

Physical Therapist Licensing Board

**Board Meeting
January 27, 2006**

MINUTES

Friday January 27, 2006

Board Members Present: Jerry Nickell, PT, Chair; Joana Freedman, PT, Vice Chair; Nancy Wilson, PTA; Steve Alstot, PT; Jason Fiske, PT; 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)(h), at 8:35 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 three recording tapes, dated 01/27/2006.

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 183b-01/05

Motion, by Cindy Cunningham, to revise Stipulated Order using some of the language proposed by the Licensee's Attorney; change noted violation to ORS 688.140(2)(d); and, reduce proposed civil penalty to \$2,000.

Seconded by Steve Alstot

Motion passed unanimously

Case PT 200

Motion, by Cindy Cunningham, to issue a letter of concern citing Licensee's business billing practices; issue of a Proposed Order of Discipline and, a Stipulation and Final Order, citing violation of OAR 848-040-0150(1)(b)(d), and OAR 848-045-0020(2)(h), Board documentation requirements; also, citing violation of OAR 848-045-0020(2)(q)(D), the improper use of the term "doctor"; impose a probationary term of 6 months, followed by a Board records review, requirement for the successful completion of a Board approved documentation course and, a civil penalty of \$500.00, reduced by the cost of the documentation course with any net proceeds payable to the Board.

Seconded by Steve Alstot

Motion passed unanimously

Case PT 207-12/05

Motion, by Cindy Cunningham, to issue a Stipulation and Final Order for violation of OAR 848-045-0020(2)(s), practice with a lapsed license; impose a civil penalty of \$1,000 and, include in the cover letter, the requirement to notify third party payors of the unlicensed practice.

Seconded by Steve Alstot

Motion passed unanimously

Proposed Division 35 Continuing Education Rules

Motion, by Nancy Wilson, to accept the wording of Division 35 with changes as discussed by the Board, and proceed with the rule making process.

Seconded by Steve Alstot

Motion passed unanimously

Future Board Meeting Dates

As established, by the Board, the future Board meeting dates are as follows: 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.

Ratification of PT/PTA Licenses & Temporary Permits

The Board was presented with a list, of new licensees, for the period of December 02, 2005 through January 26, 2006. The Chair opened the floor, for discussion, with regards to the new licensees. Without noted discussion, the Board voted unanimously to ratify the new licensees and permit holders for the above-noted period.

Approval of Meeting Minutes

The Minutes, from the December 02, 2005 Administrative Rules Public Hearing, 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 02, 2005 Hearing Minutes, as submitted.

The Minutes, from the December 02, 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 December 02, 2005 Board Meeting Minutes, as submitted.

Financial Report

**January 27, 2006 Board Meeting
Financial Report Narrative
Reporting Period 07/01/05-12/31/05**

Total Income is under budget by \$132,020

The Board 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 that income or expense equitably over the entire accounting period, in this case 12 months, 7/1/05-6/30/06.

The Board’s projected income for the fiscal year ’05-’06 is budgeted at \$339,400. This is accrued at \$28,285/month (\$169,710 thru 12/31/05). Actual income booked thru 12/31/05 equals \$37,690; this creates an income deficit of (\$132,020). The vast majority, of that income, will actually be received during the renewal cycle, Jan-Mar ’06.

This is not an item for concern at this point.

Total Expense is under budget by (\$20,145)

5100 Payroll Costs are **(\$29,454)** under budget as a combination of several expense factors:

Expense Classification	Over Budget	Under Budget
Salaries		(\$21,077)
Board Stipends		(\$400)
Payroll Taxes		(\$1,600)
PEBB Medical Premiums		(\$2,007)
PERS ER Paid EE Contrib		(\$600)
PERS Employer Admin		(\$1,545)
PERS Bond Debt Obligation		(\$1,148)
Employee Training		(\$1,100)

Narrative: Salaries are under budget, by **(\$21,077)**, due primarily to the reclassification of the part-time investigator, from an hourly employee status, to a contracted employee; and, the short-term disability (STD) leave of the Executive Director, during which time his salary was paid by a third party insurance company; Board stipends are below projected amount, by **(\$400)**, due to the former Board Chair’s election not to accept the stipend payments; payroll taxes are a direct product of salaries paid, taxes are under budget, by **(\$1,600)**, due primarily to the application of the FICA rate of 7.65% to the lower than budgeted salaries; healthcare expense is down, by

(\$2,007), due to a lower than forecasted premium increase; PERS EE Contributions paid, by the Board, are lower than forecasted, by (\$600), due to the lower gross salary figure associated with the Executive Director's STD leave; PERS ER Admin rates are lower than forecasted, by (\$1,545), resulting from a lower than forecasted ER Admin Rate and the STD leave of the Executive Director; the PERS Debt Obligation Bond Repayment totals are under budget, by (\$1,148), due to a lower than forecasted rate of payment, and the STD leave of the Executive Director; and, employee training expense is below projected amounts, by (\$1,100). This is a matter of accrual timing and will be depleted by the end of the fiscal year.

5600 Travel Cost is (\$384) under budget.

This is based on a monthly accrual of \$590 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 (\$1,678) under budget.

This variance is due primarily, to the budgeting for new office furniture and files cabinets anticipating the move to the pharmacy space that has been cancelled. The Board Investigator will move into an office space and furniture will be purchased sometime in mid to late Spring 2006.

6190 Dues and Subscriptions are \$1,240 over budget.

This is a matter of accrual timing, and will be recuperated by the end of the fiscal year.

6200 Postage is (\$3,774) under budget.

This is a matter of accrual timing, and will be depleted by the end of the fiscal year.

6400 Contracted Services are \$4,453 over budget as a combination of several expense factors:

Expense Classification	Over Budget	Under Budget
Attorney General Fees	\$6,058	
Investigators Fee	\$4,644	
Audit Charges		(\$2,700)
Computer Support		(\$671)
CPA Accounting Fees		(\$600)
Emp Hearing Officer Panel		(\$2,125)
Payroll Service Charges		(\$154)

Narrative: Attorney General Fees are over budget, by \$6,058, due primarily to increased usage attributed to the request and preparation, or negotiation, on a contested case hearing, which, has not yet gone to hearing, and the legal input, advice, and a total review of the Administrative Rules Committee rewrite of the Board Administrative Rules due to the 01/01/06 adoption of a new PT Practice Act; Investigator fees are over budget, by \$4,644, due to the reclassification of the Board's part time investigator, from an hourly employee, to a Contract Investigator; Audit Charges are under budget, by (\$2,700), because the mandated financial audit, scheduled for fall of 2005, has been delayed by the State Audits Division, this expense will be incurred sometime this year; the fees associated with Computer Support are under budget, by (\$671), due to a

recognized savings in the change of service vendors; the fees for CPA were budgeted at **(\$600)**, however, the Board has not had to use CPA service/advisement for the past 6 months; the fees for Employment Hearing Office are under budget, by **(\$2,125)**, this is a matter of accrual timing and will be depleted by the end of the fiscal year.

Rent and Occupancy is **(\$959)** under budget.

Rent is under budget because of the delay in the planned increase of Board rental square footage. This amount will be absorbed when the Board receives approval from DAS for its request of an additional office space to be used by the Board Investigator.

6600 Background Checks are **\$8,935** over budget.

This expense was inadvertently not accrued in the 2005/2007 Biennium. At the end of 2004, exam and endorsement application fees were raised, by the actual cost of the background check, to cover the cost previously incurred by the Board. The strategy was that this expense would be a net from the increase in the corresponding application fee income. Generally Accepted Accounting Principles do not allow you to net, an expense, directly from an income account.

6800 Computer & Accessories are **(\$1,630)** under budget.

This is a timing issue, 2 new computers were purchased, for the Board staff, in summer of 2005, however, the purchase of a new printer and additional accessories has been held off pending the outcome of the request for additional office space.

Future Budget Variance Concerns:

Income will be over projected amounts, by approximately \$60,000, due to the raise in renewal fees for '06-'07. An increase in renewal fees was not anticipated until '07-'08 renewal. Because of the legislative change in the PT practice act, and the elimination of the fees associated with the Certificate to Practice Without Referral, the Board chose to raise its current renewal fees to recover the income deficit and to balance the current budget.

Travel expense may be higher than originally budgeted due to the addition of a new Board member who will be traveling across state to attend Board meetings.

Background checks will continue as a Board issue for '06 and '07 fiscal years. This amount will be incurred, as an expense, but was not budgeted as an expense. This non-budgeted amount will impact the Board's overall approved operating budget.

The move planned to relocate the Health Related Licensing Boards, to the vacated Pharmacy location, paid for by the Nursing Board, has been cancelled. The PT Board still has an original request for an additional office space to be used by the Board's Clinical Advisor and Investigator. DAS has given preliminary approval for the space which is already part of the PT Board office, currently occupied by the Nursing Home Administrator Board's Director. To facilitate this move, the PT Board will have to pay for the physical costs of the move as originally planned in 2003. There is nothing budgeted for this move other than the new furniture and the additional square footage rental fees.

FSBPT 2006 Financial Budget

As required by the Federation Bylaws the FSBPT presented copies of their adopted 2006 financial budget to the Board.

APTA Residency/Fellowship Program

Mr. Heider presented, to the Board, a letter from the APTA asking jurisdictions to consider the APTA Residency/Fellowship Program as a qualified program under the jurisdictions CE requirements. After discussion, the Board determined that the APTA program would qualify for CE credit under the new Division 35 Board Rules.

Legislative Concepts

Mr. Heider presented the Board with a letter from Legislative Counsel. The letter outlined procedures and timetables regarding the submission of legislative concepts for the upcoming 2007 legislative assembly. Noted were the deadline dates for submission of the concepts, April 3, 2006 and the begin date of the 2007 legislative session, January 8, 2007. After discussion the Board determined they would not be presenting any concepts, from the Board, this session.

DOJ Presentation on Contested Case Hearings

Carol Parks, AAG, made the Board aware of a Department of Justice power point presentation on "Contested Case Hearings". Ms. Parks wanted to know if the Board would be interested in her presenting the presentation at a Board meeting. After discussion the Board invited Ms. Parks to present the presentation, in public session, at the March 17, 2006 Board meeting.

CALL FOR OTHER NEW BUSINESS

Mr. Heider informed the Board of the increase in requests for Board presentations in a public forum and community outreach. Mr. Heider wanted the Board's input and opinion on whether the staff should continue to support these efforts. The Board made it clear to staff that it was in full support of continued community outreach and outreach to the professional community when ever possible. The Board further indicated that they would leave it up to staff to determine which venues to participate in, noting that staff should consider time involved and total number of possible participants at any one event.

Mr. Nickell adjourned the Meeting at 2:00 PM.

**Physical Therapist Licensing Board
Administrative Rules Hearing
March 17, 2006**

MINUTES

Friday, March 17, 2006

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

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

Legal Counsel: Carol Parks, AAG

The Proposed Administrative Rules Hearing was held Friday, March 17, 2006 in Room 445 of the Portland State Office Building, 800 NE Oregon Street, Portland, OR. Pursuant to OAR 848-001-0000, Notice of the Hearing was sent to all interested parties; posted in the March 1, 2006 edition of the Oregon Bulletin; published in the March 2006 Newsletter sent to all Licensees, and published on the Board website. The Hearing convened, at 8:40 AM, by Jim Heider, Board Executive Director and Presiding Hearing Officer.

