

**Physical Therapist Licensing Board
Board Meeting
February 4, 2011**

MINUTES

Friday, February 4, 2011

Board Members Present: Joana Freedman, PT, 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

Absent: Steve Alstot, PT, Vice Chair

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

Legal Counsel: Carol Parks, AAG

At 8:30 AM, Acting Chair Jason Fiske 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, current legislation 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.

Board Motions

Case PT 359-6/10

Motion, by Richard Rutt, to issue Final Order by Default, Revocation of License.

Seconded by Carol Sutton

Motion passed by unanimous vote 7-0

Case PT 374-12/10

Motion, by Richard Rutt, to close case citing no violations.

Seconded by Carol Sutton

Motion passed by unanimous vote 7-0

Case PT 373-11/10

Motion, by Richard Rutt, to close case, referring complaint to the Chiropractic Board with a directive to PT Board staff to track status of case with the Chiropractic Board.

Seconded by Carol Sutton

Motion passed by unanimous vote 7-0

Cases PT 377-1/11; PT 378-1/11 and PT 380-1/11

Motion, by Richard Rutt, to issue license upon completion of the application process.

Seconded by Carol Sutton

Motion passed by unanimous vote 7-0

Case PT 379-1/11

Motion, by Richard Rutt, to deny application for licensure citing ORS 688.080(1)(c) and 688.140(2)(j), applicant does not hold an unrestricted license to practice in another state.

Seconded by Carol Sutton

Motion passed by unanimous vote 7-0

Case PT 375-7/10

Motion, by Richard Rutt, to close case pending receipt of new application.

Seconded by Carol Sutton

Motion passed by unanimous vote 7-0

Approval of Board Meeting Minutes

The drafted Minutes, from the November 19, 2010 Regular Board Meeting, were presented to the Board. The Board Chair opened the floor for additional discussion and comments. With one noted correction, Carol Sutton moved to accept the minutes. Richard Rutt seconded the motion. The November 19, 2010 minutes were unanimously accepted as corrected.

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 19, 2010 through February 3, 2011. The Board Chair opened the floor for discussion. Without noted discussion, Richard Rutt moved to ratify the issuance of the new licenses and permits as submitted. Carol Sutton seconded the motion. The new licenses and permits were unanimously ratified.

General Topics/Business

- **2011-2012 Renewals** – The Director reported that the updated on-line renewal process was implemented and, with few exceptions and problems, has been received well by licensees. Based on the first month of activity and low number of requests for paper renewal forms, the projected usage of the new system is going to be in the 80% range.

- **FSBPT 2011 Budget** – The Director noted, per the Federation of State Boards of Physical Therapy By-laws, copies of the FSBPT 2011 adopted operating budget were provided to all the Oregon Board Members.

- **FSBPT Board Member Training** – In August 2011 the Federation of State Boards of Physical Therapy hosting another Board Member Training Session. This is a three-day session covering the attributes and accountabilities of serving on a regulatory Board, covering topics of public safety, credentialing, scope of practice, emerging trends and services available to member boards of the Federation. The Director suggested that the new Board members, who have not yet attended the orientation, consider doing so. All expenses associated with the travel, stay, meals and incidentals are covered by the FSBPT. Board members Sutton and Wood indicated their interest and will check their availability and get back to the Director.

Dry Needling

The Director updated the Board regarding dry needling issues since the last Board meeting. He noted an article titled “Fighting Over the Needle” published in the January 19, 2011 issue of the Willamette Week. The article alluded to a “turf battle” between the Chiropractic Examiners Board and Acupuncturists. The article also cited a “similar scrap” in 2009 between Oregon acupuncturists and physical therapists. On Thursday, January 20th, the Chiropractic Board held a public hearing determining “dry needling” is within the scope of chiropractic practice under ORS 684. Further, the Board noted that Chiropractic physicians may not seek to perform dry needling until all requirements are specified and adopted in a permanent Administrative Rule (projected to be adopted in May 2011).

2011-2013 Proposed PT Board Budget

The Director indicated that the proposed first draft of the budget was not ready to be presented. The first draft of the budget will be presented at the April 8, 2011 Board meeting. Following Board approval, the Notice of Rule Making Hearing will be published in the May 1st Oregon Bulletin. At that time, notice of the hearing will also be sent to the Legislature, Interested Parties and all Licensees. The Administrative Rules Hearing will be held on June 10, 2011. Following the Hearing, the Board will make any necessary adjustments and adopt the 2011-2013 Board Budget, effective for July 1, 2011.

2011 Legislative Session Overview

The Director shared information regarding a number of legislative Bills that the Board office was tracking through the 2011 Legislative Session. The Director indicated that the Board will be updated, as needed, as the session progresses. Also, the director indicated that there may be need, from time to time, to call a special telephone Board meeting to address this legislation and to solicit a position from the Board.

Review of Board Policy Regarding Issuing Licenses to Applicants with prior Arrest or Actions

This policy was established in August of 2007. Based on certain criteria, the policy gives authority to issue a new or renewal license to an applicant with a previous criminal offense, to the Board Chair, Vice Chair, Executive Director or Clinical Advisor/Investigator, without taking the case before the entire Board for consideration. Applications not meeting the criteria must be brought to the entire Board for consideration. Sometimes timing and extenuating circumstances can play a large part in the processing of an application and a polling of the Board is justified. In these cases, when staff polls the Board for any reason, a deadline date for Board response must be indicated. Pending the deadline date, no communication or action should be taken, by staff, until the deadline for Board Member response has been reached. At that time, and not before, the Board Members can be made aware of the outcome of the poll.

2010 – 2011 Board Meeting Dates

As established by the Board, the future Board Meeting dates are as follows: April 8, 2011; June 10, 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.

Other New Business

Board member Jason Fiske reported on his attendance at the Federation of Associations of Regulatory Boards (FARB) Conference in January 2011. Jason shared case study information, new initiatives, public media outreach opportunities, trends in disciplinary actions and Board safety.

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

END OF PUBLIC SESSION AGENDA

**Physical Therapist Licensing Board
Special Telephone Board Meeting
March 2, 2011**

MINUTES

Wednesday March 2, 2011

Board Members Present: Joana Freedman, PT, Chair; Steve Alstot, PT, Vice Chair; Jason Fiske, PT Member; Burke Selbst, PT Member; Richard Rutt, PT Member; Troy Costales, Public Member

Board Members Absent: Jennifer Wood, PTA Member; Carol Sutton, Public Member

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

Legal Counsel: Carol Parks, AAG

Board Chair, Joana Freedman convened the Board into Executive Session at 10:05 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 current legislation relative to the Board and the physical therapy profession and the credentialing of a specific physical therapist applicant.

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

PUBLIC (OPEN) SESSION

At 10:35 AM, Board Chair Freedman adjourned the Executive Session and convened the Board into Public Session. During this portion of the meeting, the Board 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

SB 780

Motion, by Troy Costales, to recommend the Board take an opposing position to SB 780 pending confirmation from the Governor's office or policy staff on that position by the Board.

Seconded by Steve Alstot.

Motion passed by unanimous vote 6-0.

SB 821

Motion, by Troy Costales, to recommend the Board take an opposing position to SB 821 pending confirmation from the Governor's office or policy staff on that position by the Board.

Seconded by Steve Alstot.

Motion passed by unanimous vote 6-0.

CASE PT 381-2/11

Motion, by Richard Rutt, to approve candidate's endorsement application and issue the initial PT license. Also to issue a Confidential Advisory Letter citing the Oregon Administrative Rules relative to prohibitions of a licensee engaging in a conversation with a patient that is not necessary for the provision of treatment and personally intrusive or otherwise inappropriate. And, at the conclusion of the Montana investigation, requiring Licensee to provide the OR Board with copies of all documentation regarding the outcome of the investigation.

Seconded by Steve Alstot

Motion passed by unanimous vote 6-0.

Other New Business

The Board Chair called for other new business. The board Executive Director provided a brief update on the current renewal process. With no additional new business cited, Board Chair, Joana Freedman adjourned the Board Meeting at 10:53 AM.

