

**Oregon Physical Therapist Licensing Board
Board Meeting
January 05, 2007**

MINUTES

Friday, January 05, 2007

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 8:30 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 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.

"Body Talk Portland" & Gilly Adkins

After Board review, discussion and consideration, the Board instructed Board Clinical Advisor and Investigator to contact Ms. Adkins to let her know she can not use the term or initials, "PT", after her name, or in her advertising without being a licensed physical therapist in the State of Oregon.

Question from Steve Alstot, PT - re: rule language for aides role in mechanical traction

After Board review, discussion and consideration, the Board determined that an “aide” should play no role in mechanical traction.

Revised OT Scope of Practice Legislative Concept

Board Executive Director presented the Board with the amended proposed language to be presented this Legislative Session by the Occupational Therapy Board. The Board reviewed and had no objections to the original document. The amended legislative concept is very broad in nature and allows the OT Board to define their Scope of Practice in Rule. The Executive Director cautioned the Board with regards to having open ended authority to set scope by Administrative Rule Making. As the OT Board’s legislation progresses through Committee, the Executive Director will keep the Board informed of any updates.

PT Role in the Recommendation and Distribution/Sale of Neuroceuticals

After Board review, discussion and consideration related to the distribution and sale of Neuroceuticals, the Board determined that the promotion, distribution and sale of Neuroceuticals are not within the Scope of PT Practice. The Board asked staff to disseminate this information in the next Newsletter. Additionally, the OPTA’s Board Liaison, Tracy Fritts, indicated she would draft an article for the next OPTA Log that would also disseminate the Board’s discussion and decision.

APTA Reviewing the Regulatory Designator “PT”

The Board Clinical Advisor and Investigator shared, with the Board, the APTA concept for changing the regulatory designator for a “PT”. After Board discussion, the Board determined the APTA concept was not currently an active issue for the Board.

Board Motions

Case PT 202-8/05

Motion, by Nancy Wilson, to issue Notice of Proposed Disciplinary Action, Revocation of License, citing violations of: OAR 848-045-0020(2)(f),(g),(k),(m),(n),(o)(A),(u)(A),(u)(E),(v); OAR 848-020-0040(1),(2); OAR 848-020-0050(2)(b),(c); OAR 848-040-0150(1); OAR 848-040-0155(1); and, ORS 688.140(2)(b),(i),(k)(A),(m),(n),(q),(s).

Seconded by Steve Alstot

Motion passed unanimously

Case PT 202-8/05

Motion, by Nancy Wilson, to issue Emergency Suspension Order as agreed, by the Board, on November 03, 2006, if the Licensee chooses to vacate the current Interim Stipulated Agreement not to practice PT.

Seconded by Steve Alstot

Motion passed unanimously

Case PT 202b-8/05

Motion, by Nancy Wilson, to issue Licensee Advisory Letter expressing Board concern that records indicated as a PTA, she had provided treatment and billed Medicare patients without a physical therapist present during treatment.

Seconded by Steve Alstot

Motion passed unanimously

Case PT 214-5/06

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

Seconded by Steve Alstot

Motion passed unanimously

Case PT 228a-11/06

Motion, by Nancy Wilson, to issue Notice of Proposed Discipline citing violations of: OAR 848-045-0020(2)(q)(A)(D); ORS688.140(2)(o); impose a probationary period of 2 years and a civil penalty of \$5,000.

Seconded by Steve Alstot

Motion passed unanimously

Case PT 228b-11/06

Motion, by Nancy Wilson, to issue Advisory Letter advising Licensee to cease the use of the term “Doctor”, as associated with his professional title and practice.

Seconded by Steve Alstot

Motion passed unanimously

Case PT 215-5/06

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

Seconded by Steve Alstot

Motion passed unanimously

Case PT 209-3/05

Motion, by Nancy Wilson, to issue Stipulation and Final Agreement citing same violations as noted in the Proposed Order of Discipline, but changing the probationary period, in the original order, from two years to one year.

Seconded by Steve Alstot

Motion passed unanimously

Case PT 218-6/06

Motion, by Nancy Wilson, to issue Advisory Letter advising Licensee to cease the use of the term “Doctor”, as associated with his professional title and practice.

Seconded by Steve Alstot

Motion passed unanimously

Case PT 185-2/05

Motion, by Nancy Wilson, to issue Stipulation and Final Agreement changing the language of the Proposed Order in the section titled prohibited treatments. Change working in #1 to say, the Board is prepared to prove that licensee allowed aides to perform joint mobilizations but the licensee disagrees with the Board. No change to #2 in that section, and omit #3 of same section. Everything else, including the proposed sanction, is to remain the same.

Seconded by Steve Alstot

Motion passed unanimously

Case PT 208-3/05

Motion, by Nancy Wilson, to adopt the proposed Stipulated Order and Final Agreement provided by the licensee's attorney with the following changes: impose a civil penalty of \$5,000 with \$2,000 stayed; add a requirement that the Licensee complete a professional boundaries course; and, a documentation course within six months of the execution of the agreement.

Seconded by Steve Alstot

Motion passed unanimously

CE Question from Brad Henry, PT

After Board review, discussion and consideration, the Board determined that rather than a blanket approval, of an entire program for credit, the Board would look at the credit awarded for each course within a program. I.E., the request to approve the Licensee's Management Health Administration, this program contains course content that would be considered relevant to the PT profession, and also contains course content that is managerial or operational in nature. Only the courses and credits associated with the PT relevant course work would apply to the PT CE requirements. The completion dates, of those courses, will determine which certification period the credit will be awarded. The performance management course content would not qualify for PT CE.

CE Question from Mary Bigler, PT

After Board review, discussion and consideration, the Board determined the course work associated with the use of Emotional Freedom Techniques (EFT) would not qualify for PT CE.

CE Question from Rebecca Johnson, PT

After Board review, discussion and consideration, the Board determined the HealthTech course work presented to the Board; The Future of Digital Delivery of Care would not qualify for PT CE.

Continuing Education Discussion

The Board had an extensive discussion regarding the increasing time and staff resource dealing with continuing education questions and issues. The Executive Director solicited Board approval, to research the possibility of the Board partnering with the OPTA, to have the OPTA be the possible gatekeeper for approving or sanctioning continuing education courses and programs. The Board gave the Executive Director the authority to research options for partnering with OPTA, but not until the Board Counsel determines that it is within the Board authority to delegate this responsibility. The Board also

suggested that staff put more responsibility back on the licensee's by putting together some sort of specific guidelines, and when the questions come up, send them or direct them to the guidelines. The Executive Director said the Administrative Rules do provide course guidelines. The Board suggested something more specific, with examples, and also to post it on the Board website.

PT Board Affirmative Action Plan

The Executive Director presented to the Board the proposed 2007-2009 Board Affirmative Action Plan to be filed with the Governor's Affirmative Action Office. After Board review, discussion and consideration, the board approved the plan as proposed and instructed the Executive Director to file the plan with the Governor's office. The plan is also available to the public and can be viewed in the Board's office.

General Topics/Business

- Linn Benton Community College possibly establishing a PTA program
- Direct Access Informational Brochures. Question to the Board...does the Board want to reprint and distribute these? Board determined that publications of this kind are more educational in intent, as opposed to safety and might better be handled by the professional association.
- Project update: The new license print program removing mailing address from the front of the posted license is completed.
- Project Update: The 2007-2008 renewal forms were mailed out a week early, everything else is on target.
- SIBA Published Guidelines for Semi-Independent Government, best practices guide in response to JLAC's request from the Governor's office.
- The Administrative Rules Hearing regarding proposed rule changes for therapists in a school setting is scheduled for Thursday, Jan 25, 2007 at 4:30 PM.
- Consideration for the appointment of a new Board Chair will be discussed at the March 02, 2007 Board Meeting.

Future Board Meeting Dates Approval of Meeting Minutes

As established by the Board, the future Board meeting dates are as follows: March 02, 2007; April 27, 2007; June 22, 2007; August 17, 2007; October 05, 2007; November 30, 2007. The Board considered changing the August 2007 Board meeting date from August 17th to August 10th and instructed the Executive Director to check room availability and report back at next meeting. Also, the Board instructed the Executive Director to schedule either the October or November 2007 meeting to be held at Pacific University PT School in Hillsboro. 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 (11/3/06-1/4/07)

The Board was presented a list, of new licensees, for the period of November 03, 2006 through January 04, 2007. 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 November 03, 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.

Other New Business

As required by Federation Bylaws, the Executive Director provided the Board with copies of the FSBPT 2007 budget.

With no additional other new business cited, Board Chair, Mr. Nickell, adjourned the Board Meeting at 4:05 PM.

**Oregon Physical Therapist Licensing Board
Board Meeting
March 02, 2007**

MINUTES

Friday, March 02, 2007

Board Members Present: Jerry Nickell, PT, Chair; Jason Fiske, PT; Nancy Wilson, PTA, Cindy Cunningham, Public Member

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

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

Legal Counsel: Carol Parks, AAG

PUBLIC (OPEN) SESSION

The public and interested parties are invited to attend this portion of the meeting. To better accommodate guests wanting to attend the Public Session, Jerry Nickell convened the Board directly into Public Session at 8:30 AM. 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.

Proposed Rule Changes

The Board reviewed and discussed the testimony presented at the January 25, 2007 Proposed Administrative Rules Hearing. After discussion and consideration, the Board decided to adopt the proposed rule changes and file them, with the Secretary of State's Office, incorporating the amendments, as discussed by the Board.

"Body Talk Portland" & Gilly Adkins

The Board Investigator reported, to the Board, that Ms. Adkins had been contacted with regards to Ms. Adkins' use of the term "Physical Therapist". Ms. Adkins stated she will stop the use of the term Physical Therapist. The Board Investigator reported that Ms. Adkins has indeed removed the term "Physical Therapist" from her web advertisements.

General Topics/Business

- Consideration for appointment of new Board Chair- Because three of the Board members were absent from the meeting, after Board discussion, it was determined that the appointment, of a new Board Chair, would be tabled until the April 27, 2007 Board meeting. Chair Nickell agreed to return for the April 27th meeting and will officiate, as Chair, over that meeting.

