

**Physical Therapist Licensing Board  
Administrative Rules Hearing  
FEBRUARY 5, 2010**

**MINUTES**

**Friday, February 5, 2010**

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

**Board Members Absent:** Nancy Wilson, PTA 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, February 5, 2010 in Room 1-C 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 January 1, 2010 Edition of the Oregon Bulletin, published in the Winter (December 2009) Board Newsletter sent to all Licensees, and published on the Board Website. The Hearing convened, at 8:30 AM, by Jim Heider, Board Executive Director and Presiding Hearing Officer.

Testimony was presented by Diana Godwin, Attorney at Law and legal counsel for Oregon Physical Therapist in Independent Practice (OPTIP); Susan Bamberger, PT, President of the Oregon Physical Therapy Association (OPTA); Dylan Hogan, PT Licensing Board Liaison for the OPTA. Written testimony was submitted by Karen Walsh, PT and Candace Bartlett Government Relations Issues Consultant for Aegis Therapies.

After the testimony was complete, including Board consideration, questions and discussion, Mr. Heider recommended, to the Board, to consider any amendments and adoption of the proposed Administrative Rule changes in Public Session. Mr. Heider adjourned the Hearing at 9:50 AM.

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  
February 5, 2010**

**MINUTES**

**Friday, February 5, 2010**

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

**Board Members Absent:** Nancy Wilson, PTA Member

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

**Legal Counsel:** Carol Parks, AAG

Following the completion of the public Administrative Rules Hearing, at 10:05 AM, 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.

**PUBLIC (OPEN) SESSION**

At 1:03 PM, Board Chair Freedman convened the Board into a special Public Session. During this portion, of the meeting, the Board considered inquiries from licensees and the public; approved the prior Board Meeting minutes; ratified new licenses; reviewed general correspondence; entertained motions; publicly voted on any actions so moved before the Board; and conducted any other Board Public Session business.

The public and interested parties are invited to attend this portion of the meeting. The Public Session was digitally recorded and stored electronically on the Board's file server. Audio copies are available, to the public or interested parties, for the administrative cost to reproduce the audio file.

**Discussion/Legal Advice Regarding Hearing on Proposed Rules**

The Board discussed the testimony presented at the Public Administrative Rules Hearing and, with two amendments to the proposed language noted; Cindy Cunningham moved to adopt the proposed rule language as amended. Daiva Banaitis seconded the motion. With no further discussion, the Chair called for the vote and the motion passed unanimously 6-0. The Board

instructed the Director to amend the language, as noted, and file the rules with the Secretary of State's Office with an effective date of March 1, 2010.

### **Board Motions**

#### **Case PT 313-3/09**

Motion, by Cindy Cunningham, to issue Final Order by Default.

Seconded by Daiva Banaitis.

Motion passed by unanimous vote 6-0.

#### **Case PT 332-12/09**

Motion, by Cindy Cunningham, to close case citing no violation.

Seconded by Daiva Banaitis.

Motion passed by unanimous vote 6-0.

#### **Case PT 333a-12/09**

Motion, by Cindy Cunningham, to issue Confidential Advisory Letter noting Board concerns over documentation that does not meet minimum standards; and requiring Licensee to complete a Board approved documentation course within 90 days of the dated Letter. The Board will complete an audit of the Licensee's documentation within 6 months of the course completion date.

Seconded by Daiva Banaitis.

Motion passed by unanimous vote 6-0.

#### **Case PT 333b-12/09**

Motion, by Cindy Cunningham, to issue Proposed Order of Disciplinary Action citing Licensee for the improper use of aides and documentation that does not meet minimum standards. Require Licensee to complete a Board approved documentation course, within 90 days of the final order. The Board will complete an audit of the Licensee's documentation within 60 days of the course completion date. Assessed Licensee a civil penalty of \$500.

Seconded by Daiva Banaitis.

Motion passed by unanimous vote 6-0.

#### **Case PT 329-11/09**

Motion, by Cindy Cunningham, to close case citing no violation.

Seconded by Daiva Banaitis.

Motion passed by unanimous vote 6-0.

#### **Case PT 330-11/09**

Motion, by Cindy Cunningham, to close case citing no violation.

Seconded by Daiva Banaitis.

Motion passed by unanimous vote 6-0.

#### **Case PT 249-7/07**

Motion, by Cindy Cunningham, to issue Confidential Advisory Letter noting Board concerns over failure to obtain timely referrals. Also noting that the Board reserves the right to audit patient records over the next 12 months.

Seconded by Daiva Banaitis.

Motion passed by unanimous vote 6-0.

### **CE Request For Shadowing Therapist Providing Treatment to Family Members**

A therapist requested continuing education credit for shadowing therapists providing weekly treatment to both of her children for lumbar spine and SI joint injuries related to sports. After consideration, the Board determined that they would not approve the shadowing for continuing education credit.

### **Board Position on Dry Needling**

The Board received a letter from the Medical Board reiterating the position that “dry needling” is the act of acupuncture and asked that the PT Board publicize their position to all physical therapists. After discussion, the PT Board held their position that “dry needling” is not the act of acupuncture. Further, the Board determined that with specific post graduate education and training “dry needling” could safely and competently be administered by a physical therapist. The Board further determined that it would continue to hold neutral on its position pending possible talks with the Medical Board aimed at a compromise. In the interest of public safety, until training and education can be determined, the Board strongly advised licensee’s to not perform dry needling of trigger points.