**Physical Therapist Licensing Board
Board Meeting
April 8, 2011**

MINUTES

Friday, April 8, 2011

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; Troy Costales, Public Member (by telephone)

Absent: Carol Sutton, Public Member

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

Legal Counsel: Carol Parks, AAG

At 8:30 AM, 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, current legislation 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 11:43 AM, 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 384-2/11

Motion, by Steve Alstot, to issue Stipulated Agreement and Final Order citing Licensee for practice of physical therapy for 11 months with a lapsed license and assessing a civil penalty of \$1,000.

Seconded by Burke Selbst

Motion passed by unanimous vote 7-0

Case PT 385-3/11

Motion, by Steve Alstot, to issue Stipulated Agreement and Final Order in lieu of a Notice of Denial of Renewal Reinstatement. The Stipulated Agreement will require Applicant to pay an outstanding civil penalty of \$1,000 and reinstate the renewal license on a probationary status for three years.

Seconded by Burke Selbst

Motion passed by unanimous vote 7-0

Case PT 386-3/11

Motion, by Steve Alstot, to issue Stipulated Agreement and Final Order citing Licensee for practice of physical therapy for 11 months with a lapsed license and assessing a civil penalty of \$1,000.

Seconded by Burke Selbst

Motion passed by unanimous vote 7-0

Case PT 360-7/10

Motion, by Steve Alstot, to close case noting no violation of Statute or Administrative Rule.

Seconded by Burke Selbst

Motion passed by unanimous vote 7-0

Case PT 283-6/08

Motion, by Steve Alstot, to close case by issuing a Cease and Desist Letter citing the possible practice of physical therapy without a license.

Seconded by Burke Selbst

Motion passed by unanimous vote 7-0

Case PT 387-4/11

Motion, by Steve Alstot, to issue Stipulated Agreement and Final Order citing Licensee for practice of physical therapy for 1 day to 1 month with a lapsed license and assessing a civil penalty of \$100.

Seconded by Burke Selbst

Motion passed by unanimous vote 7-0

Case PT 389-4/11

Motion, by Steve Alstot, to issue Stipulated Agreement and Final Order citing Licensee for practice of physical therapy for 1 day to 1 month with a lapsed license and assessing a civil penalty of \$100.

Seconded by Burke Selbst

Motion passed by unanimous vote 7-0

Case PT 390-4/11

Motion, by Steve Alstot, to issue Stipulated Agreement and Final Order citing Licensee for practice of physical therapy for 1 day to 1 month with a lapsed license and assessing a civil penalty of \$100.

Seconded by Burke Selbst

Motion passed by unanimous vote 7-0

Approval of Board Meeting Minutes

The drafted Minutes, from the February 4, 2011 Regular Board Meeting and the March 2, 2011 Special Board Meeting, were presented to the Board. The Board Chair opened the floor for additional discussion and comments. With one noted correction, Steve Alstot moved to accept the minutes. Burk Selbst seconded the motion. The February 4th and March 2nd minutes were unanimously accepted as corrected.

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 4, 2011 through April 7, 2011. The Board Chair opened the floor for discussion. Without noted discussion, Steve Alstot moved to ratify the issuance of the new licenses and permits as submitted. Burke Selbst seconded the motion. The new licenses and permits were unanimously ratified.

General Topics/Business

- **2011-2012 Renewals** – The Director reported that the updated on-line renewal process was implemented and, with few exceptions and problems, has been received well by licensees. Based on volume, it appears that the usage of the on-line renewal system has almost doubled from the prior year's usage, growing from a 40-45% usage rate last year to nearly a 90% use of the on-line system for renew this year.

- **FSBPT 2011 Delegate Assembly** – The Director shared the Federation's requests for credentialing of the 2011 State Delegates, Alternate Delegates and Administrators. The 2011 assembly will be held at the end of September in Charlotte, North Carolina. The travel hotel and meals expense for the Delegate and Administrator are totally funded by the Federation. The Alternate Delegate is not a funded position; however, the conference registration fee is waived. After discussion, the Board determined that Steve Alstot would represent the Board as its Delegate and Jim Heider would attend as the Board Administrator. At this time, the Board did not designate an Alternate Delegate. Mr. Heider did indicate that there are dollars in the current budget to send an Alternate to the Assembly and any Board member interested in attending the as the Alternate Delegate should contact him.

2011-2013 Proposed PT Board Budget

The Director presented the first draft of the proposed 2011-2013 budget. Presented was a line item report comparing the prior biennium budget to the proposed upcoming biennium budget. Accompanying the line item report was a descriptive narrative explaining the variances between the current budget and the proposed future budget. With a proposed overall expense increase of less than 3%, the Board gave the Director authority to move the proposed budget to Hearing. With the Board's approval, the Notice of Rule Making Hearing will be published in the May 1st Oregon Bulletin. At that time, notice of the Hearing will also be sent to the Secretary of State, Legislature, Interested Parties and all Licensees. The Notice will be printed in a Newsletter and available with copies of the proposed budget on the Board's website at www.ptboard.state.or.us. The Administrative Rules Hearing will be held on June 10, 2011. Following the Hearing, the Board will make any necessary adjustments to the proposed budget and vote to adopt the 2011-2013 Board Budget into Rule, effective for July 1, 2011.

FSBPT – NPTE Fixed-Date Testing

The Director shared the most current update on the Federation's planned move to fixed-date testing. He explained that this was the Federation's immediate response to last fall's security breach where hundreds of the test items were compromised in a planned harvesting of recalled test question. Continuous testing will continue through June 30, 2011. For the remainder of 2011, the fixed test dates are September 7th, October 26th and December 5th. The fixed test dates for 2012 are yet to be determined. The Director reported that the Federation is hosting a Members Summit in July of 2011 to further discuss the future of the NPTE.

As the Federation moves toward fixed-date testing, the Director asked the Board if it wanted to reconsider its recent amendment to the temporary permit Administrative Rules, changing the timeframe of a temporary permit from 60 days back to 90 days. The logic the Board considered when shortening the timeframe was that an exam candidate could take the test continuously and there really wasn't a delay in the licensure process. That is no longer the case. After discussion and deliberation the Board determined that they would not change the Administrative Rules relative to temporary permits at this time.

2011 Legislative Session Overview

The Director updated the Board on a number of legislative Bills that the Board office was tracking through the 2011 Legislative Session. The Director indicated that the Board had not received a response from the Governor's Legislative Director relative to the Board request to oppose SB 780 and SB 821. Public Member, Troy Costales stated that was not unusual that the Governor's Legislative Director had not responded prior to the first cut day. Costales stated that for most legislation, if it had not already cleared the first house or at least scheduled for a hearing by April 21st in the first house, it would be dropped this Session. So, the Governor's office was probably waiting to see what Bills remained active through the cut date before considering a response.

2011 Board Meeting Dates

As established by the Board, the future Board Meeting dates are as follows: June 10, 2011 Public Administrative Rules Hearing followed by the Regular Board Meeting; 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.

Board Member Topics

Board Vice Chair, Steve Alstot participated in the APTA workshop reviewing the update to the APTA Guide to Physical Therapy Practice. Vice Chair Alstot reported that the APTA had not made a determination of whether Intramuscular Manual Therapy (Dry Needling) will be added to the definition of "Physical Therapy Intervention" in the updated Guide to Physical Therapy.

Other New Business

The Director told the Board that he had been contacted by the Governor's Office of Executive Appointments regarding the Board position, which will be open at the end of June. The Office of Executive Appointments, wanting to aim towards a further diversification of the Board, asked for the Board's help in identifying or targeting therapists who met a certain demographics. The Appointments office was specifically looking for female candidates, younger in age, whose ethnic background is other than Caucasian.

With no additional new business cited, Board Chair Freedman adjourned the Board Meeting at 2:19 PM.

END OF PUBLIC SESSION AGENDA

**Physical Therapist Licensing Board
Administrative Rules Hearing
June 10, 2011**

MINUTES

Place: PSOB 800 NE Oregon Street Room 1-D

Date and time: Friday June 10, 2011 Time 8:30 AM

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, Jim Heider, Hearings Officer, convened the Administrative Hearing for the Oregon Physical Therapist Licensing Board adoption of the proposed 2011-2013 Board Budget.