- Applicants for vacant Board member position- The Executive Director reported, to the Board, that he had contacted the Office of Executive Appointments (OEA) to make them aware that, although the OEA had received two Interest Forms for the open PT position on the Board, the Board staff was actively recruiting licensees, from the Central and Eastern Oregon areas, as potential candidates.
- Director's leave of absence- The Executive Director reported, to the Board, that he will be out on a medical leave-of-absence beginning on April 02, 2007. The anticipated leave will include fulltime Short Term Disability benefits for the first six weeks, following the surgery. Then, he may be released to return part-time for an additional six weeks.
- Board Affirmative Action Plan- The Executive Director reported, to the Board, that the Governor's Office of Affirmative Action had approved the Board's 2007-2009 Affirmative Action Plan, as submitted by the Board. Copies of the Board's Affirmative Action Plan may be obtained by contacting the Board office.
- Technology Update and Future Enhancements- The Executive Director reviewed, with the Board, the history of the technical advances made, by the Board, over the last two years. He then shared, with the Board, the future proposed enhancements to include: posting of Board Disciplinary Actions on the Board website, on-line applications and renewals, on-line real time update by licensees of address, phone, employment information.
- TIES Conference in Eugene, PT Board participation- The Board Clinical Advisor/ Investigator reported, to the Board, that Therapists in Educational Setting had asked the Board to participate in the 2007 Conference scheduled for April 17, 2007 in Eugene, Oregon. The Board Executive Director and Clinical Advisor attended and presented at the 2006 Conference. The Board felt that this was an important forum and the Board should be represented. However, the Board felt the travel costs (mileage), and the costs to produce handouts should be reimbursed by the TIES group.

Non-Compete Agreements and Statutory Authority

The Board Clinical Advisor provided the Board with information on statutory authority with regards to non-compete agreements. Although not specifically related to the physical therapy Scope of Practice, the Clinical Advisor gets numerous calls of concern from therapists asked to sign non-compete. ORS 653.295 specifically outlines the requirements for binding non-compete agreements. The Board takes no position with regard to the use of or enforcement of non-compete agreements. Inquiries, from licensees, should be referred to statutory reference.

2007 Legislative Watch List

The Executive Director provided the Board with a list of legislative bills that Board staff is tracking for the Board. Of particular interest to the Board are: HB 2386, sponsored by the OPTA, citing specific amendments to the current PT Scope of Practice; SB 326, creating an Orthotic and Prosthetics Licensing Agency, and requiring licensure for any person who practices orthotics or prosthetics; SB 326, prohibiting high velocity, low amplitude spinal manipulation or chiropractic spinal adjustment by any person who does not meet certain requirements; SB 493, provides that home address, telephone number and electronic mail address of medical professional are exempt from disclosure.

Board Proposed 2007-2009 Biennium Budget

The Executive Director presented the Board with the proposed 2007-2009 board operating budget. The Director's presentation included a financial narrative supporting the 5% increase in the operating budget over the prior biennium. The Board approved the proposed budget and instructed the Director to proceed with Notice of Public Hearing. The Public Hearing has been scheduled for Friday, April 27, 2007, and will be held at 800 NE Oregon Street, Portland, Room 445, and will begin at 8:30 AM. A copy of the Hearing Notice and Fiscal Impact Statement, along with the proposed budget and narrative, can be found on the Board website at www.ptboard.state.or.us, under the heading Proposed Administrative Rule Changes.

Future Board Meeting Dates

As established by the Board, the future Board meeting dates are as follows: April 27, 2007; June 22, 2007; August 10, 2007; October 05, 2007; November 30, 2007. The Board did change the August date from the 17th to the 10th, the meeting room has been rescheduled and the web notices have been updated. Also, the Board Clinical Advisory is still working with Pacific University to schedule either the October or November 2007 meeting at the PT school in Hillsboro. Meeting dates, Notices, and published Minutes may be found on the Board website at www.ptboard.state.or.us.

Approval of Meeting Minutes

The Minutes, from the January 05, 2007 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.

Ratification of PT/PTA Licenses & Temporary Permits

The Board was presented a list, of new licensees, for the period of January 05, 2007 through March 01, 2007. 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.

EXECUTIVE (CLOSED) SESSION

Following the majority of the Public Session agenda, Board Chair Jerry Nickell convened the Board into Executive Session, citing ORS 192.660(2)(k). 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.

At the completion of the Executive Session, Board Chair Jerry Nickell brought the Board back into Public Session to entertain any motions, and publicly vote on any actions so moved before the Board.

PUBLIC (OPEN) SESSION

Board Motions

Rule Amendments

Motion, by Cindy Cunningham, to adopt amendments to Division 1 of the Board Administrative Rules.

Seconded by Fiske

Motion passed, by quorum; not present to vote were Board members Daiva Banaitis, Steve Alstot and Joana Freedman.

Motion, by Cindy Cunningham, to adopt amendments to Division 10 of the Board Administrative Rules.

Seconded by Fiske

Motion passed, by quorum; absent for the vote were Board members Daiva Banaitis, Steve Alstot, and Joana Freedman.

Motion, by Cindy Cunningham, to adopt amendments to Division 15 of the Board Administrative Rules.

Seconded by Fiske

Motion passed, by quorum; not present to vote were Board members Daiva Banaitis, Steve Alstot and Joana Freedman.

Motion, by Cindy Cunningham, to adopt amendments to Division 20 of the Board Administrative Rules.

Seconded by Fiske

Motion passed, by quorum; not present to vote were Board members Daiva Banaitis, Steve Alstot and Joana Freedman.

Motion, by Cindy Cunningham, to adopt amendments to Division 40 of the Board Administrative Rules.

Seconded by Fiske

Motion passed, by quorum; not present to vote were Board members Daiva Banaitis, Steve Alstot and Joana Freedman.

Case PT 202-08/05

Motion, by Cindy Cunningham, to ratify Notice of Proposed Disciplinary Action, Revocation of License.

Seconded by Fiske

Motion passed, by quorum; not present to vote were Board members Daiva Banaitis, Steve Alstot and Joana Freedman.

Case PT 222-08/06

Motion, by Cindy Cunningham, to issue an Advisory Letter.

Seconded by Fiske

Motion passed, by quorum; not present to vote were Board members Daiva Banaitis, Steve Alstot and Joana Freedman.

Case PT 227-10/06

Motion, by Cindy Cunningham, to issue an Advisory Letter.

Seconded by Fiske

Motion passed, by quorum; not present to vote were Board members Daiva Banaitis, Steve Alstot and Joana Freedman.

Other New Business

The Board Chair called for other new business. With no additional other new business cited, Board Chair, Jerry Nickell, adjourned the Board Meeting at 3:08 PM.

**Oregon Physical Therapist Licensing Board
Special Board Meeting
March 27, 2007**

MINUTES

Tuesday, March 27, 2007

Board Members Present: Jerry Nickell, PT, Chair; Joana Freedman, PT, Vice Chair; Jason Fiske, PT; Steve Alstot, 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

The Special Board Meeting was held via telephone conference. Interested parties were notified, by mail, two weeks prior to the meeting and Notice was posted on the Board website.

At 1:00 PM, Board Chair, Jerry Nickell convened the Board into Executive Session, citing ORS 192.660(2)(k). 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. The Board also considered legal advisement, from Board Counsel, regarding the investigative cases.

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

At the completion of the Executive Session, Board Chair, Jerry Nickell closed the Executive Session and convened the Board into Public Session to entertain any motions, publicly vote on any actions so moved, before the Board, and cover any other Public Session business.

PUBLIC (OPEN) SESSION

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

There were no motions moved before the Board.

Executive Appointments

The Executive Director provided the Board with copies of the three candidates that filed Executive Appointment Interest Forms with the Governor's Office of Executive Appointments. The Executive Director shared, with the Board, ORS 688.160(2) that states the slate of candidates for a Board vacancy was to be submitted, to the Office of Executive Appointments, by the OPTA. The Executive Director also reported, to the Board, that the OPTA had been consulted in regards to the open position, and that the position had been posted on the Board website since December, 2006. Further, the Executive Director reported that the final selection, of the replacement PT Board Member, would be done by the Governor's Office. After review and discussion, the Board instructed the Executive Director to communicate, to the Office of Executive Appointments, the Board's top two candidates for the open PT Board Member position.

2007 Legislative Watch List

The Executive Director provided an update on HB 2386, sponsored by the OPTA, citing specific amendments to the current PT Scope of Practice. The Board discussed the issue regarding use of the term "doctor" as part of the proposed language. The Board determined that it would discuss the issue further at its 04/27/07 Board meeting, and if the Director needed to take an action step regarding the proposed Bill prior to 4/27, he would poll the Board via e-mail for direction. Time did not allow discussion of the other two Bills SB 717 and HB 2701.

Future Board Meeting Dates

The Board discussed moving the November 30, 2007 Board meeting date to Friday, December 7, 2007 to accommodate holding the meeting at Pacific University. The Board agreed to change the date and instructed staff to make the arrangements.

Other New Business

The Board Chair called for other new business. With none noted, Board Chair, Jerry Nickell, adjourned the Board Meeting at 1:28 PM.

**Oregon Physical Therapist Licensing Board
Special Board Meeting
April 19, 2007**

MINUTES

Thursday, April 19, 2007

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

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

Legal Counsel: Carol Parks, AAG

PUBLIC (OPEN) SESSION

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.

Bills in Legislature that May Impact the Board

The Board examined and discussed House Bill 2701, with proposed dash 1 and dash 3 Amendments, as sponsored by the Chiropractic Association. The Board also considered the amended language to HD 2701, as proposed by the OPTA. The Board took a position, in opposition to HB 2701, as written, and the dash 1 and dash 3 Amendments. The Board chose to support the Proposed Amendments to HB 2701, as proposed by the OPTA. The Board further appointed Steve Alstot, PT Board Member, to represent the Board's position, at the work session designed to find a compromise in language, between the Oregon PT Association and the Chiropractic Association. Also, the Board approved the issuance of a letter, to be written and signed by the Board's Legal Counsel, Carol Parks. The letter is intended to show, historically, that the Board has considered manual therapy, manipulation and mobilization, as part of the PT Scope of Practice, since it's been taught in the PT curriculum. Lastly, and, if necessary, the Board gave its Legal Counsel, Carol Parks, the authority to write a letter to the Legislative Committee presiding over HB 2701. The letter will represent the Board's position regarding HB 2701.

