

**Physical Therapist Licensing Board  
Board Meeting  
February 04, 2005**

**MINUTES  
Friday February 04, 2005**

**Board Members Present:** Cathy Zarosinski, PT, MS, Chair; Jerry Nickell, PT, Vice Chair; Daiva Banaitis, PT, PhD; Nancy Wilson, PTA; Joana Freedman, PT; Pat Moore, MD, Physician Member; Cindy Cunningham, Public Member

**Board Members Absent:** None

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

**Legal Counsel:** Carol Parks, AAG

**EXECUTIVE (CLOSED) SESSION**

Citing ORS 192.660(2), at 8:35 AM Ms. Zarosinski convened the Board into Executive Session. Pursuant to ORS 192.660(2), this portion of the meeting is closed to the public.

In Executive Session, the Board considered legal advisement from Counsel regarding upcoming contested case hearings, open cases, and a visit from a licensee and their attorney. The Board also reviewed investigatory information regarding pending cases and new complaints.

The entire meeting, including the closed door meeting of the Executive Session, is recorded and labeled on Sides A and B of four recording tapes dated 02/04/05.

Upon completion of the Executive Session, Ms. Zarosinski took the Board into Public Session for motions and additional business. The public and interested parties are invited to attend this portion of the meeting.

**Board Motions**

**Case PT 168-6/04**

Motion by Dr. Banaitis to send a letter to the licensee's attorney offering to postpone the hearing if the licensee agrees to sign an order stipulating the following conditions, 1) licensee will not practice physical therapy pending the outcome of this case, and 2) licensee will keep the Board informed of licensee's employment status, and immediately inform the Board of any changes in employment as they occur, and 3) licensee submits to a psychological evaluation and assessment using one of the psychologists on the previously provided Board list; the Board will provide information to the psychologist prior to the evaluation; and the Psychologist will present the written assessment to the Board within 60 days of this letter. The psychological evaluation will be at the licensee's own expense.

Seconded by Nancy Wilson

Motion passed unanimously

**Case PT 178-12/04**

Motion by Dr. Banaitis to issue a Stipulated Order imposing a civil penalty of \$1,000 for practice without a valid license.

Seconded by Nancy Wilson

Motion passed unanimously

**Case PT 176-11/04**

Motion by Dr. Banaitis to close case citing no violation.

Seconded by Nancy Wilson

Motion passed unanimously

**Case PT 169-07/04**

Motion by Dr. Banaitis to close case citing no violation.

Seconded by Nancy Wilson

Motion passed unanimously

**Case PT 170-07/04**

Motion by Dr. Banaitis to close case citing no violation.

Seconded by Nancy Wilson

Motion passed unanimously

**Case PT 155-03/04**

Motion by Dr. Banaitis to close case citing no violation.

Seconded by Nancy Wilson

Motion passed unanimously

**Case PT 112-12/02**

Motion by Dr. Banaitis to close case citing no violation.

Seconded by Nancy Wilson

Motion passed unanimously

**Case PT 175-11/04**

Motion by Dr. Banaitis to send a letter to the licensee's attorney offering to withdrawal original order and settle case, if the licensee would agree to sign an order stipulating that licensee agrees to the voluntarily surrender of his/her Oregon license, and agrees to never apply for licensure again in the State of Oregon.

Seconded by Nancy Wilson

Motion passed unanimously

**Case PT 179-12/04**

Motion by Dr. Banaitis to grant renewal of license.

Seconded by Nancy Wilson

Motion passed unanimously

**Case PT 143-08/03**

Motion by Dr. Banaitis to remove licensee from probation, effective 02/24/05, and to close case.

Seconded by Nancy Wilson

Motion passed unanimously

**Case PT 58**

Motion by Dr. Banaitis to send a letter to the licensee's attorney offering to settle case, if the licensee would agree to sign an order stipulating to violations noted, and pay a civil penalty of \$4,000.

Seconded by Nancy Wilson

Motion passed unanimously

**Case PT 85-05/01**

Motion by Dr. Banaitis to send a letter to the licensee's attorney offering to settle case, if the licensee would agree to sign an order stipulating to violations noted, and pay a civil penalty of \$4,000.

Seconded by Nancy Wilson

Motion passed unanimously

**Case PT 181-01/05**

Motion by Dr. Banaitis to issue Notice of Proposed Discipline, revocation of license.

Seconded by Nancy Wilson

Motion passed unanimously

**Case PT 74-12/01**

Motion by Dr. Banaitis to send a letter to the licensee's attorney offering to settle case, if the licensee would agree to sign an order stipulating to the violations noted in licensee's attorney's letter to the Board dated 08/21/03, and pay a civil penalty of \$250.00.

Seconded by Nancy Wilson

Motion passed unanimously

**Case PT 146a-08/03**

Motion by Dr. Banaitis to close case citing complaint withdrawn, no violation.

Seconded by Nancy Wilson

Motion passed unanimously

**Case PT 146b-08/03**

Motion by Dr. Banaitis to close case citing complaint withdrawn, no violation.

Seconded by Nancy Wilson

Motion passed unanimously

**Case PT 180-12/04**

Motion by Dr. Banaitis to close case citing no violation.

Seconded by Nancy Wilson

Motion passed unanimously

### **Board Action**

Motion by Jerry Nickell to accept the proposed 2005-2007 PT Board operating budget, as presented by the Executive Director.

Seconded by Dr. Banaitis

Motion passed unanimously

Dr. Moore was not present for the vote.

### **Rule Questions to the Board**

**Karen Poague Brady, PT and Carla Knoll, PT** - asked the Board to consider a change, to OAR 848-020-0060(9), regarding the administering of various modalities or procedures by an Aide.

After discussion, the Board tabled the request, asking the Executive Director to consider the request with the next update or rewrite of the Administrative Rules.

**Ann Joerling, PT** - represents Beaverton School District PTs and wrote to the Board regarding reassessments and the new rule regarding notes being written on the day of service.

After discussion, the Board tabled their consideration, asking the Executive Director to consider the request with the next update or rewrite of the Administrative Rules. And, although there was representation from an ESD licensee on the Rules Committee, the Board thought it a good idea to put together a small subcommittee of ESD licensees to consider all aspects of their settings with regard to the new rules.

**PT Student, Hannah Lanstrum** - wrote to the Board noting the current rules do not specifically address the supervision requirements for a physical therapist student.

After discussion, the Board determined that the responsibility, for the supervision and actions of a PT student, falls on each clinical instructor and would be determined by the circumstances and experience of the student, as assessed by the clinical instructor.

### **Medical Screening Issues/Questions to the Board**

Current Board Rule OAR 848-030-0000(2) allows for a physical therapist, who has graduated from a CAPTE accredited PT program on or after January 1, 1998, to apply for Practice Without Referral Certification without having to take the Initial 12-Hour Medical Screening Course. What happens if the graduate has never practiced without referral, and has not kept current with differential diagnosis procedures and applies for the PWR certification 5, 10, 15 years from now because of their graduation date?

After discussion, the Board determined its interpretation of the new rule was as follows: if an applicant graduated after January 1, 1998, the applicant or graduate had 3 years from their date of graduation to apply for practice without referral without having to take the initial medical screening course. If the graduate's request or application was beyond 3 years from their graduation date, they would have to take the initial medical screening course in order to qualify for practice without referral certification. Further, the Board determined that the 3-year certification period should begin with the date the licensee

graduated from their qualifying PT program and, if necessary, the licensee may be required to immediately take a refresher course. The Board instructed staff to look into this issue to determine the impact to the licensees already certified, and come up with a plan of action to bring their certifications current.

Question from Board Staff, if a licensee takes a medical screening course that is greater than 12 hours, can they apply the additional hours towards the required continuing education credits?

After discussion, the Board determined yes, a licensee may use the excess medical screening certification hours towards meeting the continuing education requirement.

Question from Board Staff, does the Board want to have a policy that the Board Staff (Clinical Advisor and Executive Director) can approve initial medical screening courses if the courses meet the criteria set forth in 848-030-0000(2)?

After discussion, the Board determined that the Clinical Advisor will present her findings to the Board; however, the Board will retain final authority with regards to approval.

Verbal report on North American Seminars approved course taught by David Musnick, MD. Clinical Advisor audited the course and reported that the course met all the Board requirements.

Clarification of initial practice without referral certification date - currently it is the date that the licensee takes a course. Should it be the date the Board receives all documentation? Should the OPTA give licensees a timeframe for test completion?

After discussion, the Board determined that the initial certification begins the date the paperwork is completed and received by the Board, and the Board issues the certificate. However, the 3-year timeframe for continuing education and the refresher course will be based on the date of graduation, or the date the initial medical screening course was taken. The Board further determined that because all continuing education requirements are keyed off the end of a 3-year certification period, and the refresher course requirement is keyed off the beginning of a new 3-year period, that maybe instead of the initial certification begin date being printed on the licenses, perhaps the Board should print the certification end date for the most current period. The Board instructed staff to look into the feasibility of printing a "Certified To Practice Without Referral Through Date". Further discussion and clarification will be on the next Board meeting agenda.

Question from Board Staff, should the Board change its rule regarding timeline for taking the refresher course? Currently the rule says the refresher course must be completed six months prior to, or within the first year of the begin date, for a new 3-year certification period.

After discussion, the Board determined that, with the next update of the rules, the Board would consider removing or changing the 18-month window of opportunity for taking the required medical screening refresher course, now that it is readily available through the OPTA via DVD self study.

### **APTA orthopedic section medical screening course-**

After review and report of course content by the Board's Clinical Advisor, the Board approved the APTA Orthopedic Section Medical Screening Course as an approved Initial Medical Screening Course for certification to practice without referral. The Board instructed the Clinical Advisor to contact the APTA and let them know that when someone from Oregon takes the course, the APTA has to provide a Certificate of Completion directly to the Board.

**MIVEN DONATO, PT-** request for approval to use the medical screening course from transitional DPT program at Creighton University to satisfy the requirement for the 6-hour medical screening refresher course.

After discussion, the Board approved the use of an approved initial medical screening course to satisfy the requirement of the 6 hour medical screening refresher course. The Board instructed its Clinical Advisor to gather more information with regards to course content if it meets the criteria the Board would approve.

**JUDY SIMONSEN, PT-** request for approval of medical screening course from Oregon College of Oriental Medicine.

After review and report of course content by the Board's clinical advisor, the Board denied the approval request, for the medical screening course from the Oregon College of Oriental Medicine, as meeting the initial 12-hour medical screening course requirement for practice without referral. At a previous meeting, the Board did approve this course for continuing education credit.

**DAN ADELS, PT-** request for approval of a CERT course for direct access continuing education credit.

After review and report of course content by the Board's clinical advisor, the Board determined it would allow for 2 continuing education credits in recognition of those portions of the course that deal directly with clinical applications.

### **FSBPT ISSUES: budget and APTA transfer agreement lawsuit**

The Executive Director handed out copies of the Federation of State Boards of Physical Therapy's operating budget. The Board Chair gave a verbal summary of the pending litigation between the APTA and the FSBPT regarding the transfer agreement of the National Physical therapy Examination.