The Hearing was recorded on Tape 1, Sides A and B, titled, Public Hearing Proposed Administrative Rule Division 35 Continuing Ed, dated 3/17/06. The tape is available in the Board office.

Mr. Heider presented an opening statement asking all guests to sign the attendance log, kept on file with the Board. Mr. Heider instructed the Board/Staff (panel) and the audience of the procedure he would use to conduct the Hearing. Mr. Heider would read the Rule Summary from the Notice of Proposed Rulemaking Hearing form. He would then open the floor for testimony regarding the proposed rule changes for Division 35.

Division 35 Continuing Education

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); John Bonica, PT, CMP, NZRP; Jan Noland, PT; Den Fusso, PT; Susan Carrigg, MS, PT; Michael Feely, RPT; Elaine Hansen, PT; Nancy Ryan, PT; Elaine Hansen, PT; Cathy Fritz, PT; Mary Halpert, PT.

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

Without further comments, Mr. Heider closed the floor to testimony and adjourned the Hearing at 10:20 AM.

**Physical Therapist Licensing Board
Board Meeting
March 17, 2006**

MINUTES

Friday, March 17, 2006

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

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

Legal Counsel: Carol Parks, AAG

PUBLIC (OPEN) SESSION

The open door Public Session is recorded and labeled, on Sides A and B of one recording tape, dated 03/17/2006.

Upon completion of the Administrative Rules Hearing, Mr. Nickell took the Board into Public Session, for consideration and discussion of public testimony, and to entertain any motions to adopt the proposed Division 35 Rules. The public and interested parties are encouraged to attend this portion of the meeting.

Board Motions

Motion, by Nancy Wilson, to adopt the proposed Division 35 Rules and file them with the Secretary of State's Office, incorporating the amendments, as discussed by the Board following the Administrative Rules Public Hearing.

Seconded by Daiva Banaitis.

Motion passed unanimously

Upon Board motion, and adoption of the Division 35 Rule, Mr. Nickell closed the Public Session and brought the Board into Executive Session.

EXECUTIVE (CLOSED) SESSION

Citing ORS 192.660(2)(k), at 10:34 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 Board Counsel, regarding investigative cases, pending contested case hearings, administrative rule making and Board policy and administration.

The closed door Executive Session is recorded and labeled, on Sides A and B of two recording tapes, dated 03/17/2006.

PUBLIC (OPEN) SESSION

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.

Board Motions

Case PT 198-7/05

Motion, by Nancy Wilson, to issue proposed Notice of Discipline, Revocation of License, citing violations of: OAR 848-045-0020(2)(j); OAR 848-045-0020(2)(p)(B); OAR 848-045-0020(2)(q); OAR 848-045-0020(2)(v)(A); ORS 688.140(2)(f); and, 688.140(2)(m).

Seconded by Daiva Banaitis

Motion passed unanimously

Case PT 138-6/03

Motion, by Nancy Wilson, to respond to Licensee's Counsel, to stipulate by adding back into her proposed stipulation, violation of OAR 848-045-0020(2)(v)(A): \$5,000 civil penalty; 1 week suspension of license; and, a 2-year probationary period.

Seconded by Daiva Banaitis

Motion passed unanimously

Case PT 204a-10/05

Motion, by Nancy Wilson, to close case citing no violations.

Seconded by Daiva Banaitis

Steve Alstot, PT Member, abstained

Motion passed unanimously by remaining Board members

Case PT 204b-10-05

Motion, by Nancy Wilson, to close case citing no violations.

Seconded by Daiva Banaitis

Steve Alstot, PT Member, abstained

Motion passed unanimously by remaining Board members

Case PT 200-8/05

Motion, by Nancy Wilson, to amend and re-issue Stipulated Order, which was originally issued in February 2006, by combining violations numbers 1 and 2 into one paragraph.

Seconded by Daiva Banaitis

Motion passed unanimously

Case PT 183a-01/05

Motion, by Nancy Wilson, to amend and re-issue proposed Stipulated Order by removing the references to ORS 688.140 and OAR 848-045-0020 in paragraph one and paragraph four, and dropping violations noted for ORS 848-040-0150(a) and (b).

Seconded by Daiva Banaitis

Motion passed unanimously

Case PT 183d-01/05

Motion, by Nancy Wilson, to amend and re-issue proposed Stipulated Order by removing reference to ORS 688.140(2)(a) and OAR 848-045-0020(h) in paragraph one.

Seconded by Daiva Banaitis

Motion passed unanimously

Case PT 208-3/05

Motion, by Nancy Wilson, to issue Order of Emergency Suspension.

Seconded by Daiva Banaitis

Motion passed unanimously

Board Consideration of “Challenge” Applicants for Licensure of PTAs from the State of California

The Executive Director shared, with the Board, the history of PTAs currently licensed in the State of California, who, through a challenge process, were allowed to sit for the NPTE. If the CA applicant successfully completed the NPTE, they were issued a license to practice as a PTA in the State of California. The California Board no longer accepts challenge to sit for the PTA national examination.

In the past, when these CA licensees inquired about PTA endorsement application to the Oregon Board, they have been told that the Oregon Board does not accept challenge applicants; and, to license as a PTA in Oregon, one must be a graduate of a CAPTE Accredited PTA Program.

Recently, the question has been brought up, to the Board, based on the immediate need for qualified PTs and PTAs in the State of Oregon. The question; does the Board want to re-consider their position on challenge candidates for licensure? Thus allowing challenge applicants, already licensed and practicing in another State, to apply for licensure in Oregon?

After consideration, the Board determined that to allow for challenge applicants to license in the State of Oregon, the Statutes would have to be amended. Upon further discussion, the Board determined they would not allow for PTA challenge applicants in the State.

David Shipley, ND

Dr. Shipley's business letterhead indicates that he is a "Dipomate National Board Physical Therapy". The Board Clinical Advisor/Investigator shared, with the Board, an Investigative Report. Dr. Shipley received his certificate in 1967 after completion of an examination administered by the National Board of Physical Therapy Examiners. The National Board of Physical Therapy Examiners has no accreditation and no longer exists. The Board determined that Dr. Shipley's declaration that he is somehow qualified, to call himself a physical therapist, may be misleading to the public. The Board will send Dr. Shipley a letter of explanation requesting that he not use the term "Dipomate National Board Physical Therapy".

Ethic Course Co-Sponsored by the School of Physical Therapy and the Pacific Institute for Ethics and Social Policy

Marc Marengo contacted the Board in regard to publishing an upcoming co-sponsored event on the Board website. The program will qualify for CE under the new Division 35 Rules. The Board considered Mr. Marengo's request and determined that, if they were to publish the upcoming event, they would have to consider doing so for all CE vendors and providers. Publishing and maintaining this information, on the Board website, would not be feasible for current Board staff. Therefore, the Board determined they would not offer the posting of CE on the Board website.

Case PT 206-12/05: James Bradford, PT- Licensed in California

Motion, by Nancy Wilson, to issue Final Order (Civil Penalty), for the practice of PT in Oregon without a valid license.

Seconded by Daiva Banaitis

Motion passed unanimously

Future Board Meeting Dates

As established, by the Board, the future Board meeting dates are as follows: 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.

Ratification of PT/PTA Licenses & Temporary Permits

The Board was presented with a list, of new licensees, for the period of January 27, 2006 through March 16, 2006. The Chair opened the floor, for discussion, with regards to the new licensees. Without noted discussion, the Board voted unanimously to ratify the new licensees and permit holders for the above-noted period.

Approval of Meeting Minutes

The Minutes, from the January 27, 2006 Regular Board Meeting, were presented to the Board. The Chair opened the floor for discussion and comments. With a noted point of clarification regarding the Proposed Division 35 Continuing Education Rules, the Board voted unanimously to accept the January 27, 2006 Board Meeting Minutes.

Call For Other New Business

The Executive Director reviewed the following with the Board:

- **The status of the annual renewal process with the Board** - Mr. Heider reported the volume of renewal applications, for February processing, were way down and the volume, for March processing, is heavier than it's ever been. Despite the spike in volume, Staff has been able to keep up with the one-day turn-around time.
- **Delegate selection to attend the FSBPT Annual Conference in Portland** - The Board voted to keep Jerry Nickell, PT, Board Chair, as the Primary Delegate, and designated Joana Freedman, PT, Board Vice Chair, as the Alternate Delegate. Mr. Heider will follow-up with other Board members to see if there is any interest on their part to participate in the conference.
- **March 14, 2006 from Governor's Chief of Staff** - The letter stated the Governor's position on Semi-Independent Agencies. The Governor will not support agencies, who wish to seek this status, in the upcoming 2007 legislative session. If an agency's public purposes can be served without a governmental role, the Governor is willing to consider complete independence for particular licensing agencies or boards.
- **Review of the Tribune article regarding the Board of Nursing** - Mr. Heider also shared, with the Board, the recent request from the Statesman Journal. The Journal sent an email, to the Board, requesting an electronic data file of all the Board's sanctions, disciplinary actions, and notices. Per the Board legal counsel, if such a file did not exist, the Board was under no obligation to produce one. The Journal was given all the Board options for public records, paper copies, notification in the Newsletter, and notice of discipline on the Board's on-line verification screen.
- **Primary source verification from California State University-Northridge** - Recently, the Board received secondary source education verification on an applicant. The verification request was sent to CA State University-Northridge. The University now uses a third party to process such requests. The verification came, to the Board on-line, from the National Student Clearinghouse and was titled, "Degree Verify Certificate". Mr. Heider shared, with the Board, that the University would still act as a primary source for transcripts; however, will not complete the Certificate of Professional Education forms. After discussion, the Board determined they would not accept the secondary source verification, and that the applicant would have to request transcripts, from the University, be sent directly to the Board office as a source of primary verification.

Jerry Nickell, PT, Board Chair, publicly acknowledged Board staff for doing a great job on the March Newsletter. He said it was informative and very professionally done.

With no other new business cited, Mr. Nickell adjourned the Meeting at 3:31 PM.

**Physical Therapist Licensing Board
Emergency Telephone Board Meeting
March 22, 2006**

MINUTES

Wednesday, March 22, 2006

Board Members Present: Joana Freedman, PT, Board Vice Chair; Jason Fiske, PT; Daiva Banaitis, PT, PhD; Nancy Wilson, PTA

Board Members Absent: Jerry Nickell, PT, Board Chair; Steve Alstot, PT; Cindy Cunningham, Public Member

Staff: Sherri Paru, PT, Clinical Advisor/Investigator

Legal Counsel: Carol Parks, AAG

EXECUTIVE (CLOSED) SESSION

Citing ORS 192.660(2)(k), at 2:30 PM, Ms. Freedman 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 revisited and considered a case where, at their 03/17/06 Board Meeting in Public Session, the Board had voted to issue an Emergency License Suspension of a licensee. The Board also considered legal advisement, from Board Counsel, with regard to this case.

The entire meeting, including the closed Executive Session, is recorded and labeled on Side A of one recording tape, dated 03/22/06.

PUBLIC (OPEN) SESSION

Upon completion of the Executive Session, Ms. Freedman took the Board into Public Session for motions and additional business.