FSBPT Nominees for the NPTE Standard Setting Task Force

The Board Executive Director called for nominations for the FSBPT Standard Setting Task Force. Board Member, Steve Alstot noted that he had the name, of a PTA, he would like nominated to the PTA Task Force, as would Board Member, Nancy Wilson. Board Member, Daiva Banaitis would consider nomination to the PT Task Force, as would Board PT and Clinical Advisor, Sherri Paru.

Other New Business

The Board Chair called for other new business. With none noted, Board Chair, Jerry Nickell adjourned the Board Meeting at 12:53 PM.

**Physical Therapist Licensing Board
Administrative Rules Hearing
April 27, 2007**

MINUTES

Friday, April 27, 2007

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

Board Members Absent: 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, April 27, 2007 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 April 1, 2007 Edition of the Oregon Bulletin, published in the Spring (March 2007) Board Newsletter sent to all Licensees, and published on the Board Website. The Hearing was convened, at 8:30 AM, by Jim Heider, Board Executive Director and Presiding Hearing Officer.

The Board received no written testimony nor did anyone attend the Hearing to present public testimony with regards to the proposed 2007-2009 Board Budget. The Board waited a reasonable amount of time to allow for possible late parties. Mr. Heider adjourned the Hearing at 9:00 AM with a recommendation to the Board to adopt the proposed budget rule changes as submitted.

The Hearing 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.

**Physical Therapist Licensing Board
Board Meeting
April 27, 2007**

MINUTES

Friday, April 27, 2007

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

Board Members Absent: Nancy Wilson, PTA Member; Cindy Cunningham, Public Member

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

Legal Counsel: Carol Parks, AAG

EXECUTIVE (CLOSED) SESSION

Following the adjournment of the Administrative Rules Hearing, Board Chair, Jerry Nickell, convened the Board into Executive Session, citing ORS 192.660(2)(k). Pursuant to ORS 192.660(2)(k), this portion, of the Meeting, is closed to the public.

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At the completion of the Executive Session, Board Chair Jerry Nickell brought the Board into Public Session to entertain any motions, and publicly vote on any actions so moved before the Board.

PUBLIC (OPEN) SESSION

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Board Motions

Case PT 154-2/04

Motion, by Joana Freedman, to close case citing no violations.

Seconded by Daiva Banaitis

Motion passed, by quorum; absent, for the vote, were Board members Cindy Cunningham and Nancy Wilson.

Case PT 185-2/05

Motion, by Joana Freedman, to issue Stipulation and Final Order citing: violations noted in A, B and C from the Proposed Order; assessing a civil penalty of \$5,000 with \$2,500 stayed; one year probation; and, issuance of a Confidential Advisory Letter citing concerns for adhering to standards for reassessment and allowing aides to perform joint mobilizations.

Seconded by Daiva Banaitis

Motion passed, by quorum; absent, for the vote, were Board members Cindy Cunningham and Nancy Wilson.

Case PT 236-3/07

Motion, by Joana Freedman, to issue Stipulation and Final Order citing violation of OAR 848-045-0020(2)(r), practicing physical therapy with a lapsed license, and assess a civil penalty of \$1,000.00.

Seconded by Daiva Banaitis

Motion passed, by quorum; absent, for the vote, were Board members Cindy Cunningham and Nancy Wilson.

Case PT 235-3/07

Motion, by Joana Freedman, to issue a Confidential Advisory Letter citing violation of OAR 848-045-0020(2)(d) and use of poor judgment.

Seconded by Daiva Banaitis

Motion passed, by quorum; absent, for the vote, were Board members Cindy Cunningham and Nancy Wilson.

Case PT 234-3/07

Motion, by Joana Freedman, to issue Notice of Denial for Renewal License citing practicing PT without a license, failure to disclose arrest and violation of terms of probation, and issuance of a letter to cease and desist practicing PT without a license.

Seconded by Daiva Banaitis

Motion passed, by quorum; absent, for the vote, were Board members Cindy Cunningham and Nancy Wilson.

Case PT 226a-10/06

Motion, by Joana Freedman, to issue a Confidential Advisory Letter to review policies and procedures with regards to incident reports and the definition of witnesses, and the requirements and policies regarding the supervision of students handling Medicare patients.

Seconded by Daiva Banaitis

Motion passed, by quorum; absent, for the vote, were Board members Cindy Cunningham and Nancy Wilson.

Case PT 226b-10/06

Motion, by Joana Freedman, to close case citing no violations.

Seconded by Daiva Banaitis

Motion passed, by quorum; absent, for the vote, were Board members Cindy Cunningham and Nancy Wilson.

Case PT 139-6/03

Motion, by Joana Freedman, to notify licensee, in writing, that the terms of probation have been met and licensee's license is now in good standing.

Seconded by Daiva Banaitis

Motion passed, by quorum; absent, for the vote, were Board members Cindy Cunningham and Nancy Wilson.

Case PT 237-3/07

Motion, by Joana Freedman, to close case citing no violations, and send letter of support inviting Licensee to keep the Board posted, on a quarterly basis, of her continued progress.

Seconded by Daiva Banaitis

Motion passed, by quorum; absent, for the vote, were Board members Cindy Cunningham and Nancy Wilson.

Case PT 238-4/07

Motion, by Joana Freedman, to issue Stipulation and Final Order citing violation of OAR 848-045-0020(2)(r), practicing physical therapy with a lapsed license, and assess a civil penalty of \$100.00.

Seconded by Daiva Banaitis

Motion passed, by quorum; absent, for the vote, were Board members Cindy Cunningham and Nancy Wilson.

Case PT 240-4/07

Motion, by Joana Freedman, to issue Stipulation and final Order citing violation of OAR 848-045-0020(2)(r), practicing physical therapy with a lapsed license, and assess a civil penalty of \$100.00.

Seconded by Daiva Banaitis

Motion passed, by quorum; absent, for the vote, were Board members Cindy Cunningham and Nancy Wilson.

Case PT 241a-4/07

Motion, by Joana Freedman, to issue Stipulation and final Order citing violation of OAR 848-045-0020(2)(r), practicing physical therapy with a lapsed license, and assess a civil penalty of \$100.00.

Seconded by Daiva Banaitis

Motion passed, by quorum; absent, for the vote, were Board members Cindy Cunningham and Nancy Wilson.

Case PT 241b-4/07

Motion, by Joana Freedman, to issue a Confidential Advisory Letter to Employer, who is a Licensee of the Board, for permitting the practice of physical therapy by an employee whose license has lapsed.

Seconded by Daiva Banaitis

Motion passed, by quorum; absent, for the vote, were Board members Cindy Cunningham and Nancy Wilson.

Case PT 228a-11/06

Motion, by Joana Freedman, to issue Stipulation and Final Order citing violation for use of the term doctor on business cards, website and laminate marketing materials; assess a civil penalty of \$1,000.00.

Seconded by Daiva Banaitis

Motion passed, by quorum; absent, for the vote, were Board members Cindy Cunningham and Nancy Wilson.

Board Administrative Rules-Board Budget

Motion, by Joana Freedman, to adopt the 2007-2009 proposed Biennial Budget, as presented in Notice of Proposed Rule Making and at Public Hearing.

Seconded by Daiva Banaitis

Motion passed, by quorum; absent for the vote were Board members Cindy Cunningham and Nancy Wilson.

General Topics/Business

- Consideration for appointment of new Board Chair – Daiva Banaitis nominated Joana Freedman, PT Board Vice Chair, for the position of Board Chair. Joana accepted the nomination and the Board voted unanimously to elect Joana as the new Board Chair. Because the Vice Chair position will be vacant, nominations for Vice Chair were considered. Daiva Banaitis nominated Steve Alstot for the

position of Vice Chair. Steve accepted the nomination and the Board voted unanimously to elect Steve as the new Board Vice Chair. The Board also determined that it would set a time period of two years on its appointments to the positions of Chair and Vice Chair.

- Delegates for FSBPT Annual Meeting – The Board selected its new Chair, Joana Freedman, as the Board's Delegate to the FSBPT National Conference in Memphis, Tennessee. The Board also selected its new Vice Chair, Steve Alstot, as the Board's Alternate Delegate to the Conference. The Conference will also be attended by the Board Administrator, Jim Heider. Travel and accommodations, for all three positions, are funded by the FSBPT. The Board has also agreed to fund one position, for a Board Member, to attend the CLEAR Conference in Atlanta in September.
- Director's leave of absence – The Board Director reported, to the Board, that he was released from medical leave to return to work part time, effective Monday, May 14, 2007. The Director will be on a part-time schedule, from May 14th through June 29th, returning to work fulltime Monday, July 2nd.
- The Director reported, to the Board, that he had changed the Board's banking situation with US Bank. Currently, the Board has one deposit account, a non-interest bearing DDA account that holds all Board cash deposits and reserves. The Director has established a new, interest bearing Money Market account that will hold the Board reserves, and pay the Board interest income on reserve balances. The Director, along with the Board's bank Representative, will monitor the Reserve and DDA accounts monthly, moving dollars between the accounts to best facilitate the Board's current financial position.
- Welcome New Board Member- The Board welcomed the newest PT Board Member, Burke Selbst, PT. Burke was in attendance at the April 27th meeting. Burke's term is effective May 04, 2007 through April 30, 2011.
- Welcome New OPTA Liaison – The Board greeted and introduced themselves to the new OPTA Liaison, Dylan Hogan, PT.

Future Board Meeting Dates

As established by the Board, the future Board meeting dates are as follows: June 22, 2007; August 10, 2007; October 05, 2007; December 07, 2007. The Board did change the November 30, 2007 date to December 10, 2007. The meeting will be held on the PT campus of Pacific University in Hillsboro. The meeting room has been rescheduled and the web notices have been updated. Meeting dates, Notices, and published Minutes may be found on the Board website at www.ptboard.state.or.us.