For the record Mr. Heider stated that per ORS 183.335(1)(d) and ORS 183.335(15)(c) copies of the Hearing Notice and Fiscal Impact Statement were provided to the President of the Senate; the Co-Speakers of the House; the Legislative Fiscal Office; the Secretary of State's Archives Division and to all persons on the Board's Interested Parties List. Additionally, the Notice was published in the May 1, 2011 Oregon Bulletin and notification was posted in the Spring 2011 Board Newsletter, mailed via USPS First Class Postage on 5.12.11, to all current Board licensees.

Lastly, the Notice, Fiscal Impact Statement, a copy of the proposed budget, with a narrative, were all posted on the Board's website for viewing by the public or interested parties.

Mr. Heider reported that to date the Board has received no written testimony relative to the adoption of the proposed 2011-2013 proposed budget.

Mr. Heider opened the floor for public comment. The Occupational Therapy Board Director, Felicia Holgate, spoke on behalf of the OT Board. Ms. Holgate indicated that she was not here to testify, but that she was here out of interest from her Board. The O.T. Board was hopeful that in some future legislative session the Legislators might consider the possibility of allowing the other health related Boards to convert to a semi-independent status. That the streamlined budget process in and of itself was reason enough for her Board to be interested.

Mr. Heider opened the floor for additional public comment and testimony. Hearing none, Mr. Heider closed the Administrative Rules Public Hearing at 8:45 AM.

**Physical Therapist Licensing Board
Board Meeting
June 10, 2011**

MINUTES

Friday, June 10, 2011

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 8:45 AM, 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, current legislation 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 12:38 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 392-4/11

Motion, by Burke Selbst, to issue Stipulated Agreement and Final Order citing violation of ORS 688.140(2)(a), OAR 848-045-0020(2)(r), for the practice of physical therapy without a license, and assessing a civil penalty of \$100.00.

Seconded by Jennifer Wood

Motion passed by unanimous vote 7-0

Case PT 393-4/11

Motion, by Burke Selbst, to issue a Confidential Advisory Letter for failure to disclose an arrest or conviction on a license application.

Seconded by Jennifer Wood

Motion passed by unanimous vote 7-0

Case PT 394-4/11

Motion, by Burke Selbst, to grant issuance of license and to issue a Confidential Advisory Letter for failure to disclose an arrest or conviction on a license application.

Seconded by Jennifer Wood

Motion passed by unanimous vote 7-0

Case PT 382-2/11

Motion, by Burke Selbst, to grant issuance of license and to issue a Confidential Advisory Letter for failure to disclose an arrest or conviction on a license application.

Seconded by Jennifer Wood

Motion passed by unanimous vote 7-0

Case PT 396-5/11

Motion, by Burke Selbst, to issue a Confidential Advisory Letter for failure to disclose an arrest or conviction on a renewal license application.

Seconded by Jennifer Wood

Motion passed by unanimous vote 7-0

Case PT 352-6/10

Motion, by Burke Selbst, to close case until further contact or receipt of application from former licensee.

Seconded by Jennifer Wood

Motion passed by unanimous vote 7-0

Case PT 397-5/11

Motion, by Burke Selbst, to issue PTA license when application process is complete.

Seconded by Jennifer Wood

Motion passed by unanimous vote 7-0

Case PT 398-5/11

Motion, by Burke Selbst, to grant issuance of license when application file is complete and to issue a Confidential Advisory Letter for failure to disclose an arrest or conviction on a license application.

Seconded by Jennifer Wood

Motion passed by unanimous vote 7-0

Adoption of Board 2011-2013 Biennium Budget

Motion, by Burke Selbst, to approve and adopt the 2011-2013 Board Biennium budget as presented.

Seconded by Jennifer Wood

Motion passed by unanimous vote 7-0

Applicant Smith Appeal to Accept NPTE Scores Not Meeting Board Passing Standards

Ms. Smith contacted the Board to request an endorsement application. Ms. Smith is a graduate of a CAPTE Accredited PT program, sat and passed the national PT examination, holds a current license to practice in another jurisdiction and has been practicing successfully, without any actions or encumbrances since 1984.

When Ms. Smith transferred her national exam scores to the Oregon Board, her scores did not meet Board standards, as established by Administrative Rule. Ms. Smith was told if she wanted to be licensed in Oregon she would have to take and pass the national examination for the Oregon Board. Ms. Smith filed an examination application but has appealed to the Board for reconsideration of her transfer scores.

After discussion and consideration the Board determined they did not hold the authority to make exception to current Statute or Administrative Rule. If Ms. Smith wanted to be licensed, in the State of Oregon, she would have to present the Board with passing national examination scores according to the current Administrative Rules.

The Board did instruct staff that the next time the Board reviews rules or initiates rulemaking, the requirement for transfer scores should be on the rulemaking agenda. Staff should research other jurisdictions rules and policies regarding score transfers.

Approval of Board Meeting Minutes

The drafted Minutes, from the April 8, 2011 Regular Board Meeting, were presented to the Board. The Board Chair opened the floor for additional discussion and comments. With one noted correction, Burke Selbst moved to accept the minutes as amended.

Seconded by Jennifer Wood

Motion passed by unanimous vote 7-0

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 8, 2011 through June 9, 2011. The Board Chair opened the floor for discussion. Without noted discussion, Burke Selbst moved to ratify the issuance of the new licenses and permits as submitted.

Seconded by Jennifer Wood

Motion passed by unanimous vote 7-0

Election of New Board Chair and Vice Chair

The Board's Director opened the floor to nominations for the position of Board Chair. Burke Selbst nominated Steve Alstot. Alstot accepted the nomination. Jennifer Wood seconded Alstot's nomination. The Board's Director asked for any other nominations, hearing none, the Board voted unanimously to elect Steve Alstot as the new Board Chair.

The Board's Director opened the floor to nominations for the position of Board Vice Chair. Burke Selbst nominated Jason Fiske. Fiske accepted the nomination. Jennifer Wood seconded Fiske's nomination. The Board's Director asked for any other nominations, hearing none, the Board voted unanimously to elect Jason Fiske as the new Board Vice Chair.

General Topics/Business

- **Board Appointments** – The Director reported that the Governor’s Office of Executive Appointments had not yet completed the review and appointment of a replacement for Board member Freedman whose second term expired 6/30/11. In addition, the Governor’s office had not yet reviewed and confirmed the reappointment of Board member Selbst, whose first appointment expired 4/30/11. Board Counsel, Carol Parks, informed the Board that until appointments and confirmations were made, the current members could choose to continue in their roles and could legitimately attend future Board meeting as voting members.
- **Staffing** – The Board Director reported that Dot Danovich, Licensing Coordinator, would be retiring after twelve years of dedicated service to the Board. Dot’s plan was to take the month of July off using the majority of her accumulated vacation balance. Dot’s official retirement date is August 1, 2011. The position of Licensing Coordinator will be filled by a contract associate of the Board, Rick Sullivan. Rick has been working with the Board under a personal services contract for the past three years. Rick is a licensed PTA and has proven instrumental handling the last two Board CE audits. Rick’s starting date is set for Friday June 24, 2011 to allow for overlap training time with Dot.
- **OPTA request for Board Boundary Presentation in Bend and Eastern Oregon** - Sherri Paru, PT, Board Clinical Advisor and Investigator introduced Tim Esau, PT. Tim is the new OPTA Liaison to the PT Board. The Board welcomed Tim.

Sherri further discussed with the Board a request that she had received from the OPTA. Sherri, along with Carol Shunk, PT had presented a program at the OPTA Spring Conference relative to boundary issues. The program was well received. The OPTA has asked Sherri if she would be willing to present the same or a similar program in September in La Grande and in October in Bend. Sherri had asked the OPTA if they would cover her travel expenses. The OPTA indicated that they were hoping the cost for her travel would be covered by the Board, as part of the Board community outreach. That this would allow for a Board educational opportunity and access to therapists in more rural areas of the State. Sherri told the OPTA that she needed to bring the request back to the Board for approval of her time out of the office and the traveling expenses. After discussion and consideration the Board determined it would support Sherri’s participation in the OPTA’s program request and would absorb the cost of travel for the programs.