Board Motions

Case PT 208-3/05

Motion, by Daivia Banaitis, to issue an Interim Stipulated Agreement, in lieu of the Emergency Suspension Order affirmed, by the Board on 3/17/06, requiring Licensee to have a chaperone present while treating patients.

Seconded by Joana Freedman

Motion passed unanimously

Ms. Freedman adjourned the meeting at 3:15 PM.

**Physical Therapist Licensing Board
Administrative Rules Committee Meeting
May 03, 2006**

MINUTES

Wednesday, May 03, 2006

Committee Members Present: Diana Godwin, Attorney at Law; Patty Boyd, PT; Ann Jorling, PT; Kerri Schweiger, PT; Sharon Steele, PT; Terese Roeseler, PT; David Komeiji, PT; Bruce Alter, PT; Nancy Cicirello, PT; Darla Kroll, PT; Lisa Protsman, PT; Steve Alstot, PT, Board Member; Sherri Paru, PT, Board Clinical Advisor/Investigator; Jim Heider, Board Executive Director.

The Administrative Rules Committee meeting was held Wednesday, May 03, 2006 in Room 445 of the Portland State Office Building, 800 NE Oregon Street, Portland, OR. Pursuant to OAR 848-001-0000, Notice of the Meeting was sent to all interested parties and posted on the Board website.

The Committee was convened, by Mr. Heider, at 4:30 PM. After introductions, the Committee discussed and identified specific areas, in the current Administrative Rules, that are of concern or not universally applicable to therapists in the school setting. The primary areas of concern focused on the Board documentation requirements as outlined in Division 40 of the current Board Administrative Rules.

From this discussion, the Committee made suggestions to the Board, as outlined in the attached document titled Rules Advisory Committee Summary, dated May 03, 2006.

The Committee's summary document will be presented to the Board for discussion, during public session, at the May 19, 2006 Physical Therapist Licensing Board meeting.

Upon completion of discussion of the agenda items, Mr. Heider adjourned the meeting at 9:10 PM.

**Physical Therapist Licensing Board
Board Meeting
May 19, 2006**

MINUTES

Friday, May 19, 2006

Board Members Present: Jerry Nickell, PT, Chair; Joana Freedman, PT, Vice Chair; Steve Alstot, PT; Jason Fiske, PT; Daiva Banaitis, PT, PhD; Nancy Wilson, PTA; Cindy Cunningham, Public 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 8:36 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 Board Counsel, regarding investigative cases, pending contested case hearings, administrative rule making and Board policy and administration.

The closed door Executive Session is recorded and labeled, on Sides A and B of four recording tapes, dated 05/19/2006.

PUBLIC (OPEN) SESSION

Upon completion of the Executive Session, Mr. Nickell convened the Board back into Public Session for motions and additional business. The Public Session is recorded and labeled, on sides A and B of two recording tapes, dated 05/19/2006. The public and interested parties are invited to attend this portion of the meeting.

Board Motions

Case PT 198-7/05

Motion, by Joana Freedman, to accept and issue Final Order by Default, Revocation of License.
Seconded by Nancy Wilson
Motion passed unanimously

Case PT 200-8/05

Motion, by Joana Freedman, to issue Stipulated and Final Order (Reprimand), citing documentation issues, as noted, in original Proposed Order of Discipline. Additionally, issue

Licensee a Board Advisory Letter advising Licensee to cease the use of the term “Doctor” as associated with his professional title and practice.

Seconded by Nancy Wilson

Motion passed unanimously

Case PT 205-11/05

Motion, by Joana Freedman, to issue Licensee a Board Advisory Letter noting Board concern regarding Licensee’s honesty, with regards to omissions, on original endorsement licensure application.

Seconded by Nancy Wilson

Motion passed unanimously

Case PT 210-3/06

Motion, by Joana Freedman, to closed case citing no violation.

Seconded by Nancy Wilson

Motion passed unanimously

Case PT 211-4/06

Motion, by Joana Freedman, to issue Stipulated and Final Order (Civil Penalty), citing practice of physical therapy without a valid license, and assessing a civil penalty of \$100.00. Additionally, issue Licensee a Board Advisory Letter advising Licensee of obligation to report unlicensed practice to third party payors.

Seconded by Nancy Wilson

Motion passed unanimously

Case PT 212-4/06

Motion, by Joana Freedman, to issue Stipulated and Final Order (Civil Penalty), citing practice of physical therapy without a valid license, and assessing a civil penalty of \$75.00.

Seconded by Nancy Wilson

Motion passed unanimously

Case PT 213-5/06

Motion, by Joana Freedman, to issue Stipulated and Final Order (Civil Penalty), citing practice of physical therapy without a valid license, and assessing a civil penalty of \$250.00.

Seconded by Nancy Wilson

Motion passed unanimously

Case PT 183c-1/05

Motion, by Joana Freedman, to issue Amended Stipulated and Final Order, accepting proposed amended wording as submitted by Licensee’s Attorney.

Seconded by Nancy Wilson

Motion passed unanimously

Case PT 138-8/05

Motion, by Joana Freedman, to issue Second Amended Notice of Proposed Discipline, adding back, into the Notice, issues regarding authentication of notes and billing practices, as cited in the original Notice but omitted from the First Amended Notice.

Seconded by Nancy Wilson

Motion passed unanimously

Appearance by OPTA and OPTIP Representatives Regarding Board Investigations

Representatives: Joyce Wheeler, Ricci Susick, Dode Jackson and Tracy Fritts, from the Oregon Physical Therapy Association (OPTA), along with Diana Godwin, from the Oregon Physical Therapists in Independent Practice Group (OPTIP), addressed their members increased concern about risks therapists face when a complaint is filed against them with the Licensing Board. In a formal letter to the Board, dated May 5, 2006, and in public testimony at the Board Meeting, the OPTA and OPTIP Representatives covered the following areas of concern: 1) Is the Board obligated, by law, to open an investigation in response to every complaint received by the Board? 2) What types of cases and circumstances would the Board consider using its new authority, in which the Board can issue a non-disciplinary confidential “advisory letter” to a therapist, the letter notifies the therapist of certain conduct or practice that must be modified or eliminated? Would the advisory letter be used in lieu of issuing a disciplinary order? 3) Does the Board have guidelines, as to the types of cases and circumstances, under which the Board will extend an investigation, of a complaint, beyond the specific complaint itself or beyond the specific patient who is the subject of the complaint? 4) Are there other ways consistent with the Board’s responsibility, to protect the public, to handle documentation violations other than a full disciplinary proceeding?

In an open dialog, between the Board and the Representatives, the following was discussed:

1) The Board does look at every complaint that is filed. If it is determined that the Board:
a) has no jurisdiction over the matter or individual, b) the complaint has no validity or,
c) if on the basis of the complaint the action or circumstances would not violate Board Statute or Rule, the complaints are dismissed, no case file is opened, and the complainant is notified of the Board’s decision not to take action.

The representatives were unaware of the fact that the Board receives and dismisses several of these types of complaints every year. It was further discussed that the perception is, the Board investigates all complaints regardless of validity. The Board and Representatives determined that it might be helpful to publish the fact that the Board receives X number of complaints over a particular period of time. Of the X number of complaints, Y number were dismissed, Z number were opened, but, after investigation, of the Z number opened, Z-1 were closed with no violation, and Z-2 were found in violation of Board Statute or Rule and Sanctioned. The Board agreed they would look for opportunities to communicate this to the profession.

2) Based on discussions of the May 5, 2006 letter from the Representatives, the Board used its new authority to issue non-discipline “Advisory Letters”, in conducting its business, regarding determination of Case files at its May 19, 2006 Meeting. The Board will continue the use of this new authority, on a case by-case-basis, taking into account the specific circumstances of each case.

3) The Board was very clear on its position, with regards to extending an investigation, beyond the scope of the original complaint. If during the investigative phase of the complaint process, the Board has reason to believe that violations, of Board Statute and Rule, exist in areas non-related to the original complaint; the Board is not going to turn a blind eye. The Board will, under its own authority, extend the investigation into the suspected non-compliant area. There was some discussion of producing and providing some form of communication, to the licensee who is subject of a complaint, and subsequently, an investigation, so the Licensee has a better understanding of the Board’s processes, procedures, and expectations of them. The Board was open to looking at options and opportunities, to produce some form of communication tool, to be given to Licensees who may be subject to a Board investigation.

4) The Representatives concerns, over the Board’s option to use full disciplinary authority relative to issues of documentation, were taken into consideration by the Board. Again, the Board determined that they would make use of its new authority to issue non-disciplinary “Advisory Letters” to enforce a corrective action. This new authority would be extended to cases involving documentation but, once again, the use of this new authority, even with cases involving documentation, will be applied on a case-by-case basis determined by the specific circumstance of each case.

Summary Review of Consensus Document Prepared by Administrative Rules Advisory Group Regarding Therapists in a School Setting

The Executive Director presented, to the Board, a document prepared by the PTs in a School Setting Administrative Rules Committee. The document outlined a number of issues regarding the documentation requirements, in the current Administrative Rules, and the conflicts with other Federal and State requirements for therapists in the school setting. Sometimes the conflicts create duplicate efforts because they are not in sync with one another. The Board reviewed the document presented and agreed, in theory, with the committees proposed changes. The Board instructed the Board staff to continue to meet with the committee, and come up with a specific plan and proposed changes to the current Administrative Rules. The Board did approve the immediate change to OAR 848-040-0155(1)(b) clarifying the language to read, “At least every 60 days, or at every visit if the patient is seen less frequently, if the patient is being treated in an educational setting: or”

General Issues and Questions Regarding Continuing Education Course Approval

The Board Clinical Advisor/Investigator presented, to the Board, an issue with regards to vendors and course providers who want to publish that their particular physical therapy course is approved by the Physical Therapist Licensing Board. The Board determined

that according to Rule, they would not allow vendors and course providers to print any statements with regards to the Oregon Board's pre-approval. It would be appropriate for vendors and providers of CE to direct individuals back to the Board Rules stating the qualifying requirements for continuing education.

Question Regarding Approval of AIDS Education Courses for CEU

The Board Clinical Advisor/Investigator presented, to the Board, the Washington requirement for their Aides training as part of their requirement for licensure. After consideration, the Board determined, as a stand-alone course, the Aides program, with seven contact hours, meets the eligibility requirements for continuing education credit in the State of Oregon.

Question Regarding Approval of Orthopedic Study Group for CEU

The Board Clinical Advisor/Investigator presented, to the Board, the request for CE approval for a study group in Orthopedics; the format primarily will be lecturing. After consideration, the Board determined that this was more closely related to an in-service program and not eligible for continuing education.

Question Regarding CEU Credit for "Anatomy Awareness in Asana Yoga"?

The Board Clinical Advisor/Investigator presented, to the Board, the request for CE for Asana Yoga. After consideration, the Board determined that, as is, the course would not qualify for continuing education; the target audience is too general. However, if the course provider was to further develop the course specifically for physical therapists, the Board would reconsider the course for continuing education.

Question Regarding Contract Agreements between PT Practices Payment for Patient Referral

The Board Clinical Advisor/Investigator presented, to the Board, a question with regards to payment for patient referral. ORS 688.135(5) requires a PT to adhere to the standards of ethics, the APTA code of ethics does not allow for an individual to accept payment for referral.