Bills in Legislation

HB 2701 – Steve Alstot reported, to the Board, that the work session between the Chiropractic Association and Board, and the Oregon Physical Therapy Association and Board, along with their Legal Counsel, was unsuccessful. It was Mr. Alstot's understanding that the Chiropractic Bill was scheduled for a Committee Hearing the previous day and that the Chiropractic Association was going to withdraw the current

Bill. It was an understanding, from the group, that prior to the next legislative session, the two parties were going to have to spend time working together towards a resolve. The issue for the Chiropractic Association and Board is physical therapists using manipulation as part of their Scope of Practice.

SB 717 – Requires Board of Medical Examiners to appoint Scope of Practice Review Committee for regulated health professions when requested to review proposed changes to Scope of Practice of health care profession. Requires committee to report results of proposal review to Board. Requires Board to forward committee report and Board's position on committee recommendations to legislature and Governor. The Board remained neutral on this Bill.

SB 879 – Pain Management Commission to add physical therapist to existing Statute that would require therapists to take mandatory pain management course work, as part of a Continuing Education requirement. After discussion, the Board was neutral on this Bill. However, the Board staff noted, to the Board, that this requirement would have a big impact on staff, who would have to track, and record, and verify that the course completion requirements were complete, prior to renewal.

SB 326 – Create Orthotics and Prosthetics Board of Examiners. Amendments to the Bill will exempt PTs and OTs from having to be dually licensed under this program to apply orthotics.

FSBPT Board Member Training

Due to a lack of time and the absence of the Director and two Board Members, this topic was tabled until the June 22, 2007 meeting. Joana Freedman and Steve Alstot will lead the discussion.

Question Regarding Credit for CE Courses

Brad Henry, PT- Press Ganey Conference – Program directed toward applied management, not approved for CE.

Mary Witcop, PT- Institute for Natural Resources, Emotions, Stress and Disease – Course approved for CE.

Ron Carpenter, PT- CSCS Certification – No mandate or requirement to complete any coursework prior to taking the examination, not approved for CE.

Consonus Staffing – Course developed for Consonus on Pharmaceuticals approved for CE.

Bonnie Saurer- Institute for Natural Resources, Appetite, Mood & The Brain – Course approved for CE.

New Medicare Policy Regarding Inpatient Hospital Services

Transmittal 65 Medicare's proposed changes to Medicare policy changes the requirements for in-patient therapy reimbursement. The proposed change will make in-patient reimbursement requirements the same as out-patient reimbursement requirements. On March 26, 2007, the Centers for Medicaid and Medicare Services

rescinded Transmittal 65. APTA says it will be addressed, in an amended format, at a later date.

PT'S Role in Dietary Recommendations

Linda Barbee, PT – Is it appropriate for a therapist to use the PT credential when promoting a diet or food? After discussion and consideration, the Board determined that as long as the recommendations are general, non specific, like protein helps wounds heal, then it is OK.

Approval of Meeting Minutes

The Minutes, from the March 02, 2007 Regular Board Meeting, and the March 27, 2007 and April 19, 2007 Special Board Meetings, were presented to the Board. The Chair opened the floor for discussion and comments. With noted changes, the Minutes were approved.

Ratification of PT/PTA Licenses & Temporary Permits

The Board was presented a list, of new licensees, for the period of March 05, 2007 through April 26, 2007. 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.

Other New Business

The Board Chair called for other new business. With no additional other new business cited, Board Chair Jerry Nickell adjourned the Board Meeting at 2:30 PM.

**Physical Therapist Licensing Board
Board Meeting
June 22, 2007**

MINUTES

Friday, June 22, 2007

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

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

Legal Counsel: Carol Parks, AAG

EXECUTIVE (CLOSED) SESSION

Board Chair, Joana Freedman, convened the Board, into Executive Session, citing ORS 192.660(2)(k). 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.

At the completion of the Executive Session, Board Chair Joana Freedman brought the Board into Public Session to entertain any motions, and publicly vote on any actions so moved before the Board.

PUBLIC (OPEN) SESSION

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 234-3/07

Motion, by Jason Fiske, to ratify changes to Notice of Denial for renewal licensure.

Seconded by Nancy Wilson

Motion passed unanimously

Case PT 203-10/05

Motion, by Jason Fiske, to amend Proposed Notice of Discipline, citing Licensee's failure to disclose a prior arrest ORS 688.140(2)(j)(2001 Edition).

Seconded by Nancy Wilson

Motion passed unanimously

Case PT 221-8/06

Motion, by Jason Fiske, to send Confidential Advisory Letter noting Board concern for Licensee's failure to adequately document informed consent, pre and post test data, and patients adverse response to therapy.

Seconded by Nancy Wilson

Motion passed unanimously

Case PT 245-6/07

Motion, by Jason Fiske, to send letter to individual's employer (licensees of the Board), noting Board concern with the employer posturing the individual as a licensee of the Board and the public perception of the advertisements. Board requests employer to remove all references of the individual, as a PT, from their advertisements.

Seconded by Nancy Wilson

Motion passed unanimously

Case PT 239-4/07

Motion, by Jason Fiske, to close case citing no violations.

Seconded by Nancy Wilson

Motion passed unanimously

General Topics/Business

- FSBPT issue with NPTE test review sites in Philippines – The Executive Director reported, to the Board, which based on a possible breach of test security, effective May 16, 2007, the FSBPT implemented a policy holding all NPTE test scores, of therapists educated in the Philippines. Upon further investigation, on June 12, 2007, the FSBPT lifted the ban on score reporting for therapists educated in the Philippines.
- FSBPT New Board Member Training – The Executive Director reported, to the Board, that new Board Member, Burke Selbst, will be attending the FSBPT Board Member Training July 20th-22nd in Alexandria, VA. The Director reported that this training is available, to all the Board members, is held twice a year, and the travel, hotel, and meals are paid by the FSBPT.

- CLEAR Conference, Sept '07, FARB Conference, Jan '08 – The Clinical Advisory/Investigator reported, to the Board, the dates, location and general information regarding the CLEAR Conference, to be held in Atlanta, September 2007, and the FARB Conference, to be held in Santa Fe, January 2008. Both Conferences host a Board training track. The Board discussed using available budgeted training funds to send one Board Member to either of the Conferences.
- Community Outreach; Pacific University, OPTA and TIES Conference – The Executive Director reported, to the Board, the Outreach activities the Board Staff participated in over the past several months. Included, in the Outreach activities, were two visits to the third year PT class at Pacific University. First, was a presentation, to the Ethics class, prepared by the Board Clinical Advisor/ Investigator. Second, was a presentation to the graduating class covering all aspects of licensure and licensee accountability. The Board Clinical Advisor/Investigator also prepared and presented Administrative Rules forums at the OPTA Spring Conference and the TIES Conference. The Board Executive Director reported, to the Board, that both programs were overwhelmingly appreciated by both groups. Board Staff plans on extending its Outreach to include the Mt. Hood PTA program, in the future.

Discussion Regarding Inactive Licenses

The Executive Director reported, to the Board, that several licensees had expressed a desire or interest in having the Board consider implementation of an “Inactive” license status. Many situations and circumstances raising a need, for such a status, were considered: temporary change of employment; stay-at-home parenting; temporarily moving out of State with plans on returning; and, retirement from practice but wanting to maintain the PT title. The primary reason given, for the requests, was financial. Licensees cited the increase in the renewal application fee, and the new requirement for continuing education to retain a renewal license. The Board discussed the topic of an “Inactive” license status. After the discussion and consideration, the Board, again, determined it would not pursue an “Inactive” license status. The Board felt that, in the interest of public safety, especially for the therapists who plan on returning to active practice, the need for continuing competency is very relevant. One measure, of continuing competency, is through the completion of continuing education. The Board did instruct the Executive Director to research the possibility of having a license status for “Retired” licensees, who have no intention of returning to an active practice. The research will also include the Board’s statutory authority to create such a status.

Applicants and Renewal Applicants with Arrest History

The Executive Director shared, with the Board, a draft of a new proposed policy, for Board staff, to use when addressing the issue of criminal history for

applicants of new and renewal licenses. After a brief discussion, the Board tabled this subject to the August 10, 2007, Board meeting. The Board asked their Assistant Attorney General to review the proposed policy and to advise the Board at its next meeting.

Board Financial Report – Fiscal Year-to-Date July 1, 2006 through May 31, 2007

The Executive Director presented, to the Board, a Financial Report and Narrative covering fiscal year-to-date 07/01/06 through 05/31/07. (See attachment P-5)

Future Board Meeting Dates

As established by the Board, the future Board meeting dates are as follows: August 10, 2007; October 17, 2007; December 07, 2007. Note: The Board did change the Friday, October 5, 2007 date to Wednesday, October 17, 2007. The meeting room has been rescheduled and the web notices have been updated. Meeting dates, Notices, and published Minutes may be found on the Board website at www.ptboard.state.or.us.

Update on Bills in Legislature

- Extension of Direct Access from 30-60 days – HB 2386, sponsored by the Oregon Physical Therapy Association, amends the PTs current direct access scope of practice, allowing a PT to treat a patient, without referral for up to 60 days, (current rule sets referral requirement at 30 days). The new law will take effect on January 2, 2007. The Board discussed, with staff, the need to review current rules, and the need for Administrative Rule making to update rules to meet Statute changes.
- Letter from Board of Chiropractic Examiners – SB 717 requires Board of Medical Examiners to appoint Scope of Practice Review Committee, for regulated health professions, when requested to review proposed changes to Scope of Practice of health care profession. The Board received a letter from the Chiropractic Examiners Board. The letter stated, if SB 717 passes into law, the Chiropractic Examiners Board requests the Physical Therapist Board's complete and open participation in the review process. The Board reviewed and discussed the letter. The Board felt that the issues surrounding the Chiropractic objections, to the physical therapy Scope of Practice, are better addressed by the physical therapy professional organization (OPTA). Further, the Board instructed the Director to hold off on any response, to the Chiropractic Board, until the final outcome of SB 717 is known.
- Pain management education for all licensees – The Executive Director reported, to the Board, that SB 879 sponsored by the Pain Management Commission, has passed both Houses and will be signed into law. SB 879 adds physical therapists to the list of healthcare professionals that must complete a (to be determined,) pain management continuing education requirement in order to renew their professional license. Based on the

Legislation, initial review of the Bill indicates the first impact, to Board licensees, will be with the renewal of their 2010 application. The Board has instructed the Director to research this topic and options, and report back to the Board with recommendations.