The Board instructed staff, for future planning purposes, to consider a line item in the budget for community outreach and budget a specific dollar amount for that out reach each year. As a policy, if the dollars and staffing are available, the Board would encourage participation. If the dollars are not available, unless an exception is made by the Board, participation would be declined.

- **FARB Attorney Conference-Funding for Board AAG to attend** – After a discussion and consideration, the Board approved funding its Senior Assistant Attorney General, Carol Parks, to attend the annual Federation of Associations of Regulatory Boards (FARB) Attorney Certification Seminar in Professional Regulatory Law Seminar. Last year the Veterinary Examiners Board funded AAG Parks attendance to the conference. Next year, it is anticipated, that one of Park’s other regulatory Boards will fund her attendance. Although

the seminar is schedule for September 2011, the Board instructed its Director to pre-pay or accrue the expense so it will be incurred in the current biennium.

FSBPT – NPTE Fixed-Date Testing and examination fee increase

The Board Director presented the Board with the Federation of State Board of Physical Therapy (FSBPT) letter dated March 16, 2011. The Letter announces a projected fee increase for the National Physical Therapy Examination (NPTE). The fee will go, from its current level of \$370, to \$400 effective January 1, 2013.

The Director announced that continuous testing for the NPTE will end on June 30, 2011. The published fixed test dates for the remainder of 2011, are September 7th, October 26th and December 5th. The fixed test dates have been announced for 2012. The dates are as follow; January 30th, March 29th, July 2nd, July 31st and October 23rd.

The Director announced the FSBPT NPTE Summit at the end of July in Texas. Representation from every jurisdiction and interested parties will be at the summit. There will be over 100 attendees. The purpose of the Summit is to determine the future of the NPTE beyond 2012.

Dry Needling

The Director provided the Board with a copy of the Position Paper on Dry Needling from the Council of Colleges of Acupuncture and Oriental Medicine. The paper was distributed as an informational tool for Board consideration only.

2011 Legislative Session Overview

HB 2381 passed and was signed into law by the Governor. HB 2381 makes the three semi-independent health Boards; PT, Optometry, and Massage, accountable to follow DAS policies relative to the administration of personnel, compensation, benefits and human resources. The Board's Director noted for the Board that when the PT Board went to a semi-independent status it already had adopted and continues to follow DAS HR and Personnel policies. Secondly HB 2381 requires the three semi-independent health Boards to have their biennial budgets approved through the rule making process completed and adopted by and reported to the Governor's office by February 1st of each odd numbered year.

Concern About Use of Title "RPT" by Registered Piano Technicians

The Board's Clinical Advisor/Investigator Sherri Paru, PT, shared correspondence regarding a Licensee's concern over the use of the initials "R.P.T." by Registered Piano Technicians. Paru also shared email correspondence, relative to the issue, rendered from both the APTA and AAOMPT. Both professional associations agreed that, although the professional must remain vigilant with regards to protection of title and terms, they felt the national registered piano technicians posed little threat to public safety. After discussion and consideration the Board reached the same conclusions as did the professional associations. The use of the initials "RPT" by the piano tuners was not misleading or a threat to public safety, and to invest Board/Licensee's time and resources to address this issue was unwarranted.

Discussion on Fee Splitting and Online Companies Such as Groupon

Board Counsel AAG Parks shared concerns that other health Boards are currently experiencing relative to the issue of fee splitting, and whether marketing schemes like Groupon fall into that classification. The question posed was; whether there is Board concern that these types of marketing

schemes would be considered fee splitting and if so, whether that would be direct violation of Board Statute 688.140(2)(1).

The Board asked Counsel what the other health Boards are doing in regards to the issue. Counsel reported they are just in the beginning stages of investigating and addressing the issue.

The Board instructed its Clinical Advisor/Investigator to research Groupon and similar companies' marketing approach. Who receives the payment of the fees? Are the fees split or shared? Shared amongst whom? Ms. Paru will report her findings back to the Board at its August 26, 2011 Board meeting. At that time the Board will determine whether they want their legal counsel to render a legal opinion on whether there is a possible violation of Board Statute and Administrative Rule.

2011 Board Meeting Dates

As established by the Board, the future Board Meeting dates are as follows: August 26, 2011 and November 4, 2011. The 2012 Board meeting calendar will be set at the August 26, 2011 Board meeting. Meeting Dates, Meeting Notices, and published Minutes may be found on the Board website at www.ptboard.state.or.us.

Board Member Topics

None noted.

Other New Business

The Board instructed staff and legal counsel to review its initial licensure application and renewal applications for relevance and completeness of the legal and disclosure questions. Staff was asked to compare the Boards current application forms to other jurisdictions and Boards, and report back to the Board at its August 26, 2011 meeting.

Discussion of the Board's current disciplinary matrix will be added to the August agenda. The discussion will determine whether the Board wants to consider changing the sanction for violations on late renewals that are caught in the first few days of the new renewal period.

The Board asked public member Troy Costales to write a short article for the fall Newsletter. The article should contain interesting factoids relative to use of drugs and alcohol and driving under the influence. The Fall Newsletter will be published and distributed in September or October.

With no additional new business cited, Board Chair Freedman adjourned the Board Meeting at 3:00 PM.

END OF PUBLIC SESSION AGENDA

**Physical Therapist Licensing Board
Board Meeting
August 26, 2011**

MINUTES

Friday, August 26, 2011

Board Members Present: Steve Alstot, PT, Chair; Jason Fiske, PT, Vice Chair; Joana Freedman, 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 8:42 AM, Chair Steve Alstot convened the Board into Executive Session, citing ORS 192.660(2)(k). Pursuant to ORS 192.660(2)(k)(f), 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, current legislation 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 12:32 PM, Board Chair Alstot 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 383-2/11

Motion, by Joana Freedman, to issue Interim Order requiring a mental health evaluation within 60 days of the date of the order by a Board approved provider. Also to issue a Confidential Advisory Letter suggesting Licensee disclose to new patients that she offers prayer and pastoral services. She should be clear that these services are not part of the PT treatment nor are they billed as PT but are an adjunct service Licensee can make available to patients upon request.

Seconded by Richard Rutt
Motion passed by unanimous vote 8-0

Case PT 340-4/10

Motion, by Joana Freedman, to issue Proposed Order of Discipline, (Revocation of License), for failing to follow an order of the Board. A violation of 688.140(2)(a).

Seconded by Richard Rutt
Motion passed by unanimous vote 8-0

Case PT 399-7/11

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

Seconded by Richard Rutt
Motion passed by unanimous vote 8-0

Case PT 400-7/11

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

Seconded by Richard Rutt
Motion passed by unanimous vote 8-0

Case PT 402-7/11

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

Seconded by Richard Rutt
Motion passed by unanimous vote 8-0

Case PT 406-7/11

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

Seconded by Richard Rutt
Motion passed by unanimous vote 8-0

Case PT 401-7/11

Motion, by Joana Freedman, to close case citing no violation, but issue a Confidential Advisory Letter voicing Board concern for failure to disclose prior history of arrest or conviction.

Seconded by Richard Rutt
Motion passed by unanimous vote 8-0

Case PT 407-8/11

Motion, by Joana Freedman, to close case citing no violation, but issue a Confidential Advisory Letter voicing Board concern for failure to disclose prior history of arrest or conviction.

Seconded by Richard Rutt
Motion passed by unanimous vote 8-0

Case PT 408-8/11

Motion, by Joana Freedman, to close case citing no violation, but issue a Confidential Advisory Letter voicing Board concern for failure to disclose prior history of arrest or conviction.

Seconded by Richard Rutt
Motion passed by unanimous vote 8-0

Case PT 409-8/11

Motion, by Joana Freedman, to close case citing no violation, but issue a Confidential Advisory Letter voicing Board concern for failure to disclose prior history of arrest or conviction.

Seconded by Richard Rutt

Motion passed by unanimous vote 8-0

Case PT 386-3/11

Motion, by Joana Freedman, to ratify Stipulated Agreement and Final Order as executed.