Request from Bethanne Burrowes, PT Regarding Continuing Education

The Board Clinical Advisor/Investigator presented, to the Board, the request from Ms. Burrow for consideration of CE taken prior to the stated eligibility period of January 01, 2006. Per advisement, from Board Counsel, the Board does not have an option to make exception to the Rule. The Rule itself would have to be changed to allow for exceptions.

General Topics/Business

- **FSBPT development of referral list of remediation resources** – the Board Director reported, to the Board, that the Federation of State Boards of Physical Therapy (FSBPT) has included, in their 2007 strategic planning, the resource and budget to compile a reference list of remedial program options for applicants who fail the National PT Examination multiple times, or who may need refresher course work in the areas of ethics, boundary issues, or documentation.

- **FSBPT Conference September 2006** - the Board Director asked Board Members if any of them were interested in attending the fall FSBPT Conference, to be held in Portland. If interested, they should let him know so he can allocate budgeted training dollars to pay the registration fee.
- **Issues relating to “competency” of renewal applicants** – the Board Director brought two actual cases of therapists who have continued to keep their practice licenses current, by virtue of annual renewal, but have not actually worked in a PT setting for a number of years. The Director just wanted to make the Board aware of this situation citing concerns of re-entry to practice, continued competency, and public protection.
- **Issues relating to “competency” of applicants “former licensee”** – The Board Clinical Advisor/Investigator presented, to the Board, a situation where a former Oregon Licensee, license currently inactive more than five years, now working as a therapist in Canada, would like to return to Oregon. OAR 848-010-0035(2) states that the applicant must demonstrate competence to practice physical therapy. The Board determined that, in this case, the Board would consider review of the licensee’s current curriculum vita, letters from his employers, verification of his Canadian license, and record of continuing education as proof of continuing competency.
- **OPTA Fall Business Meeting** – the Board Clinical Advisor shared, with the Board, the OPTA’s request that she attend and present at the Fall, 2006, OPTA Conference in Portland. The Board approved the Clinical Advisor’s participation and investment of staff time into this request.
- **Proposed 2007 Legislation re: change to Occupational Therapy Practice Act** – upon review and discussion, the Board determined they did not have an opposing position to the proposed changes to language in the OT Practice Act.
- **Licensee with NSF check for license renewal application** – the Board asked its Legal Counsel, to review and advise the Board, with regards to its position and options, regarding a licensee’s status when the fee to obtain the license is returned, to the Board, for insufficient funds.
- **Negotiate Admin Support Contract with Mindy Tucker at reduced rates** – the Executive Director asked the Boards approval to negotiate and enter into an Amended Contract with its Contract Investigator. The thought was to negotiate a secondary rate, lower than the contracted investigators rate, allowing the Board to use the Investigator to help cover clerical duties of the Licensing Coordinator during her upcoming medical leave. The Board gave the Executive Director their approval.

Future Board Meeting Dates

As established, by the Board, the future Board meeting dates are as follows: 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.

Ratification of PT/PTA License & Temporary Permits (3/16/06 – 5/18/06)

The Board was presented with a list, of new licensees, for the period of March 16, 2006 through May 18, 2006. The Chair opened the floor, for discussion, with regards to the new licensees. Without noted discussion, the Board voted unanimously to ratify the new licensees and permit holders for the above-noted period.

Approval of Meeting Minutes

The Minutes, from the March 17, 2006 Administrative Rules Hearing and Board Meeting, the March 22, 2006 Emergency Board Meeting, and the May 3, 2006 Administrative Rules Committee Meeting, were presented to the Board. The Chair opened the floor for discussion and comments. With no noted changes, all Minutes were approved as written.

Other New Business

With no other new business cited, Mr. Nickell adjourned the Meeting at 3:31 PM.

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

MINUTES

Friday, July 14, 2006

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

Absent: Nancy Wilson, PTA

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

Legal Counsel: Carol Parks, AAG

EXECUTIVE (CLOSED) SESSION

Citing ORS 192.660(2)(k), at 9:15 AM, Board Chair, Jerry Nickell convened the Board into Executive Session. Pursuant to ORS 192.660(2)(k), this portion, of the Meeting, is closed to the public.

In Executive Session, the Board reviewed investigatory information regarding current cases and new complaints. The Board also considered legal advisement, from Board Counsel, regarding investigative cases, pending contested case hearings, Administrative Rule making and Board Policy and Administration.

The closed door Executive Session is recorded and labeled, on Sides A and B of three recording tapes, dated 07/14/2006.

PUBLIC (OPEN) SESSION

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

Board Motions

Case PT 200-8/05

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

Seconded by Cindy Cunningham

Motion passed unanimously

Case PT 216-6/06

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

Seconded by Cindy Cunningham

Motion passed unanimously

Case PT 217-6/06

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

Seconded by Cindy Cunningham

Motion passed unanimously

Case PT 208-3/05

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

Seconded by Cindy Cunningham

Motion passed unanimously

Case PT 203-10/05

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

Seconded by Cindy Cunningham

Motion passed unanimously

Case PT 138-8/05

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

Seconded by Cindy Cunningham

Motion passed unanimously

Case PT 138-8/05

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

Seconded by Cindy Cunningham

Motion passed unanimously

Case PT 123-2/03

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

Seconded by Cindy Cunningham

Motion passed unanimously

Advisory Group Meeting with Therapists in a School Setting

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

Request for CEU Approval for Required Worker's Comp Training

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

Use of Legal Names by Licensee's on Their License

The Executive Director reviewed, with the Board, the issue regarding the use of legal names on therapists' licenses, and the Board's legal requirements and/or restrictions with regards to maintaining a legal name on file with the Board. The Board's only statutory requirement is to maintain a current list of all persons regulated under ORS 688.010 to 688.201. The Administrative Rule requirement is a licensee's requirement; the licensee must keep their "legal name" on file with the Board. After discussion, the Board determined they had no strong feelings one way or another with regards to the licensee's name, as it appears on their license. The Board asked the Executive Director to look into programming options and administrative feasibility to carry the legal name on file and print a different name on the license. The Board also wanted the Director to determine if

there was a way to suppress the printing of the licensee's mailing address on the front of the license document. The Director told the Board that the printing of the address on the front of the license was an administrative workflow issue, allowing the use of window envelopes and the mailing of the 4,000 annual renewal licenses. The Board wanted the Director to investigate solutions or options to work around this issue and report back to the Board.

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

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

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

Net Ordinary Income	<u>103,373.17</u>	<u>-54,945.00</u>	<u>158,318.17</u>
Net Income	<u><u>103,373.17</u></u>	<u><u>-54,945.00</u></u>	<u><u>158,318.17</u></u>

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

Total Income is over budget by \$114,114

Income is over budget due in part to: larger than anticipated numbers of new and endorsement license applications. PT applications are up by 17%, and PTA applications are up by 31% over budgeted numbers; the Board also raised the application fee from \$150.00 to \$190.00 to cover the cost of the national criminal background check; additionally, to cover lost revenue from the repeal of the Direct Access Certification, and to cover the anticipated budget deficit, the Board raised the renewal fee for PTs from \$75.00 to \$100.00, and from \$50.00 to \$65.00 for PTAs.

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

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

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

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

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

General office expenses are under budget due to three separate issues: publishing expense is down (\$1,500) because the Board changed the issuance of their Newsletter from four to three issues a year; Bank Service Fees and charges are down because they were better offset by the

earnings credit in the Board reserve account (\$3,500); and, the budget dollars allocated for new furniture, file cabinets and moving expenses were not incurred because the move was postponed to August 2006.

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

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

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

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

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

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

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

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

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

Fiscal Year '05-'06 Summary:

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

Future Board Meeting Dates

As established, by the Board, the future Board meeting dates are as follows: September 12, 2006; November 3, 2006; and, January 5, 2007. Meeting dates, Notices, and published Minutes may be found on the Board website at www.ptboard.state.or.us.

Ratification of PT/PTA License & Temporary Permits (05/19/06 – 07/13/06)

The Board was presented with a list, of new licensees, for the period of May 19, 2006 through July 13, 2006. The Chair opened the floor, for discussion, with regards to the new licensees. Without noted discussion, the Board voted unanimously to ratify the new licensees and permit holders for the above-noted period.

Approval of Meeting Minutes

The Minutes, from the May 19, 2006 Board Meeting were presented to the Board. The Chair opened the floor for discussion and comments. With no noted changes, the Minutes were approved as written.

General Topics/Business

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

Other New Business

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

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

**Physical Therapist Licensing Board
Special Telephone Board Meeting
August 14, 2006**

MINUTES

Monday, August 14, 2006

Board Members Present: Jerry Nickell, PT, Board Chair; Joana Freedman, PT, Board Vice Chair; Daiva Banaitis, PT, PhD; Nancy Wilson, PTA

Board Members Absent: Jason Fiske, PT; Steve Alstot, PT; Cindy Cunningham, Public Member

Staff: Jim 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 7:30 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 discussed new findings of facts in a current case. The Board also considered legal advisement, from Board Counsel, with regard to this case.

The entire meeting, including the closed Executive Session, is recorded and labeled on Side A of one recording tape, dated 03/22/06.

PUBLIC (OPEN) SESSION

Upon completion of the Executive Session, Mr. Nickell took the Board into Public Session for motions and additional business.

Board Motions

Case PT 202-8/05

Motion, by Daivia Banaitis, to issue an Order for Physical, Mental and Chemical Addiction Evaluation.

Seconded by Nancy Wilson

Motion passed by a Board quorum

Mr. Nickell adjourned the meeting at 8:15 AM.

**Oregon Physical Therapist Licensing Board
Board Meeting
September 12, 2006**

MINUTES

Tuesday, September 12, 2006

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

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

Legal Counsel: Carol Parks, AAG

PUBLIC (OPEN) SESSION

Chair Nickell called the meeting to Order in Public Session at 8:30 AM. The public and interested parties are invited to attend this portion of the meeting. The Public Session is digitally recorded and stored electronically on the Board's file server. Audio copies are available to the public or interested parties for the administrative cost to reproduce the audio file.

Therapists in an Educational Setting Administrative Rule Committee Presentation

Diana Godwin, Attorney at Law, Committee Member, presented, to the Board, a document created by the Administrative Rule Committee. The document presented (See Attachment P-2) proposed changes, to the current Board Administrative Rules, relevant to the uniqueness of therapy practice in an educational setting. Upon completion of Ms. Godwin's presentation, with a few exceptions, the Board instructed Staff to continue the rule making process, by drafting the proposed rule changes, and presenting the proposed language to the Board at its November 3, 2006 Board Meeting.

EXECUTIVE (CLOSED) SESSION

Citing ORS 192.660(2)(k), at 10:28 AM, Board Chair, Jerry Nickell convened the Board into Executive Session. Pursuant to ORS 192.660(2)(k), this portion, of the Meeting, is closed to the public.

In Executive Session, the Board reviewed investigatory information regarding current cases and new complaints. The Board also considered legal advisement, from Board Counsel, regarding investigative cases, pending contested case hearings, Administrative Rule making and Board Policy and Administration.

The closed door Executive Session is digitally recorded and stored electronically on the Board's file server.

PUBLIC (OPEN) SESSION

Upon completion of the Executive Session, Mr. Nickell brought 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 Public Session is digitally recorded and stored electronically on the Board's file server. Audio copies are available to the public or interested parties for the administrative cost to reproduce the audio file.