### **DRAFT STANDARD COVER LETTERS AND STIPULATED ORDER**

The Board reviewed the staff's proposed standardization of a Stipulated Order and the cover letter that would accompany the order. With indicated changes, the Board adopted the use of the standardized format.

## **GENERAL OFFICE UPDATE**

### **Report to Governor/Executive Summary**

The Executive Director shared, with the Board, a copy of the Executive Summary submitted with the required Biennial Report to the Governor and Legislative Assembly. Copies of the Executive Summary or the Report can be obtained through the Board office.

### **Board Budget**

The Executive Director presented, to the Board, a detailed 2005-2007 operating budget. The Board reviewed each of the income and expense accounts and voted unanimously to accept the proposed Budget. The Public Hearing regarding the adoption of the Board's 2005-2007 proposed Budget is scheduled for: April 1, 2005, 8:30 AM, Room 445, Portland State Office Building, 800 NE Oregon Street. The Hearing Notice, Statement of Need and Fiscal Impact, and a copy of the Rule Text Changes can be found on the Board website at [www.ptboard.state.or.us](http://www.ptboard.state.or.us). A copy of proposed detailed budget can be obtained by contacting the Board office.

### **Filing of rules- effective date 12/29/04**

Executive Director reported, to the Board, that the filing of the amended Administrative Rules was effective on 12/29/04.

### **Staff asked for clarification on new rule disallowing the use of initials on chart notes**

After discussion, the Board determined that a signature was needed on all notes, regardless of the setting or the internal policies, of the organization. A signature sheet, in the front of a patient's chart, does not meet the rule requirements.

### **License renewal update**

Executive Director reported to the Board that the renewal forms went out on schedule the first week in January, and that the flow of renewals, back to the Board, was consistent with prior year volume.

### **New office phone system & numbers**

Executive Director reported, to the Board, that the new phone system cut-over scheduled for the beginning of March has been pushed back. A new target date is not known at this time. The Board will have all new phone numbers. Each staff person will have a direct inward dial number. The system will transfer calls from the old number for up to one year from the cut-over. The new phone system is part of a DAS upgrade and will have no fiscal impact directly to the Board.

### **Office move update**

Executive Director reported, to the Board, that the preliminary plans for the new space were approved by DAS and the other Health Related Licensing Boards. The target date for the move is still scheduled for August 2005. Again, this move is to accommodate the need for additional space by the Board of Nursing and none of the Health Related Licensing Boards in Suite 407 should incur added expense because of the mandated move.

## **LIST OF ACCEPTABLE PSYCHOLOGISTS AND PSYCHIATRISTS FOR EVALUATION AND TREATMENT OF LICENSEES**

After solicitation of referrals, contacts, and interviews by the Clinical Advisor, the Board Staff compiled and presented, to the Board, a list of viable clinicians to use as referrals for Board required psychological evaluations and assessments. After review and discussion, the Board unanimously approved the list of clinicians.

### **CASE PT 180-12/04- ARIANA ORTON, LMT**

After consideration of Staff Investigative Report, the Board moved to close case citing no violations.

**RUGGIERO CANIZARES, PT-** presented a question regarding use of ultrasound for muscle re-ed by PTAs?

After discussion, the Board determined, if properly trained and working under the direction of a physical therapist, it is OK for a physical therapist assistant to administer ultrasound for the purpose of muscle re-ed.

**FUTURE BOARD MEETING DATES** - April 1, 2005; June 3, 2005.

Staff question to the Board; does the Board want to continue to meet on Fridays?

The Board determined it would like to continue holding meetings on Fridays. The Board also set the meeting dates for the remainder of 2005. They are: August 5, 2005; September 30, 2005; and, December 2, 2005. 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 LICENSES & TEMPORARY PERMITS**

The Board was presented with a list of new licensees issued for the period of December 3, 2004 through February 3, 2005. The Chair opened the floor, for discussion, with regards to the new licensees. Without noted discussion, the Board voted unanimously to ratify new licensees issued for the above-noted period.

### **APPROVAL OF MEETING MINUTES**

The minutes, from the December 3, 2004 Board Meeting, were presented to the Board. The Chair opened the floor for discussion and comments. Without any noted discussion, the Board voted unanimously to accept the December 3, 2004 Board Meeting Minutes, as submitted.

### **CALL FOR OTHER NEW BUSINESS**

Ms. Zarosinski asked for any other business.

The Board Clinical Advisor brought up a late question received by Jeff Giulietti, PT. Mr. Giulietti had a particular situation in his clinic where he received a 10 day termination



notice from one of his employees. Mr. Giulietti wanted to know if this situation constituted patient abandonment. After discussion, and in consultation with the Board's legal counsel, the Board determined that a ten-day notice was not cause to consider the patient being abandoned by the therapist.

Ms. Zarosinski adjourned the meeting at 4:40 PM.

**Physical Therapist Licensing Board  
Emergency Telephone Board Meeting  
February 18, 2005**

**MINUTES**

**Friday February 18, 2005**

**Board Members Present:** Cathy Zarosinski, PT, MS, Chair; Jerry Nickell, PT, Vice Chair; Nancy Wilson, PTA; Joana Freedman, PT; Pat Moore, MD, Physician Member; Cindy Cunningham, Public Member

**Board Members Absent:** Daiva Banaitis, PT, PhD

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

**Legal Counsel:** Carol Parks, AAG

**EXECUTIVE (CLOSED) SESSION**

Citing ORS 192.660(2), at 12:30 PM, Ms. Zarosinski convened the Board into Executive Session. Pursuant to ORS 192.660(2), this portion of the meeting is closed to the public.

In Executive Session, the Board considered legal advisement from Counsel regarding upcoming contested case hearings and updates on various proposed Board actions.

The entire telephone meeting, including the closed door meeting of the Executive Session, is recorded and labeled on Side A of one recording tape dated 02/18/05.

Upon completion of the Executive Session, Ms. Zarosinski took the Board into Public Session for motions and additional business. The public and interested parties are invited to attend this portion of the meeting.

**Board Motions**

**Case PT 74-12/01**

Motion by Dr. Moore to withdraw the case from the Office of Administrative Hearing and send licensee a detailed letter of concern.

Seconded by Jerry Nickell

Motion passed unanimously

Cathy Zarosinski asked for any other new business.

Cathy Zarosinski adjourned the meeting at 1:15 PM.

**Physical Therapist Licensing Board  
Board Meeting  
April 1, 2005**

**MINUTES  
Friday April 01, 2005**

**Board Members Present:** Cathy Zarosinski, PT, MS, Chair; Jerry Nickell, PT, Vice Chair; Nancy Wilson, PTA; Joana Freedman, PT; Pat Moore, MD, Physician Member

**Board Members Absent:** Daiva Banaitis, PT, PhD; Cindy Cunningham, Public Member

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

**Legal Counsel:** Carol Parks, AAG

**PUBLIC HEARING RULE AMENDMENT**

Cathy Zarosinski, Hearings Officer convened the public hearing at 8:37 AM. Ms. Zarosinski noted that the purpose of the hearing was to provide an opportunity for public comment on the Board's proposed 2005-2007 budget, Rule OAR 848-005-0010. Jim Heider, Board Executive Director noted that the Notice of Hearing was mailed to all Interested Parties; it was posted in the March 2005 Oregon Bulletin; it was posted on the Boards website; and, it was announced in the Spring 2005 Newsletter mailed to all Licensees on March 17, 2005. Because there was no one signed up to give testimony, Ms. Zarosinski asked Carol Parks, Board Legal Counsel, how long the Board should wait? Ms. Parks suggested the Board wait an additional 7 minutes to see if anyone showed up to testify. Mr. Heider noted that the deadline for written testimony was set for the close of business on Thursday, March 31, 2005. Mr. Heider further noted that the Board office had not received any written testimony in regards to this rule amendment. At 8:45 AM, Cathy Zarosinski, Hearings Officer, closed the hearing.

**EXECUTIVE (CLOSED) SESSION**

Citing ORS 192.660(2), at 8:35 AM Ms. Zarosinski convened the Board into Executive Session. Pursuant to ORS 192.660(2), 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 Counsel regarding pending contested case hearings.

The entire meeting, including the closed door meeting of the Executive Session, is recorded and labeled on Sides A and B of two recording tapes dated 04/01/05.

**PUBLIC (OPEN) SESSION**

Upon completion of the Executive Session, Ms. Zarosinski took the Board into Public Session for motions and additional business. The public and interested parties are invited to attend this portion of the meeting.

### **Board Motions**

#### **Rule Amendment**

Motion by Joana Freedman to accept the Amendments to OAR 848-005-0010 Board Budget for the biennium 2005-2007.

Seconded by Nancy Wilson

Motion passed unanimously

#### **Case PT 137-06/03**

Motion by Joana Freedman to close case citing no violation.

Seconded by Nancy Wilson

Motion passed unanimously

#### **Case PT 181-1/05**

Motion by Joana Freedman to issue a Final Order by Default (Revocation of License).

Seconded by Nancy Wilson

Motion passed unanimously

#### **Case PT 182-1/05**

Motion by Joana Freedman to close case citing no violation.

Seconded by Nancy Wilson

Motion passed unanimously

#### **Case PT 184-02/05**

Motion by Joana Freedman to close case citing no violation.

Seconded by Nancy Wilson

Motion passed unanimously

#### **Case PT 58**

Motion by Joana Freedman to approve settlement and stipulation.

Seconded by Nancy Wilson

Motion passed unanimously

### **Orientation to New Binders for Board Members**

Board staff assembled and introduced to Board Members new meeting binders. The binders will be maintained by Board staff and distributed to Board Members at the beginning of each meeting.

The binders are designed to hold current, commonly used references i.e., Statutes and Administrative Rules, and current open case information. The binders will be collected and held by staff at the conclusion of each meeting.

### **Direct Access Policy Issues**

The Board staff reviewed current Direct Access policies and issues, with the Board, and after discussion and consideration the Board determined the following:

1. Certification date/period- An individual's initial certification period begin date will be the date the Board issues the certification to practice without referral following the receipt of the final piece of required documentation, including initial medical-screening course completion and/or healthcare provider CPR card.
2. The printed current certification period, including the certification begin and end date, will appear on the Licensee's license. This date will update with each new 3-year-certification period. The original initial certification date will be held on the licensure data base system.
3. For individuals who have graduated, within the prior 3 years of their application date for practice without referral, their initial certification period will begin as noted in (1) above; however, their initial certification period end date will be 3 years from their graduation date. This could make their initial certification period something less than 3 years.
4. For individuals completing the initial 12-hour-medical screening course, within the prior 3 years of their application date for practice without referral, their first certification period will be as noted in (1) above; however, their initial certification period end date will be 3 years from the date they took the course, or acquired the course DVD. This could make their initial certification period something less than 3 years.
5. The current Administrative Rules will be amended to require that a medical screening refresher course be completed by the end of any certification period, eliminating the 18-month timeframe currently in the rules.
6. The current Administrative Rules will also be amended to state that the initial medical-screening course shall be a minimum of 12 hours and that the medical-screening refresher course shall be a minimum of 6 hours.
7. Licensees who have already been given DA based on graduation date after 1998, and are not in compliance with the 3 year refresher course requirement based on their graduation date, will be exempt from discipline because of Board administrative error, but will be sent a letter requiring them to take the refresher course prior to 12/31/2005. Because of Board error, there will be no cost to these licensees for issuing a duplicate license.