FSBPT Board Member Training

Board Chair, Joana Freedman shared, with the Board, information received while attending the FSBPT Board Member Training, in March 2007. The Board Chair had previously reviewed her list of review items, with the Board Executive Director, and asked the director to report on several of the items. The action items, on the list, included: researching a customer satisfaction survey as a measurement of Board performance; the FSBPT Board Assessment Tool, putting a link on the Board website; when reviewing Administrative Rules, take into account changes to Division 45, to include compromising the security of examination materials, as a reason for Board action; consideration of an in-house orientation for new Board Members.

Approval of Meeting Minutes

The Minutes, from the April 27, 2007 Administrative Rules Hearing, and the April 27, 2007 Regular Board Meeting, were presented to the Board. The Chair opened the floor for discussion and comments. With noted changes, the Minutes were approved.

Ratification of PT/PTA Licenses & Temporary Permits

The Board was presented a list, of new licensees, for the period of April 27, 2007 through June 21, 2007. 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.

Other New Business

The Board Chair called for other new business. With no additional other new business cited, Board Chair, Joana Freedman, adjourned the Board Meeting at 2:44 PM.

**Oregon Physical Therapist Licensing Board
Special Board Meeting
July 11, 2007**

MINUTES

Wednesday, July 11, 2007

Board Members Present: Joana Freedman, PT, Chair; Steve Alstot, PT, Vice Chair; Daiva Banaitis, PT, PhD; Burke Selbst, PT; Nancy Wilson, PTA

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

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

Legal Counsel: Carol Parks, AAG

EXECUTIVE (CLOSED) SESSION

The Special Board Meeting was held via telephone conference. Interested parties were notified, by mail, and Notice was posted on the Board website.

At 3:00 PM, Board Chair, Joana Freedman convened the Board, into Executive Session, citing ORS 192.660(2)(k). 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 and possible settlement of a current case pending Hearing. The Board also considered legal advisement, from Board Counsel, regarding the case.

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

At the completion of the Executive Session, Board Chair, Joana Freedman closed the Executive Session and convened the Board, into Public Session, to entertain any Motions, publicly vote on any actions so moved, before the Board, and cover any other Public Session business.

PUBLIC (OPEN) SESSION

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 Joana Freedman, to issue Stipulation and Final Order citing multiple violations of the Statutes and Rules and stipulating to the following:

1. Suspension of physical therapy license until all conditions of the Order are met, but not less than one year.
2. Assess civil penalty, of \$5000, payable prior to the Board lifting the Suspension.
3. Licensee must complete an evaluation and course of treatment as recommended by Board approved chemical dependency/pain management facility.
4. Licensee must complete a professional boundary program approved by the Board.
5. Within 14 days of the Board's execution of the Stipulated Order, the Licensee will provide the Board with a course of action of how treatment will be provided to patients at Licensee's clinic. This course of action must be approved by the Board.
6. Licensee must advise the Board, of any clinic personnel changes, within 5 days of the hiring or termination.
7. Licensee shall refrain from performing any activity which requires a PT practitioner to be a licensee of the Board.
8. Licensee shall agree to cooperate with the Board.
9. Licensee and treatment providers shall provide the Board with quarterly reports of Licensee's status and progress.
10. Licensee shall stipulate that she can not contest underlying Notice of Revocation and, if she fails to timely comply with conditions of Stipulation, the Board may revoke her license. At a Hearing regarding revocation, Licensee can only contest whether she complied with the Stipulation, and whether she can safely practice physical therapy. Licensee shall have the burden of proof.
11. Licensee shall stipulate that she committed the following violations:
 - a. Practice beyond the scope of physical therapy
 - b. Failure to maintain appropriate therapist/patient boundaries
 - c. Failure to be available to provide treatment/supervision
 - d. Inappropriate use of aides and assistants
 - e. Failure to properly document aide training
 - f. Failure to perform and document required reassessments
 - g. Failure to maintain adequate medical records
 - h. Failure to cooperate with the Board

Upon completion of all conditions of the Stipulation, but not sooner than one year from the execution date of the Stipulation, Licensee's license, to practice physical therapy, will be reinstated and licensee will be on probation for five years.

Seconded by Daiva Banaitis

Motion passed, by quorum; absent, for the vote, were Board members Cindy Cunningham and Jason Fiske.

Other New Business

The Board Chair called for other new business. With none noted, Board Chair, Joana Freedman adjourned the Board Meeting at 4:11 PM.

**Oregon Physical Therapist Licensing Board
Emergency Board Meeting
July 16, 2007**

MINUTES

Monday, July 16, 2007

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

Board Members Absent: Jason Fiske, PT; Burke Selbst, PT; Nancy Wilson, PTA

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

Legal Counsel: Carol Parks, AAG

EXECUTIVE (CLOSED) SESSION

The Physical Therapist Licensing Board called an Emergency Board Meeting to consider a counter proposal, to a Board settlement offer, on a contested case hearing drawing very close to the hearing date. The parties involved, in the settlement discussion, are well aware of the Board's immediate need to consider the counter proposal.

At 12:00 PM, Board Chair, Joana Freedman convened the Board, into Executive Session, citing ORS 192.660(2)(k). 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 and possible settlement of a current case pending Hearing. The Board also considered legal advisement, from Board Counsel, regarding the case.

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

At the completion of the Executive Session, Board Chair, Joana Freedman closed the Executive Session and convened the Board, into Public Session, to entertain any Motions, publicly vote on any actions, so moved before the Board, and cover any other Public Session business.

PUBLIC (OPEN) SESSION

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 Joana Freedman, to: reject the counter proposal, by Licensee's attorney, to reduce suspension period from one year to six months; maintain a Suspension of one year; change the language from "minimum of one year" to "one year"; if, at the end of the one year, Licensee is still in treatment or completing a prescribed program, Licensee's license will only be re-instated after the Licensee's treating provider(s) (approved by the Board) attest that Licensee is safe to practice, with or without restrictions, while completing the program(s); in addition to the prior stipulations noted in the Minutes of the July 11, 2007 Special Board Meeting, Licensee will be subject to random urine analysis, and the Board will reserve the right to review the Licensee's practice during the five-year probationary period.

Seconded by Steven Alstot

Motion passed, by quorum; absent, for the vote, were Board members Burke Selbst, Nancy Wilson and Jason Fiske.

Other New Business

The Board Chair called for other new business. With none noted, Board Chair, Joana Freedman adjourned the Board Meeting at 12:37 PM.

**Physical Therapist Licensing Board
Board Meeting
August 10, 2007**

MINUTES

Friday, August 10, 2007

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

Board Members Absent: Jason Fiske, PT Member; Burke Selbst, PT Member

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

Legal Counsel: Carol Parks, AAG

EXECUTIVE (CLOSED) SESSION

Board Chair, Joana Freedman, convened the Board, into Executive Session at 8:50 AM, citing ORS 192.660(2)(k). 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.

At the completion of the Executive Session, Board Chair, Joana Freedman, brought the Board into Public Session to entertain any motions, and publicly vote on any actions so moved before the Board.

PUBLIC (OPEN) SESSION

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.

**Physical Therapist Licensing Board
Board Meeting
October 17, 2007**

MINUTES

Wednesday, October 17, 2007

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

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

Legal Counsel: Carol Parks, AAG

EXECUTIVE (CLOSED) SESSION

Board Chair, Joana Freedman convened the Board into Executive Session at 8:30 AM, citing ORS 192.660(2)(k). 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

At the completion of the Executive Session, Board Chair, Joana Freedman brought the Board into Public Session. In Public Session, the Board considers inquiries from licensees and the public; approves the prior Board Meeting minutes; ratifies new licensees; reviews general correspondence; entertains any motions; publicly votes on any actions so moved before the Board; and conducts any other Board Public Session 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 229-12/06

Motion, by Jason Fiske, to issue Licensee a Confidential Advisory Letter citing Licensee's failure to include adequate and accurate record of treatment provided in patient's documentation.

Seconded by Nancy Wilson

Motion passed unanimously

Case PT 246-7/07

Motion, by Jason Fiske, to issue Licensee a Final Order by Default citing violations noted in the Notice of Proposed Disciplinary Action.

Seconded by Nancy Wilson

Motion passed unanimously

CMS Therapy Standards and Requirements

Motion, by Jason Fiske, to ratify Board's 8/24/07 letter of response to the Centers for Medicare and Medicaid Services proposed revisions to physical therapy standards.

Seconded by Nancy Wilson

Motion passed unanimously

2007-2009 Management Compensation Package

Motion, by Jason Fiske, to accept Executive Director's proposal to postpone his 10% salary increase, as proposed by the Governor for Agency Heads, until the Director is eligible for his 07/01/08 merit review increase.

Seconded by Nancy Wilson

Motion passed unanimously

Board Policy Decision Allowing Board Staff to Approve Remedial Course Work

Motion, by Jason Fiske, to delegate to Board staff the authority to research and approve coursework and remediation programs required of licensees as part of a Board sanction.

Seconded by Nancy Wilson

Motion passed unanimously

General Topics/Business

- The Executive Director presented, to the Board, the first quarter financial statement and narrative (see Attachment "A").

- The Executive Director presented, to the Board for ratification, the Board's drafted response to the Centers for Medicare and Medicaid Services proposed revisions to physical therapy standards. After review and discussion, the Board moved to ratify the letter.
- The Board Executive Director presented, to the Board, a copy of the Board's Investigative Statistics Report requested by, and presented to, the Governor's office. A copy of the Report is available by contacting Jim Heider, in the Board office, at 971.673.0203.
- The Executive Director presented, to the Board for discussion, a copy of the Governor's 2007-2009 Management Compensation Package. After review and discussion, the Board moved to postpone the implementation of the new compensation package until July 1, 2008.
- The Board Executive Director shared, with the Board, copies of written compliments sent to the Board regarding Dot Danovich, Licensing Coordinator. In the letters, new Licensees stated what a pleasure it was dealing with Dot and how quickly and efficiently the process went compared to their experience with other State licensing boards. A guest at the Public Session, Dylan Hogan the OPTA Liaison, addressed the Board in person and re-iterated, to the Board, what a pleasure it was to work with Dot, how helpful she was, and how easy and quick she made the licensing process.