Board Motions

Case PT 219-7/06

Motion, by Steve Alstot, to close case citing no violation
Seconded by Nancy Wilson
Motion passed unanimously

Case PT 138-8/05

Motion, by Steve Alstot, to accept and execute the Stipulated and Final Order, as presented by Licensee's Counsel and signed by Licensee.
Seconded by Nancy Wilson
Motion passed unanimously

Case PT 223-9/06

Motion, by Steve Alstot, to grant licensure and issue an Advisory Letter citing Board concern for lack of full disclosure.
Seconded by Nancy Wilson
Motion passed unanimously

Question Regarding CEU Approval for MBA

Upon consideration, the Board determined that the particular MBA program, in question, was related to the delivery or provision of physical therapy services, and would be eligible for continuing education credit under Board Rule.

General Topics/Business

- 1) FSBPT Conference
 - Director Heider shared, with the Board, the Motions as presented and voted on by the Board Delegate, Chair Nickell.
 - Vice Chair Freedman shared, with the Board, several new programs, concepts and ideas with regards to current licensing and regulatory programs.
- 2) Change to License Print Program

- Director Heider presented, to the Board, two options for the removal of the mailing address from the front of the printed license. The Board approved the proposed changes to the licensure print program.

Future Board Meeting Dates

As established, by the Board, the future Board meeting dates are as follows: November 3, 2006; and, January 5, 2007. Director Heider presented, to the Board, proposed meeting dates for 2007 and asked the Board to review and be prepared to confirm at the November 3, 2006 Board Meeting. Meeting dates, Notices, and published Minutes may be found on the Board website at www.ptboard.state.or.us.

Ratification of PT/PTA Licenses and Temporary Permits

The Board was presented a list, of new licensees, for the period of July 14, 2006 through September 11, 2006. The Chair opened the floor, for discussion, with regards to the new licensees. Without noted discussion, the Board voted unanimously to ratify the new licensees and permit holders for the above-noted period.

Approval of Meeting Minutes

The Minutes, from the July 14, 2006 Board Meeting, and the August 14, 2006 Special Board Meeting, were presented to the Board. The Chair opened the floor for discussion and comments. With no noted changes, the Minutes were approved as written.

Other New Business

1. Director Heider reported to or shared with the Board:
 - Reset of work stations has been completed
 - New file cabinets received and file project completed
 - Results of the Oregon Health Care Workforce Needs Assessment 2006
 - Information regarding the FSBPT Board Members Training Program
2. Director Heider asked for and received Board consensus on the reappointment of Nancy Wilson, on the Board, as the PTA Member. Director Heider will contact Governor's Office for Executive Appointment and start procedure to reappoint Nancy Wilson to the Board.
3. Director Heider reported, to the Board, new capabilities to scan and post final orders, with related public records, on the Board website or, at minimum, as an electronic file to provide to public and interested parties upon request. The Board approved Director Heider's request to proceed with this project.

With no additional other new business cited, Board Chair, Mr. Nickell, adjourned the Board Meeting at 2:45 PM.

NOTE: To review this document in its entirety, see Attachment P-2 below.

ATTACHMENT P-2

**RECOMMENDATIONS OF THE RULES ADVISORY COMMITTEE
REGARDING THERAPISTS IN A SCHOOL SETTING**

DIVISION	RULE	SUMMARY OF PROPOSED RULE AMENDMENTS OR ADDITIONS (Note: New language to be added is <u>underlined</u> and existing language to be deleted is in [brackets] and <i>italics</i>).
Division 1	No Changes Proposed (See note below)	
Division 5	No Changes Proposed	
Division 10	No Changes Proposed (See note below)	
Division 15	848-015-0010	Add new subsection (3) to define "patient" as including a student in a school setting, a child receiving early intervention services, a resident of a care facility, or an animal.
	848-015-0020(1), (2) & (3)	<p>Amend to read as follows:</p> <p>(1) <u>For purposes of the provision of physical therapy services</u> a physical therapist assistant shall practice solely under the <u>clinical</u> supervision and direction of a physical therapist.</p> <p>(2) A physical therapist assistant may provide <u>physical therapy</u> treatment only when a supervising physical therapist is available. As used in this rule "available" means that at all times a supervising physical therapist is readily accessible for consultation with the assistant, either in person or by means of telecommunications.</p> <p>(3) A physical therapist assistant may provide <u>physical therapy</u> treatment only after a physical therapist has performed an initial evaluation and prepared a plan of care. <u>"Plan of care"</u> may include the individualized family services plan ("IFSP") or in</p>

		a school setting, "plan of care" may include the <u>individualized education plan ("IEP") for the student.</u>
	848-015-0020	Add new subsection (6) to permit a PTA to provide limited services to a student in a school setting, to include consultation for purposes of coordination of care, screening, instruction in physical management techniques for a teacher or education or instruction assistant or aide, even though a PT has not yet done a re-assessment or new evaluation of the student.
Division 20	848-020-0000(1)	Amend to read as follows: (1) "Physical therapist aide" or "aide" means a person who is not licensed as a physical therapist or physical therapist assistant, who aids a physical therapist or physical therapist assistant by performing treatment-related tasks or by performing non-treatment, patient-related tasks. <u>Although they may be providing services to a patient pursuant to direction or instruction from a physical therapist or physical therapist assistant, the following persons are not considered physical therapist aides:</u> <u>(a) educational or instructional aides or assistants working in a school setting; and</u> <u>(b) nurses aides, restorative aides or personal care assistants.</u> Persons performing facility maintenance, equipment assembly and maintenance, housekeeping, clerical, or other similar tasks are not considered aides.
Division 40	848-040-0100	Update and add new definitions to this section for "patient", "plan of care", IEP, IFSP, "record", "permanent record", "consultation", "screening", "monitor" and "student".
	848-040-0110(1)	Change "an" to "and" to correct typographical error
	848-040-0110(3)	Re-order to be subsection (2) and amend to read: <u>[(3)] (2) The permanent record shall be prepared on the date of service.</u>
	848-040-0110(2)	Re-order to be subsection (3) and amend to read: <u>[(2)] (3) [The] A record shall be prepared on the date of service.</u>
	848-040-0110(4)	Delete subsection (4) because it is redundant and re-number remaining subsections.
	848-040-0110(6)	Amend to read as follows:

	(re-numbered as (5))	[(6)] (5) Non-licensees, including <u>physical therapist aides</u> , may prepare <u>physical therapy</u> treatment-related entries for the <u>permanent</u> patient record for authentication by the treating licensee. The requirement for authentication shall not apply to records not related to treatment.
	848-040-0110 new (6)	Add a new subsection (6) to read as follows: <u>(6) The permanent record of a patient treated by a licensee may also include entries or information of services provided by non-licensees, such as persons who are members of a student's IEP/IFSP team or persons providing early intervention services to a pre-school age child. The requirement for authentication shall not apply to such entries or information.</u>
	848-040-0110(7)	Amend to read as follows: (7) Either the permanent record or [the] <u>a</u> record prepared on the date of service shall be readily accessible to a licensee prior to when that licensee provides subsequent treatment to the patient. <u>"Readily accessible" means the licensee is able to produce the record immediately upon request.</u>
	848-040-0110(8)	Amend to read as follows: (8) All entries shall be legible and <u>permanent</u> handwritten records shall be in ink.
	848-040-0110(10)	Amend to read as follows: (10) When an error in [a] <u>the permanent</u> record is discovered, the error shall be identified and corrected. The erroneous entry shall be crossed out, dated and initialed or otherwise identified as an error in an equivalent written manner by the author of the erroneous entry.
	848-040-0110(11)	Amend to read as follows: (11) Late entries or additions to entries <u>in the permanent record</u> shall be documented when the omission is discovered with the following written at the beginning of the entry: "late entry for (date)" or "addendum for (date)" and authenticated;
	848-040-0117(3)(a)	Amend to read as follows: (3)(a) The individual is a child or a student eligible for special education, as defined by state or federal law, <u>or eligible under Section 504 of the federal Rehabilitation Act of 1973</u> , and is being seen pursuant to the child's or the student's individual

		education plan or individual family service plan;
848-040-0125(1), (2) & (3)	Amend to read as follows: (1) Prior to initiating the first physical therapy treatment, a physical therapist shall perform an initial evaluation of each patient and determine a plan of care as provided in OAR 848-040-0135. <u>A physical therapist may provide consultation screening services for a patient prior to an initial evaluation and such service shall not constitute the initiation of physical therapy treatment for purposes of this section.</u> (2) In the course of performing an initial evaluation the physical therapist shall examine the patient, obtain a history, perform relevant system reviews, assess the patient's functional status, select and administer specific tests and measurements and formulate clinical judgments regarding the patient. <u>A physical therapist may incorporate by reference medical history or system review information about the patient prepared by another licensed medical provider.</u> (3) Only a physical therapist may perform an initial evaluation. A physical therapist shall not delegate the performance of an initial evaluation to a physical therapist assistant or to an aide. (No Changes)	
848-040-0130(4), (5) & (9)	Amend subsections (4), (5) and (9) to read as follows: (4) Pertinent medical <u>or physical therapy</u> diagnoses, medications if not otherwise accessible in another part of the patient's medical record, history of presenting problem and current complaints and symptoms, including onset date; (5) Prior or concurrent services related to the <u>[present episode of physical therapy care] provision of physical therapy services;</u> (9) Patient's goals (with family input <u>or family goals</u> , if appropriate). <u>Goals may be as provided in an applicable ISP or IFSP.</u>	
848-040-0135(1), (3) & (5)	Amend subsections (1), (3) and (5) to read as follows:	

		<p>(1) Prior to initiation of treatment, <i>[the physical therapist who performed the initial evaluation shall determine]</i> a <u>physical therapy plan of care for the patient shall be determined by a physical therapist.</u></p> <p>(3) <i>[The]</i> <u>A</u> physical therapist shall identify appropriate treatment tasks to be delegated to a physical therapist assistant or aide.</p> <p>(5) <i>[The]</i> <u>A</u> physical therapist shall make modifications to the plan of care any time there are significant changes in the patient's condition or status that would affect the physical therapy goals.</p>
	848-040-0145(3)	<p>Amend to read as follows:</p> <p>(3) <u>Except as provided in OAR 848-040-0155(1)(b),</u> a physical therapist or physical therapist assistant shall not continue to provide treatment to a patient unless a reassessment has been performed when required by OAR 848-040-0155.</p>
	848-040-0155(1) & (2)	<p>Reverse the order of existing subsections (1) and (2) and further amend them to read:</p> <p><i>[(2)]</i> <u>(1) The physical therapist shall perform a reassessment for each patient.</u> In the course of performing the required reassessment, the physical therapist shall <u>personally</u> examine the patient, assess the patient's functional status, select and administer specific tests and measurements, and formulate clinical judgments regarding the patient.</p> <p><i>[(1)]</i> <u>(2) The physical therapist shall perform a reassessment for each patient:</u></p> <p>(a) At least every 30 days, or at every visit if the patient is seen less frequently;</p> <p>(b) <i>[At least every 60 days if the patient is being treated in an educational setting; or]</i> <u>At least every 60 school days if the student/child is being treated in an educational setting or at the physical therapist's next scheduled visit with the student/child if the scheduled visit is less frequent;</u> <u>or</u></p>
Division 45	No Changes Proposed	
Division 50	No Changes Proposed	

NOTE:

In addition to the rule changes suggested by the current Advisory Committee, there are several "administrative" rule changes that need to be made. They are:

848-001-0010 Time for Requesting a Contested Case Hearing

A request for a contested case hearing must be in writing and must be received by the Board within twenty-one (21) days from the date the *[contested case notice]* proposed notice of disciplinary action was served.