**Question from Miven Donato, PT- Re: Shoulder Manipulation under Anesthesia**

Licensee would like to know where the Licensing Board stands with regards to a particular procedure as it relates to PT Scope of Practice. The issue involves manipulation under anesthesia (specifically, shoulder manipulation under anesthesia). Anesthesia encompasses general or blocks such as interscalene nerve block for shoulders. The anesthesia would be administered by an anesthesiologist (MD) and the manipulation performed by a PT who specializes in manual/manipulative therapy. Here is the scenario:

“The procedure is done in a medical clinic (in my case a pain specialist office). The medical physician (anesthesiologist) administers the anesthesia and the PT performs the manipulation of the shoulder. This is then immediately followed by ROM rehabilitation as usual. Advantages: 1) The patient benefits from this scenario primarily because it is more cost effective than one performed by an orthopedist in the hospital or surgery

center, 2) The manipulation is more PT oriented and the functional outcome is likely to be better than the conventional medical approach”.

Answer: The Board determined that it was not within our Scope of Practice for a PT to provide manipulation under anesthesia. The Board expressed concern that in the scenario explained, the PT and anesthesiologist were working on the patient without the orthopedist involved. The Board felt strongly that this type of manipulation should not be done by a PT. The Board did, however, feel that Serial Casting and ROM, following a local block, is appropriate.

**Question from Katie Vendasco, PT Re: Biovalent Systems and Visceral Manipulation** –

Are biovalent systems and visceral manipulation within the PT scope of practice?

Answer: The Board discussed the biovalent systems and determined that, similar to myofascial release and craniosacral therapy, it is within the Scope of Practice for PTs. Similar to visceral manipulation, it appears to work on the fascia surrounding the organs, with the goals of improving organ function.

**Question from Merv Cole, PTA Re: New Rules**

How much of the reassessment can a PTA participate in? Does the PT have to physically see the patient?

Answer: Yes, the PT must see the patient. Even though OAR 848-040-0155 requires that only a PT can perform a reassessment, the Board’s interpretation of the Rule allows for a PTA to participate in the reassessment, to the extent allowed by the PT based on PTs assessment of the PTAs knowledge, skills, and abilities, and prior treatment of the patient.

**Question from Board Staff Re: Disclosure of Public Records**

As Board policy, what should be considered as public record when the Board receives an inquiry into action taken by the Board against a licensee?

Answer: Regardless of caller’s specific or general inquiry regarding actions or sanctions against a Board licensee, Board staff will offer copies of all public documents related to a Board investigation. This will include cases that have public records where there was no final order, (i.e. a case where a Notice was issued and subsequently withdrawn). All requests for public records will go through the Board investigators.

**Stacy Cochran, PT- Request for CEU Approval**

Licensee requested approval for continuing education credits for a course titled “Spanish for Physical and Occupational Therapist”. The Board approved this course because it is geared specifically toward physical therapists and the delivery of PT services.

**General Office Update**

**License renewal update**

The Executive Director reported to the Board that the 2005-2006 renewals were completed with no backlog in processing. The Board processed 3574 renewals, noting

196 non-renewals compared to 214 non-renewals the prior year. Total renewal income was \$284,700 compared to \$248,165 the prior year. The increase is due primarily to the increase in the Practice Without Referral fee from \$15.00 to \$50.00.

### **New office phone system & numbers**

The Executive Director informed the Board that the new phone system was to be installed April 1<sup>st</sup>. The Director provided the Board a copy of the new Board phone number, (971) 673-0200 and the direct dial lines for the Board staff. The Director indicated that the new Board numbers were published on the Board website at [www.ptboard.or.us](http://www.ptboard.or.us) and will be published in the next Board Newsletter.

### **Office move update**

Executive Director reported to the Board that the preliminary plans for the new space were approved by DAS and the other Health Related Licensing Boards. The target date for the move is still scheduled for August 2005. Again, this move is to accommodate the need for additional space, by the Board of Nursing, and none of the Health Related Licensing Boards, in Suite 407, should incur added expense because of the mandated move.

### **Letters from licensees**

The Executive Director shared with the Board three personal letters: one from a licensee whom the Board had considered her Petition for Renewal; one from a licensee non-renewing because he was retiring; and, one from the partner of a former licensee who lost her life to cancer.

### **Board e-mail- Reminder, do not “reply to all”.**

The Executive Director reminded the Board that, when responding to canvassed emails from the Board staff, they should respond directly, and only to, the sender. If they “reply to all” it could be interpreted as a meeting, subject to public meeting laws and notice.

### **Financial Report**

#### **Total Income is over budget by \$37,000**

The Board’s current accounting system is on an accrual basis. When accounting on an accrual basis, instead of accounting for the actual receipt or disbursement of large income and expense items as they occur, you spread the projected income or expense equitably over the entire accounting period, in this case 12 months, 7/1/04-6/30/05.

The Board’s projected income for the fiscal year 04-05 is budgeted at \$309,800. This is accrued at \$25,816/month (\$206,533 to date). Actual income booked through 2/28/05 equals \$243,582; this creates the budget surplus of \$37,049.

January, February and March are license renewal months, and the Boards primary income months. March income is projected to be around \$95,000, and the income for the remaining fiscal period through 6/30/05 is estimated to be an additional \$30,000. This would bring the estimated total income for fiscal year 04-05 to \$368,582. The total budgeted 04-05 income is set at \$309,800. I estimate the Boards 04-05 income will be in surplus to budget by approximately \$60,000. This is due, in part, to the increase in the

Practice Without Referral renewal fee from \$15 to \$50 (\$30,000), and the conservative initial budget projections on part of the Executive Director.

**Total Expense is over budget by \$8,600**

5100 Payroll Costs are \$24,400 over budget as a combination of several expense factors:

Expense Classification	Over Budget	Under Budget
Salaries	\$24,400	
Payroll Taxes	\$ 2,100	
Unemployment benefits	\$ 4,500	
PERS Bond Debt Obligation	\$ 7,000	
PERS Employer Admin		(\$5,700)
PEBB Medical Premiums		(\$5,200)
Employee Training		(\$1,500)
Board Stipends		(\$1,200)

Narrative: Salaries are over budget by \$24,400 due to the reclassification of the contract investigators fees from contracted services to hourly wage. (Note: the wage amount budgeted through 2/05, for

contract investigator, was \$20,000. We are 20% over that budgeted amount, due to the additional use of the contract investigator during the primary investigators 3-month family medical leave); payroll taxes are over budget by \$2,100, due to the application of the FICA rate of 7.65% to the over budgeted salaries; the final payments for the prior director's unbudgeted unemployment claim this fiscal year total \$4,500; the new unbudgeted monthly PERS Debt Obligation Bond repayment totals \$7,000 to date; The PERS Employers rate is 2/3 the budgeted amount, due to the institution of the debt bonds (\$5,700); healthcare expense is down by (\$5,200), due primarily to an employee selecting the opt-out option; employee training expense is below projected amounts (\$1,500); and, Board stipends are below projected amount by (\$1,200), due to the Board Chairs election not to accept the stipend payments.

5600 Travel Cost is (\$4,800) under budget:

This is based on a monthly accrual of \$900 per month, with less than anticipated employee travel to date. The primary expense associated this year with travel is reimbursement of mileage, meals and lodging to Board members for meetings.

6100 General Office Expenses are (\$1,000) under budget:

This can be attributed primarily to Bank charge expenses accrued, but not yet incurred. This number will catch up with itself.

6195 Depreciation Expense is (\$1,600) under budget:

This is attributed to the auditor's instruction to charge off all assets under \$5,000. Once the Board made the entries, there is no longer any depreciation expense to book.

6400 Contracted Services are (\$7,900) under budget as a combination of several expense factors:

Expense Classification	Over Budget	Under Budget
Attorney General Fees	\$9,800	
Audit Charges	\$4,300	
Other Services	\$1,600	



Investigators Fees		(\$20,000)
CPA Accounting Fees		(\$2,800)
Emp Hearing Officer Panel		(\$1,200)

Narrative: Attorney General Fees are over budget by \$9,800, due

primarily to increased usage attributed to 6 requests and preparation or negotiation on contested case hearings, of which, all but two have been settled or withdrawn, advisement on increase complaint activity, and Administrative Rules review and rewrite; 2003 Audit Charges were \$4,300, the audit, and the expense for the audit, was budgeted for fall of 2003, the expense was actually charged in July of 2004; the charges for Other Services \$1,600, represents payment for the cost of expert witness fees, and transcription fees not budgeted; the reclassification of the Contract Investigators fee to hourly wage, resulted in a reduction to this expense class of (\$20,000); the fees for CPA were budgeted at (\$2,800), however we have not had to use CPA service/advisement for the past 24 months; although the requests for contested case hearings is at an all-time high, Board and Board Counsel have avoided the actual expense of a hearing, saving (\$1,200) in this expense class.

6600 Background Checks are \$1,000 under budget:

This can be attributed primarily to background screening charges now being charged back to the applicants. This is an expense that is budgeted, but will no longer be incurred.

Future Budget Variance Concerns:

As we approach the end of the 2004-2005 fiscal year, other than the non-budgeted PERS Obligation Bond Debt repayment at \$1,000/month, and a projected surplus in income, I am not anticipating any other variance concerns.

With the proposed adoption of the 2005-2007 Budget, I have taken into account the PERS Obligation Bond Debt repayment, and adjusted projections for increase in fee income.

### **OPTA'S Proposed Legislation**

The Board reviewed and discussed the OPTA's proposed amendments to House Bill 3260. The Board had a few noted exceptions. The Board instructed the Executive Director to work with the OPTA Legislative Committee to resolve the Board's concerns. If the Board's concerns were resolved, the Board would testify, in favor of the Amendments, at the Public Hearing to be held Friday, April 8, 2005.

### **Future Board Meeting Dates**

June 3, 2005; August 5, 2005; September 30, 2005; December 2, 2005. Meeting dates, notices, and published minutes may be found on the Board website at [www.ptboard.stateor.us](http://www.ptboard.stateor.us).

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

The Board was presented with a list of new licensees for the period of February 4, 2005 through March 31, 2005. The Chair opened the floor, for discussion, with regards to the new licensees. Without noted discussion, the Board voted unanimously to ratify new licensees issued for the above-noted period.

### **Approval of Meeting Minutes**

The minutes, from the February 4, 2005 Regular Board Meeting and the February 18, 2005 Emergency Board Meeting, were presented to the Board. The Chair opened the floor for discussion and comments. Without any noted discussion, the Board voted unanimously to accept the February 4, 2005 and February 18, 2005 Board Meeting Minutes, as submitted.