Seconded by Richard Rutt

Motion passed by unanimous vote 8-0

General Topics/Business

- **July 2011 FSBPT NPTE Summit Report** – The Director and Board Member Rutt attended the Federation of State Boards of Physical Therapy (FSBPT) 2011 July National Physical Therapy Examination (NPTE) Summit held in Dallas Texas. The FSBPT hosted the summit and covered all the travel, lodging, meals and incidental expenses for all participants. The purpose of the Summit was twofold. First, based on recent security breaches, to look at the immediate and near future with regards to security and delivery of a valid exam. And, secondly, to look at the long range future of the NPTE. Does it test what it is intended to test? Are there other means to deliver a high stakes valid exam without jeopardy from security issues? The immediate resolve determined that the exam would move to fixed date testing for the near future and that based on the resources available, the Federation would offer the examination five times in 2012 and four times in 2013 forward. The discussion with regards to the future of the examination, plus other findings and outcomes of the Summit will be sent in the form of an Executive Summary to all members in early September.

- **Board Process Policy on Foreign Educated Therapists Application and Credentials -**
The Director suggested the Board consider changing its current policy relative to foreign educated therapists (FET) application for licensure. Currently, the Board requires FETs to complete the Board credentialing process prior to making application for licensure. The Director indicated that it is the credentialing process that takes the greatest amount of staff time and often is never completed. Some of the candidates can work on credentials for up to five years or greater. The suggestion made to the Board was that the FETs be required to make the application first, paying the application fee, and completing the credentials as part of the application process for licensure. This would compensate the Board for staff time relative to the credentialing review and also would put a limit on the amount of time FETs have to complete the application including the credentials. All applications are valid for one year from the date first received and processed. A motion was made by Joana Freedman, to change the credentialing/application process for foreign educated therapists, requiring the completed application, payment of the application fee and successful completion of the Board jurisprudence exam prior to the completion of the credentialing process. Changes to be effective September 1, 2011.
Seconded by Richard Rutt
Motion passed by unanimous vote 8-0

- **Board to Ratify Amended Affirmative Action Plan** – The Board Director reported that based on comments, suggestions and concerns of the original 2011-2013 Affirmative Action Plan filed with the Governor’s office; an amended Affirmative Action Plan has been

submitted to the Governor's Affirmation Action office for review and approval. Upon acceptance and approval of the Governor's Office of Affirmative Action, the Board will ratify the amended plan.

Dry Needling

The Director shared information relative to the petition for judicial review filed with the State of Oregon Court of Appeals by the Oregon Association of Acupuncture and Oriental Medicine naming the Oregon Board of Chiropractic Examiners as respondent. The Acupuncture Association is challenging the validity of the recently adopted Chiropractic administrative rule OAR 811-015-0036 which states dry needling is within the chiropractic physicians' scope of practice.

Letter from Applicant Smith: Appeal to Accept NPTE Scores Not Meeting Board Passing Standards

Ms. Smith contacted the Board to request an endorsement application. Ms. Smith is a graduate of a CAPTE Accredited PT program, sat and passed the national PT examination for another State, holds a current license to practice in another jurisdiction and has been practicing successfully, without any actions or encumbrances since 1984.

When Ms. Smith transferred her national exam scores to the Oregon Board, her scores did not meet the Board's passing score standards, as established by Administrative Rule. Ms. Smith was told if she wanted to be licensed in Oregon she would have to take and pass the national examination for the Oregon Board. Ms. Smith filed an examination application but has appealed to the Board for reconsideration of her transfer scores.

After discussion and consideration the Board determined they did not hold the authority to make exception to current Statute or Administrative Rule. If Ms. Smith wanted to be licensed, in the State of Oregon, she would have to present the Board with passing national examination scores according to the current Administrative Rules.

Based on Ms. Smith's request for consideration and several other outstanding future rule change issues, the Board instructed staff to begin the administrative rules process by soliciting and establishing a Rules Advisory Committee and holding an initial meeting prior to the November 2011 Board meeting. At the same time the Director will email the Board the listing of possible amendments to the current rules, taken from the future rule change pending file, and the Board will respond, back to the Director, with comments, questions or concerns.

Letter From Licensee Reilly Regarding Board Action for Practicing with a Lapsed License

Mr. Reilly is a licensee of the Board and the owner of a private practice in Eugene OR. Mr. Reilly sent a letter to the Board requesting the Board reconsider an action the Board took against one of his clinics providers, Stuart Hogg. Mr. Hogg failed to renew his 2010 PT license and treated patients for almost eleven months with a lapsed license. The Board cited the licensee for providing physical therapy services without a valid license and assessed him with a civil penalty of \$1,000. Mr. Reilly asked the Board to consider backdating the effective date of Mr. Hogg's reinstated lapsed license to 4.1.10. The Board reviewed and considered Mr. Reilly's request backdate Mr. Hogg's license, but has determined it would not be prudent or ethical on the part of the Board to backdate the effective date on the reinstated lapsed license. The Board asked its legal counsel to review the Statute and Rules relative to lapsed licenses to see if there is any way the Board could build in a grace period or what options are available to the Board relative to notifications, grace periods, late charges etc.

Board Discussion Regarding Temporary Permit Expiration Dates

The Director identified a problem relative to the new fixed date testing and the issuance of temporary permits for first time test takers. Two years ago the Board amended its administrative rules relative to the period of time a temporary permit would remain valid. The Board amended the administrative rules making temporary permits valid for 60 days instead of 90. The reason for this change was because endorsement applicants were abusing the system. They would apply for licensure, including an application for a temporary permit. They would enter the State and work a temporary assignment for the 90 days with their temporary permit. At the completion of their assignment, they would simply leave the State leaving their applications incomplete until the application would expire after one year. So, knowing that most temporary assignments were for a period of 90 days, the Board changed the rule language to only allow for a 60 day temporary permit. This change initially had no impact on temporary permits for first time test takers. With continuous date testing, first time test takers could easily get in and sit for the national examination within the 60 day timeframe. With the move to fixed date testing that is no longer the case. There may be periods of time that a registered applicant will not be able to access the national exam for periods longer than 60 days. This is having an adverse impact on the applicants and on employers who depend on the temporary permits to allow their employees to work up to the scheduled test date. After review and consideration, the Board instructed staff to include this issue as a discussion item for the upcoming Administrative Rules Advisory Committee.

Board Discussion Regarding Disciplinary Action Matrix Used for Practicing with a Lapsed License

Board member Carol Sutton requested the Board look at its policies and its disciplinary action matrix relative to sanctions levied on therapists who have been sanctioned for practicing physical therapy with a lapsed license. Ms. Sutton was concerned that any infraction or action taken by the Board will remain on the therapist permanent record and that she felt this particular infraction may not warrant that extensive an outcome. The Board discussed possible options including looking at models and policies currently used by other professional health Boards. The Board also discussed its roles and responsibilities relative to individually notifying licensees that their license has lapsed for non-renewal. The Director suggested a form or template letter be sent to the last known mailing address of all lapsed license holders as of April 1st of each year. As noted above, the Board also asked its legal counsel to review the Statute and Rules relative to lapsed licenses to see if there is any way the Board could build in a grace period or what options are available to the Board relative to notifications, grace periods, late charges etc.

Board Discussion on Fee Splitting and Online Companies Such as Groupon

Board Counsel AAG Parks shared concerns that other health Boards are currently experiencing relative to the issue of fee splitting, and whether marketing schemes like Groupon fall into that classification. The question posed was; whether there is Board concern that these types of marketing schemes would be considered fee splitting and if so, whether that would be direct violation of Board Statute 688.140(2)(1). The Board asked Counsel what the other health Boards are doing in regards to the issue. Counsel reported they are just in the beginning stages of investigating and addressing the issue.

The Board instructed its Clinical Advisor/Investigator to research Groupon and similar companies' marketing approach. Who receives the payment of the fees? Are the fees split or shared? Shared amongst whom?

She reported she is still in the process of gathering data and investigative materials. She will report her findings back to the Board at its November 4, 2011 Board meeting. At that time the Board will determine whether they want their legal counsel to render a legal opinion on whether there is a possible violation of Board Statute and Administrative Rule.

2011 Fiscal Year-End Financials

The Director presented the 2010-2011 yearend financial statements to the Board. After review and some discussion the Board approved the financial statements for publication to DAS and the Board website. The 2010 and 2011 fiscal yearend financial statements and the Boards 2011-2013 fiscal budget can be found on the Board's website at www.ptboard.state.or.us. Hard copies can also be requested by contacting the Board Director, Jim Heider at james.heidert@state.or.us or by calling 971.673.0203.