848-010-0015 Examinations

Amend subsections (3)(b)(C) to read as follows:

(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]* 21; listening *[21]* 18; with an overall score of not less than 89.

848-010-0033 Yearly Renewal of License Required

Add a new subsection (6) to read as follows:

(6) Each currently licensed physical therapist and physical therapist assistant must complete the continuing education as provided in Division 35 of these new rules by March 31st of each even-numbered year.

848-010-0035 Renewal of Lapsed Licenses

Amend subsection (1) to read as follows:

(1) Any license that is not renewed before April 1 of each year shall automatically lapse. No person whose license has lapsed shall practice until the license is renewed. Failure to receive a renewal notice shall not excuse any licensee from the requirements of renewal. The Board may renew any lapsed license upon payment of all past unpaid renewal and delinquent fees, and documentation of completion of the continuing education requirements for the prior certification period as provided in Division 35 of these rules.

**Oregon Physical Therapist Licensing Board
Board Meeting
November 03, 2006**

MINUTES

Friday, November 03, 2006

Board Members Present: Jerry Nickell, PT, Chair; Joana Freedman, PT, Vice Chair; Steve Alstot, PT; Jason Fiske, PT; Daiva Banaitis, PT, PhD; Nancy Wilson, PTA

Board Members Absent: Cindy Cunningham, Public Member

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

Legal Counsel: Carol Parks, AAG

PUBLIC (OPEN) SESSION

Chair Nickell called the meeting to Order in Public Session at 8:30 AM. The public and interested parties are invited to attend this portion of the meeting. The Public Session is digitally recorded and stored electronically on the Board's file server. Audio copies are available to the public or interested parties for the administrative cost to reproduce the audio file.

Therapists in an Educational Setting Administrative Rule Committee Presentation

Diana Godwin, Attorney at Law, Committee Member, presented, to the Board, updates to the proposed rule changes which were originally presented to the Board at its September 12, 2006 Board Meeting (see attachment P-2). The update included drafted language and encompassed all changes the Board had requested. Upon review and deliberation, the Board voted to proceed with the Draft as presented. The Board instructed the Executive Director to initiate the rule making process by posting a Proposed Notice of Rule Making Hearing. The Board agreed that the Hearing date would be set for Thursday, January 04, 2007, at 4:30 PM. The location of the Hearing will be the Portland State Office Building, Room 445. The Hearing Notice and the drafted language will be published in the Boards December Newsletter and will be posted on the Board Website.

Question From Glen Akers, PT - re: "drawings" and bonuses for patients

After Board review and consideration, the Board determined that offering a drawing or bonus prizes, to encourage patients to keep their scheduled physical therapy appointments, would not be a legal or ethical violation of Board Statute or Rule.

DHS Joint Statement on Pain Management

After Board review and consideration, the Board voted to declare its support of the Oregon Pain Management Commission's Joint Statement on Pain Management. The

Board instructed the Executive Director to sign the Declaration of Support, as presented by the Department of Human Services.

Board Financial Report – First Fiscal Quarter Period July 1, 2006 through September 30, 2006

The Executive Director presented, to the Board, a Financial Report and Narrative covering first fiscal quarter 07/01/06 through 09/30/06. (See attachment P-5)

Question From APTA - re: approval for CEU credit for clinical residency program

After Board review and consideration, the Board agreed to approve the eligibility of the APTA Clinical Residency Program for continuing education credit. In addition to the APTA Residency Program, the Board also approved the following residency programs for continuing education credit: AAOMPT, NAIOMT, Kaiser Permanente. Credit for these programs would be awarded one time, in the certification period when the program has been completed, and will count for a maximum of 24 CE for a PT.

Question From Kate Higgins, PT- re: approval for CEU credit for courses

After Board review and consideration, the Board agreed to approve the programs presented, by Ms. Higgins for continuing education credit. The Board noted that there is a fine distinction between these programs and a true In-Service program. The Board further determined that they would have to come up with specific language or a definition, of “In-Service”, to clearly identify those employer sponsored programs that will and will not count for continuing education credit.

Question From Cathy Zarosinski, PT - re: approval for CEU credit for courses

After Board review and consideration, the Board agreed to approve the programs presented by Ms. Zarosinski for continuing education credit. The Board noted that there is a fine distinction between these programs and a true In-Service program. The Board further determined that they would have to come up with specific language or a definition, of “In-Service”, to clearly identify those employer sponsored programs that will and will not count for continuing education credit.

Questions Regarding PT Providing Patient Education on Medications

After review and consideration, the Board determined that it is not within the scope of practice for a therapist to directly recommend, or sell, nutritional supplements to a patient, as part of their physical therapy program. Not being Pharmacists or Naturopaths, the Board is concerned that the therapist may not have enough information, or knowledge, with regards to possible adverse reactions, or side affects, a natural supplement may have. Further, the Board determined that it is also not in the scope of practice for a therapist to advise a patient with regards to their medications, i.e. dosing, whether to take or not to take, or whether to change medications. The therapist’s scope does include; the education and recognition of possible side affects and adverse reactions;

and, the referral back to the prescribing physician or to the patient's primary care physician.

General Topics/Business

New file server: Suite 407 Health Related Licensing Boards invested in a new file server to enable the Boards to post all public records on-line, on-line renewals and update to the verification screens to online real time updates. The PT Board's share of the cost is \$1,500.

New license print program: The new license has been updated and is in the process of being produced. The new format will allow the Board to change its print program. The plan is to remove the Licensee's address from the front of the license (to be publicly posted) and print it on the second copy only. Although a public record, the intent of the change is to protect the Licensee's privacy, with regards to their mailing address, since most of the Licensee's mailing addresses are the same as their residential address.

2007-2008 renewals: The Executive Director reported, to the Board, that the 2007-2008 license renewal project is on target. Forms are updated and scheduled for printing in December, and mailing the first week in January 2007.

Future Board Meeting Dates

As established by the Board, the future Board meeting dates are as follows: January 05, 2007; March 02, 2007; April 27, 2007; June 22, 2007; August 17, 2007; October 05, 2007; November 30, 2007. Meeting dates, Notices, and published Minutes may be found on the Board website at www.ptboard.state.or.us.

Ratification of PT/PTA Licenses & Temporary Permits

The Board was presented a list, of new licensees, for the period of September 12, 2006 through November 02, 2006. The Chair opened the floor, for discussion, with regards to the new licensees. Without noted discussion, the Board voted unanimously to ratify the new licensees and permit holders for the above-noted period.

Approval of Meeting Minutes

The Minutes, from the September 12, 2006 Board Meeting, were presented to the Board. The Chair opened the floor for discussion and comments. With no noted changes, the Minutes were approved as written.

FCCPT Retro Course Work Tools

The Executive Director presented the Board with a summary of the Federation of State Boards of Physical Therapy's (FSBPT) Course Work Tool (CWT), including the new Retro CWTs. Board Statute and Rule requires that all foreign-educated physical therapists seeking licensure, in the State of Oregon, have their PT programs credentialed to ensure that the program is "substantially equivalent to the education of physical therapists, who graduated from accredited physical therapy education programs, approved by the Board". The Executive Director asked the Board: 1) If they wanted to formally acknowledge the CWT, as the measurement for foreign-educated therapists

educational equivalency to that of a therapist completing a CAPTE accredited US program, including the use of the retro CWTs (where appropriate); and, 2) If they would approve a Rule Amendment to OAR 848-010-0015(3) to point to the CWT, as the required credentialing document, as opposed to the current Rule that lists all the specific individual elements and requirements of the CWT. The logic behind this request is, if a CWT is updated, which occurs every couple of years, the Board will not have to go through the rule making process to update the specific language as listed. After discussion and consideration, the Board approved the use of the FSBPT CWT, including the use of the Retro CWTs (where appropriate) as the measurement for educational equivalency of foreign-educated PTs. The Board also approved the Amendment to the current Administrative Rules, pointing to the CWTs, in general, as the credentialing requirement.

EXECUTIVE (CLOSED) SESSION

Citing ORS 192.660(2)(k), at 10:28 AM, Board Chair, Jerry Nickell convened the Board into Executive Session. Pursuant to ORS 192.660(2)(k), this portion, of the Meeting, is closed to the public.

In Executive Session, the Board reviewed investigatory information regarding current cases and new complaints. The Board also considered legal advisement, from Board Counsel, regarding investigative cases, pending contested case hearings, Administrative Rule making and Board Policy and Administration.

The closed door Executive Session is digitally recorded and stored electronically on the Board's file server.

PUBLIC (OPEN) SESSION

Upon completion of the Executive Session, Mr. Nickell brought 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 Public Session is digitally recorded and stored electronically on the Board's file server. Audio copies are available, to the public or interested parties, for the administrative cost to reproduce the audio file.

Board Motions

Case PT 202-8/05

Motion, by Jason Fiske, to ratify Addendum to Order for Evaluation.

Seconded by Joanna Freedman

Motion passed unanimously

Case PT 202-8/05

Motion, by Jason Fiske, to issue Emergency Suspension of License, pursuant to ORS 183.430(2), effective immediately.

Seconded by Joanna Freedman

Motion passed unanimously

Case PT 209-3/05

Motion, by Jason Fiske, to issue Notice of Proposed Disciplinary Action citing violations of: OAR 848-020-0040(1); OAR 848-020-0040(2)(c)(E); OAR 848-020-0050(2)(b)(c); OAR 848-020-0010(1)(2); and, OAR 848-040-0105(3); impose a probationary period of 2 years, with conditions; and, a civil penalty of \$3,000.00 with \$1,500.00 stayed, if terms and conditions of probation are met. Conditions of probation include: the training and submission, to the Board, of full training records for all Aides currently working at Licensee's facility, the records must be submitted within 30 days of the Notice, and the Licensee must remain free of any further Board violations during the 2-year term of probation. Additionally, the Board will issue an Advisory Letter for potential violations of OAR 848-040-0125(1) and OAR 848-040-0135(1).

Seconded by Joanna Freedman

Motion passed unanimously

Case PT 185-2/05

Motion, by Jason Fiske, to issue Notice of Proposed Disciplinary Action citing violations of: OAR 848-020-0040(2)(E); OAR 848-020-0060(10); OAR 848-020-0060(8); OAR 848-040-0145(1); OAR 848-040-0155(1)(2)(3); OAR 848-040-0145(3); and, OAR 848-040-0110(5); imposed a probationary period of 2 years; and, a civil penalty of \$5,000.00.

Seconded by Joanna Freedman

Motion passed unanimously

Case PT 185b-2/05

Motion, by Jason Fiske, to issue Notice of Proposed Disciplinary Action citing violations of: OAR 848-020-0060(10); OAR 848-020-0060(8); OAR 848-040-0145(1); impose a civil penalty of \$500.00.