### **Call for Other New Business**

No other new business.

Ms. Zarosinski adjourned the meeting at 1:41 PM.

# Physical Therapist Licensing Board

## MEETING MINUTES

Friday June 03, 2005

**Board Members Present:** Cathy Zarosinski, PT, MS, Chair; Jerry Nickell, PT, Vice Chair; Nancy Wilson, PTA; Joana Freedman, PT; Daiva Banaitis, PT, PhD; Cindy Cunningham, Public Member

**Board Members Absent:** Pat Moore, MD, Physician Member

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

**Legal Counsel:** Carol Parks, AAG

### EXECUTIVE (CLOSED) SESSION

Citing ORS 192.660(2) at 8:35 AM, Ms. Zarosinski convened the Board into Executive Session. Pursuant to ORS 192.660(2), 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 Counsel, regarding pending contested case hearings and Board Administration.

The entire meeting, including the closed door meeting of the Executive Session, is recorded and labeled on Sides A and B of three recording tapes dated 06/03/05.

### PUBLIC (OPEN) SESSION

Upon completion of the Executive Session, Ms. Zarosinski took the Board into Public Session for motions and additional business. The public and interested parties are invited to attend this portion of the meeting.

**Related questions from: Suzanne Trebnick, PT; Darla Kroll, PT; Julie Speck, PT; Duane Iverson, PT; Cheri Burns, PT; Christy Spencer, PT; and Joann Stillman, PT**

Licensees would like clarification, of rules and requirements, regarding consults (in the schools), screens (in schools and SNFs), ergonomic assessments and pre-employment screenings.

- Who can perform?
- Does a full evaluation need to be performed?
- What needs to be documented?
- Are these people considered “patients”?
- What are the requirements for kids returning to school after an injury and needing a safety eval/check?

**Board responses to questions noted above:**

## **1. SAFETY ASSESSMENTS ON KIDS THAT ARE NOT IN SPECIAL ED (Ie: A child had a broken leg and is returning to school on crutches).**

The Board determined that you DO need a referral to treat these children, and to do a safety assessment, these children are not exempt from needing a referral since they do not qualify for special education and therefore do not fall under 848-030-0010 (2)(b)(A). If you do treat these children, they need to have a full evaluation done and all documentation standards must be met. Since the Board considers this an evaluation of the students function, it can only be done by a PT, not a PTA. And, lastly, a PTA can not work under an OT to do the safety check, a PTA can only be supervised by a PT.

## **2. CONSULTS OR A SCREEN BY A THERAPIST**

The screen or consult is not considered an evaluation, if the purpose of the screen or consult is merely to decide if the student needs to receive PT or not. The purpose should not be to devise a treatment plan, provide clinical recommendations or any treatment. If any PT intervention is needed, (ie: recommendations or education to the parents), then a PT evaluation is needed. The screen or consult can be done by a PT or a PTA and if the student then needs a PT evaluation, of course, a PT would need to do it. This would apply to all screens in all therapy settings (ie:SNF)

If a child who is on a “consult basis” needs to be seen weekly and there are weekly recommendations made regarding the students development, safety or well-being, then an evaluation is needed. If the student needs to be seen weekly on a consult basis, the Board considers that more than just a consult, the child needs to have an evaluation, and be followed with a plan of care. If an evaluation is done, the entire evaluation does not need to be finished, completed and documented on the same day, but whatever portion of the evaluation that is completed needs to be available in the patient record (ie: if you dictate your evaluation, your hand written notes should be available in the record until the dictated notes come back).

## **3. DOCUMENTATION RQUIREMENTS FOR SCHOOL BASED PT**

The current rules require that a reassessment needs to be done, at the minimum every 60 days in the school setting. The specifics of what needs to be included are clearly written in the rules. OAR 848-040-0155 and 848-040-0160. The rules also state that notes need to be made at every visit, this is clearly written in the rules . OAR 848-040-0150 and 848-040-0110.

The rules regarding documentation in the schools may change in the future for the school setting, but for now, clinicians working in these settings must follow these rules. The Board has had a lot of input from licensees and is going to explore different options for the future. The Board is planning on getting a group of therapists from the schools together to see how the rules either "fit or don't fit" for this unique setting.

## **4. PRE-EMPLOYMENT SCREENINGS**

These screens are most usually standardized tests that the employers set up and all the therapist needs to do is go through the motions and then a report is sent to the employer. There is no interpretation of the data and the therapist does not give the employee recommendations based on the screen. The Board determined that these types of screens do not need to be performed by a PT. A PTA or aide in the clinic can perform them, as long as that person is trained to do all of the aspects of the test. If the client needs PT services, a PT would need to get a referral (unless they have direct access) and do an evaluation and treatment plan.

## **5. EXERCISE CLASSES OR ERGONOMIC ASSESSMENTS**

The Board determined that these circumstances do not require the expertise of a PT, since other people also have the skills (OT, personal trainer, exercise physiologist). For that reason, an evaluation and complete documentation is not needed. If, as in the situation above, a client would benefit from PT services, the PT would need to do an evaluation, plan of care and follow all documentation requirements. In these types of cases, it is important that the client understands that he/she is not receiving PT, but the person teaching them happens to be a physical therapist. It is very hard for a PT to take his/her "PT hat" on and off, so you need to be careful to monitor yourself and know when you are wearing that hat, and when you are truly providing PT. It is important that the public be informed and understands the services that they are receiving.

In these situations, the one thing that you always need to consider, is your professional liability. The Board can not advise on this subject, however, many therapists have said that their PT malpractice insurance will not cover them if they are not working as a PT. And, if you consider what you are doing to be "PT", or if you bill the service as PT, then you need to follow all of the statutes and rules, including an initial evaluation, plan of care and documentation.

### **Board Policy Considerations**

#### **FCCPT and use of other credentialing agencies:**

After presentation by the Executive Director and discussion by the Board, the Board approved the addition of the International Education Research Foundation, Inc. (IERF) as an approved credentialing agent of the Board. The Executive Director will take the steps to add the IERF to the web site and printed materials for foreign-educated physical therapists. Copies, of the Board policy, are available by contacting the Board office.

#### **Use of Law Enforcement Data System (LEDS check):**

After presentation by the Executive Director and discussion by the Board, the Board adopted a policy with regards to the use of LEDS checks. Based on the Boards adopted policy, the Board staff will conduct LEDS checks on: a random sampling of 10% of the renewal license applications; on all licensees who are the subject of a complaint and/or investigation; and on any licensee who answers "yes" to the question regarding a criminal conviction since their last renewal period. Copies of the Board policy are available by contacting the Board office.

#### **Direct access policy review/system update:**

After presentation by the Executive Director and discussion by the Board, the Board adopted policy updates to its policy on practice without referral/direct access. Amended was the Board's request to print the practice without referral date on the license. Because of administrative and tracking concerns, instead, the words "Certified to Practice Without Referral" with no date will print on the license. In its place, the current practice period will be available on-line to the licensees and the public on the Board's verification look-up screen. Additionally, the data base system will be updated to automatically print a reminder letter six months prior to the certification end date, making licensees aware of their end date and the requirements to maintain and roll over into their next 3 year certification period. Copies of the Board policy are available by contacting the Board office.

### **Timing of Board Newsletter Publications**

After presentation by the Executive Director with regards to costs and administrative time, the Board elected to change its publication of a PT Newsletter from four times to three times a year. The targeted publication times will be early March, July, and November. Copies of previous Board Newsletter publications can be found on the Board website at [www.ptboard.state.or.us](http://www.ptboard.state.or.us).

### **Updated Jurisprudence Examination**

In December 2004, the Board adopted new and amended changes to its Administrative Rules. The Board's jurisprudence examination is based on the Oregon Statutes and Administrative Rules. The Board's Clinical Advisor/Investigator reviewed the current jurisprudence examination and determined it needed to be updated. The Clinical Advisor presented, to the Board, an updated version of the examination which the Board reviewed and approved. The Executive Director will have the new examination published and begin using it immediately for all new examination and endorsement applicants.

### **Board PT Member Term Expirations**

The Executive Director presented the Board the following information:

In September, the current Board Chair's PT Member Term will expire. This is the Chair's second four-year term and, by Statute, she can not volunteer to serve again. The Board needs to consider replacing a PT Member, on the Board, and electing another Chair. After discussion and voting, the Board elected Jerry Nickell, PT the next Chair of the Board, leaving Jerry's current position, as Vice Chair, open. After discussion and voting, the Board elected Joana Freedman, PT, as Vice Chair of the Board. Board appointment will be effective at the close of the August 5, 2005 Board Meeting. The Board further instructed the Executive Director to begin the process of announcing and contacting the OPTA, and searching for a replacement for the open PT Member position on the Board.

In November, a second PT Board Member's first term will expire. The incumbent, Daiva Banaitis, has again volunteered for consideration of reappointment to a second four-year

term. The Board voted unanimously to have the Executive Director start the process to have Dr. Banaitis re-appointed to a second term.

### **FSBPT 2005 Delegates Assembly in Austin Texas**

The FSBPT will hold its annual Delegates Assembly the weekend of September 9<sup>th</sup> through the 12<sup>th</sup> in Austin Texas. The FSBPT funds the travel, lodging, meals and miscellaneous expenses of each jurisdiction's selected Delegate and Board Administrator. An Alternate Delegate is suggested, but travel, meals and lodging are at the jurisdiction's expense. After discussion, the Board determined that Jerry Nickell will attend the Assembly as the Delegate from the Oregon Board. Jim Heider will attend as the Administrator of the Board, and Nancy Wilson may attend as the Alternate Delegate. If Nancy is unable to attend, Jim Heider will also act as Alternate Delegate.

### **Staffing Considerations/Issues**

The Executive Director presented, to the Board, information and several scenarios regarding past, present, and future staffing needs of the Board. At issue was the current situation with regards to the temporary part-time investigator's position. This was created as a temporary position and, by definition of temporary, the Board needs to make a determination as to the continued longevity of the position. Given the uncertainty of the new OPTA proposed legislation and its possible impact to the Board staffing requirements, the Executive Director suggested that the Board postpone making a permanent staffing decision until the outcome of the OPTA legislation is known. In the interim, to address the temporary employment issue, the Board instructed the Executive Director to terminate the temporary position, by July 31, 2005, and start the process to replace it with a contracted investigator.

### **General Office Update**

The only item, to update the Board on, was the pending office move targeted for August of 2005. The Executive Director informed the Board he has heard that the Nursing Board's budget relative to the move, and their request for additional square footage, is in question by the current Legislative Assembly. Also, in question, was the request from some of Suite 407 Health Licensing Boards for additional square footage. If these budgets and requests for addition space are not approved by the current Legislative Assembly, then the future and timing of the proposed move is jeopardized.

