six months.

Seconded by Ms. Wilson.

Motion passed unanimously.

Issue- Matthew Walsh Rescind Prior Approval to Apply for Licensure

Mr. Heider presented Board with additional information indicating that Mr. Walsh was still deficient in general education course work including Chemistry and Physics.

Motion by Ms. Wilson, based on new information, to rescind prior Board approval allowing Mr. Walsh to apply for an Oregon PT license.

Seconded by Ms. Banaitis.

Motion passed unanimously.

Issue- Sheri Ann Woroschuk Request to Waive General Education Requirements

Mr. Heider presented request letter from Ms. Woroschuk noting her post baccalaureate education and training and her experience in the field. Based on this information, Ms. Woroschuk requested the Board to waive the requirement for general education course work in Chemistry and Physics. The Board denied Ms. Woroschuk's request citing OAR 848-010-0015 (3) (b) (A) (ii).

Issue- Miguel Alonso-Diez Request to Approve Supervised Clinical Practice Program

Mr. Heider presented to the Board a supervised clinical practice plan developed by Sacred Heart Hospital. The Hospital wants to sponsor Mr. Miguel Alonso-Diez in his efforts to earn the additional 170 hours needed to meet the clinical practice credentialing requirements. Once the requirements are met, Mr. Alonso-Diez may sit for the national exam and be licensed in Oregon. The Board reviewed the plan and voted to accept it as is.

Issue- Request for Board Approval to Accept CLEP Exam for Credentialing General Education Credit Requirements

As presented by Mr. Heider, the Board voted and approved the use of CLEP Exam results for credentialing of general education credits for foreign educated physical therapists.

Issue- Request for Board Approval to Allow The Transfer of Excess Professional Education Credits to Satisfy Related General Education Deficiencies

As presented by Mr. Heider the Board voted and approved the transfer of excess related professional credits to satisfy the general education credit deficiencies.

Topic- Mary Anne Gard, PT Request for CE Approval

Ms. Paru presented the Board with request from licensee for approval of CE credit for course entitled The Sacred Art of Dying sessions 3 & 4. Ms. Paru reviewed the course content with the Board the Board voted to approve the CE hours.

Topic- Tim Palmesano, PT Question Regarding Treatment of Student Athletes

Ms. Paru presented the Board with a question from licensee regarding the treatment of student athletes on the field and in the training room without referral. The Board response was, representing himself as a PT; he would have to have a practice without referral certification to treat these patients. Further, unless certified as an Athletic Trainer, they can not represent themselves as an Athletic Trainer. Board requested an article to clarify position in the next newsletter.

Topic- Bill Temes, PT Question Regarding Use of real-Time Ultrasound

Ms. Paru presented the Board with a question from licensee regarding PT scope of practice and the use of Real-Time Ultrasound. The Board tabled the question asking Ms. Paru to gather more information from licensee regarding the application of, training methodology and results. Ms. Paru to gather information for next Board meeting.

Topic-Jonathan Sampson, PT Request for CE Approval

Ms. Paru presented the Board with request from licensee for approval of CE credit for course on canine PT. The Board denied the request noting that PT work on animals is not within the scope of practice as stated by current statute. Further the Board clarified their position with regards to PT working on animals stating that they can only practice in partnership with a Veterinarian and therefore would be working under the statutes and rules of the Veterinarian Board. Also, in the PT Board statutes, the term physical therapy relates directly to human beings, therefore when working with a Veterinarian on animals a PT may not refer to their work as physical therapy.

Topic- Annual FSBPT Delegate Conference

The annual FSBPT Delegates Conference was held this year in Kansas City Missouri. Ms. Zarosinski reported to the Board that program provided a good forum for Jim Heider to meet and network with the FSBPT and FCCPT staff.

Topic-General Office Update

Jim Heider reported on the Website project, stating that the requested changes from the Board had been implemented to the new site. Further he reported that the new site should be ready to go live by mid December. Mr. Heider also reported that the new licensure verification program was in place on both the new site and the old site. This was the version that was a quick solution to the problem. Mr. Heider will continue to research option for a more sophisticated name search verification program and report back to the Board.

Jim Heider also reported that the process of renewal for 2004-2005 has begun with establishing a calendar, revision of renewal forms and the changing of the print font on the license certificates. All is on target for the 1/05/04 mailing.

Lastly, Jim Heider reported that the biennial financial audit has begun with preliminary data gathering and reporting already complete. The on site audit will last two days December 10th and 11th, 2003 and will cost approximately \$3,000 to \$5,000 dollars.

Topic- Board Financials

Jim Heider presented the Board with a summary financial report for period July 1, 2003 through October 31, 2003. Mr. Heider also gave the Board a financial report narrative covering the same period. Pointed out in the narrative was only one area of concern. Currently payroll costs expense number 5100 is over budget by \$6,595.87. This can be directly related back to the payment of an unbudgeted unemployment claim assessed against the Board. Further Mr. Heider explained to the Board that this claim could extend into 2004 and the total exposure for liability could be \$9,000.00. All other expense categories were reported as on target.

Topic- Approval of Meeting Minutes- Board meeting minutes approved as written from September 19, 2003.

Topic- Ratification of PT/PTA Licenses- All licenses ratified for period of September 19, 2003 through November 13, 2003.

Topic- Next Two Board meetings- The next two Board meetings are January 23, 2004 and April 2, 2004.

Ms. Zarosinski adjourned the meeting.