Seconded by Joanna Freedman

Motion passed unanimously

Case PT 185c-2/05

Motion, by Jason Fiske, to issue Advisory Letter citing violation of OAR 848-040-0110(5).

Seconded by Joanna Freedman

Motion passed unanimously

Case PT 185d-2/05

Motion, by Jason Fiske, to issue Advisory Letter citing violation of OAR 848-020-0060(10).

Seconded by Joanna Freedman

Motion passed unanimously

Case PT 224-9/06

Motion, by Jason Fiske, to issue Advisory Letter citing OAR 848-045-0020(2)(a).
Seconded by Joanna Freedman
Motion passed unanimously

Case PT 225-9/06

Motion, by Jason Fiske, to issue Advisory Letter citing OAR 848-045-0020(2)(a).
Seconded by Joanna Freedman
Motion passed unanimously

Rules Advisory Committee Recommendations

Motion, by Jason Fiske, to accept the revisions to the proposed rule changes, as submitted by the Rules Advisory Committee, and move forward with the rule making process, by scheduling a Rule Making Hearing.
Seconded by Joanna Freedman
Motion passed unanimously

Oregon Pain Management Commission

Motion, by Jason Fiske, to execute the Declaration of Support as presented, to the Board, by the Oregon Department of Human Services.
Seconded by Joanna Freedman
Motion passed unanimously

Other New Business

The Executive Director reported, to the Board, that the Board had received several compliments with regards to the Board community outreach, particularly regarding the most recent presentation Sherri did at the OPTA Business Meeting.

The Executive Director reported, to the Board, that Nancy Wilson, PTA Board Member, has been appointed to a second, four-year term with the Board. Nancy's latest term will extend from 09/10/06 through 09/09/10.

The Executive Director reported, to the Board, that the Board is now a member of the State's Flexcar program, and that the Board staff will start using Flexcar services for Board business travel.

The Executive Director reported, to the Board, that Board staff, in partnership with the FSBPT, has completed the Historic Test Scores Data Capture Project. This project took all old paper historic records, of licensee exam scores, and has made an electronic record of the scores. At the beginning of the project, the Oregon Board's percentage of matched exam scores to all licensees, current and past was 10%. Following the completion of the project, the Board's percentage of matched exam scores is now at 70%. The FSBPT funded the implementation and completion of this project.

With no additional other new business cited, Board Chair, Mr. Nickell, adjourned the Board Meeting at 3:05 PM.

NOTE: To review this document in its entirety, see Attachments P-2 and P-5 below.

Attachment P-2

RECOMMENDATIONS OF THE RULES ADVISORY COMMITTEE REGARDING THERAPISTS IN A SCHOOL SETTING Revised Per PT Board Suggestions of 9/12/06

DIVISION	RULE	SUMMARY OF PROPOSED RULE AMENDMENTS OR ADDITIONS (Note: New language to be added is <u>underlined</u> and existing language to be deleted is in [brackets] and <i>[italics]</i>).
Division 1	No Changes Proposed (See note below)	
Division 5	No Changes Proposed	
Division 10	No Changes Proposed (See note below)	
Division 15	848-015-0010	Add new subsection (3) to define the term "patient", including in the definition, a student in a school setting, a child receiving early intervention services, a resident of a care facility, or an animal.
	848-015-0020(1), (2) & (3)	Amend to read as follows: (1) <u>For purposes of the provision of physical therapy services</u> a physical therapist assistant shall practice solely under the <u>clinical</u> supervision and direction of a physical therapist. (2) A physical therapist assistant may provide <u>physical therapy</u> treatment only when a supervising physical therapist is available. As used in this rule "available" means that at all times a supervising physical therapist is readily accessible for

		<p>consultation with the assistant, either in person or by means of telecommunications.</p> <p>(3) A physical therapist assistant may provide <u>physical therapy</u> treatment only after a physical therapist has performed an initial evaluation and prepared a plan of care. <u>"Plan of care" may include the individualized family services plan ("IFSP") or in a school setting, "plan of care" may include the individualized education plan ("IEP") for the student.</u></p>
	848-015-0020	<p>Add new subsection (6) as follows: <u>A physical therapist assistant may provide limited services to a student in a school setting before a physical therapist performs the initial evaluation or a re-assessment required by OAR 848-040-0155(1)(b). The services that may be provided are limited to coordinating with other persons and instructing a teacher or educational or instructional assistant or nursing aide in physical management techniques to insure that the student can access the classroom and related educational services in compliance with the student's IEP.</u></p>
Division 20	848-020-0000(1)	<p>Amend to read as follows:</p> <p>(1) "Physical therapist aide" or "aide" means a person who is not licensed as a physical therapist or physical therapist assistant, who aids a physical therapist or physical therapist assistant by performing treatment-related tasks or by performing non-treatment, patient-related tasks. <u>Although they may be providing services to a patient pursuant to direction or instruction from a physical therapist or physical therapist assistant, the following persons are not considered physical therapist aides:</u></p> <p style="padding-left: 40px;"><u>(a) educational or instructional aides or assistants working in a school setting; and</u></p> <p style="padding-left: 40px;"><u>(b) nurses aides, restorative aides or personal care assistants.</u></p> <p>Persons performing facility maintenance, equipment assembly and maintenance, housekeeping, clerical, or other similar tasks are not considered aides.</p>
Division 40	848-040-0100	<p>Update and add new definitions to this section for "patient", "plan of care", IEP, IFSP, "record",</p>

		"permanent record", "screening", "monitor" and "student".
	848-040-0110(1)	Change "an" to "and" to correct typographical error
	848-040-0110(3)	Re-order to be subsection (2) and amend to read: <u>[(3)] (2) [The] A record shall be prepared on the date [of] a physical therapy service is provided.</u>
	848-040-0110(2)	Re-order to be subsection (3) and amend to read: <u>[(2)] (3) The permanent record shall contain information for every physical therapy service provided, the date the service was provided and the date the entry was made in the record. The permanent record of a physical therapy service shall be prepared within seven calendar days of the date the service was provided.</u>
	848-040-0110(4)	Delete subsection (4) because it is redundant and re-number remaining subsections.
	848-040-0110(6) (re-numbered as (5))	Amend to read as follows: <u>[(6)] (5) Non-licensees, including physical therapist aides, may prepare physical therapy treatment-related entries for the permanent patient record for authentication by the treating licensee. The requirement for authentication shall not apply to records not related to treatment.</u>
	848-040-0110 new (6)	Add a new subsection (6) to read as follows: <u>(6) The permanent record of a patient treated by a licensee may also include entries or information of services provided by non-licensees, such as persons who are members of a student's IEP/IFSP team or persons providing early intervention services to a pre-school age child. The requirement for authentication shall not apply to such entries or information.</u>
	848-040-0110(7)	Amend to read as follows: (7) Either the permanent record or <u>[the] a</u> record prepared on the date of service shall be readily accessible to a licensee prior to when that licensee provides subsequent treatment to the patient. "Readily accessible" means the authenticating licensee is able to produce the record immediately upon request.
	848-040-0110(8)	Amend to read as follows: (8) All entries shall be legible and permanent handwritten records shall be in ink.
	848-040-0110(10)	Amend to read as follows:

		(10) When an error in <u>[a] the permanent record</u> is discovered, the error shall be identified and corrected. The erroneous entry shall be crossed out, dated and initialed or otherwise identified as an error in an equivalent written manner by the author of the erroneous entry.
	848-040-0110(11)	Amend to read as follows: (11) Late entries or additions to entries <u>in the permanent record</u> shall be documented when the omission is discovered <u>or addendum made</u> with the following written at the beginning of the entry: "late entry for (date)" or "addendum for (date)" and authenticated;
	848-040-117(3)(a)	Amend to read as follows: (3)(a) The individual is a child or a student eligible for special education, as defined by state or federal law, <u>or eligible under Section 504 of the federal Rehabilitation Act of 1973</u> , and is being seen pursuant to the child's or the student's individual education plan, individual family service plan, or 504 plan;
	848-040-0125(1), (2) & (3)	Amend to read as follows: (1) Prior to initiating the first physical therapy treatment, a physical therapist shall perform an initial evaluation of each patient and determine a plan of care as provided in OAR 848-040-0135. <u>A physical therapist may provide screening services for a person prior to an initial evaluation and such service shall not constitute the initiation of physical therapy treatment for purposes of this section.</u> (2) In the course of performing an initial evaluation the physical therapist shall examine the patient, obtain a history, perform relevant system reviews, assess the patient's functional status, select and administer specific tests and measurements and formulate clinical judgments regarding the patient. <u>A physical therapist may incorporate by reference medical history or system review information about the patient prepared by another licensed health care provider.</u> (3) Only a physical therapist may perform an initial evaluation. A physical therapist shall not delegate

		the performance of an initial evaluation to a physical therapist assistant or to an aide. (No Changes)
	848-040-0130(4), (5) & (9)	Amend subsections (4), (5) and (9) to read as follows: (4) Pertinent medical <u>or physical therapy</u> diagnoses, medications if not otherwise accessible in another part of the patient's medical record, history of presenting problem and current complaints and symptoms, including onset date; (5) Prior or concurrent services related to the <u>[present episode of physical therapy care] provision of physical therapy services;</u> (9) Patient's goals (with family input <u>or family goals</u> , if appropriate). <u>Goals may be as provided in an applicable IEP or IFSP.</u>
	848-040-0135(1), (3) & (5)	Amend subsections (1), (3) and (5) to read as follows: (1) Prior to initiation of treatment, <u>[the physical therapist who performed the initial evaluation shall determine] a physical therapy plan of care for the patient shall be determined by a physical therapist.</u> (3) <u>[The] A</u> physical therapist shall identify appropriate treatment tasks to be delegated to a physical therapist assistant or aide. (5) <u>[The] A</u> physical therapist shall make modifications to the plan of care any time there are significant changes in the patient's condition or status that would affect the physical therapy goals.
	848-040-0145(3)	Amend to read as follows: (3) <u>Except as provided in OAR 848-015-0020(6), a physical therapist or physical therapist assistant shall not continue to provide treatment to a patient unless a reassessment has been performed when required by OAR 848-040-0155.</u>
	848-040-0155(1) & (2)	Reverse the order of existing subsections (1) and (2) and further amend them to read: <u>[(2)] (1) A physical therapist shall perform a reassessment for each patient. In the course of performing the required reassessment, the physical therapist shall personally examine the patient,</u>

		<p>assess the patient's functional status, select and administer specific tests and measurements, and formulate clinical judgments regarding the patient. [(1)] <u>(2)</u> A physical therapist shall perform a reassessment for each patient:</p> <p>(a) At least every 30 days, or at every visit if the patient is seen less frequently;</p> <p>(b) [At least every 60 days if the patient is being treated in an educational setting; or] <u>At least every 60 school days if the student/child is being treated in an educational setting or at the physical therapist's next scheduled visit with the student/child if the scheduled visit is less frequent;</u></p> <p><u>or</u></p>
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NOTE:

In addition to the rule changes suggested by the current Advisory Committee, there are several "administrative" rule changes that need to be made. They are:

848-001-0010 Time for Requesting a Contested Case Hearing

A request for a contested case hearing must be in writing and must be received by the Board within twenty-one (21) days from the date the *[contested case notice]* proposed notice of disciplinary action was served.