### **Financial Report**

#### **Total Income is over budget by \$100,352**

The Board's current accounting system is on an accrual basis. When accounting on an accrual basis, instead of accounting for the actual receipt or disbursement of large income and expense items, as they occur, you spread the projected income or expense equitably over the entire accounting period, in this case 12 months, 7/1/04-6/30/05.

The Board's projected income for fiscal year 04-05 is budgeted at \$309,800. This is accrued at \$25,816/month (\$258,160 to date). Actual income booked, through 4/30/05, equals \$358,519; this creates the budget surplus of \$100,352.

January, February and March are license renewal months, and the Board's primary income months. All of that income has now been booked. The income for the remaining fiscal period, through 6/30/05, is estimated to be an additional \$20,000. This would bring the estimated total income, for fiscal year 04-05, to \$378,519. The total budgeted 04-05 income is set at \$309,800. I estimate the Board's 04-05 income will be in surplus to budget by approximately \$68,000. This is due, in part, to the increase in the Practice Without Referral renewal fee from \$15 to \$50 (\$30,000), and the conservative initial budget projections on part of the Executive Director.

**Total Expense is over budget by \$10,426**

5100 Payroll Costs are \$28,432 over budget as a combination of several expense factors:

Expense Classification	Over Budget	Under Budget
Salaries	\$29,700	
Payroll Taxes	\$ 2,700	
Unemployment benefits	\$ 4,500	
PERS Bond Debt Obligation	\$ 8,800	
PERS Employer Admin		(\$6,900)
PEBB Medical Premiums		(\$7,300)
Employee Training		(\$1,500)
Board Stipends		(\$1,600)

Narrative: Salaries are over budget, by \$29,700, due to the reclassification of the contract investigator's fees from contracted services to hourly wage. (Note: the wage amount budgeted, through 04/05 for contract investigator, was \$25,000. We are 20% over that budgeted amount due to the additional use of the contract investigator during the primary investigators 3-month family medical leave.) Payroll taxes are over budget, by \$2,700, due to the application of the FICA rate of 7.65% to the over budgeted salaries; the final payments, for the prior director's unbudgeted unemployment claim this fiscal year, total \$4,500; the new unbudgeted monthly PERS Debt Obligation Bond repayment totals \$8,800 to date; The PERS Employers rate is 2/3 the budgeted amount, due to the institution of the debt bonds (\$6,900); healthcare expense is down, by (\$7,300), due primarily to an employee selecting the opt-out option; employee training expense is below projected amounts (\$1,500); and Board stipends are below projected amount by (\$1,600) due to the Board Chair's election not to accept the stipend payments.

5600 Travel Cost are (\$6,087) under budget

This is based on a monthly accrual of \$900 per month, with less than anticipated employee travel to date. The primary expense associated this year with travel is reimbursement of mileage, meals and lodging to Board members for meetings.

6100 General Office Expenses are \$3,426 over budget.

This variance is due primarily to the printing expense associated with the new Administrative Rules; and the unbudgeted, unanticipated excess charge for Board liability insurance.



6195 Depreciation Expense is (\$2,025) under budget.

This is attributed to the auditor's instruction to charge off all assets under \$5,000. Once the Board booked the entries, there is no longer any depreciation expense to book.

6400 Contracted Services are (\$12,689) under budget as a combination of several expense factors:

Expense Classification	Over Budget	Under Budget
Attorney General Fees	\$11,100	
Audit Charges	\$ 4,300	
Other Services	\$ 2,200	
Investigators Fee		(\$25,000)
CPA Accounting Fees		(\$3,500)
Emp Hearing Officer Panel		(\$1,800)

Narrative: Attorney General Fees are over budget by \$11,100, due primarily to increased usage attributed to 6 requests and preparation or negotiation on contested case hearings, of which all but two have been settled or withdrawn, one of the two pending cases in staff intensive, advisement on increase complaint activity, and administrative rules review and rewrite; 2003 Audit Charges were \$4,300, the audit and the expense for the audit was budgeted for fall of 2003, the expense was actually charged in July of 2004; the charges for Other Services \$2,200, represent payment for the cost of expert witness fees and transcription fees not budgeted; the reclassification, of the Contract Investigators fee to hourly wage, resulted in a reduction to this expense class of (\$25,000); the fees for CPA were budgeted at (\$3,500), however we have not had to use CPA service/advisement for the past 24 months; although, the requests for contested case hearings is at an all time high, Board and Board Counsel have avoided the actual expense of a hearing saving (\$1,800) in this expense class.

Future Budget Variance Concerns:

As we approach the end of the 2004-2005 fiscal year, other than the non-budgeted PERS Obligation Bond Debt repayment at \$1,000/month, and a projected surplus in income, I am not anticipating any other variance concerns.

### **OPTA'S Proposed Legislation**

Board staff provided the Board with copies of HB 3260-7 amendments to the OPTA's proposed legislative changes to the current Physical Therapist Practice Act. With the exception of holding neutral on the issue surrounding "POPS", the Board has gone on record as reviewing and approving prior versions of the proposed legislation. The current dash-7 amendments do not change the Board's position.

### **Future Board Meeting Dates**

August 5, 2005; September 30, 2005; December 2, 2005. 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 Licenses & Temporary Permits**

The Board was presented with a list of new licensees for the period of April 01, 2005 through June 02, 2005. 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 April 1, 2005 Regular Board Meeting were presented to the Board. The Chair opened the floor for discussion and comments. Without any noted discussion, the Board voted unanimously to accept the April 1, 2005 Board Meeting Minutes, as submitted.

### **BOARD MOTIONS**

#### **Case PT 85-5/01**

Motion by Jerry Nickell to issue Stipulation and Final Order citing failure to do the required 30- day re-evaluations; and, issue a Letter of Concern regarding licensee's need to review PTA rules relevant to a PTs supervisory responsibility of a physical therapist assistant.

Seconded by Joana Freedman

Motion passed unanimously

#### **Case PT 177-11/04**

Motion by Jerry Nickell to send licensee a Letter of Concern and Support. In the letter, the Board will request that the licensee voluntarily submit an annual medical status report from her MD upon her license renewal.

Seconded by Joana Freedman

Motion passed unanimously

#### **Case PT 145-8/03**

Motion by Jerry Nickell to issue Notice and Stipulated Order citing record keeping violations, and imposing a civil penalty of \$1,000 with \$500 stayed if no further documentation violations occur; and, issue a Letter of Concern with regards to treatment of family members and a possible conflict of interest.

Seconded by Joana Freedman

Motion passed unanimously

#### **Case PT 188-4/05**

Motion by Jerry Nickell to issue a Stipulated Order citing practicing physical therapy with a lapsed license and imposing a civil penalty of \$100.

Seconded by Joana Freedman

Motion passed unanimously

**Case PT 162a-11/03**

**Case PT 162b-11/03**

Motion by Jerry Nickell to close case citing no violations.

Seconded by Joana Freedman

Motion passed unanimously

**Case PT 80-3/02**

**Case PT 81-3/02**

Motion by Jerry Nickell to close case citing no violations; and, issue a Letter of Concern to licensees with regards to their current record keeping and documentation process. The letter will strongly suggest that licensees complete a record keeping course. Also, the Board requests follow-up, from licensees, by providing examples of their new documentation system.

Seconded by Joana Freedman

Motion passed unanimously

**Case PT 168-6/04**

Motion by Jerry Nickell to send a second Amended Notice of Discipline, Revocation of License, to the licensee citing the new patient care violations and the Board's intent to proceed to Hearing with the case.

Seconded by Joana Freedman

Motion passed unanimously

**Case PT 191-5/05**

Motion by Jerry Nickell to close case and license applicant.

Seconded by Joana Freedman

Motion passed unanimously

**Call for Other New Business**

The Board's Clinical Advisor received an inquiry from a licensee; For Board Rule requirements, is a Certified Nurse Midwife (CNM) equivalent to a Nurse Practitioner? And, if so, can a PT accept a referral from the CNM? After discussion, the Board determined it needed more information as to the credentials of a CNM, if by definition of the Nursing Board states that a CNM is equivalent to a Nurse Practitioner, then, yes, a physical therapist can accept a referral from the CNM.

**Ms. Zarosinski adjourned the meeting at 2:57 PM.**

## Physical Therapist Licensing Board

### SPECIAL TELEPHONE BOARD MEETING MINUTES

Wednesday, July 13, 2005

**Board Members Present:** Cathy Zarosinski, PT, MS, Chair; Jerry Nickell, PT, Vice Chair; Nancy Wilson, PTA; Joana Freedman, PT; Daiva Banaitis, PT, PhD; Cindy Cunningham, Public Member

**Board Members Absent:** Pat Moore, MD, Physician Member

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

**Legal Counsel:** Carol Parks, AAG

#### **EXECUTIVE (CLOSED) SESSION**

Citing ORS 192.660(2) at 12:05 PM Ms. Zarosinski convened the Board into Executive Session. Pursuant to ORS 192.660(2), this portion of the meeting is closed to the public.

In Executive Session, the Board reviewed preliminary investigatory information regarding a complaint filed against a current PTA Examination Applicant. The Board also considered legal advisement, from Counsel, with regards to this case.

The entire meeting, including the closed Executive Session, is recorded and labeled on Side A of one recording tape, dated 07/13/05.

#### **PUBLIC (OPEN) SESSION**

Upon completion of the Executive Session, Ms. Zarosinski took the Board into Public Session for motions and additional business. The public and interested parties are invited to attend this portion of the meeting.

#### **BOARD MOTIONS**

##### **Case PT 194-7/05**

Motion by Cathy Zarosinski to issue an emergency suspension of Licensee's temporary permit; and to initiate an investigation into the complaint filed against the Licensee. Once the Board receives a full investigative report, the Board will determine whether it will issue a permanent practice license.

Seconded by Daiva Banaitis

Motion passed unanimously

#### **Call for Other New Business**

Ms. Zarosinski briefly shared with the Board, the status of HB 3260 (the OPTA's piece of legislation that will update the PT Practice Act). Ms. Zarosinski shared the Board of Chiropractic Examiners concerns over language left out of the OPTA proposed Legislation, that the Board of Chiropractic Examiners feels, would allow a physical therapist to practice chiropractics. Further, Ms. Zarosinski stated that based on the Board of Chiropractic Examiners concerns they were going to contact the Governor and ask him to veto the Bill. Ms. Zarosinski asked the Board's Legal Counsel to speak to the DOJ Counsel, representing the Board of Chiropractic Examiners, to see if there is a resolution that will not jeopardize the Governor signing the Bill.

Mr. Heider shared, with the Board, his intent to interview an interim on-call investigator. This would be someone the Board would contract to relieve the investigative caseload pressures of the staff Clinical Advisor/Investigator. Mr. Heider also indicated that this would be a temporary fix, pending the outcome of HB 3260.

