

**Physical Therapist Licensing Board
Board Meeting
February 29, 2016
MINUTES**

Monday, February 29, 2016

Board Members Present: Richard Rutt, PT, Chair; Ruggie Canizares, PT, Vice Chair; Phil Haworth, PT Member; Aubree Benson, PT Member; Jennifer Julkowski, PTA Member; Carol Sutton, Public Member, Troy Costales, Public Member

Board Members Absent: Alan McAvoy, PT Member

Staff: James Heider, Executive Director; Sherri Paru, PT, Clinical Advisor/Investigator; Rick Sullivan, PTA, Licensing Coordinator

Legal Counsel: Joanna Tucker Davis, AAG

EXECUTIVE (CLOSED) SESSION

At 8:32 AM Chair Rutt convened the Board into Executive Session. Citing ORS 192.660(2)(f) and ORS 192.660(2)(L), this portion of the Meeting is closed to the public.

At 1:47 PM Chair Rutt adjourned Executive Session.

At 3:46 PM Chair Rutt reconvened the Board into Executive Session. Citing ORS 192.660(2)(f) and ORS 192.660(2)(L), this portion of the Meeting is closed to the public.

At 4:09 PM Chair Rutt adjourned Executive Session.

PUBLIC (OPEN) SESSION

At 1:54 PM, Board Chair Rutt convened the Board into Public Session. During this portion of the meeting the Board considered inquiries from licensees and the public, approved 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 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. Upon the approval of the Board, written public session minutes are published and available on the Board website.

Guests: Diana Godwin, Attorney at Law representing Oregon Physical Therapists in Private Practice (OPTIP); Justin Dunaway PT, DPT representing Oregon Physical Therapy Association and Stacey Kjelkgaard representing Ethics and Boundaries Assessment Services.

Board Motions

Case PT 579-01/16

Motion by Troy Costales to issue Notice of Proposed Discipline citing two violations of ORS 688.140(2)(c), and two violations of OAR 848-045-0020(2)(a) and assessing a civil penalty of \$1,250.00 for each violation for a total assessed penalty of \$5,000.00.

Seconded by Ruggie Canizares

Motion passed unanimously by a vote of 7-0. Board member McAvoy was absent from the vote.

Case PT 577-12/15

Motion by Troy Costales to issue a Notice of Proposed Disciplinary Action (Reprimand) citing violations of ORS 688.140(2)(a), ORS 688.140(2)(c); OAR 848-045-0020(2)(a) and OAR 848-045-0020(2)(u)(A). Further moved to issue permanent license.

Seconded by Ruggie Canizares

Motion passed unanimously by a vote of 7-0. Board member McAvoy was absent from the vote.

Case PT 586-2/16

Motion by Troy Costales to close case no action taken.

Seconded by Ruggie Canizares

Motion passed unanimously by a vote of 7-0. Board member McAvoy was absent from the vote.

Case PT 581-2/16

Motion by Troy Costales to issue a Confidential Advisory Letter citing failure to timely disclose on an application.

Seconded by Ruggie Canizares

Motion passed unanimously by a vote of 7-0. Board member McAvoy was absent from the vote.

Ethics and Boundaries Assessment Services (ebas) Presentation:

Stacey Kjelkgaard, Executive Director of ebas gave a short presentation regarding the offerings of ebas. Ebas is a five part computerized essay examination for licensed professionals. The outcome is an evaluation of a licensee's overall comprehension of accepted professional ethical standards. The cost to an individual is \$1,500.00. The board was going to discuss the value of the examination used as a tool in remediation but determined they needed further information regarding the examination output from Ms. Kjelkgaard.

Board Policy Issues/Review:

National Physical Therapy Examination (NPTE) Appeals – Following Board discussion Troy Costales made a motion to make known that the Board, at this time, is not sponsoring appeals to the lifetime eligibility attempt limits on the NPTE.

Seconded by Ruggie Canizares

Motion passed unanimously by a vote of 7-0. Board member McAvoy was absent from the vote.