848-010-0015 Examinations

Amend subsections (3)(b)(C) to read as follows:

(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]~~ 21; listening ~~[21]~~ 18; with an overall score of not less than 89.

848-010-0033 Yearly Renewal of License Required

Add a new subsection (6) to read as follows:

(6) Each currently licensed physical therapist and physical therapist assistant must complete the continuing education as provided in Division 35 of these new rules by March 31st of each even-numbered year.

848-010-0035 Renewal of Lapsed Licenses

Amend subsection (1) to read as follows:

(1) Any license that is not renewed before April 1 of each year shall automatically lapse. No person whose license has lapsed shall practice until the license is renewed. Failure to receive a renewal notice shall not excuse any licensee from the requirements of renewal. The Board may renew any lapsed license upon payment of all past unpaid renewal and delinquent fees, and documentation of completion of the continuing education requirements for the prior certification period as provided in Division 35 of these rules.

Attachment P-5

November 03, 2006 Board Meeting Financial Report Narrative Reporting Period 07/01/06 – 09/30/06

Total Income is under budget by \$54,882

The Board's 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 that income or expense equitably over the entire accounting period, in this case 12 months, 7/1/06-6/30/07.

The Board's projected income for the fiscal year '06-'07 is budgeted at \$339,400. This is accrued at \$28,282/month (\$84,852 to 09/30/06). Actual income booked to 09/30/06 equals \$29,970; this creates an income deficit of (\$54,882). The vast majority of that income will actually be received during the renewal cycle, Jan-Mar '07.

This is not an item for concern at this point.

Total Expense is over budget by \$9,083

5100 Payroll Costs are **(\$7,465)** under budget as a combination of several expense factors:

Expense Classification	Over Budget	Under Budget
Salaries		(\$5,986)
Board Stipends		(\$990)
Payroll Taxes		(\$492)
PEBB Medical Premiums		(\$289)
PERS Employer Admin		(\$120)
PERS Bond Debt Obligation		(\$18)
Employee Training	\$270	
PERS ER Paid EE Contrib	\$160	

Narrative: Salaries are under budget by **(\$5,986)** due primarily to the reclassification of the part time investigator from a budgeted hourly employee status to a contracted employee; Board stipends are below projected amount by **(\$990)** due to a change in Board Statute lowering the budgeted per member stipend from \$100/mtg to \$30/mtg; payroll taxes are a direct product of salaries paid, taxes are under budget by **(\$492)** due primarily to the application of the FICA rate of 7.65% to the lower than budgeted salaries; healthcare expense is down by **(\$289)** insignificant amount; PERS ER Admin rates are lower than forecasted by **(\$120)** insignificant amount; PERS Debt Obligation Bond Repayment totals are under budget by **(\$18)** insignificant amount; employee training expense is higher than projected amounts by **\$270** insignificant amount; and, PERS EE Contribution paid by the Board are higher than forecasted by **\$160** insignificant amount.

5600 Travel Cost is **\$206** over budget.

This is an insignificant amount; however, the primary expense associated this year with travel is reimbursement of mileage, meals and lodging to Board members for meetings. This expense class will continue to be over budget throughout 2006-2007 fiscal year due to the addition of another Board member living outside the local area necessitating air travel and lodging to attend Board meetings.

6100 General Office Expenses are **(\$748)** under budget as a combination of several expense factors:

Expense Classification	Over Budget	Under Budget
Printing/Copying		(\$1,378)
Bank charges/Fees		(\$756)
Parking Validation Stickers		(\$450)
Telecommunications		(\$269)
Other		(\$150)
Copier		(\$66)
Fax/Conf Room Phone		(\$60)
Liability Insurance	\$2,300	
Office Supplies	\$62	
Board Meeting Expenses	\$20	

Narrative: Printing and copying is under budget, by **(\$1,378)**, this is an accrual timing issue, although the expense is budget equitably throughout the fiscal year the primary expense incurred for printing and copying will occur in preparation for renewals and printing of the fall and spring newsletters; the only other item in general office expenses needing explanation is liability insurance which shows over budget by **\$2,300**, this also is a product of accrual accounting, the payment for our liability

insurance was \$2,900 paid in July '06 the Board is accruing at a rate of \$200 per month for this expense, at the end of the fiscal year, the account will be \$500 over the budgeted amount, this is due to the unanticipated increase in the liability pool premiums.

6190 Dues and Subscriptions are **(\$581)** under budget.

This is a matter of accrual timing \$2,500 expense will be incurred in October '06 showing a deficit which will be made up by the end of the fiscal year '07.

6200 Postage is **(\$2,457)** under budget.

This is a matter of accrual timing and this amount will be used up by the end of the fiscal year.

6400 Contracted Services are **\$16,129** over budget as a combination of several expense factors:

Expense Classification	Over Budget	Under Budget
Computer Support		(\$1,575)
Emp Hearing Officer Panel		(\$889)
CPA Accounting Fees		(\$300)
Payroll Service Charges		(\$63)
Attorney General Fees	\$9,921	
Investigators Fee	\$4,338	
Audit Charges	\$4,132	
Other Services	\$565	

Narrative: Computer Support is under budget by **(\$1,575)** due to a recognized savings in the change of service vendors; the fees for Employment Hearing Office are under budget by **(\$889)** this is a matter of accrual timing, it is anticipated that this amount, and more, will be used up by the end of the fiscal year; the fees for CPA were budgeted at **(\$300)**, however, the Board has not had to use CPA service/advisement for the past 9 months; Attorney General Fees are over budget by **\$9,921**, due primarily to increased usage attributed to the complexity of several cases, one which recently settled with a negotiated Stipulated Agreement, one pending hearing in March of '07 and the other requiring frequent advisement and legal intervention; Investigator fees are over budget by **\$4,338** due to the reclassification of the Board's part time investigator from an hourly employee to a Contract Investigator; Audit Charges are over budget by **\$4,132** because the mandated financial audit scheduled and budgeted for fall of 2005 was not conducted until May of '06 and invoiced in July '06; Other Services are over budget by **\$565**, this is part of the cost for movers and electrical for the remodeled and additional space originally budgeted for in 2003.

Rent and Occupancy is **(\$364)** under budget

Although the remodel and new space is complete, DAS has not yet increased the Boards monthly rent expense to account for the extra square footage.

6600 Background Checks are **\$4,900** over budget.

This expense was inadvertently not accrued in the 2005/2007 Biennium. At the end of 2004, exam and endorsement application fees were raised, by the actual cost of the background check, to cover the cost previously incurred by the Board. The strategy was that, when incurred, this expense would be a net from the increase in the corresponding application fee income. Generally Accepted Accounting Principles do not allow you to net an expense directly from an income account.

6650 Investigation Expenses are **(\$132)** under budget, insignificant amount.

6800 Computer & Accessories are **(\$405)** under budget, insignificant amount.

Future Budget Variance Concerns:

Income will be over projected amounts by approximately \$80,000 due to the raise in renewal fees for '06-'07. An increase in renewal fees was not anticipated until '07-'08 renewal. Because of the legislative change in the PT practice act, and the elimination of the fees associated with the Certificate to Practice Without Referral, the Board chose to raise its current renewal fees to make up the income deficit and to balance the current budget.

Salaries will be impacted next fiscal quarter by an old DAS charge on a class action settlement between the State of Oregon and several employees. The Board's initial portion of this charge relates to a former Executive Director who was part of the class action. This action was brought upon the State for misclassification of position and overtime wages. The Board's initial settlement amount is estimated at \$4,100, a second element of the settlement is pending State appeal. If the higher courts uphold the lower courts decision the settlement amount will be much larger but will fall under the Board's Risk Management coverage.

Travel expense will be higher than originally budgeted due to the addition of a new Board member who will be traveling across state to attend Board meetings.

Background checks will continue to be an issue for the Board for '06 and '07 fiscal years. This amount will be incurred, as an expense, and was not budgeted for as an expense. This non- budgeted amount will impact the Board's overall approved operating budget.

The move planned to relocate the Health Related Licensing Boards to the vacated Pharmacy location, paid for by the Nursing Board, was cancelled. The PT Board still had an original request for an additional office space to be used by the Board's Clinical Advisor and Investigator. To facilitate this move, the PT Board will have to pay for the physical costs of the move as originally planned in 2003. There was nothing budgeted for this move other than the new furniture and the additional square footage rental fees. This move was completed in August of '06, invoiced and paid for in October '06, it will appear as a variance on next quarter financials.

Although computer support charges and computer accessories are currently under budget, the Board should anticipate that, before the end of the '07 fiscal year, the numbers will exceed the budget by nearly \$5,000. This is to move forward with the Board directive to make all the Board public records available on-line. The Board chose to do this in the interest of public safety. To make this happen, the Board will need to purchase a dedicated file server (which is already on order) and pay for additional IT programming time, and there will be temporary salaries for use of outside help to scan documents into a PDF format.

Contracted Services continues to be an issue for this Board with regards to budget variance. This is truly a difficult expense class to anticipate and project. The cases the Board is currently investigating, and the case pending hearing, are very complex in nature and new territory with regard to prior Board case history. These cases are taking huge amounts of the Board Investigators time and involvement by Board Legal Counsel. It is important to note that although the Board now has authority to recoup costs of an investigation, that statutory authority does not apply to these current cases which precede the new Statute. Also, keep in mind there is some question as to the limitation on the amount the Board may recoup in an investigative case. The Board may be limited, by Statute, to \$5,000. Over the course of the last three complicated cases, I can assure the Board that more than \$5,000 of Board resource and Legal Counsel can be attributed to each of these cases.

SEE INCOME AND EXPENSE STATEMENT NEXT PAGE BELOW

**OREGON PT BOARD
INCOME AND EXPENSE STATEMENT
07/01/06 THROUGH 09/30/06**

	<u>Jul - Sep 06</u>	<u>Budget</u>	<u>Variance</u>
Ordinary Income/Expense			
Income			
4000 · Income	<u>29,970.00</u>	<u>84,852.00</u>	<u>-54,882.00</u>
Total Income	<u>29,970.00</u>	<u>84,852.00</u>	<u>-54,882.00</u>
Gross Profit	29,970.00	84,852.00	-54,882.00
Expense			
5100 · Payroll Costs	66,113.04	73,578.00	-7,464.96
5600 · Travel Costs	1,975.50	1,770.00	205.50
6100 · General Office Expenses	4,637.40	5,385.00	-747.60
6190 · Dues and Subscriptions	48.88	630.00	-581.12
6200 · Postage	542.51	3,000.00	-2,457.49
6400 · Contracted Services	25,813.28	9,684.00	16,129.28
6500 · Rent and Occupancy	3,236.40	3,600.00	-363.60
6600 · Background Checks	4,900.00	0.00	4,900.00
6650 · Investigation Expenses	18.00	150.00	-132.00
6800 · Computers & Accessories	<u>0.00</u>	<u>405.00</u>	<u>-405.00</u>
Total Expense	<u>107,285.01</u>	<u>98,202.00</u>	<u>9,083.01</u>
Net Ordinary Income	<u>-77,315.01</u>	<u>13,350.00</u>	<u>-63,965.01</u>
Net Income	<u><u>-77,315.01</u></u>	<u><u>13,350.00</u></u>	<u><u>-63,965.01</u></u>