**Ms. Zarosinski adjourned the meeting at 12:44 PM.**

# Physical Therapist Licensing Board

## MEETING MINUTES

Friday August 05, 2005

**Board Members Present:** Cathy Zarosinski, PT, MS, Chair; Jerry Nickell, PT, Vice Chair; Nancy Wilson, PTA; Joana Freedman, PT; Daiva Banaitis, PT, PhD; Cindy Cunningham, Public Member

**Board Members Absent:** Pat Moore, MD, Physician Member

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

**Legal Counsel:** Carol Parks, AAG

### EXECUTIVE (CLOSED) SESSION

Citing ORS 192.660(2) at 9:01 AM, Ms. Zarosinski convened the Board into Executive Session. Pursuant to ORS 192.660(2), 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 Counsel, regarding investigative cases, pending contested case hearings, Board policy and administration.

The entire meeting, including the closed door meeting of the Executive Session, is recorded and labeled on Sides A and B of three recording tapes dated 08/05/05.

### PUBLIC (OPEN) SESSION

Upon completion of the Executive Session, Ms. Zarosinski took the Board into Public Session for motions and additional business. The public and interested parties are invited to attend this portion of the meeting.

### **BOARD MOTIONS**

#### **Case PT 166a -5/04**

Motion by Nancy Wilson to close case citing no violations.

Seconded by Cindy Cunningham

Motion passed unanimously

#### **Case PT 166b-5/04**

Motion by Nancy Wilson to close case citing no violations.

Seconded by Cindy Cunningham

Motion passed unanimously

**Case PT 166c-5/04**

Motion by Nancy Wilson to close case citing no violations.  
Seconded by Cindy Cunningham  
Motion passed unanimously

**Case PT 166d-5/04**

Motion by Nancy Wilson to close case citing no violations.  
Seconded by Cindy Cunningham  
Motion passed unanimously

**Case PT 183a-01/05**

Motion by Nancy Wilson to issue Proposed Notice of Disciplinary Action citing improper use of aides, improper billing practices, and record keeping violations. Proposing one week suspension of Licensee's license to practice; a civil penalty of \$5,000; two years license probation with Board scheduled reviews on use of aides and documentation reviews; attending a course regarding the independent/private practitioner's participation in the Medicare program; and a Board approved course in documentation; and, providing the Board with evidence of successful completion of both courses within six months of the execution date of the Final Order.  
Seconded by Cindy Cunningham  
Motion passed unanimously

**Case PT 183b-01/05**

Motion by Nancy Wilson to issue Proposed Notice of Disciplinary Action citing improper use of aides, and improper billing practices. Proposing a civil penalty of \$3,000.  
Seconded by Cindy Cunningham  
Motion passed unanimously

**Case PT 183c-01/05**

Motion by Nancy Wilson to issue Proposed Notice of Disciplinary Action citing improper use of aides, and improper billing practices. Proposing a civil penalty of \$3,000.  
Seconded by Cindy Cunningham  
Motion passed unanimously

**Case PT 183d-01/05**

Motion by Nancy Wilson to issue Proposed Notice of Disciplinary Action citing improper use of aides, and improper billing practices. Proposing one week suspension of Licensee's license to practice; a civil penalty of \$5,000; two years license probation with Board scheduled reviews on use of aides; attending a course regarding the independent/private practitioner's participation in the Medicare program; and, providing the Board with evidence of successful completion of the course within six months of the execution date of the Final Order.  
Seconded by Cindy Cunningham  
Motion passed unanimously

**Case PT 138-6/03**

Motion by Nancy Wilson to issue Proposed Notice of Disciplinary Action citing improper billing practices, and record keeping violations. Proposing one week suspension of Licensee's license to practice; a civil penalty of \$5,000; two years license probation with Board scheduled reviews on record keeping and billing practices; attending a course regarding the independent/private practitioner's participation in the Medicare program; and, providing the Board with evidence of successful completion of the course within six months of the execution date of the Final Order.

Seconded by Cindy Cunningham

Motion passed unanimously

**Case PT 189-4/05**

Motion by Nancy Wilson to close case citing no violations.

Seconded by Cindy Cunningham

Motion passed unanimously

**Case PT 196-7/05**

Motion by Nancy Wilson to close case citing no violations.

Seconded by Cindy Cunningham

Motion passed unanimously

**Case PT 195-7/05**

Motion by Nancy Wilson to close case citing no violations.

Seconded by Cindy Cunningham

Motion passed unanimously

**Case PT 197-7/05**

Motion by Nancy Wilson to issue Stipulation and Final Order citing practice without a valid license, and assessing a civil penalty of \$375.00; and, providing proof of Licensee's letter to employer disclosing working without a valid license.

Seconded by Cindy Cunningham

Motion passed unanimously

**Board Term Expirations**

The Executive Director discussed, with the Board, the need to replace two Board positions: a PT Member in September 2005; and, a PT replacement for the Physician Member in January 2006. A third Board PT Member's position expires in November 2005; however, the incumbent has decided to volunteer for another four year term. The Director shared, with the Board, the three nominees for the open positions as presented by the OPTA. The OPTA's nominees Interest Forms, along with additional interested parties, and a recommendation letter from the Board, will be sent to the Governor's Office of Executive Appointments following the September 30, 2005 Board meeting. The Board Member whose term expires September 15, 2005, will remain on the Board until a successor has been selected.



### **Staffing Considerations/Issues**

Executive Director discussed the current options to meet the temporary staffing needs of the Board. The Board gave the Director the authority to use temporary support or contracted support until a more permanent staffing plan is presented to the Board for approval.

### **New Practice Act Effective 01/01/06**

The Board discussed the many aspects of the Enrolled version of HB 3260, the new PT practice act to be effective 01/01/06. The Executive Director presented a cursory summary of the new Act's impact on the current Administrative Rules. The Board approved the Director's plan to pull together a Rules Advisory Committee and a Continuing Education Sub-Committee to address the need for change, and to update the current Administrative Rules.

### **Referrals From Certified Nurse Midwives(CMN) and Direct Entry Midwives (DEM)**

If a Nurse Midwife is licensed as a Nurse Practitioner, and has the title NMNP, then a PT can take a referral from him or her. But, they must be licensed as a Nurse Practitioner/Nurse with the Nursing Board. If it is a Direct Entry Midwife (DEM), licensed with the Health Licensing Office, then NO, a PT can not take a referral from them. Nurse midwives are not required to be licensed by the state; so, according to the PT Board Statutes, in order for the referral to be valid, it must be from a Midwife that is licensed as a Nurse Practitioner.

### **Next Generation TOEFL (Test of English as a Foreign Language)**

The Board discussed the new internet based ibTOEFL to become effective in the US on September 24, 2005. The new test will be phased in with the US first; followed by, Canada, France, Italy and Germany in October 2005; and the rest of the world in 2006. Currently, the Board requires proof of English proficiency from all foreign PT applicants, unless they provide evidence that their native language is English, and their PT program was taught in English. The Board reviewed the new passing rates, as proposed by the Healthcare Review Panel, and gave the Board's Delegate, to the FSBPT National Conference, the approval to vote in favor of the proposed scores for the Oregon Board. Lastly, the Board instructed the Executive Director to write a temporary Administrative Rule, to present at the September 30<sup>th</sup> Board meeting, that will be generic enough to encompass the use of the new TOEFL scores and, at the same time, recognizing the former scores during the transition period.

### **General Office Update**

- **Office move update**

The Executive Director reported, to the Board, the scheduled office relocation to the old pharmacy board space has been cancelled. This was due to lack of funding and support from the 2005 Legislative Assembly in their review of the Nursing Board's 2005-2007 budget and specific request for additional space and monies to fund the move.

- **New IT Support Contract, Confuzer Inc.**

The Suite 407 Health Professional Licensing Boards signed a new IT service contract with Confuzer, Inc. Grant Moyle, President of the company, and his staff installed new server equipment that will allow the Boards to run their own systems; no longer dependent on the Nursing Board's on-going IT support. After the initial investment, the maintenance costs for the Boards will be less. The functionality has already increased and the confidence level is very high that the needs, of the small Boards, are now priority to the service technicians. The Boards now have remote access capabilities to e-mail (soon to desktop files and the licensure data base), and better spam and junk mail controls.

• **SB 405 Semi-Independent Boards Authority to Borrow Money**

The Executive Director shared, with the Board, the letter from Governor Kulongoski expressing his thoughts and reasons for veto of SB 405. SB 405 would allow Semi-Independent Agencies to borrow money, with the primary interest to buy real estate. This was a Semi-Independent Board Administrators (SIBA) sponsored bill that the PT Board purposefully chose not to support.

**Financial Report**

**Total Income is over budget by \$75,600**

This overage is due, in part, to the increase in the Practice Without Referral renewal fee from \$15 to \$50 in fiscal year '04-'05, (\$28,300); and, the conservative initial budget projections on part of the Executive Director for PT and PTA Applications (\$15,500), PT and PTA Renewals (\$18,900), PT Civil Penalties (\$8,100), and Verifications and Mailing Lists (\$4,800).

**Total Expense is over budget by \$7,400**

5100 Payroll Costs are \$34,400 over budget as a combination of several expense factors:

Expense Classification	Over Budget	Under Budget
Salaries	\$34,800	
PERS Bond Debt Obligation	\$11,500	
Payroll Taxes	\$ 3,300	
Unemployment Benefits	\$ 4,500	
PEBB Medical Premiums		(\$9,000)
PERS Employer Admin		(\$6,900)
Employee Training		(\$1,900)
Board Stipends		(\$1,900)

Narrative: Salaries are over budget, by \$34,800, due to the reclassification of the contract investigator's fees from contracted services to hourly wage, (Note: The fee amount budgeted, through 6/05, for contract investigator was \$30,000. The Board is 16% over that budgeted amount due to the additional use of the contracted investigator during the primary investigator's 3-month family medical leave); payroll taxes are over budget, by \$3,300, due primarily to the application of the FICA rate of 7.65% to the over-budgeted salaries; the final payments for the prior director's unbudgeted unemployment claim this

fiscal year total \$4,500; and, the new unbudgeted monthly PERS Debt Obligation Bond repayment totals \$11,500 for the fiscal year. The PERS Employers rate is 2/3 the budgeted amount due to the institution of the debt bonds (\$6,900); healthcare expense is down, by (\$9,000), due primarily to an employee selecting the opt out option; employee training expense is below projected amounts (\$1,900); and, Board stipends are below projected amounts, by (\$1,900), due to the Board Chair's election not to accept the stipend payments.

5600 Travel Cost are (\$7,100) under budget.

This is based on a monthly accrual, of \$900, with less than anticipated employee travel to date. The primary travel expense, this year, is reimbursement of mileage, meals and lodging to Board Members for meetings.

6100 General Office Expenses are \$1,800 over budget.

This variance is due primarily to the printing expense associated with the new Administrative Rules, and the unbudgeted, unanticipated excess charge for Board liability insurance.

6195 Depreciation Expense is (\$2,400) under budget.

This is attributed to the auditor's instruction to charge off all assets under \$5,000. Once the Board made the entries, there is no longer any depreciation expense to book.