FSBPT Jurisprudence Assessment Module (JAM):

Board Investigator Paru summarized her role as Oregon's Subject Matter Expert in the development of the JAM questions. Ms. Paru reported that the time involved in the writing, editing, rewriting, review and approval of some 200 possible test questions was a time intensive task. She does however feel that having two valid and reliable forms of the 50 question exam will be well worth the Board's investment of time and money. Board Director Heider estimates the new exam will save the Board between 5 to 8 hours a week in processing and that the online open delivery mechanism will be beneficial to the applicants. The next step, once the questions are written, will be for the Board to hold a standards setting meeting which will include Oregon therapist to take the test. The Director is anticipating rolling out the JAM 4th in the 4th quarter of 2016. The exam will be used for initial licensure only, however the Board may consider offering continuing competency credit for any licensee choosing to take the exam. Some states mandate the JAM as a requirement of renewal. At its October 2015 meeting the Board voted to subsidize the cost of exam development by \$40,000 bringing the initial cost of the exam to an applicant down from \$60 to \$48. This investment includes the costs to maintain the currency, reliability and validity of the exam.

SB 1504 Compact Legislation:

Board Director Heider reported on the status of Senate Bill 1504 (Bill) the Physical Therapist Interstate Licensure Compact. Board Assistant Attorney General Tucker Davis reported that the Department of Justice had concerns that some of the language in the Bill was unconstitutional. After a meeting with all interested parties a resolve was determined and Legislative Counsel introduced amendments to the original bill to the satisfaction of all parties. As of the time of the Board meeting the Bill had passed the Senate Health Care Committee and the Senate floor by a vote 23-3 with 2 excused absences and the House Health Care Committee and the House floor by a vote of 60-0. The Bill is now pending the signature of the Governor. When the Governor signs the Bill, Oregon will be the first State/jurisdiction in the US to adopt the Compact language.

License Renewal Update:

Board Director Heider reported that, as of the meeting date, the Board still had an estimated 3,000 renewals to process for the month of March. This is twice the volume normally remaining at this time in a renewal period. Further, Director Heider anticipates that the majority of these renewals will come in during the last two weeks of the month. Mr. Heider attributes the delay in licensees renewing to the change in renewal policy that mandates a licensee complete their continuing competency requirement prior to renewal and that they list the activities and courses as part of that renewal process. In years past a licensee could attest to the fact that they had completed the continuing competency requirement or that they would complete the requirement prior to the end of the certification period. Mr. Heider said that this workload was unprecedented and wanted the Board's approval to allow for overtime and/or bring in temporary help to handle the volume. The Board approved his request.

The Board had a request from a licensee to consider the creation of "Retiree" licensure status - after review of current Board Statute and Rule the Board's Assistant Attorney General Tucker Davis advised the Board that they do not have the authority to issue a "Retiree" Emeritus status.

Continuing Competency Update Questions:

Request for continuing competency credits relating to the specialized training and education needed to provide physical therapy services to Raptors – after discussion the Board determined that it would allow a onetime credit for the hours spent and documented in the specialized training necessary to provide services to Raptors but would not allow for credit for the actual volunteer hours spent providing the services.

Request for continuing competency credits relating to the specialized training and education necessary to safely and competently apply Yoga techniques in the provision of physical therapy services – after discussion the Board determined that it would allow continuing competency credit for the specialized Yoga training and education.

The Board received three continuing competency policy/rule change requests. Two of them were for the Board to consider allowing a licensee with continuing competency credits in excess of the current certification requirement to carry over those credits into the subsequent continuing competency certification period. The second request was for the Board to consider allowing continuing competency credit for volunteering to serve on a board or committee of an Organization that aided in the advancement of the profession. – after discussion the Board determined that both these requests would require an amendment to the current Division 35 Continuing Competency Rules. They requested the Board’s Director to include these issues in a Rules Advisory Committee discussion forum.

2015 External Audit Report:

In accordance with ORS 182.464 and ORS 182.472 each biennium the Board is audited by an independent Certified Public Accountant. The completed audit report with a management letter in response to any material findings is submitted to the Governor, the President of the Senate, the speaker of the House and the Legislative Fiscal Office. The Board Director provided the Board with a draft copy of the 2013-2015 Board Financial Review. There were no material findings.

Election of Board Chair and Vice Chair:

Board Director Heider announced the nominated candidates for the position of Board Chair and Board Vice Chair. For the position of Board Chair, incumbent Dr. Richard Rutt was nominated. For the position of Board Vice Chair incumbent Ruggie Canizares was nominated. The Director asked for any additional nominations. Hearing none, the slate was closed. Board member Troy Costales moved to elect the officers as slated with a term through February 2017.