### **2007-2009 Board Independent Financial Audit**

The Board Director reported that the firm of Moss Adams, LLP had completed the Board’s required biennial financial audit. There were no critical audit exceptions noted. However, based on a material weakness note from the Moss Adams Group, relative to the lack of recognition of current GAAP requirements, moving forward the Board will, on an annual basis, have its financial reports reviewed by a Certified Public Accountant who is certified in governmental agency accounting. A copy of the audit was given to each of the Board members; and, pursuant to ORS 182.472, a copy of the audit was included in the Biennial Report to the Governor’s Office, the President of the Senate, Speaker of the House and the Legislative Fiscal Office. The Board Audit Report is also published on the Secretary of States Audits Division website or is available from the Board office.

### **2009-2011 First Quarter Financial Report**

The Director presented the Board with a copy of its first quarter 2009 Financial Statement. The Statement included a narrative. The Director gave a verbal review and asked for questions. With no noted questions or concerns, the financials were approved by a consensus of the Board. Board financial statements can be found on the Board website at [www.ptboard.state.or.us](http://www.ptboard.state.or.us)

### **OPTA Request for Information Regarding Protection of the Term “Physical Therapy”**

Vice Chair Alstot reported on the OPTA’s plan to develop a 2011 legislative concept that would give the profession protection for use of the term “physical therapy”. The OPTA Government Affairs Committee was requesting the PT Board if it had, or could provide, or could track and document any calls or complaints the Board may have received relative to non-licensed physical therapists using the term “physical therapy”. After discussion, the Board determined that this was not a Board issue and that the Board was not staffed to set up a system for tracking this information.

### **General Topics/Business**

**Public Record Scanning Project Update** – The Director updated the Board on the public records scanning project. The administrative work is complete and all that is left is to work with

the Board's IT Consultant to publish the public documents on the Board verification look-up screen.

**License Renewal Update** – The Director reported that the initial response to the new online renewal system was positive. However, the number of renewals were way down compared to prior years at this same time. The Director contributed the slow return to the addition of the on-line system.

**US Bank Remote Banking Deposits** – The Director reported to the Board that following the end of the renewal cycle, the Board will move towards remote deposit. Remote deposit will allow the Board to process checks in-house through software and a desktop scanner. Board staff will train in administration of the system and application of the system. Utilizing the remote deposit system will eliminate the Board's lockbox services and their expensive service charges.

**Board Executive Appointments** – The Director reported that the four open positions on the Board have been filled. The Governor appointees are pending Senate confirmation. Upon Senate confirmation; returning to the Board for a second term is Vice Chair Steve Alstot, joining the Board are public members Troy Costales and Carol Sutton, the new professional PT Board member is Richard Rutt, PT, PhD.

**HB 2118** – The Director presented the Board with a copy of a letter from Governor Kulongoski's Chief of Staff, Chip Terhune. The letter notified the Director that with the passage of HB 2118, health board directors now serve at the pleasure of the Governor under the direct supervision of the board. A board can still appoint its director with the approval of the Governor. The Board can request the Governor remove the executive director; however, only the Governor can dismiss a director.

#### **Patrice Le Joubioux previously Oregon licensee with expired license request for application**

Mr. Le Joubioux was initially licensed in Oregon in 1988. His license lapsed in 1994 and expired for non-renewal in 1999. Since 1994 Mr. Le Joubioux has been living and working as a physical therapist in France. The Board directed staff to allow Mr. Le Joubioux to make the application and, when he does submit the application, bring it before the Board for further review and consideration, requiring primary source written verification from both France and Ireland.

#### **Approval of Board Meeting Minutes**

The drafted Minutes, from the November 20, 2009 Regular Board Meeting were presented to the Board. The Board Chair opened the floor for additional discussion and comments. With a few corrections noted, Cindy Cunningham moved to adopt and publish the minutes as written. The Motion was seconded by Daiva Banaitis and passed by a unanimous vote 6-0.

#### **2010 Board Meeting Dates**

As established by the Board, the future Board Meeting dates are as follows: April 30, 2010; July 16, 2010; September 10, 2010 and November 12, 2010. Meeting Dates, Meeting Notices, and published Minutes may be found on the Board website at [www.ptboard.state.or.us](http://www.ptboard.state.or.us).

#### **Case PT 283-6/08 Tamara Felix**

The Board Clinical Advisor/Investigator stated that no further action had been taken on this case, and the actions of the Board are pending the outcome of the Massage Board's investigation into Ms. Felix's practice.

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

The Director presented the Board with a list of new licensees and temporary permit holders for the period of November 20, 2009 through February 4, 2010. The Board Chair opened the floor

for discussion. Without noted discussion, Cindy Cunningham moved to ratify the list of new licensees. The Motion was seconded by Daiva Banaitis and passed by a unanimous vote 5-0. Jason Fiske was not present for the vote.

### **Other New Business**

The Board Chair called for other new business.

The Board Clinical Advisor/Investigator, Sherri Paru, reported that she will be presenting the boundary presentation at the FSBPT Annual Conference in Denver; and, she will present the same presentation at the APTA's Private Practice Section meeting in Washington DC in November. Ms. Paru was also asked by the OPTA to speak at their fall conference in October. However, the OPTA did not want Ms. Paru to present the boundaries presentation, they requested that she put together a presentation on administrative rules. After discussion with the Board Director, Ms. Paru declined the OPTA request because of her current commitments and workload she would be unable to put together a rules presentation in the timeframe allotted.

The Director handed out an updated copy of the Board roster and asked Board Members to review their individual information for accuracy.

With no additional new business cited, Board Chair Freedman adjourned the Board Meeting at 2:47 PM.