Approval of Board Meeting Minutes

The drafted Minutes, from the June 10, 2011 Administrative Rules Hearing and the June 10, 2011 Regular Board Meeting, were presented to the Board. The Board Chair opened the floor for additional discussion and comments. With a couple noted corrections, Joana Freedman moved to accept the minutes as amended.

Seconded by Richard Rutt

Motion passed by unanimous vote 8-0

2011 Board Meeting Dates

As established by the Board, the future Board Meeting dates are as follows: November 4, 2011. The 2012 Board meeting calendar will be set at the November 4, 2011 Board meeting. Meeting Dates, Meeting 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 Director presented the Board with a list of new licensees and temporary permit holders for the period of June 10, 2011 through August 25, 2011. The Board Chair opened the floor for discussion. Without noted discussion, Joana Freedman moved to ratify the issuance of the new licenses and permits as submitted.

Seconded by Richard Rutt

Motion passed by unanimous vote 8-0

Board Member Topics/ Other New Business

- **Board Delegation of Authority to Executive Director** - The Director presented the Board with a list of duties, responsibilities, activities and functions of the Board, as established and authorized by Statute. The list was developed to affirm and document those items that the Board has delegated to its Executive Director. Upon review, discussion and consideration Joana Freedman moved to ratify the list of delegated tasks and functions as assigned to the Director.
Seconded by Richard Rutt
- The Director made available a copy of the proposed personal services contract with Wicklund and Lew CPAs. Wicklund is the firm approved by the Secretary of State Audits Division to perform the statutorily biennial audit required of the Board. This year the audit/financial review will take place in December and the cost is estimated at

approximately \$7,000. After discussion, the Board approved the execution of the personal services contract.

- Clinical Advisory/Investigator Sherri Paru shared concern that articles are published in the OPTA LOG that make reference to topics and issues relative to Board Statute and Administrative Rule without any input or review by the Board or Staff, and that sometimes the information printed is not always 100 percent correct. Sherri was going to contact the Director or the OPTA Board Liaison and asked to be included in proofing articles relative to Board Statute and Rule prior to publication.

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

END OF PUBLIC SESSION AGENDA

Oregon Physical Therapist Licensing Board (OPTLB)
Administrative Rules Advisory Committee Meeting Minutes
October 10, 2011
4:00 PM to 7:30 PM

Portland State Office Building
800 NE Oregon Street Room 445
Portland OR 98232

List of Attendees: Steve Alstot, Suzanne Baptista-Maresh, Deborah Bates, Kate Brady, Wanda Crook, Tim Esau, Andrew Fifield, Diana Godwin, David Haglund, John Hakkila, Jim Heider, Erin Horton, Ramona Horton, Karina Montgomery, Jeremiah Moore, Adam Paris, Sherri Paru, Sharla Smith, Derek Stokes, Ernie Sturzinger, Beth Anne Thorpe, Amanda Wallinger.

Introductions – Jim Heider

Roles of OPTLB, OPTA, FSBPT – Sherri Paru

Summary of Rule Making Process- Jim Heider

Purpose of Rules Advisory Rules Committee: To seek input, and solutions from therapists, interested parties and other stakeholders relevant to current issues facing the profession and the Oregon Board. Outcomes and Committee recommendations will be presented to the OPTLB for Nov 4, 2011 meeting – Jim Heider

Overview of Discussion Topics and Issues – Jim Heider

- Temporary permits
- Endorsement application qualifying NPTE scores
- Reinstatement of Lapsed License
- Coordination of renewal cycle to CEU certification period
- Open topics

Temporary permits: Premise, the current rule does not allow flexibility for the onset of fixed event testing for first time examination applicants.

Problem/Issue: With continuous date testing, the 60 day temporary permit allowed plenty of time for an applicant to apply for, register and sit for the NPTE while working with a 60 day temporary permit. With fixed date testing, depending on the timing of the exam dates, graduation dates and application date, an applicant may not be able to complete the entire process and sit for the examination within the 60 day permit timeframe

Board Chair Alstot shared with the Committee that the Board was divided on the issue of temporary permits. Some Board members would like to see temporary permits eliminated, others support the continued use of the permits.

The Committee discussion included pros and cons of temporary licensure; convenience verses public safety, consideration of stakeholders including schools, employers, recruiters and the public.

Committee conclusion: The Board has not received any complaints or dealt with issues of public safety or patient injury relative to an applicant working under supervised practice with a temporary permit. The majority of the Committee would recommend that the Board continue with the offering of a temporary

permit and consider either the extension of the timeframe or the option for the Board to grant a 60 day permit if necessary to accommodate the fixed testing date.

Examination Application Qualifying NPTE Scores: Premise, the current rule restricts qualified endorsement applicants from licensure.

Problem/Issue: Prior to 1996, all States had their own passing score criteria for the National Physical Therapy Examination. So an examinee could take the exam and have a passing score in one state but that score may not be passing for another state making the individual ineligible for licensure in the second state.

Board Director Heider shared with the Committee that in the past year the Board has had four endorsement candidates that would be considered highly qualified therapists unable to complete the endorsement application process because their NPTE scores did not meet Oregon standards. Their only option would be to complete an examination application and take the NPTE again.

The Committee discussion focused on the Board's rationale for the various passing score criterion prior to 1996. The Director, through researching of the issue, was unable to determine the Board's rationale at the time. The Committee discussed the issue of, after 15-20 years, having to take the current NPTE to prove competency verses coming to the Board with 15-20 of clinical experience with no encumbrances on a license active in another State.

Committee conclusions: Based on the lack of rationale for the various examination scores prior to 1996, that a current licensee from another state had to take same national examination and pass it to be licensed in that State and that the endorsement applicant is probably coming to the State with work experience; the Board should consider language that would eliminate the old passing score requirement by recognizing that the endorsement applicant has a passing score recognized by another states PT Board and are competent for practice based on current years of practice.

Reinstatement of Lapsed License: Premise, the current fee structure is inequitable and should be reviewed for possible change or update.

Problem/Issue: In Oregon a licensee can let their license lapse for non-renewal for up to five years. Anytime during that five year period the former licensee may reinstate their OR license by completing a renewal form and paying the back renewal fees and a late charge for each year the license has lapsed up to five years. Individuals wanting to reinstate after three, four or up to five years pay a amount for reinstatement that that is inequable compared to a licensure applicant. The work to reinstate a license is minimal compared to that of processing a new license application.

Committee discussion focus around the need for reinstatement at all, why not just make everyone make application regardless of prior status. The bigger issue for the Committee was the reinstatement of licensure by renewal without verifying that during the lapsed period, if the individual was still working under another license in another state that the Board knows that the other license is in good standing.

Board Clinical Advisor/Investigator Paru shared with the Committee that the Statute may not allow for the changing of the method to reinstate, that maybe the Committee needs further clarification of Statute before an action step is considered.

Committee conclusions: The Board staff should engage the Board's legal counsel to see if the statute allows the Board to change the current fee schedule. Also the Committee felt pretty strongly about the

public safety issue allowing an individual to reinstate a lapsed license without verifying current licenses held in other States, the Committee would recommend that regardless of the fee structure, the Board should consider changing the requirements for reinstatement to include verification from every State the former licensee held a license to practice.

Coordination of Renewal Cycle to CEU Certification Period: Premise, the CE Certification Period and the Renewal Cycle due dates should coordinate.

Problem/Issue: Currently in Oregon the renewal of licensure is due annually by March 31st of each year. The CE certification period runs for two years from April 1st of an even numbered year through March 31st of the subsequent even numbered year. Many licensees have expressed concerns to the Board, saying the two different due dates create confusion, complications and angst amongst the licensees.

Committee discussions focused on the options. Either changing the renewal cycle to every two years to co-inside with the CE certification period or changing the CE certification period to every year completing ½ the current requirement. Pro and cons of both options were discussed.