Pain Management Commission CE Requirements SB 879

The Executive Director updated the Board regarding the status for implementation of the new Pain Management Commission's mandatory requirement for pain CE. Staff is currently working on communication to the licensees, rule making, a tracking system update to the licensure data base, audit procedures and forms updates. The Board also discussed what type of course work would count toward the pain management continuing education requirement. It was the Board's opinion that, if left up to them, it would accept any physical therapy continuing education dealing with pain towards the requirement. The Board instructed Staff to contact the Pain Management Commission to clarify if they have any specific requirements with regard to qualifying pain management continuing education, or if that decision was going to be left solely to the discretion of the Board.

Licensure Candidate, Donna Pepper, Request for Board Consideration of Application

The Board received a request from licensure candidate Donna Pepper to consider her for endorsement licensure even though she does not currently hold a valid license in another jurisdiction. Ms. Pepper is a PTA, who graduated from a CAPTE accredited PTA school, sat for and passed the PTA NPTE and was initially licensed in Florida. For the past several years Ms. Pepper has been working in Utah. Utah does not regulate or license PTAs in their state. Ms. Pepper let her

Florida PTA license lapsed because she had no intentions of returning to, and working in Florida. Board Statute and Administrative Rule requires that a candidate, for an Endorsement Application, hold a current valid license to practice PT in at least one other state or jurisdiction. Based on that requirement, Ms. Pepper is not eligible to be licensed by endorsement in Oregon. After review of Statute and Rule and discussion with the Board legal counsel, the Board determined that Ms. Pepper can apply to Oregon, through examination, since it has been less than 5 years since her Florida license has lapsed. Also, because Ms. Pepper has already sat the NPTE and has passing scores for the State of Oregon, she will not have to take the exam again.

Continuing Education Rules/Policies

The Board discussed changes and amendments needed for the continuing education rules Division 35. The Board Clinical Advisor pointed out, to the Board, a loophole in the requirements allowing an individual whose license was lapsed during the second half of a certification period. The current rules do not address a licensee who lets their license lapse during the odd year of a certification period (no CE requirement to renew during an odd number year) and subsequently reinstates their license in the next even numbered year. To reinstate, the Licensee would not have to show they completed any CE for the prior certification period. The Board instructed the staff to form a Rules Advisory Committee to look at updates to the CE Rules.

Renewal Applications CE Non-Compliance Policy

The Executive Director asked the Board to consider developing Board policy, relative to the Board's intended actions, toward Licensees found to be in non-compliance of the new CE requirements upon renewal. After consideration and discussion, the Board did make some policy decisions with regard to renewal applicants who do not meet the CE requirements. The Board determined all applicants will be asked the question whether they have, or will have, completed the required CE by the renewal date for March 31st. If an applicant answers no to the question, they will not be allowed to renew their license and it will lapse on April 1. Upon proof that they have completed the required CE and payment of the renewal fee and lapsed license fee, the applicant will be able to re-instate their lapsed license. Applicants who state, on the renewal form, that they have or will completed the CE by 3/31 and subsequently renew, will be subject to random audits. If audited, and licensee found in non-compliance, an investigation will be opened to determine if disciplinary action is warranted. The Board reviewed disciplinary actions taken in other states. The Board and Staff will develop a disciplinary matrix for use in applying civil penalties for non-compliance of CE regulations.

Question Regarding Approval of CE for CMS Course

Licensee Jackie Fowler asked the Board to consider approving a Center for Medicare and Medicaid Services web-based training for CE credit. After review and consideration, the Board approved the CMS course titled "PPS Success-Implication for Therapy".

Home Visits and Home Assessments

Licensee Tim Esau wrote a letter, to the Board, regarding his concerns about the Board's determination that home assessments must be done by a physical therapist. Board Staff surveyed several large employers to determine what they require, with regards to home assessments, and in all cases the home assessment is done by a physical therapist. After consideration and discussion, the Board reiterated that a home assessment needs to be done by a PT. If the PT recommends follow-up home visits, that can be done by a PTA if the goals for the visit are set by the PT. The Board understands that there is a shortage of PTs nationwide, but felt strongly that a home assessment, which determines whether a patient can safely be discharged to go home, should be done by a PT.

Direct Access Rule Clarification

Licensee Louise Gilbert asked the Board for clarification regarding the length of time she would need to wait, between the discharge of a direct access patient, and the re-initiation of care for the same diagnosis or injury. After consideration and discussion, the Board determined that if a patient is discharged from care because the goals have been met, and the "episode of care" has ended, that patient can return to PT in a reasonable amount of time without a script from an MD. What the Board does not want is for the PT to think, "the 30 days are up, I will discharge you, go home for a week and then come back and we will start over". The Board also wants staff to consider some clarification of the direct access rules when the next Rules Advisory Committee meets.

New 60 Day Direct Access Rule

Sponsored by the OPTA, HB 2386 will go into effect on January 2, 2008. The primary impact, on PT Board Statute, is the extension of the requirement to refer a direct access patient to a medical provider after 30 days. The timeframe to refer will change to 60 days on January 2nd. After consideration and discussion, the Board determined that any direct access patients evaluated and treated prior to or on December 31, 2007 will still be subject to the 30-day referral requirement. Any new direct access patients evaluated and treated on or after January 2, 2008 may be seen for up to 60 days prior to the requirement to refer.

Request From the OPTA Legislative Committee

The OPTA's Legislative Committee requested the Board's consideration on two matters. Tracy Rutten, Lobbyist for the OPTA, was in attendance and addressed the first issue with the Board. The OPTA wanted the Board to consider rule making that would further define manual therapy or manipulation in the Board

Administrative Rule and set some guidelines as to the qualifications of therapists who use these techniques. After consideration and discussion, the Board determined it would support amendments to the rule that would better define both the terms and the qualifications for therapists using manipulation. Further, it instructed Board Staff to include this topic in the next rule making process and to consider this topic when soliciting and selecting candidates to serve on the Advisory Committee. The second request was presented, to the Board, by Steve Alstot, PT. Steve serves as a member of the OPTA Legislative Committee. The Committee wanted to know if the Board would consider an article in the Board's next Newsletter regarding the Chiropractic Association's ballot measure initiative. The Chiropractic Association is trying to get an initiative on the November 2009 ballot. The initiative would specify the educational and clinical requirements necessary for a health care provider to perform any kind of spinal manipulation on a patient. After consideration and discussion, the Board decided it would not be in the best interest of the Board to play any kind of role in the public political arena. This was an issue targeting limitations to PT Scope of Practice, and was better suited for debate between the two professional associations.

Question Regarding the Sale of Products to Non-Patients

Licensee Jeff Giulietti posed the question, to the Board, whether it is OK to sell medical supplies, i.e. postural support and exercise items, to non-patients? After consideration and discussion, the Board determined this issue is not addressed by the Statute or Rule, and that the sale of these products to non-patients is not a Board issue. The Board and its Legal Counsel stated that it is more of a liability issue for the Licensees. If a Licensee chooses to sell products to non-patients, they may be putting themselves at risk of someone getting injured and then saying, "well, a physical therapist recommended this or sold it to me". In addition, the Board suggested that if a Licensee chose to sell products to non-patients they should not make any recommendations about the product or give any advice regarding usage when selling product to non-patients.

Federation of State Boards of Physical Therapy Annual Conference

The Board Executive Director shared, with the Board, a report regarding the FSBPT Delegates Assembly held in Memphis. The information in the report included the motions moved before the Delegates, the position of the Oregon Board, and the outcome of each motion. Also included, in the report, was Oregon support position for the nominees slated, for elective offices, and the outcome of the election. Copies, of the report, are available by contacting Jim Heider in the Board office at 971.673.0203.

Policy Regarding Approval of Remedial Courses for Licensee's Sanction by the Board

Board Staff asked the Board's consideration of delegating to Staff the authority to research and approve remedial course work or programs mandated by the Board as part of a sanction or disciplinary action against a Licensee. This would include such things as documentation courses, ethics course, boundary courses, exam refresher courses, etc. After consideration and discussion, the Board moved to establish a policy allowing Board Staff to research, review, and approve course work and programs used in remediation of disciplinary actions.

Approval of Meeting Minutes

The Minutes, from the August 10, 2007 Regular Board Meeting, were presented to the Board. The Chair opened the floor for discussion and comments. With two noted changes, the Minutes were approved for publication as written.

Future Board Meeting Dates

As established by the Board, the future Board Meeting dates are as follows: December 07, 2007 (to be held at Pacific University); February 01, 2008; April 04, 2008; May 30, 2008; July 25, 2008; September 19, 2008; and, November 14, 2008. 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 August 10, 2007 through October 16, 2007. The Chair opened the floor, for discussion, with regard to the new licensees and permit holders. Without noted discussion, the Board voted unanimously to ratify the new licensees and permit holders for the above-noted period.

Other New Business

The Board Chair called for other new business.

- The Board received a call from an associate of Licensee Alanna McLean. Ms. McLean died in September. The Licensee owned a private practice and the surviving family wants to close the business. The associate wanted to know, from the Board, what if anything the family should do with the patient files. After Board consideration and discussion, the Board determined that the Board had no jurisdiction over the family, the business, the records, or the associate, who was not a licensee of the Board. The Board did feel it was necessary to convey to the family that, under HIPAA Privacy and Security Regulations, the Estate is responsible for maintaining the privacy of the records and insuring that patients can gain access to the records if they so desire. The Board suggested that an attorney, for the Estate, determine the appropriate course of action in assuring that patients can access their records and the records remain confidential. The Board did offer two possible solutions: ask a local therapist to assume the responsibility for the patient records; or, send out a letter to the patients and alert them that they may arrange to obtain their records if they so

choose. The Board instructed the Staff to send a letter to the Licensee's husband noting the above information.