**END OF PUBLIC SESSION AGENDA**

**Oregon Physical Therapist Licensing Board  
Emergency Board Meeting  
April 5, 2010**

**MINUTES**

**Monday April 5, 2010**

**Board Members Present:** Joana Freedman, PT, Chair; Steve Alstot; PT, Vice Chair, Nancy Wilson, PTA Member; Carol Sutton, Public Member; Troy Costales, Public Member; Richard Rutt, PT Member; Burke Selbst, PT Member

**Board Members Absent:** Jason Fiske, PT Member

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

**Legal Counsel:** Carol Parks, AAG

**EXECUTIVE (CLOSED) SESSION**

The Emergency Board Meeting was held via telephone conference. There was less than 24 hours notice of the meeting. Pursuant to ORS 192.640(3), notice of the meeting was not provided to interested parties.

At 1:15 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 information relative to a complaint filed with the Board just a day prior. The allegations were such that the Board was concerned for the immediate safety of the public. Also, under legal advisement from Board Counsel, the Board considered possible actions regarding the direction of this 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 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 339-4/10**

Motion, by Nancy Wilson, for Board to issue an interim Stipulated Agreement not to practice physical therapy during the pendency of the investigation. If licensee does not agree to sign Stipulated Agreement, the Board will issue an Emergency Suspension Order.

Motion seconded by Steve Alstot.

The Director polled the Board.

Motion passed, by quorum 7-0; absent, for the vote, was Board member Jason Fiske.

Board Chair, Joana Freedman adjourned the Board Meeting at 2:05 PM.

**Physical Therapist Licensing Board  
Board Meeting  
April 30, 2010**

**MINUTES**

**Friday, April 30, 2010**

**Board Members Present:** Joana Freedman, PT, Chair; Steve Alstot, PT, Vice Chair; Jason Fiske, PT Member; Burke Selbst, PT Member; Nancy Wilson, PTA Member; Richard Rutt, PT Member; Troy Costales, Public Member; Carol Sutton, Public Member

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

**Legal Counsel:** Carol Parks, AAG

At 8:51 AM, 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.

**PUBLIC (OPEN) SESSION**

At 12:22 PM, Board Chair Freedman convened the Board into Public Session. During this portion, of the meeting, the Board considered inquiries from licensees and the public; approved the prior Board Meeting minutes; ratified new licenses; reviewed general correspondence; entertained motions; publicly voted on any actions so moved before the Board; and conducted any other Board Public Session business.

The public and interested parties are invited to attend this portion of the meeting. The Public Session was digitally recorded and stored electronically on the Board's file server. Audio copies are available, to the public or interested parties, for the administrative cost to reproduce the audio file.

**Board Motions**

**Case PT 339-4/10**

Motion, by Steve Alstot, to ratify the Stipulated Agreement and Final Order as written.

Seconded by Burke Selbst.

Motion passed by unanimous vote 8-0.

**Case PT 338-3/10**

Motion, by Steve Alstot, to issue a Confidential Advisory Letter regarding Licensee's arrest and conviction of DUI, outside of work hours and following the licensee's completion of a rehab program. Board will require Licensee to send monthly progress reports with a Board review at six months.

Seconded by Burke Selbst.

Motion passed by unanimous vote 8-0.

**Case PT 334-1/10**

Motion, by Steve Alstot, to issue a Confidential Advisory Letter regarding Licensee's arrest and conviction of second DUI, outside of work hours. Board will require Licensee to submit monthly progress reports for the duration of her court-ordered alcohol program. In addition, treatment provider will submit quarterly reports to the Board for the duration of the program and Board reserves the right to gain information about any random urine screens conducted.

Seconded by Burke Selbst.

Motion passed by unanimous vote 7-0. Board member Fiske recused himself from the case and abstained from the Board vote.

**Case PT 311-3/09**

Motion, by Steve Alstot, to close case citing no violation.

Seconded by Burke Selbst.

Motion passed by unanimous vote 8-0.

**Case PT 341-4/10**

Motion, by Steve Alstot, to audit 2008-2010 CE and to issue Confidential Advisory Letter noting Board concern that the entire required CE was not completed within the required certification period.

Seconded by Burke Selbst.

Motion passed by unanimous vote 8-0.

**Case PT 333b-12/09**

Motion, by Steve Alstot, to issue Stipulated Agreement and Final Order with findings as specified in the Proposed Order of Discipline. If Licensee will not settle the case by signing a Stipulated Agreement, Board will offer to settle with Stipulated Agreement citing violation of aides' rules and a Confidential Advisory Letter noting Board concerns of poor documentation.

Seconded by Burke Selbst.

Motion passed by unanimous vote 8-0.

**Case PT 335-2/10**

Motion, by Steve Alstot, to issue a Confidential Advisory Letter noting Board concerns over Licensee's lack of communication skills relative to patient treatment, and failure to gain and document informed consent prior to administering such treatment.

Seconded by Burke Selbst.

Motion passed by unanimous vote 7-0. Board member Fiske recused himself from the case and abstained from the Board vote.

**Case PT 328-11/09**

Motion, by Steve Alstot, to issue a Confidential Advisory Letter noting Board concerns over Licensee treating patients in his home without maintaining complete documentation records. Further, warning the Licensee that regardless of whether payment is received for treatment, if he provides physical therapy treatment, he must following all the Statutes and Rules relative to that treatment and complete all required documentation.

Seconded by Burke Selbst.

Motion passed by unanimous vote 8-0.

#### **Case PT 331a-11/09**

Motion, by Steve Alstot, to close case citing no violation.

Seconded by Burke Selbst.

Motion passed by unanimous vote 8-0.