Committee conclusions: The Committee felt strongly that this was a topic of interest that may need further input from their staffs and co-workers. The Committee decided to table the topic to the next meeting and in the interim to have discussion with co-workers and staff to get a broader picture or more insight, is the current system a big enough problem to warrant a change and if a change is considered what would be the best option to implement.

Meeting adjourned 7:30pm

Next Meeting: Monday October 24, 2011 4:30pm

Oregon Physical Therapist Licensing Board (OPTLB)
Administrative Rules Advisory Committee Meeting Minutes
October 24, 2011
4:30 PM to 7:30 PM

Portland State Office Building
800 NE Oregon Street Room 445
Portland OR 97232

List of Attendees: Steve Alstot, Suzanne Baptista-Maresh, Deborah Bates, Kate Brady, Wanda Crook, Tim Esau, Andrew Fifield, Diana Godwin, David Haglund, John Hakkila, Jim Heider, Ramona Horton, Karina Montgomery, Adam Paris, Sherri Paru, Sharla Smith, Ernie Sturzinger, Beth Anne Thorpe, Amanda Wallinger.

Review and Approval of 10.24.2011 Agenda – Jim Heider

Old Business

Review, recap and approval of minutes from 10.10.11 meeting, including recap of Committee advisement to the Board regarding; extension of temporary permits for first time examination applicants; elimination of specific passing score criteria requirements for endorsement applicants who sat the NPTE prior to 1996 (with some conditions); amendment of fee structure for reinstatement of lapse licenses; looking at making more equitable. Minutes approved as written.

Coordination of Renewal Cycle to CE Certification Period: Premise, should the CE Certification Period and the Renewal Cycle due dates coordinate with each other?

The Committee continued the discussion from the 10.10.11 meeting. The options were again discussed; having the renewal cycle and CE certification both occur on an annual basis or, change the renewal cycle to bi-annual cycle or, leave things the way they are now. The Committee's primary focus and concerns were keeping the administrative cost down while still protecting the public. The Committee members reported back the responses from co-workers and peers. The group findings were that the majority of therapists either did not care, or didn't think there needed to be a change. The overall feeling was that this is not a big issue amongst the profession, "if it's not broken, don't fix it".

Committee Conclusions: Following the continued discussions the majority of Committee favored keeping the current system as is, annual licensure renewal by March 31st of every year, with bi-annual CE Certification periods on even numbered years.

New Business

Continuing Education-Qualifying Credits: Premise, should the CE rules be modified to allow credit for various activities, i.e. acting as a clinical instructor, the publishing of articles, competency requirement programs, etc.?

Problem/Issue: It was brought to the Boards attention that activities such as those noted above, involve time and commitment resulting in outcomes that aid in the advancement of the profession, and that reward and recognition should be given to therapist who chose to participate in these types of activities.

Jim Heider noted that if anything other than “continuing education” was to be considered for CE credit the language in 848-035-0030(1)(a) needed to be amended to include the word/s “activities” and “certified”. After discussion the Committee agreed that an amendment to the descriptive language was warranted.

Also the Committee felt strongly that the definition section 848-035-0015 should be amended to include a clear definition of continuing education. The definition should encompass the primary intent for the requirement for completion of continuing education. Knowing the intent could answer a lot of questions relative to the qualification of a CE program, educational event or activity for credit. Sherri Paru was going to check to see what language, if any, other State might use in their laws and rules.

The following issues and specific programs and activities were discussed by the Committee relative to qualification for CE credits or not:

Clinical Instruction - Committee member Beth Thorpe presented her research on the topic of awarding Clinical Instructors (CI’s) continuing education credit. In her research, Beth identified 19 states that currently allow for CE credit; with a varying range of credits per instructional hour. Based on Beth’s research, and comparing the average allowance for credits amongst the varies Boards, Beth’s proposal to the Committee, and the Board, was to award 1 CE credit for each 40 hours of clinical instruction with a cap of 50%, of the total certification period requirement (12 for a PT and 6 for a PTA), placed on the total number of CE credits allowed. The licensee must provide all documentation as required under 848-035-0040.

Committee Conclusions: Following discussions the majority of Committee favored allowing CE credit for CI’s, and determined the proposed award schedule held merit and should be considered by the Board.

Publishing of articles – After consideration and discussion, the Committee determined that the publishing of an article should count towards CE credit. In review of the rules the Committee would recommend the repeal of 848-035-0030(2)(e) which prohibits granting CE credit for publishing an article. With regards to the language allowing for credit and how much credit, the Committee felt that 848-035-0030(1)(h) should be amended to include the words “and activities”. With regards to credit, the Committee felt the responsibility should be placed on the therapist to provide evidence that the publication would qualify for CE under another state board administrative rule.

Work Place Competency Programs – After consideration and discussion, the Committee concluded that the requirement to complete work place Competency Programs should not count for CE credits.

Work Place In Service Training Programs - After consideration and discussion, the Committee concluded that the requirement to complete work place In Service programs should not count for CE credits.

Limiting the number of CE credits that can be earned through on-line course work - After consideration and discussion, the Committee concluded that there should not be a limit set for the number of CE credits an individual could earn using online programs.

Carryover of Excess CE credits from one Certification Period to Another - After consideration and discussion, the Committee concluded that carryover CE from one certification period to another should not be allowed at this time. However, it could be considered again in the future if the Board staff could find a way to administratively/electronically handle the tracking work load.

Requirements for an Initial Evaluation – Premise, if has been brought to the Board’s attention that the rule language in 848-040-0125 Standards for Initiation of Physical Therapy, may need further clarification.

Problem/Issue: As written the rule allows third party payers to interpret the language in a way that disallows reimbursement for subsequent initial evaluations within a limited or shortened timeframe.

Committee Conclusions: Following discussion the Committee concluded that the language requiring an initial evaluation should be more clear. The Committee proposed suggested adding language that would add the phase “for each episode of care” to the requirement to perform an initial evaluation.

Other Committee Topics - Jim Heider opened the floor to the Committee Members for any other issues or topics that the Committee may have relative to Administrative Rule adoption, amendment or repeal, hearing none, he closed that portion of the meeting.

Administrative Rules Drafting Committee – Jim Heider announced the members of the drafting committee. Diana Godwin, Kate Brady, Suzanne Baptista-Maresh, Sherri Paru and Jim Heider.

Jim Heider explained the next steps of the process, the drafting of proposed language which, depending on timing, would be provided to the Committee prior to bring to the November 4th Board meeting. He also stated that if another meeting was warranted following the Board meeting, the Committee would receive email notification or perhaps the business may be conducted via email. Sherri Paru extended an invitation to all the Committee Members to attend the public session of the Board Meeting, which she estimated would begin around 12:30 PM on the afternoon of November 4th, the meeting room is 1-C on the PSOB lobby level.

Jim Heider asked for any final questions. Ramona Horton had a couple of questions not necessarily related to rule making but she wanted to be able to respond to co-workers and peers relative to two Board issues.

The first question was; what happens to the graduates from emerging PT/PTA programs who cannot sit for the NPTE because the rule language requires they be graduates of a CAPTE accredited program and, when they graduated, their programs may not have been CAPTE accredited. Jim explained the language with regards to the requirement for CAPTE accreditation was changed several years prior and that, if the programs were in the application and review process for accreditation at the time the class graduated, when the CAPTE accreditation was confirmed, the students would be allowed to apply and sit for the NPTE post graduation.

Secondly, Ramona wanted to know if the Board has furthered or changed its position on “Dry Needling” with regards to the PT scope of practice. Both Jim Heider and Board Chair, Steve Alstot, explained the Board’s current situation relative to dry needling has not changed and the rationale for the Board’s position to “wait and see”.

Meeting adjourned 7:15pm.

**Physical Therapist Licensing Board
Board Meeting
November 04, 2011**

MINUTES

Friday, November 04, 2011

Board Members Present: Steve Alstot, PT, Chair; Jason Fiske, PT, Vice Chair; Joana Freedman, 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 8:34 AM, Chair Steve Alstot convened the Board into Executive Session, citing ORS 192.660(2)(k). Pursuant to ORS 192.660(2)(k)(f), 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, current legislation 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 2:03 PM, Board Chair Alstot 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 389-4/11

Motion by Richard Rutt, to issue Notice of Denial of Licensure citing violations of ORS 688.140(2)(h) and OAR 848-010-0044(3) & (7). It was further moved to provide the Jackson County DA's office with all the public records in the case.