- The Board Clinical Advisor shared with the Board an escalating issue with regards to the role PTAs can play in the reassessment of a patient. After consideration and discussion, the Board determined that a PTA can play a role in the documentation for the reassessment of a patient. They can provide status and data to the PT; however, it is the PT who must personally see the patient and document that they indeed performed the reassessment. The Board also stated that a PTA could write the note to the physician documenting the reassessment because the rules do not address this issue. However, again it must be the PT who personally performs and documents that the reassessment has been completed. Also, in question was the need for a PT to co-sign the work of a PTA under their supervision. The Board quickly stated there is nothing in Statute or Rule that would require a PT to co-sign anything a PTA has documented. The Board directed Staff to add the clarification of reassessments, performance and documentation to the list of items to be reviewed by the Rules Advisory Committee.
- The Executive Director shared, with the Board, a request from a foreign-educated therapist for consideration of licensure in the State of Oregon. The therapist is a graduate of a Canadian non-CAPTE accredited program. In 1994 the therapist completed the credentialing process through ICA for the State of Hawaii. He successfully passed the NPTE and currently holds a Hawaiian PT license. As instructed, by Board staff, the therapist started the Oregon credentialing process with IERF. However, the former University is unable to provide IERF the specific syllabi necessary to complete the evaluation. This issue came up just days before the Board meeting. The Board is sensitive to the needs of the therapist; however, it would not be prudent for the Board to deliberate on this issue until it has all the facts. The Board instructed the Executive Director to contact the Board Legal Counsel to see if the Board has any authority to make exception to the requirements. Also, to contact the Director of the FCCPT to see if they can help the therapist with the credentialing report. Relying on their vast libraries and history of previous credentials, the FCCPT has been able to help other candidates in similar situations. Lastly, the Board asked the Executive Director to pull the files of classmates of the therapist, who currently hold Oregon licenses (noted in therapist's letter to the Board). The Board asked that the Director report his findings back to them at the December 7, 2007 Board meeting.

With no additional other new business cited, Board Chair, Joana Freedman, adjourned the Board Meeting at 3:58 PM.

Scroll Down to View Attachments

ATTACHMENT "A"

Oregon Physical Therapist Licensing Board Fiscal Year-to-Date Financial Report July 2007 through September 2007

	<u>Jul 07 - Sep 07</u>	<u>Budget</u>	<u>Variance</u>
Ordinary Income/Expense			
Income			
4000 · Income	<u>22,407.53</u>	<u>111,030.00</u>	<u>-88,622.47</u>
Total Income	<u>22,407.53</u>	<u>111,030.00</u>	<u>-88,622.47</u>
Gross Profit	22,407.53	111,030.00	-88,622.47
Expense			
5100 · Payroll Costs	65,903.59	69,045.00	-3,141.41
5600 · Travel Costs	-276.80	2,250.00	-2,526.80
6100 · General Office Expenses	3,003.35	5,910.00	-2,906.65
6190 · Dues and Subscriptions	30.48	600.00	-569.52
6200 · Postage	320.11	2,325.00	-2,004.89
6400 · Contracted Services	21,704.74	17,310.00	4,394.74
6500 · Rent and Occupancy	2,775.60	4,005.00	-1,229.40
6600 · Background Checks	3,195.00	3,000.00	195.00
6650 · Investigation Expenses	0.00	150.00	-150.00
6800 · Computers & Accessories	522.78	1,050.00	-527.22
Total Expense	<u>97,178.85</u>	<u>105,645.00</u>	<u>-8,466.15</u>
Net Ordinary Income	<u>-74,771.32</u>	<u>5,385.00</u>	<u>-80,156.32</u>
Net Income	<u><u>-74,771.32</u></u>	<u><u>5,385.00</u></u>	<u><u>-80,156.32</u></u>

Scroll Down to View Narrative

**October 17, 2007 Board Meeting
Financial Report Narrative
Reporting Period 07/01/07 – 09/30/07**

Total Income is under budget by \$88,622

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, 7/1/07-6/30/08.

The Board's projected income for the fiscal year '07-'08 is budgeted at \$450,000. This is accrued at \$37,010/month (\$111,030 to 09/30/07). Actual income booked to 09/30/07 equals \$22,408; this creates an income deficit of (\$88,622). The vast majority of the accrued income will actually be received during the renewal cycle, Jan-Mar '08.

This is not an item for concern at this point.

Total Expense is under budget by \$8,466

Narrative: All year-to-date expenses are following on track, or slightly under budget, with the exception of Contracted Services. Contracted Services are over budget by \$4,395. This is due primarily to legal counsel expense incurred for preparation of a complex contested case hearing. This hearing did end up settling with a Stipulation and Final Order. For the two months ending August, 2007, the Board budget for legal counsel was \$5,000. The actual spent for this case, in preparation for the hearing, was \$9,637. Since the inception of this case in August, 2005, the Board has incurred legal expenses totaling \$29,688. Note: this is just the expense for the legal counsel; this figure does not include any costs for allocated staff time, the Administrative Hearings Office, or use of the part-time Investigator.

**Physical Therapist Licensing Board
Board Meeting
December 7, 2007**

MINUTES

Friday, December 7, 2007

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

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

EXECUTIVE (CLOSED) SESSION

The December 7, 2007 Board Meeting was held off-site at Pacific University Hillsboro Campus, 222 SE 8th Avenue, Hillsboro, Oregon. Board Chair, Joana Freedman convened the Board, into Executive Session at 8:45 AM, citing ORS 192.660(2)(k). 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

At the completion of the Executive Session, the Board adjourned for a meal break. At 1:00 PM, Board Chair, Joana Freedman brought the Board into Public Session. The Public Session was also held off-site at the Hillsboro Civic Center, 150 E. Main Street Room C117, Hillsboro, Oregon. In Public Session, the Board considers inquiries from licensees and the public; approves the prior Board Meeting minutes; ratifies new licensees; reviews general correspondence; entertains any motions; publicly votes on

any actions so moved before the Board; and conducts any other Board Public Session business.

The public and interested parties are invited to attend this portion of the meeting. All the PT students, from Pacific University, were invited to attend the Public Session 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 231-01/07

Motion, by Daiva Banaitis, to issue Notice of Proposed Discipline citing violations of OAR 848-040-0155(3); 848-040-0145(3); and 848-015-0030(1)(b) and impose a \$250.00 civil penalty. Seconded by Burke Selbst

Motion passed, by quorum, 6-0; Cindy Cunningham was not present for the vote.

Case PT 231b-01/07

Motion, by Daiva Banaitis, to issue Notice of Proposed Discipline citing violations of OAR 848-040-0155(2); 848-040-0155(3); and 848-040-0155(1) and impose a \$1,000.00 civil penalty. Seconded by Burke Selbst

Motion passed, by quorum, 4-2; Joana Freedman and Jason Fiske voted no to the motion;

Cindy Cunningham was not present for the vote.

Case PT 230a-01/07

Motion, by Daiva Banaitis, to issue Confidential Advisory Letter noting violations of OAR 848-040-0155(2) and 848-040-0155(3).

Seconded by Burke Selbst

Motion passed, by quorum, 6-0; Cindy Cunningham was not present for the vote.

Case PT 230b-01/07

Motion, by Daiva Banaitis, to issue Confidential Advisory Letter noting violations of OAR 848-040-0145(3), 848-040-0155(3) and 848-015-0030(1)(b).

Seconded by Burke Selbst

Motion passed, by quorum, 6-0; Cindy Cunningham was not present for the vote.

Case PT 230c-01/07

Motion, by Daiva Banaitis, to issue Confidential Advisory Letter noting violations of OAR 848-040-0155(2) and 848-040-0155(3).

Seconded by Burke Selbst

Motion passed, by quorum, 5-0; Steve Alstot recused himself from the vote; Cindy Cunningham was not present for the vote.

Case PT 255a-11/07

Motion, by Daiva Banaitis, to issue Confidential Advisory Letter noting violations of OAR 848-040-0155(2) and 848-040-0155(3).

Seconded by Burke Selbst

Motion passed, by quorum, 5-1; Steve Alstot voted no to the motion; Cindy Cunningham was not present for the vote.

Case PT 255b-11/07

Motion, by Daiva Banaitis, to issue Confidential Advisory Letter noting violations of OAR 848-040-0145(3), 848-040-0155(3) and 848-015-0030(1)(b).

Seconded by Burke Selbst

Motion passed, by quorum, 5-1; Steve Alstot voted no to the motion; Cindy Cunningham was not present for the vote.

Case PT 256a-11/07

Motion, by Daiva Banaitis, to issue Confidential Advisory Letter noting violations of OAR 848-040-0155(2) and 848-040-0155(3).

Seconded by Burke Selbst

Motion passed, by quorum, 5-1; Steve Alstot voted no to the motion; Cindy Cunningham was not present for the vote.

Case PT 256b-11/07

Motion, by Daiva Banaitis, to issue Confidential Advisory Letter noting violations of OAR 848-040-0145(3), 848-040-0155(3) and 848-015-0030(1)(b).

Seconded by Burke Selbst

Motion passed, by quorum, 5-1; Steve Alstot voted no to the motion; Cindy Cunningham was not present for the vote.

Case PT 257a-11/07

Motion, by Daiva Banaitis, to issue Confidential Advisory Letter noting violations of OAR 848-040-0155(2) and 848-040-0155(3).

Seconded by Burke Selbst

Motion passed, by quorum, 5-1; Steve Alstot voted no to the motion; Cindy Cunningham was not present for the vote.

Case PT 257b-11/07

Motion, by Daiva Banaitis, to issue Confidential Advisory Letter noting violations of 848-040-0155(3) and 848-015-0030(1)(b).

Seconded by Burke Selbst

Motion passed, by quorum, 5-1; Steve Alstot voted no to the motion; Cindy Cunningham was not present for the vote.

Case Theresa (Cranford) Johnson Expired License Applicant

Motion, by Daiva Banaitis, to acknowledge applicant as competent to practice, as a PTA in the State of Oregon, and to allow her to re-apply for licensure, through examination, without having to sit the examination again.

Seconded by Burke Selbst

Motion passed, by quorum, 6-0; Cindy Cunningham was not present for the vote.

Case PT 251-8/07

Motion, by Daiva Banaitis, to close case citing no violations.

Seconded by Burke Selbst

Motion passed, by quorum, 5-0; Jason Fiske abstained from the vote; Cindy Cunningham was not present for the vote.

Case PT 251b-8/07

Motion, by Daiva Banaitis, to issue Confidential Advisory Letter noting need for improved daily notes and patient documentation.

Seconded by Burke Selbst

Motion passed, by quorum, 5-0; Jason Fiske abstained from the vote; Cindy Cunningham was not present for the vote.