#### **Case PT 336/2/10**

Motion, by Steve Alstot, to close case citing no violation.

Seconded by Burke Selbst.

Motion passed by unanimous vote 8-0.

#### **Case PT 343-4/10**

Motion, by Steve Alstot, to close case citing no violation. However, in closing letter, cite Board concern over Licensee's alcohol addiction, especially since Licensee has been disciplined by the Board in the past for a DUI arrest. Board will ask Licensee to submit monthly letters to the Board regarding her continued rehab. Also, in closing letter to the employer, Board will express concern over lack of policies and protocol for handling potentially impaired practitioners.

Seconded by Burke Selbst.

Motion passed by unanimous vote 8-0.

#### **Board Position on Dry Needling**

The Board received a letter from the Oregon Physical Therapy Association citing research and resources that support the OPTA's position that "dry needling" is within the scope of a physical therapist's practice. The OPTA recommends that the Board support Oregon Physical Therapists who wish to hone their practice expertise in the modality/technique of intramuscular manual therapy. After discussion, the PT Board held their original position that "dry needling" is not the act of acupuncture. Further, the Board determined that with specific post-graduate education and training "dry needling" could safely, and competently be administered by a physical therapist. The Board further determined that it would continue to hold neutral on its position, pending possible talks with the Medical Board aimed at a compromise. The Board instructed the Director to draft a letter, from the PT Board to the Medical Board, asking if they would be willing to meet with PT Board Representatives to further discuss the issue. Also, in the interest of public safety, until training and education can be determined, the Board strongly advises its Licensees to not perform dry needling of trigger points.

#### **General Topics/Business**

**Public Record Scanning Project Update** – The Director updated the Board on the public records scanning project. The administrative work is complete and all that is left is to work with the Board's IT Consultant to publish the public documents on the Board verification look-up screen. The Director told the Board that the project should be completed prior to the 7.16.2010 meeting date.

**License Renewal Update** – The Director reported that out of 4,000 renewals, 1,800 of them were completed on-line. That is a 45% usage return on the first year offering on-line renewals. The return rate on the on-line renewals was zero percent. Of the remaining 2,200 paper renewals, 200 of the forms were returned as incomplete, that is a 9% return rate. The Director reported that any time saved in the processing of the on-line renewals was more than used up in the handling and follow-up on the paper renewals. The cause of the high return rate was attributed to licensees not reading or following the detailed instructions, the biennial CE certification requirement, the new requirement for pain management CE as part of the total CE requirement, and the Oregon Health Workforce Institute’s mandated requirement for the completion of a work demographics survey, prior to the Board being able to issue the renewal license. The Director reported that in his seven years, with the Board, this was the worst renewal cycle he had experienced.

**US Bank Remote Banking Deposits** – The Director reported, to the Board, that staff had received and installed the equipment and software and completed the initial training to implement the use of the US Bank Remote Deposit System. The system allows the Board to process checks in-house through software and a desktop scanner. The Director cancelled the Board’s US Bank Lockbox services effective April 30, 2010. It is anticipated that through the use of the remote deposit system, the Board will save upwards of \$8,000 per year in bank lockbox fees.

**07.01.2009 – 03.31.2010 Financial Report** - The Director presented the Board with a copy of its Financial Report for 7.1.09 through 3.31.10. The Statement included a narrative. The Director gave a verbal review and asked for questions. With no noted questions or concerns, the financials were approved by a consensus of the Board. Board financial statements can be found on the Board website at [www.ptboard.state.or.us](http://www.ptboard.state.or.us) or copies of the financial report can be obtained by contacting the Board office.

### **Policy Issues**

**Board Approved Credentialing Agencies** – The Director reviewed the current credentialing policy that limits the Board approved credentialing agencies to the Foreign Commission on Physical Therapy (FCCPT) and International Education Research Foundation (IERF). Recently, the International Consultants of Delaware (ICD), and the International Credentialing Associates (ICA), have been added to the list of credentialing agencies that contract with the Federation of State Boards of Physical Therapy (FSBPT) to use the FSBPT’s foreign education credentialing “Course Work Tool” (CWT). It is the CWT that the Board requires as the report to show equivalency in the physical therapy education of a foreign-educated therapist. After discussion and consideration, the Board voted to expand its foreign credentialing policy with regards to the use of approved credentialers. In the future, the Board will accept a completed CWT from any credentialer who has contracted with and trained in the use of the tool from the FSBPT. As it stands right now, the Board would accept a completed CWT from the FCCPT, IERF, ICA, and ICD.

**Re-Entry to PT Practice, Use of PRT versus NPTE** – Current Oregon Statute ORS 688.100(3) and Administrative Rule OAR 848-010-0035(2) describe an event in which an applicant who previously held an OR license, which has been lapsed for a period of greater than five years, and does not hold a current license in any State to practice PT. Based on this scenario, Statute and Rule allow for the therapist to apply to the State of Oregon for licensure with the prerequisite that the applicant must demonstrate competence to practice physical therapy. Neither, Statute nor Rule defines the term competence. However, if the applicant fails to demonstrate competence, the Board may require remediation to satisfy the competency requirement. Some of the remediation may include, but is not limited to, a Board approved refresher course, serving an internship, working under a restricted license, completing an examination approved by the Board, or any combination of all of the above. After discussion, the Board has determined that, at

a minimum, for the reentry of a physical therapist that has been unlicensed and out of practice for more than five years and can not demonstrate competence, the therapist will have to take the FSBPT General Practice Review Tool. From the results of the examination, the Board would then determine if further remedial work was required. For a PTA in the same reentry scenario, at a minimum, the Board would require the physical therapist assistant to complete a Board approved refresher course, currently identified as the Lake Superior College PTA refresher course (note the FSBPT does not have a practice review tool for physical therapy assistants).