6400 Contracted Services are (\$19,200) under budget as a combination of several expense factors:

Expense Classification	Over Budget	Under Budget
Attorney General Fees	\$11,000	
Audit Charges	\$ 4,300	
Other Services	\$ 1,600	
Computer Support	\$ 900	
Investigators Fee		(\$30,000)
CPA Accounting Fees		(\$4,200)
Emp Hearing Officer Panel		(\$2,600)

Narrative: Attorney General Fees are over budget, by \$11,000, due primarily to increased usage attributed to 6 requests and preparation or negotiation on contested case hearings. All but two of these cases have been settled or withdrawn, one of the two pending cases is staff intensive; legal advisement on increase complaint activity; and, Administrative Rules review and rewrite; 2003 Audit Charges were \$4,300, the audit and the expense for the audit was budgeted for fall of 2003, the expense was actually charged in July of 2004; the charges for Other Services \$1,600, represent payment for the cost of expert witness fees and transcription fees not budgeted; the charges for Computer Support are over budget, by \$900, due to additional unplanned data base updates. The reclassification of the Contract Investigator's fee to hourly wage, resulted in a reduction to this expense class of (\$30,000); the fees for CPA were budgeted at (\$4,200), however, we have not used CPA service/advisement for the past 24 months; although, the requests for contested case hearings is at an all-time high, Board and Board Counsel have avoided the actual expense, of a hearing, saving (\$2,600) in this expense class.

Fiscal Year '04-'05 Summary:

The original '04-'05 Budget projected a fiscal year-end spending deficit of (\$60,500). Because income was over plan by, \$75,600, and expenses only slightly over plan, by \$7,400, the net impact to Board reserves is only (\$7,700) for fiscal year-end '04-'05.

For the '03-'05 Biennium, the Budget projected a period-end spending deficit of (\$121,200). Because the Biennium income was over plan by, \$97,000, and the Biennium expenses under plan, by (\$14,100), the net impact to Board reserves is only (\$10,100) for Biennium period-end '03-'05.

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

September 30, 2005 & December 2, 2005. 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 Licenses & Temporary Permits**

The Board was presented with a list of new licensees for the period of June 03, 2005 through August 04, 2005. 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 June 03, 2005 Regular Board Meeting, and the July 13, 2005 Special Board Meeting, were presented to the Board. The Chair opened the floor for discussion and comments. Without any noted discussion, the Board voted unanimously to accept the June 3rd and the July 13th, 2005 Board Meeting Minutes, as submitted.

#### **Call for Other New Business**

The Executive Director shared, with the Board, a letter from an exam licensee applicant. The letter praised the Oregon PT Board for their efficiencies in the application process; noting problems her friends of her were having with the application process in Washington State. "Oregon makes the process simple and easy."

**Ms. Zarosinski adjourned the Meeting at 3:02 PM.**

**Physical Therapist Licensing Board  
MEETING MINUTES**

**Friday September 30, 2005**

**Board Members Present:** Jerry Nickell, PT, Chair; Joana Freedman, PT, Vice Chair; Nancy Wilson, PTA; Cathy Zarosinski, PT, MS; Daiva Banaitis, PT, PhD; Cindy Cunningham, Public Member; Pat Moore, MD, Physician Member.

**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 8:35 AM, Mr. 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 Counsel, regarding investigative cases, pending contested case hearings, administrative rule making and, Board policy and administration.

The entire meeting, including the closed door meeting of the Executive Session, is recorded and labeled on Sides A and B of three recording tapes dated 09/30/05.

**PUBLIC (OPEN) SESSION**

Upon completion of the Executive Session, Mr. Nickell took the Board into Public Session for motions and additional business. The public and interested parties are invited to attend this portion of the meeting.

**BOARD MOTIONS**

**Case PT 183a-01/05**

Motion by Cathy Zarosinski to accept the wording change on the proposed stipulated order, by the attorney for the licensee, and present same to the licensee.

Seconded by Nancy Wilson

Motion passed unanimously

**Case PT 183d-01/05**

Motion by Cathy Zarosinski to accept the wording change on the proposed stipulated order, by the attorney for the licensee, and present same to the licensee.

Seconded by Nancy Wilson

Motion passed unanimously

**Case PT 183b-01/05**

Motion by Cathy Zarosinski to accept the wording change on the proposed stipulated order, by the attorney for the licensee, decrease civil penalty to \$2,000, and present same to the licensee.

Seconded by Nancy Wilson

Motion passed unanimously

**Case PT 138-6/03**

Motion by Cathy Zarosinski to withdraw original notice, and continue investigation based on new records and information presented by the licensee.

Seconded by Nancy Wilson

Motion passed unanimously

**Case PT 194-7/05**

Motion by Cathy Zarosinski to grant licensure after issuing a Notice of Proposed Disciplinary Action placing licensee on probation for a period of five years.

Seconded by Nancy Wilson

Motion passed unanimously

**Case PT 186-4/05**

Motion by Cathy Zarosinski to close case no violation and issue a letter of concern.

Seconded by Nancy Wilson

Motion passed unanimously

**Case PT 193-5/05**

Motion by Cathy Zarosinski to close case no violation.

Seconded by Nancy Wilson

Motion passed unanimously

**Case PT 201-8/05**

Motion by Cathy Zarosinski to close case no violation.

Seconded by Nancy Wilson

Motion passed unanimously

**Case PT 199-8/05**

Motion by Cathy Zarosinski to close case no violation.

Seconded by Nancy Wilson

Motion passed unanimously

**Case PT 187-4/05**

Motion by Cathy Zarosinski to close case no violation.

Seconded by Nancy Wilson

Motion passed unanimously

**BOARD MEMBER APPLICATIONS**

The Executive Director reported, to the Board, that the appointment had been made for the replacement of the position held by Cathy Zarosinski. Cathy's

second 4-year term expired 09/15/05. The new appointed PT member is Steven Alstot, PT. Upon Senate Committee confirmation, Mr. Alstot will begin his 4-year term, effective 11/01/05-10/31/09. Additionally, the Executive Appointments Office re-appointed Daiva Banaitis to a second term, effective 11/16/05-11/15/09.

## **STAFFING CONSIDERATIONS/ISSUES**

### **On-call Contract Investigator**

The Executive Director introduced the Board's new part-time investigator, Mindy Tucker. Mindy is under a Personal Services Contract, with the Board, to provide investigative services on a hourly, as needed basis.

### **Medical Leave of Executive Director**

The Executive Director shared, with the Board, the dates of his pending medical leave. Effective 10/27/05, the Director will be out of the office on medical leave, for a period of four-to-six weeks, the actual timing is not yet known.

## **NEW STATUTES AND RULES EFFECTIVE 01/01/06**

Based on the Enrolled changes of House Bill 3260 (the new PT Practice Act effective 01/01/06), the Executive Director presented the Board with the findings and proposed rule changes as determined by the Administrative Rules Advisory Committee.

The Committee is comprised of 19 members: 13 PTs; 1 PTA; 2 Attorneys; the Executive Director; the Board Clinical Advisor/Investigator, also a PT; and, a Board Member, also a PT.

Upon the review and discussion of each proposed change, the Board came to a consensus on whether or not to incorporate the change in the rule making process. The directions, of the Board, were then given by the Executive Director to the Rules Drafting Subcommittee.

The tentative public hearing, on the proposed rule changes, is scheduled for December 2, 2005.

## **FUTURE BOARD MEETING DATES**

As established, by the Board, the future Board meeting dates are as follows: 12/2/05, 1/27/06, 3/17/06, 5/19/06, 7/14/06, 9/12/06, 11/3/06, and 1/5/07.

## **RATIFICATION OF PT/PTA LICENSES & TEMPORARY PERMITS**

The Board was presented with a list of new licensees for the period of August 5, 2005 through September 29, 2005. 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 August 05, 2005 Regular Board Meeting, were presented to the Board. The Chair opened the floor for discussion and comments. Without any noted

discussion, the Board voted unanimously to accept the August 05, 2005 Board Meeting Minutes, as submitted.

### **OCCUPATIONAL THERAPY PROPOSED CHANGE IN DEFINITION**

The OT Board is starting the public process of changing its legal definition of Occupational Therapy. Presented, to the Board, was the OT Board's proposed changes to the definition to be presented as a Legislative Concept in 2007. Upon review and discussion, by the PT Board members, the Board determined they did not have any concerns or opposition to the proposed language. The Board also determined that the proposed language would be passed on to the OPTA, for their consideration. If appropriate, the PT Board said it would take a position, of support, given the proposed language presented to them.

### **FARB MEETING-FEBRUARY 3-5, 2006**

The Board supported sending the Board Clinical Advisor/Investigator to the Federation of Associations of Regulatory Boards' 30th Annual Forum, in San Diego, CA.

### **FSBPT 2005 NATIONAL CONFERENCE IN AUSTIN, TEXAS**

The Board Chair acknowledged Jim Heider, Board Executive Director, for his role in representing the Board at the 2005 Annual FSBPT Conference, in Austin TX. The Chair reported that Mr. Heider did an excellent job acting as a program speaker, and as a panelist for 3 separate educational segments. Mr. Heider was also elected to act as the Moderator for the Counsel of Board Administrator 2006 Networking Program. The Chair also reported that the 2006 FSBPT National Conference will be held, in Portland, OR, September 7<sup>th</sup> through the 11th.

### **REVIEW OF TEMPORARY RULE FOR ADOPTION OF NEW PASSING SCORES FOR i.b. TOEFL**

The Board approved the following temporary rule, to accommodate the new i.b.TOEFL test scores, effective immediately.

#### **OAR 848-010-0015(3)(b)(C)**

**Verification that the applicant has achieved the following minimum scores for each category of the new internet based TOEFL (ibTOEFL) examination: writing, 24; speaking, 26; reading, 18; listening, 21; with an overall score of not less than 89.**

### **CALL FOR OTHER NEW BUSINESS**

None noted.

Mr. Nickell adjourned the Meeting at 3:50 PM.



**Physical Therapist Licensing Board  
Administrative Rules Hearing  
December 02, 2005**

**MINUTES**

**Friday, December 02, 2005**

**Board Members Present:** Jerry Nickell, PT, Chair; Steve Alstot, PT Member; Nancy Wilson, PTA Member; Pat Moore, MD, Physician Member; Cindy Cunningham, Public Member

**Board Members Absent:** Daiva Banaitis, PT, PhD; Joana Freedman, PT, Vice Chair

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

**Legal Counsel:** Carol Parks, AAG

The Proposed Administrative Rules Hearing was held Friday, December 02, 2005, in Room 445 of the Portland State Office Building, 800 NE Oregon Street, Portland, OR. The Hearing was convened at 8:44 AM by Jim Heider, Board Executive Director and Presiding Hearing Officer.

Mr. Heider presented an opening statement asking all guests to sign the attendance log, which is on file with the Board. The Hearing was recorded on Tape 1, Sides A and B, titled, 12.02.05 Public Hearing Administrative Rules Hearing and is available in the Board office.