Pain Management CE Requirements for PTs and PTAs

Sherri Paru, PT, Clinical Advisor/Investigator confirmed, in Public Session, that the new statutory requirement for mandatory pain management CE, due by March 31, 2010, does not include PTAs and that the amended rules, relative to the pain management requirement, will include that information.

Contested Case Hearing Presentation by Carol Parks, AAG

Board Counsel, Senior Assistant Attorney General, Carol Parks, presented, to the Board and its guests, a PowerPoint presentation. The presentation outlined the Department of Justice and Office of Administrative Hearings policies and procedures regarding the complete cycle of a requested contested case hearing.

Maciej Mocek - potential foreign-educated applicant for licensure

At its December 7, 2007 Board meeting, the Board reviewed a request, from Mr. Mocek to consider his professional life experience as remediation for the deficiencies noted in the FCCPT October 4, 2005 Credentials Report prepared for the Oregon Board. Before the Board could deliberate, Board Counsel advised the Board that it did not have the legal authority to make exceptions to the Administrative Rule requirements for credentialing. Based on Mr. Mocek's circumstances, and the similarity to other recent cases brought before the Board, the Board has determined that it may need to revisit its current administrative rules regarding its credentialing criteria and subsequent

licensure of foreign-educated therapists. The rule review would apply to a therapist who: has gone through some type of credentialing; holds a valid license in another US jurisdiction; has successfully taken and passed the NPTE; and may have a number of years professional experience in the US. The Board has instructed Staff to take this matter up with the 2008 Rules Advisory Committee. The Board also instructed staff to advise Mr. Mocek of his current options: 1) Wait six to nine months to see what, or how new rule amendments may impact the criteria for licensing foreign-educated therapists. 2) Do the remedial work necessary to meet the current Oregon credentialing criteria.

Kevin Bourlai -potential foreign-educated applicant for licensure

At its December 7, 2007 Board meeting, the Board reviewed a request, from Mr. Bourlai, to consider his professional life experience as evidence of his competency to apply for physical therapy licensure for the State of Oregon. Mr. Bourlai received his education in Canada and the University he attended is unable to produce the historical documents necessary to complete the required Credentials Report. As noted above, before the Board could deliberate, Board Counsel advised the Board that it did not have the legal authority to make exceptions to the Administrative Rule requirements for credentialing. Based on Mr. Bourlai's circumstances, and the similarity to other recent cases brought before the Board, the Board has determined that it may need to revisit its current Administrative Rules regarding its credentialing criteria and subsequent licensure of foreign-educated therapists. The rule review would apply to a therapist who: has gone through some type of credentialing; holds a valid license in another US jurisdiction; has successfully taken and passed the NPTE; and may have a number of years professional experience in the US. The Board has instructed Staff to take this matter up with the 2008 Rules Advisory Committee. The Board also instructed staff to advise Mr. Bourlai of his current options: 1) Wait six to nine months to see what or how new rule amendments may impact the criteria for licensing foreign educated therapists. 2) Work with the FCCPT to try and piece together a Credentials Report that would be acceptable to the Oregon Board.

General Topics/Business

- The Executive Director reported that he has been appointed to Chair the FSBPT Exam Administration Committee, this is a 3 year appointment, effective January 1, 2008.
- The Executive Director presented the 2009 Legislative Calendar, and timing for submission of proposed legislative concepts.
- The Executive Director presented the anticipated 2008 interim legislation topics that may have impact on the Board: the number of public members sitting on a board; the mandatory requirement for Boards to report suspected criminal activities to the appropriate law enforcement agency; and the development of published disciplinary guidelines. Diana Godwin, Attorney for Oregon Physical Therapist in Independent Practice, shared an addition legislative concept she hopes to present during the interim

session. The concept would amend ORS 419B.005 and would add physical therapists to the list of health care providers who have mandatory requirements to report suspected child abuse.

- The Executive Director presented the final draft, of the proposed policy, on approval of compliance remediation courses by Board Staff. After consideration, Daiva Banaitis, PT Board Member, moved that the Board ratify the policy for staff approval of compliance and remediation courses as presented. The motion was seconded, by Burke Selbst, PT Board Member, and passed unanimously by the Board.
- The Executive Director reported that the FSBPT was implementing a new version of the Course Work Tool, effective April 1, 2008. The Director also reminded the Board that it is the Course Work Tool adopted by the Board, which is the standard used to measure foreign-educated therapists PT program content to that of a US educated therapist. The new requirements for general education credits will increase, from 54 credits to 60 credits, and professional education credits will increase, from 69 credits to 90 credits. The Board discussed the implications and concerns for foreign-educated therapists and their ability to meet the new standards as set by the Course Work Tool. The Executive Director shared, with the Board, a new program named P.L.A.N. (Planned Learning Assistance Network) created by the Foreign Credentialing Commission on Physical Therapy (FCCPT). The program is designed to identify and offer remediation opportunities, for foreign-educated therapists whose credentials do not meet the standards, as set by any particular jurisdiction. Further, the Director reminded the Board that the Oregon Board does allow for remedial work, as an option, for therapists who do not meet the Board's credentialing standards.
- The Executive Director presented a draft of the updated renewal application and instructions and asked for Board comments. The Board asked that the link to the Board website, directing applicants to the new CE Rules, be added to the form. The Board also requested staff to include a statement relative to an applicant who checks the box "I will complete the CE", the renew is issued and later applicant determines that they can not meet the CE requirement. The Board wanted a statement that said the therapist needs to contact the Board prior to March 31, 2008.

Historic Exam Passing Score Criteria

After researching historical Board archives, the Director presented documentation of his findings relative to the history and adoption of Administrative Rule passing score criterion used in consideration of new examination and endorsement licensure applicants. The Director's findings indicated that there exists a discrepancy, within Administrative Rule OAR 848-010-0020(5)(b), and the Board's actual intention and application of the rule. The Rule reads: "For applicants examined, from January 5, 1983 through January 31, 1996, the minimum overall passing score shall be based on a

formula using the national average raw score, minus two standard errors of measurement verified by a Board-approved examination service". After discussion and consideration, the Board instructed the Director to include the following Amendment to OAR 848-010-0020(5)(b) during the 2008 Advisory Rules Committee proposed rule making changes and updates: "For applicants examined, from January 5, 1983 through January 31, 1996, the minimum overall passing score shall be based on a formula using the national average raw score, minus two average standard errors of measurement ~~verified by a Board-approved examination service~~ **as determined by the Board.**" The latter proposed Amendment has been the passing score criteria used, by the Board, since the adoption of the Rule in 1984.

Ethical Questions Posed by Mark Morenco, ethics professor at Pacific University

The Pacific University third year physical therapy ethics students developed two case scenarios presented to the Board. The intent was to determine what action, if any, the Board may take if either of the scenarios were brought before the Board in the form of a complaint. The first scenario dealt with a physical therapist's legal obligation to treat someone. The second question dealt with the provision of pro bono services. Both scenarios were general, in content, and after discussion and consideration, Board Legal Counsel determined that, in the case where a physical therapist refused to treat a patient, there is nothing in Statute or Rule that would require or obligate a therapist to treat any patient. If the denial for treatment was ethical, in nature, the Board does have Rules that hold a therapist responsible for ethical and professional behavior. In the case requiring a therapist to provide pro bono work, again Board Counsel stated there is nothing in Statute or Rule that would require or obligate a therapist to provide any kind of pro-bono work. The point was made by, Sherri Paru, PT, Clinical Advisor, that if pro-bono work is provided, the requirement for patient treatment and documentation is the same as if there was a fee for service. Also, Board Member Daiva Banaitis, PT commented that, as health care professionals, all therapists have a moral and ethical obligation to give back to their community.

Question Regarding use of "Urgent PC" & Removal of Needles

After consideration, the Board determined that it would be within the physical therapy Scope of Practice to remove a needle placed by a physician during an Urgent PC treatment.

Question Regarding the Sale of Exercise Recovery Products

After consideration, the Board determined that it is not within the physical therapy Scope of Practice to sell exercise recovery products. A therapist may provide informational materials to patients and answer questions, but the Board felt that physical therapists do not have the specific knowledge to recommend one product over another. Further, the Board felt that these types of products are targeted for a small percentage of elite level athletes and not suitable for the typical patient population.

Future 2008 Board Meeting Dates

As established by the Board, the future Board Meeting dates are as follows: February 01, 2008; April 04, 2008; May 30, 2008; July 25, 2008; September 19, 2008; and November 14, 2008. Meeting Dates, Notices, and published Minutes may be found on the Board website at www.ptboard.state.or.us.

Approval of Meeting Minutes

The Minutes, from the October 17, 2007 Regular Board Meeting, were presented to the Board. The Chair opened the floor for discussion and comments. With noted amendments, the Minutes were approved for publication as written.

Child Abuse Reporting Bill

Diana Godwin, Attorney At Law and Counsel Representative for Oregon Physical Therapists in Independent Practice (OPTIP), presented, to the Board, a draft of her proposed legislation that would amend ORS 419B.005 adding physical therapists to the list of public or private officials required to report when the official has reasonable cause to believe a child with whom they come in contact has suffered abuse or that any person with whom the official comes in contact has abused a child. Ms. Godwin asked for the Board support of this proposed Legislative Amendment. After consideration, the Board determined it would join, with the OPTA, in support of Ms. Godwin's efforts to pass the proposed amended legislation forward.

Ratification of PT/PTA Licenses & Temporary Permits

The Board was presented a list of new licensees for the period of October 17, 2007 through December 06, 2007. The Chair opened the floor, for discussion, with regard to the new licensees and permit holders. Without noted discussion, the Board voted unanimously to ratify the new licensees and permit holders for the above-noted period.

Other New Business

The Executive Director shared, with the Board, that the Administrative Rules PowerPoint Presentation Program created and presented, by Sherri Paru, PT Clinical Advisory/Investigator, at the OPTA winter forum, was a huge success. The Executive Director also announced that, at the directive of the Board, staff has brought together a 2008 Administrative Rules Advisory Committee and the initial meeting has been scheduled for Wednesday, December 12, 2007. With no additional other new business cited, Board Chair Joana Freedman adjourned the Board Meeting at 4:17 PM.