### **Approval of Board Meeting Minutes**

The drafted Minutes, from the February 5, 2010 Administrative Rules Hearing, the February 5, 2010 Regular Board Meeting, and the April 5, 2010 Emergency Board Meeting, were presented to the Board. The Board Chair opened the floor for additional discussion and comments. With no noted exceptions or amendments, Steve Alstot moved to ratify the minutes as presented. The Motion was seconded by Burke Selbst and passed by a unanimous vote 8-0.

### **2010 Board Meeting Dates**

As established by the Board, the future Board Meeting dates are as follows: July 16, 2010, September 10, 2010 and November 12, 2010. Meeting Dates, Meeting Notices, and published Minutes may be found on the Board website at [www.ptboard.state.or.us](http://www.ptboard.state.or.us).

### **Case PT 283-6/08 Tamara Felix**

The Board Clinical Advisor/Investigator stated that no further action had been taken on this case, and the actions of the Board are pending the outcome of the Oregon Massage Board's investigation into Ms. Felix's practice.

### **Case PT 337-3/10 Shannon Gaul, LMT**

Ms. Gaul is a licensed massage therapist and a PTA student. Ms. Gaul is currently teaching a rehabilitative exercise class, at a college level, that the Board has determined may constitute the practice of physical therapy. The Board instructed its Clinical Advisor to send Ms. Gaul a warning letter, advising her of Board concerns and asking that the class not include any form of physical therapy in its content and application.

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

The Director presented the Board with a list of new licensees and temporary permit holders for the period of February 5, 2010 through April 29, 2010. The Board Chair opened the floor for discussion. Without noted discussion, Steve Alstot moved to ratify the list of new licensees. The Motion was seconded by Burke Selbst and passed by a unanimous vote 8-0.

### **Other New Business**

The Board Chair called for other new business:

**Alcohol and Drug Training** - Troy Costales, Board Public Member, shared with the Board a possible education opportunity to invite an ODOT Master Trainer and Officer to present a class on the effects of alcohol and drugs, including prescription drugs, on an individual's physical and mental capabilities. The Board Director indicated that this could be a valuable presentation for the Board and even more valuable if the presentation could be done in Public Session held at Pacific University with the PT students present. The Board was very interested in the possibility of making the training happen. The Chair asked Troy to contact the Director with more information.

**Salem Hospital CE request** – Nancy Wilson shared with the Board a question from Salem Hospital regarding approval of two continuing education programs, Diversity and Cultural Competency in Healthcare and Latino Culture and the Impact on Healthcare. Before making a decision, Sherri Paru asked Nancy to send her more information specific to the courses.

With no additional new business cited, Board Chair Freedman adjourned the Board Meeting at 2:52 PM.

**END OF PUBLIC SESSION AGENDA**

**Physical Therapist Licensing Board  
Board Meeting  
July 16, 2010**

**MINUTES**

**Friday, July 16, 2010**

**Board Members Present:** Joana Freedman, PT, Chair; Steve Alstot, PT, Vice Chair; Jason Fiske, PT Member; Burke Selbst, PT Member; Richard Rutt, PT Member; Nancy Wilson, PTA Member; Troy Costales, Public Member; Carol Sutton, Public Member

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

**Legal Counsel:** Carol Parks, AAG

At 8:30 AM 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.

**PUBLIC (OPEN) SESSION**

At 1:15 PM, Board Chair Freedman convened the Board into Public Session. During this portion of the meeting, the Board considered inquiries from licensees and the public; approved the prior Board Meeting minutes; ratified new licenses; reviewed general correspondence; entertained motions; publicly voted on any actions so moved before the Board; and conducted any other Board Public Session business.

The public and interested parties are invited to attend this portion of the meeting. The Public Session was digitally recorded and stored electronically on the Board's file server. Audio copies are available, to the public or interested parties, for the administrative cost to reproduce the audio file.

**Board Motions**

**Case PT 339-4/10**

Motion, by Troy Costales, to issue a Stipulated Agreement and Final Order terminating interim Stipulated Agreement allowing Licensee to practice without restrictions; but, requiring Licensee to continue receiving weekly psychological treatment from current provider or another Board approved provider for a period of 3 to 6 months and to continue treatment beyond this timeframe as specified by the provider. Also, within 6 months of the Agreement, Licensee will

provide the Board with a written self report and written report from the provider(s) regarding the treatment and progress. Licensee agrees to undergo random urinalysis testing, at Licensee's own expense, for a period of 6 months from the date this Agreement. Assess Licensee a civil penalty of \$500 which is stayed, pending compliance with of all terms of this Agreement.

Seconded by Richard Rutt.

Motion passed by unanimous vote 8-0.

**Case PT 326-10/09 & Case PT 327-10/09**

Motion, by Troy Costales, to close the case with no action taken. In the closing letter, state the Board's concern that, as part of a marketing strategy, Licensee allowed a physical therapy assistant to administer massage techniques without first having a PT evaluation and plan of care written.

Seconded by Richard Rutt.

Motion passed by unanimous vote 8-0.

**Case PT 351-6/10**

Motion, by Troy Costales, to issue a Confidential Advisory Letter citing the Board's concern for Licensee's failure to disclose an arrest on the 2010-2011 renewal application. Also, require Licensee to provide the Board with a copy of the Diversion Program completion certificate.

Seconded by Richard Rutt.

Motion passed by unanimous vote 8-0.