Seconded by Joana Freedman

Motion passed by vote 7-0, Board member Selbst was not present for the vote.

Case PT 383-2/11

Motion by Richard Rutt to release a copy of the psychological evaluation report to Licensee, and issue a Confidential Advisory Letter recommending the Licensee follow the recommendation as noted in the report.

Seconded by Joana Freedman

Motion passed by unanimous vote 7-0 Board member Selbst was not present for the vote.

Case PT 340-4/11

Motion by Richard Rutt to issue an Amended Notice of Proposed Disciplinary Action (Revocation of License) citing additional violation of failure to report an arrest on license renewal application. ORS 688.140(2)(c) and OAR 848-045-0020(2)(a)(i).

Seconded by Joana Freedman

Motion passed by unanimous vote 7-0 Board member Selbst was not present for the vote.

Case PT 403-7/11

Motion by Richard Rutt to issue Confidential Advisory Letter cautioning Licensee to be more cognizant of facility protocols and procedures.

Seconded by Joana Freedman

Motion passed by unanimous vote 7-0 Board member Selbst was not present for the vote.

Case PT 387-4/11

Board Counsel notified the Board that an Administrative Hearing took place on October, 26, 2011. ALJ issued an Order and Licensee has 30 days to file exceptions. Board will discuss case at the January 20, 2012 and vote to issue Final Order if Licensee did not file exceptions.

Case PT 410-9/11

Board Investigator reported that Applicant failed to disclose an arrest on his application for licensure. The Board requested additional information and Applicant has not responded to the request. Case will be discussed at January 20, 2012 Board Meeting, and the Board will determine if case should stay open or be closed for now. Board policy is that applications are held on file for one year from date of receipt of application.

General Topics/Business

- Board Chair report from 2011 FSBPT annual Meeting – Report moved to the January 20, 2012 Board Meeting.
- Board Member report from CLEAR conference - Report moved to the January 20, 2012 Board Meeting.
- Board Counsel report from FARB Attorney Conference - Report moved to the January 20, 2012 Board Meeting.
- Review of legal questions on application and renewal forms – The Board Counsel and Board Director discussed the legal disclosure questions posed on the applications for initial licensure and renewal. After discussion the Board instructed its Legal Counsel and Director to work together to finalize the language to be used on the initial and renewal licensure applications.
- Board Appointments – The Board Director confirmed the Governor’s reappointment of PT Board Member Burke Selbst to a second term on the Board and the new appointment of Ruggiero (Ruggie) Canizares, PT to a first term on the Board. Both Selbst and Canizares

are subject to final Senate confirmation on November 16, 2011. Mr. Canizares will fill the vacancy left by PT Member Joana Freedman. Ms. Freedman, formerly Board Chair, served over two full terms on the Board.

- Affirmative Action Plan – The Board Director confirmed the Governor’s Office of Affirmative Action had approved the Board’s 2011-2013 Affirmative Action Plan (AAP) as adopted by the Board at their August 26th 2011 Board Meeting. The Board’s AAP is posted, and can be viewed, on the Board’s website at www.ptboard.state.or.us .
- FSBPT APTitude presentation - Aptitude is an online tool that will help licensees track their CE and Continuing Competency Activities. It has reminder calendars build into it that can send email messages to licensees with regards to upcoming renewal due dates and CE certification requirements. It can prove especially helpful to those therapists who hold licenses in multiple States. Aptitude is being offered at no cost to licensed therapists. The Board Director had indicated that the Federation of State Boards of Physical Therapy was interested in presenting Aptitude to the Board. After discussion, the Board felt that an Aptitude presentation would be more beneficial if it was given to a large group of professionals. PTA Board Member Wood suggested that maybe the presentation would be better served if it was presented at the OPTA Spring Conference. The OPTA liaison to the Board, Tim Esau,PT, was present at the meeting and he will discuss this with the OPTA Board.

Rules Advisory Committee

The Director summarized the findings and proposals for administrative rule changes as outlined in the minutes from the October 10th and October 24th Administrative Rules Advisory Committee (RAC) meetings (see RAC meeting minutes attached). After review and discussion the Board determined, with some slight modifications, it would instruct Staff to proceed with the modifications and prepare to start the proposed rule making process with a Proposed Rule Making Hearing to be held prior to the Board’s January 20, 2012 scheduled Board Meeting.

Board Discussion on Fee Splitting & Online Companies such as Groupon & Living Social

Due to time constraints this discussion has been moved to the January 20, 2012 Board Meeting.

Questions From Licensees Regarding use of Class 4 Lasers

Due to time constraints this discussion has been moved to the January 20, 2012 Board Meeting.

Approval of Board Meeting Minutes

The drafted Minutes, from the August 26, 2011 regular Board Meeting, were presented to the Board. The Board Chair opened the floor for additional discussion and comments. Without any noted amendments, Richard Rutt moved to accept the minutes as written.

Seconded by Joana Freedman

Motion passed by unanimous vote 7-0 Board member Selbst was not present for the vote.

2012 Board Meeting Dates

As established by the Board, the future Board Meeting dates are as follows: January 20, 2012, March 16, 2012, June 1, 2012, August 10, 2012, and October 26, 2012. Meeting Dates, Meeting 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 Director presented the Board with a list of new licensees and temporary permit holders for the period of August 26, 2011 through November 3, 2011. The Board Chair opened the floor for discussion. Without noted discussion, Richard Rutt moved to ratify the issuance of the new licenses and permits as submitted.

Seconded by Joana Freedman

Motion passed by unanimous vote 7-0 Board member Selbst was not present for the vote.

Information Regarding PIP Payment for Patients Referred to PT by a Chiropractor

It was brought to the Board Staff's attention that the Chiropractic Board posted a page on their website relative to a physical therapy billing issue. It seems that insurance carriers are denying payment for physical therapy provided by PTs when referred by chiropractic physicians for MVA/PIP covered patients. Although not present at the meeting, Attorney Diana Godwin, attorney for the Oregon Physical Therapists in Independent Practice, provided Board staff with the history and documentation relative to this issue. Ms. Godwin cited the issue as a legislative drafting error at the time the Statute was written. The error omitted the listing of Chiropractic physician's as an acceptable referring provider in cases of personal injury patients to physical therapists. The Board asked Tim Esau, OPTA liaison to discuss this issue with the OPTA Board to see if they would like to work with the Chiropractic Association to legislatively amend the PT statute.

Board Member Topics/ Other New Business

Chair Alstot asked if there was any other new business.

PTA Member Wood asked the Board if they were still interested in holding a future Board meeting at Lane County Community College in Eugene, OR. Since not all the Board members were present to respond to the question, the Board Chair directed staff to poll the entire Board to see if there is a consensus to hold a future meeting in Eugene.

Board Clinical/Investigator Paru received a complaint/concern relative to the use of the initials CPT by personal trainers. CPT stands for Certified Personal Trainer and the individual using the initials provides training in exercise and stretching techniques. After discussion the Board determined that only the initial "P.T.", "RPT", and "LPT" are specifically protected by Statute and the Board has no authority to prevent anyone from using the initials "CPT", and further that the techniques of exercise and stretching are not unique to the PT scope of practice.

Secondly, Ms. Paru brought to the Boards attention another complaint/concern she received relative to a physical therapist that has a doctorate degree in Science advertising as "Doctor" in context of providing physical therapy. The licensee's employer had placed an ad in the newspaper and the ad was brought to the attention of the Board. After discuss with Ms. Paru, the licensee has since modified the ad, and has fully cooperated with Ms. Paru's suggestions to be in compliant with statue and rule. After discussion, the Board determined that, the modified advertisement was acceptable. The PT was identified as "Doctor" but also listed her degree after her name: "doctor of science". Further, the Board determined that if a therapist holds a doctorate degree in another field or specialty and chooses to use the title doctor in association with their name, they must physically indentify their specialty by printing it with the doctor title and name. i.e: Dr. Jane Doe, PT, Doctor of Science.

Chair Alstot call for any other new business with none noted, Chair Alstot adjourned the Board Meeting at 4:03 PM.