Mr. Heider instructed the Board/Staff panel and the audience of the procedure he would use to conduct the Hearing. Each Rule Division would be addressed, in sequential order, starting with Division 1. Mr. Heider would read the Rule Summary from the Notice of Proposed Rulemaking Hearing form. He would then open the floor up for testimony regarding the proposed rule changes for that Division, or any issues with regards to the Rules in that Division.

**Division 1 Procedural Rules**

After Mr. Heider read the Rule Summary, the floor was opened for testimony.

No comments or testimony with regards to changes in Division 1.

**Division 5 Board Administration**

After Mr. Heider read the Rule Summary, the floor was opened for testimony.

Testimony for consideration was presented by: Tracy Fritts, PT, representing the Oregon Physical Therapy Association (OPTA); Rhonda Hynes, PT; Karen Walz, PT; Jeff Whinery, MPT; Julie Richard, PT; Elizabeth Zastrow, DPT; and, Jeff Cuscumano, MPT.

**Division 10 Licensing of Physical Therapists, Physical Therapist Assistants, and Temporary Permit Holders**

After Mr. Heider read the Rule Summary, the floor was opened for testimony.

Testimony for consideration was presented by: Karen Walz, PT.

### **Division 15 Physical Therapist Assistants**

Housekeeping changes only to Division 15.

### **Division 20 Physical Therapist Aides**

After Mr. Heider read the Rule Summary, the floor was opened for testimony.

Testimony for consideration was presented by: Diana Godwin, Attorney, on behalf of Oregon Physical Therapists in Independent Practice (OPTIP) and Jane Cedar, PT, Mt. Hood Community College (MHCC).

### **Division 30 Practice Without Referral**

After Mr. Heider read the Rule Summary, the floor was opened for testimony.

Testimony for consideration was presented by: Jeff Whinery, MPT; Julie Richard, PT; Elizabeth Zastrow, DPT; Jeff Cuscumano, MPT; and, Mary Halpert, PT.

### **Division 35 Continuing Education**

After Mr. Heider read the Rule Summary, the floor was opened for testimony.

Testimony for consideration was presented by: Tracy Fritts, PT, OPTA; Jane Cedar, PT MHCC; Jeff Whinery, MPT; Julie Richard, PT; Elizabeth Zastrow, DPT; Jeff Cuscumano, MPT; Karen Walz, PT; Julie Segura, PT; Rosalyn Beesley, PT; Sabrina Tusing, PTA; Cathy Fritz, PT; and, Cheryl Sears, PT. Comments made by Carol Parks, AAG; Dode Jackson, PT; and, Diana Godwin, Attorney.

**Break 10:05 AM**

**The Hearing was re-convened at 10:18 AM.**

### **Division 40 Minimum Standards for Physical Therapy Practice and Records**

After Mr. Heider read the Rule Summary, the floor was opened for testimony.

Testimony for consideration was presented by: Diana Godwin, Attorney, OPTIP and Karen Walz, PT.

**10:25 AM Joana Freedman, PT , Board Vice Chair, joined the hearing.**

### **Division 45 Grounds for Discipline and Sanctions**

After Mr. Heider read the Rule Summary, the floor was opened for testimony.

Testimony for consideration was presented by: Dode Jackson, PT; Diana Godwin, Attorney, OPTIP; Tracy Fritts, PT, OPTA; Trevor Todd, PT; Jane Cedar, PT, MHCC; Karen Walz, PT; and, Jeff Giulietti, MPT.

**Division 50 Substance Abuse Diversion**

No proposed changes submitted for Division 50.

Mr. Heider opened the floor for comments, on any of the rules, that may not have been presented or brought forth earlier.

Without further comments, Mr. Heider closed the floor to testimony and adjourned the Hearing at 10:46 AM.

**Physical Therapist Licensing Board  
Board Meeting  
December 02, 2005**

**MINUTES**

**Friday December 02, 2005**

**Board Members Present:** Jerry Nickell, PT, Chair; Joana Freedman, PT, Vice Chair; Nancy Wilson, PTA; Steve Alstot, PT; Cindy Cunningham, Public Member; Pat Moore, MD, Physician Member.

**Board Members Absent:** Daiva Banaitis, PT, PhD

**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)(h) at 10:55 AM, Mr. Nickell convened the Board into Executive Session. Pursuant to ORS 192.660(2)(h), 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 Counsel, regarding investigative cases, pending contested case hearings, administrative rule making and, Board policy and administration.

The entire meeting, including the closed door meeting of the Executive Session, is recorded and labeled, on Sides A and B of two recording tapes, dated 12/02/06.

**PUBLIC (OPEN) SESSION**

Upon completion of the Executive Session, Mr. Nickell took the Board into Public Session for motions and additional business. The public and interested parties are invited to attend this portion of the meeting.

**BOARD MOTIONS**

The Board Chair opened the proposed amendment, to Division 1, for discussion by the Board. With no additional discussion, Nancy Wilson moved to accept the proposed amendment, to Division 1 Rules, as written, motion was seconded by Joana Freedman, motion passed unanimously.

The Board Chair opened the proposed amendments, to Division 5, for discussion by the Board. After discussion and consideration of testimony, by the Board, Nancy Wilson moved to accept the proposed amendments, to Division 5 Rules, after adding wording to

OAR 848-050-0030(3) ...electronic mail address "if available", the motion was seconded by Joana Freedman, motion passed unanimously.

The Board Chair opened the proposed amendments, to Division 10, for discussion by the Board. After discussion and consideration of testimony, by the Board, Nancy Wilson moved to accept the proposed amendments, to Division 10 Rules, as written, the motion was seconded by Joana Freedman, motion passed unanimously

The Board Chair opened the proposed amendments, to Division 15, for discussion by the Board. With no additional discussion, Nancy Wilson moved to accept the proposed amendments, to Division 15 Rules, as written, motion was seconded by Joana Freedman, motion passed unanimously.

The Board Chair opened the proposed amendments, to Division 20, for discussion by the Board. After discussion and consideration of testimony, by the Board, Nancy Wilson moved to accept the proposed amendments, to Division 20 Rules, as written, the motion was seconded by Joana Freedman, motion passed unanimously.

The Board Chair opened the Repeal, of Division 30, for discussion by the Board. With no additional discussion, Nancy Wilson moved to accept the repeal, of Division 30 Rules, motion was seconded by Joana Freedman, motion passed unanimously.

The Board Chair opened the proposed adoption, of Division 35, for discussion by the Board. Nancy Wilson moved, to table the adoption, of Division 35 Rules, pending further review and discussion by the Board, motion was seconded by Joana Freedman, motion passed unanimously.

Because the Board postponed the adoption of the new Division 35 Rules, Continuing Education, Nancy Wilson moved to delete the wording, in the newly adopted Division 10 Rules, that makes reference to Division 35, motion was seconded by Joana Freedman, motion passed unanimously.

Nancy Wilson moved to keep the time frame, for the first continuing education certification period in Division 35, to 01/01/06 through 03/31/08, regardless of the other possible changes, to Division 35 Rules, motion was seconded by Joana Freedman, motion passed unanimously.

At 1:16 PM, citing ORS 192.660(2)(h) at 10:55 AM, Mr. Nickell convened the Board back into Executive Session. Pursuant to ORS 192.660(2)(h), this portion, of the Meeting, is closed to the public.

Upon completion of the Executive Session, Mr. Nickell took the Board back into Public Session for motions and additional business. The public and interested parties are invited to attend this portion of the meeting.

The Board Chair opened the proposed amendments, to Division 40, for discussion by the Board. After discussion and consideration of testimony, by the Board, Nancy Wilson moved to accept the proposed amendments, to Division 40 Rules, as written, the motion was seconded by Joana Freedman, motion passed unanimously.

The Board Chair opened the proposed amendments, to Division 45, for discussion by the Board. After discussion and consideration of testimony, by the Board, Nancy Wilson moved to accept the proposed amendments, to Division 45 Rules, as written, the motion was seconded by Joana Freedman, motion passed unanimously.

**Case PT 198-7/05**

Motion by, Nancy Wilson, to impose an Emergency License Suspension order based on public safety concerns, and pending the completion of an on-going investigation.

Seconded by Joana Freedman

Motion passed unanimously

**Case PT 190-5/05**

Motion, by Nancy Wilson, to issue a Proposed Notice of Disciplinary Action citing treatment of a patient without a prescription, which is a violation of OAR 848-040-0120(2)(3), 848-040-0115 (2), 848-045-0020(2)(h), and imposing a civil penalty of \$500.00.

Seconded by Joana Freedman

Motion passed unanimously

**Case PT 29**

Motion, by Nancy Wilson, to send former Licensee a letter, from the Board, denying request for Board to consider reinstatement of suspended license.

Seconded by Joana Freedman

Motion passed unanimously

**Case PT 202-8/05**

Motion, by Nancy Wilson, to issue a Proposed Notice of Disciplinary Action for allowing non-trained office personnel to act as an aide, which is a violation of OAR 848-020-0040(1), 848-020-0000(3), 848-045-0020(2)(h), and imposing a civil penalty of \$500.00.

Seconded by Joana Freedman

Motion passed unanimously

**Case PT 205-11/05**

Motion, by Nancy Wilson, to approve Oregon practice license subject to a probation period of two years, citing violation of OAR 848-010-0044(2)(3).

Seconded by Joana Freedman

Motion passed unanimously

**Case PT 206-12/05**

Motion, by Nancy Wilson, to issue a Proposed Notice of Disciplinary Action, citing violation of ORS 688.140(2)(n), practicing without a license, and imposing a civil penalty of \$500.00. Seconded by Joana Freedman

Motion passed unanimously

**Staffing Considerations/Issues**

Sherri Paru reported, to the Board, that the new Contract Investigator was working 10 to 15 hours, per week, and is meeting expectations, as established by the contract. Sherri further reported, to the Board, that the Executive

Director would be returning from medical leave part-time, effective December 12, 2005, and would be working a reduced schedule through January 20, 2006.

### **Clinical Advisor/Investigator APTA dues and attendance at Combined Section Meeting.**

After Board discussion and consideration, the Board voted in support of the Clinical Advisor Investigator attending the APTA Combined Section Meeting in San Diego, CA. The Board also noted the value of having the Clinical Advisor/Investigator, as a member of the National and Local Chapters of the APTA, and further approved Board payment or reimbursement of the annual dues for membership.

### **Future Board Meeting Dates**

As established by the Board, the future Board meeting dates are as follows: January 27, 2006; March 17, 2006; May 19, 2006; July 14, 2006; September 12, 2006; November 3, 2006; and January 5, 2007. Meeting date, 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 Licenses & Temporary Permits**

The Board was presented with a list, of new licensees, for the period of September 30, 2005 through December 1, 2005. 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 September 30, 2005 Regular Board Meeting, were presented to the Board. The Chair opened the floor for discussion and comments. Without any noted discussion, the Board voted unanimously to accept the September 30, 2005 Board Meeting Minutes, as submitted.

### **CALL FOR OTHER NEW BUSINESS**

None noted.

Mr. Nickell adjourned the Meeting at 4:15 PM.