**Case PT 347-6/10**

Motion, by Troy Costales, to issue a Confidential Advisory Letter citing the Board's concern for Licensee's failure to disclose an arrest on a prior renewal application.

Seconded by Richard Rutt.

Motion passed by unanimous vote 8-0.

**Case PT 349-6/10**

Motion, by Troy Costales, to issue a Confidential Advisory Letter citing the Board's concern for Licensee's failure to disclose an arrest on a prior renewal application.

Seconded by Richard Rutt.

Motion passed by unanimous vote 8-0.

**Case PT 348-6/10**

Motion, by Troy Costales, to issue a Confidential Advisory Letter citing the Board's concern for Licensee's failure to disclose an arrest on a prior renewal application.

Seconded by Richard Rutt.

Motion passed by unanimous vote 8-0.

**Case PT 358-6/10**

Resolution deferred. Board needs more information. Licensee to be interviewed by a PT Board member and Board Counsel.

**Case PT 359-6/10**

Motion, by Troy Costales, to issue an Interim Order requiring Licensee to undergo a mental health evaluation by a Board approved psychiatrist, at the Licensee's expense, within 60 days of the Order.

Seconded by Richard Rutt.

Motion passed by unanimous vote 8-0.

### **Case PT 352-6/10**

Motion, by Troy Costales, to close case no action taken. Inform former licensee that to reinstate a PT license lapsed longer than five years, a candidate would be required to take the Federation of State Boards of Physical Therapy's Practice Review Tool, and provide the Board with the exam results. Based on the results the Board will consider re-licensure.

Seconded by Richard Rutt.

Motion passed by unanimous vote 8-0.

### **Case PT 344-5/10**

Motion, by Troy Costales, to issue a Confidential Advisory Letter citing the Board's concern for Licensee's failure to disclose an arrest on the 2010-2011 renewal application.

Seconded by Richard Rutt.

Motion passed by unanimous vote 8-0.

### **Board Position on Dry Needling**

Per the Board's prior directive on June 30, 2010, the Director drafted and delivered a letter from the PT Board to the Oregon Medical Board (OMB). The letter asked if the OMB would consider a physical therapist's post graduate education as sufficient evidence that a PT can safely practice dry needling under one's own PT license. Further, whether the OMB/Acupuncture Committee would want to play an active committee role in the design of the post graduate certification requirements. As of the July 16, 2010 Board date, no response had been received from the OMB.

### **General Topics/Business**

- **Public Record Scanning Project Update** – The Director reported that the final phase of the Public Records Scanning Project has been completed. The Director provided a live demonstration of the Board's on-line verification look-up screen. The new screen not only indicates whether the Board has taken an action on a licensee, but also provides a PDF of all the public records associated with the action taken.
- **CE Audit** – The Director reported that the 2010 CE audit has been completed. Of the 400 licensees selected for random audit, all but 27 have been completed. Those who have completed the audit have received a completion notification. The 27 licensees that have not yet been cleared, or have not yet responded to the audit request, are being investigated by the Board's Clinical Advisor/Investigator. The majority of those cases are related to non-completion of the Oregon Pain Commission's one hour on-line Pain Management Presentation, as mandated by Statute. All the cases relevant to noncompliance of the CE requirements will be reviewed, by the Board, at its September 10, 2010 Board meeting.
- **2010 FSBPT Annual Meeting/Delegates Assembly** – The Director reported that the Federation of State Boards of Physical Therapy's (FSBPT) annual Delegates Assembly is in Denver on October 15<sup>th</sup> and 16<sup>th</sup>. The Board Chair, Joana Freedman, was credentialed as the Oregon Delegate and the Board Administrator, Jim Heider, was credentialed as the Alternate Delegate. The Delegate's and Board Administrator's positions are funded by the FSBPT. The director indicated that if there were any other Board Members interested in attending the FSBPT Annual Delegates Assembly there are dollars in the Board's budget to allow for travel and registration.

- **Upcoming Conferences for Board Members** – The Board Clinical Advisor/Investigator shared information regarding several other training opportunities offered for Board members throughout the coming year. The Director indicated that if there were Board Members interested in any of the educational program opportunities, they should contact him to make certain the training and travel budgets would allow for attendance. Board Members asked staff to provide them with the detailed information of the upcoming events.

### **NPTE Exam Security Issues**

#### **Request for CE Approval for TAI Mentorship Program**

After discussion and consideration, the Board granted CE approval for the Therapeutic Associates Interactive Mentorship Program.

#### **Approval of Board Meeting Minutes**

The drafted Minutes, from the April 30, 2010 Regular Board Meeting, were presented to the Board. The Board Chair opened the floor for additional discussion and comments. Board Member Nancy Wilson noted several corrections. With no additional exceptions or amendments noted, Troy Costales, moved to accept the minutes as amended. Richard Rutt seconded the motion. The April 30, 2010 minutes were unanimously accepted as amended.

#### **2010 – 2011 Board Meeting Dates**

As established by the Board, the future Board Meeting dates are as follows: September 10, 2010; November 12, 2010; January 28, 2011; April 8, 2011; June 17, 2011; August 26, 2011 and November 4, 2011. Meeting Dates, Meeting Notices, and published Minutes may be found on the Board website at [www.ptboard.state.or.us](http://www.ptboard.state.or.us).

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

The Director presented the Board with a list of new licensees and temporary permit holders for the period of April 30, 2010 through July 15, 2010. The Board Chair opened the floor for discussion. Without noted discussion, Troy Costales moved to ratify the issuance of the new licenses and permits as submitted. Richard Rutt seconded the motion. The new licenses and permits were unanimously ratified.

#### **Other New Business**

The Board Chair called for other new business:

Public Member, Troy Costales, presented a synopsis of the Drug Impairment Training for Education Professionals program as sponsored by the International Association of Chiefs of Police. Mr. Costales wanted to know if the Board had any interest in a modified version of this program with regards to recognizing some of the signs and symptoms one might look for in an impaired PT practitioner. The Board thought that could be interesting and asked staff to review the program materials and see if it could be applicable to the Board.

With no additional new business cited, Board Chair Freedman adjourned the Board Meeting at 2:03 PM.

**END OF PUBLIC SESSION AGENDA**

**Physical Therapist Licensing Board  
Board Meeting  
September 10, 2010**

**MINUTES**

**Friday, September 10, 2010**

**Board Members Present:** Joana Freedman, PT, Chair; Steve Alstot, PT, Vice Chair; Jason Fiske, PT Member; Burke Selbst, PT Member; Richard Rutt, PT Member; Nancy Wilson, PTA Member; Carol Sutton, Public Member; Troy Costales, Public Member (Public Session only)

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

**Legal Counsel:** Carol Parks, AAG

At 8:30 AM, 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.

**PUBLIC (OPEN) SESSION**

At 12:50 PM, Board Chair Freedman convened the Board into Public Session. During this portion of the meeting, the Board considered inquiries from licensees and the public; approved the prior Board Meeting minutes; ratified new licenses; reviewed general correspondence; entertained motions; publicly voted on any actions so moved before the Board; and conducted any other Board Public Session business.

The public and interested parties are invited to attend this portion of the meeting. The Public Session was digitally recorded and stored electronically on the Board's file server. Audio copies are available, to the public or interested parties, for the administrative cost to reproduce the audio file.

**Physical Therapist Licensing Board  
Board Meeting  
November 19, 2010**

**MINUTES**

**Friday, November 19, 2010**

**Board Members Present:** Joana Freedman, PT, Chair; Steve Alstot, PT, Vice Chair; Jason Fiske, PT Member; Burke Selbst, PT Member; Richard Rutt, PT Member; Jennifer Wood, PTA Member; Carol Sutton, Public Member; Troy Costales, Public Member

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

**Legal Counsel:** Carol Parks, AAG

At 8:30 AM, 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.

**PUBLIC (OPEN) SESSION**

At 12:44 PM, Board Chair Freedman convened the Board into Public Session. During this portion of the meeting, the Board considered inquiries from licensees and the public; approved the prior Board Meeting minutes; ratified new licenses; reviewed general correspondence; entertained motions; publicly voted on any actions so moved before the Board; and conducted any other Board Public Session business.

The public and interested parties are invited to attend this portion of the meeting. The Public Session was digitally recorded and stored electronically on the Board's file server. Audio copies are available, to the public or interested parties, for the administrative cost to reproduce the audio file.

**Board Motions**

**Case PT 358-6/10 and Case PT 359-6/10**

Motion, by Jason Fiske, to issue Licensee a Proposed Notice of Disciplinary Action, Revocation of License. Citing ORS 688.140(2)(a) and OAR 848-045-0020(u)(F) for failure to cooperate with the Board, and violation of a Board Order.

Seconded by Richard Rutt

Motion passed by unanimous vote 8-0

**Case PT 367-8/10**

Motion, by Jason Fiske, to close case no further action.

Seconded by Richard Rutt

Motion passed by unanimous vote 8-0

**Case PT 340-4/10**

Motion, by Jason Fiske, to send Applicant a Letter stating the Stipulated Agreement and Final Order restricting the practice of his PTA license stands as written. If Applicant does not agree to the Stipulated Order, the staff will issue a Notice of Denial for Licensure giving the Applicant the right to a contested case hearing.

Seconded by Richard Rutt

Motion passed by unanimous vote 8-0

**Case PT 371-8/10**

Motion, by Jason Fiske, to reinstate Applicant's lapsed PT license and issue a Confidential Advisory Letter. The letter should address the Board's concern that the applicant has minimized her condition. The letter will require the Licensee to provide monthly written reports of her continued treatment progress, and a quarterly written report from the treatment provider, plus copies of any random urinalysis reports required by the program.

Seconded by Richard Rutt

Motion passed by unanimous vote 8-0

**Case PT 313-3/09**

Motion, by Jason Fiske, to issue Licensee a Confidential Advisory Letter requiring Licensee to bring her past due civil penalty payments current, by January 1, 2011; and, to maintain the remainder of the payments current. Failure to do so, in the future, will be cause for the Board to take further disciplinary action.

Seconded by Richard Rutt

Motion passed by unanimous vote 8-0

**Case PT 350-6/10**

Motion, by Jason Fiske, to close case no further action.

Seconded by Richard Rutt

Motion passed by unanimous vote 8-0

For the record, Sherri Paru, PT, Board Clinical Advisor/Investigator recused herself from the investigation and discussions concerning this case.

**Case PT 355-6/10**

Motion, by Jason Fiske, based on new information received, by the Board, to vacate a prior motion to issue a Stipulated Agreement and Final Order, with a civil penalty, for violation of CE Rules.

Seconded by Richard Rutt

Motion passed by unanimous vote 8-0

**Case PT 346-6/10, PT 365-7/10 and PT 364-7/10**

Motion, by Jason Fiske, to ratify the Stipulated Agreements and Final Orders as executed.

Seconded by Richard Rutt

Motion passed by unanimous vote 8-0

### **Case PT 372-10/10**

Motion, by Jason Fiske, to issue Licensee a Stipulated Agreement and Final Order citing violations as outlined in the Board's CE disciplinary action matrix, and assessing of civil penalty of \$450.00.

Seconded by Richard Rutt

Motion passed by unanimous vote 8-0

### **Approval of Board Meeting Minutes**

The drafted Minutes, from the September 10, 2010 Regular Board Meeting, were presented to the Board. The Board Chair opened the floor for additional discussion and comments. With no exceptions or amendments noted, Jason Fiske moved to accept the minutes as written. Richard Rutt seconded the motion. The September 10, 2010 minutes were unanimously accepted, as written.

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

The Director presented the Board with a list of new licensees and temporary permit holders for the period of September 10, 2010 through November 18, 2010. The Board Chair opened the floor for discussion. Without noted discussion, Jason Fiske moved to ratify the issuance of the new licenses and permits as submitted. Richard Rutt seconded the motion. The new licenses and permits were unanimously ratified.

### **General Topics/Business**

- **2010 FSBPT Annual Meeting/Delegates Assembly** – The Director summarized the highlights from the 2010 meeting, including a report on the California Board's objections and challenges to the Federation's suspension of the NPTE to the restricted groups. California claims the action is discriminatory. Florida Board has also shared concerns of perceived discrimination charges, and the Georgia Board has been served, with a class action law suit filed on behalf of three individuals who are part of the restricted groups, and naming the Federation as co-respondent in that law suit.
- **James Heider FSBPT Board Appointment** – The Director notified the Board members that he was offered and accepted an appointment on the Federation's Board of Directors, serving out the remainder of a Board vacancy for one year. Because Mr. Heider will receive a stipend for his work with the Federation. The time the Director spends, on Federation business and for Federation Board meetings, will be booked as his personal vacation time away from the Oregon Board.
- **NPTE exam update** - The Director updated the Board on the FSBPT plans to offer the NPTE-i twice in 2011. The NPTE-i is the examination created to be used only once, then retired. This plan is being implemented as a stop gap addressing the security issue of recalling and sharing of examination items amongst certain restricted groups of therapists. The NPTE-i will be offered on May 25, 2011 and again on December 5, 2011.

### **OPTA Board Appearance – 2011 Legislative Concept**

The Oregon Physical Therapy Association (OPTA) President, Susan Bamberger, and Lobbyist, Inga Deckert presented the Board with a copy of the OPTA legislative concept introducing protection of use of the term "physical therapy" along with a rational document. The document suggests that the term "physical therapy" is sometimes misrepresented or inappropriately

advertised to the public and can cause confusion or can be misleading. The Physical Therapist Licensing Board has not taken a position on this matter.

### **OPTA Position on Dry Needling**

The Oregon Physical Therapy Association (OPTA) presented the Physical Therapist Licensing Board with the following position statement: The Oregon Physical Therapy Association (OPTA) supports the use of intramuscular manual therapy as a Physical Therapy intervention. The principles involved in this intervention are not based on Oriental medicine or acupuncture Meridians. As with any intervention, physical therapists should obtain a level of competency prior to using this skill through coursework or mentoring.

The Director reported that neither the Oregon Medical Board, nor the Acupuncture Committee, had yet responded to the Board's June 30, 2010 letter requesting a meeting to discuss the issues surrounding the PT Scope of Practice and dry needling.

Following an exchange in dialog between the OPTA and the PT Board and testimony input from guest Shawn Roach, PT, the Board determined that, at this time, the Board would maintain its current position as detailed in its position statement dated November 20, 2009. Upon further discussions the Physical Therapist Licensing Board believes that the dry needling of trigger points is likely within the physical therapist Scope of Practice (excluding PTAs). The Board acknowledges that the dry needling of trigger points is an advanced intervention requiring post physical therapy graduate training and education. Further, the Board recommends that the acupuncture committee, physical therapist and medical Boards work in partnership with their professional associations to define a minimum competency by which a physical therapist can safely practice the intervention of dry needling of trigger points. In the interest of public safety, until training and education can be determined, the Board strongly advises its licensees to not perform dry needling of trigger points.

### **Representative Greenlick's Professional Cross Training Proposal**

The Board discussed Representative Greenlick's concept on cross training of professionals to better serve the public need for generalists and access to care. The Board would be in opposition to any legislative concept combining or sharing professional scope of practice.

### **Board Holiday Schedule/Closures**

The Board discussed and approved the closure of the Board office during the week between Christmas and New Year. Staff would use their accrued time to take the week off. The Board left the decision for closure up to the Director.

### **2010 – 2011 Board Meeting Dates**

As established by the Board, the future Board Meeting dates are as follows: February 4, 2011; April 8, 2011; June 24, 2011; August 26, 2011 and November 4, 2011. Meeting Dates, Meeting Notices, and published Minutes may be found on the Board website at [www.ptboard.state.or.us](http://www.ptboard.state.or.us).

### **Other New Business**

The Board discussed the issue of holding its February 4, 2011 meeting at Pacific University. Dr. Rutt reported that the date was available, but the school budget would not allow for the school to reserve the public forum space. The Board determined that, as part of its community outreach, it

could pay for the space estimated to be \$350. Dr. Rutt was going to check with his scheduler and report back to the Board.

Diana Godwin, AAL, shared, with the Board, a memorandum noting that the Physical Therapy Board of California repealed a longstanding decision from 1990, which had specifically permitted PTs to work for any type of corporation. By implication, this 1990 decision allowed PTs to work as employees in a medical professional corporation owned by physicians, a POPS arrangement.

With no additional new business cited, Board Chair Freedman adjourned the Board Meeting at 2:40 PM.

**END OF PUBLIC SESSION AGENDA**