Seconded by Ruggie Canizares

Motion passed unanimously by a vote of 7-0. Board member McAvoy was absent from the vote.

General Topics/Business

- Oregon Mandatory New Board Member and Executive Director Training – In 2015 the Legislature passed a law that requires newly appointed Board members and newly hired Executive Directors complete a State sponsored Board training program. The law applies to any new appointment or hire made after January 1, 2016 and must be completed within six months of the individual’s appointment or hire date. The Director noted that although none of the current Board members are subject to the requirement based on their original appointment dates the training was available to them.

- FSBPT New Board Member Training - Annually the Federation of State Boards of Physical Therapy (FSBPT) provides training for new Board members and Executive Directors. This year the training will be held June 24-26 at the FSBPT Headquarters in Alexandria VA. This is a three day intense program with topics covering regulatory law, terminology, board power, responsibilities and roles, the regulation of physical therapy, delegation of authority, board member immunity and a familiarization with FSBPT services. This program is sponsored by the FSBPT. The program costs the Board nothing and the FSBPT pays for the travel, hotel and meals. To date all but two of the Oregon Board members have attended the training. This year Board members Benson and Haworth and Director Heider will attend the program.
- CLEAR Conference – Board Director Heider announced the 2016 Council on Licensure Enforcement And Regulation conference will be held September 15-17 in Portland OR and that any Board member interested in attending the conference should contact him.

Approval of Board Meeting Minutes

The drafted minutes, from the December 18, 2015 Regular Board Meeting were presented to the Board. Board Chair Rutt opened the floor for additional discussion and comments. Member Julkowski noted a few small changes. Noting the changes, Chair Rutt asked if there was a motion to approve the minutes as amended.

Member Costales moved to approve the Minutes as amended.

Seconded by member Canizares.

Motion passed unanimously by a vote of 7-0. Board member McAvoy was absent from the vote.

Future Board Meeting Dates:

The Board dates for 2016 are as follows: Friday, May 6th; Monday, July 25th; Friday, October 7th hosted by George Fox University and Friday, December 16th.

Meeting Notices, Dates, Locations and published Minutes may be found on the Board website at www.ptboard.state.or.us.

Ratification of PT/PTA Licenses & Temporary Permits

Chair Rutt presented the Board with a list of new licensees and temporary permit holders for the period of December 19, 2015 through February 26, 2016. Chair Rutt opened the floor for discussion. With none noted, Chair Rutt asked for a motion to ratify the new licensees and permit holders.

Member Costales moved to ratify the list of PT/PTA licenses and Permits issued December 19, 2015 through February 26, 2016.

Seconded by member Canizares.

Motion passed unanimously by a vote of 7-0. Board member McAvoy was absent from the vote.

Board Member Reports/Other New Business:

Chair Rutt asked for other new business.

Director Heider provided the Board with a copy of a letter received from the Oregon Physical Therapy Association (OPTA). The subject of the letter was dry needling and the request from the OPTA was for the Board to revisit its current position statement regarding PTs use of the

technique. Chair Rutt asked that the letter and the OPTAs request for review be placed on the May 6, 2016 Board meeting agenda for discussion.

Director Heider also provided the Board with a copy of the FSBPT's 2015 NPTE satisfaction survey which is completed by every national examination test taker. For Oregon this represented approximately 263 applicants. On an average 95% of Oregon's applicants stated they were "very satisfied" with the Oregon application process, in the 4th quarter 100% of applicants said they were "very satisfied". Director Heider acknowledged and attributed this high rating to Rick Sullivan, PTA, Licensing Coordinator and the excellent work he continues to do for the Board.

Chair Rutt asked again for other new business, with none noted Chair Rutt adjourned the meeting at 4:09 PM.

**Physical Therapist Licensing Board
Board Meeting
May 6, 2016
MINUTES**

Friday, May 6, 2016

Board Members Present: Richard Rutt, PT, Chair; Ruggie Canizares, PT, Vice Chair; Phil Haworth, PT Member; Aubree Benson, PT Member; Alan McAvoy, PT Member; Jennifer Julkowski, PTA Member; Carol Sutton, Public Member, Troy Costales, Public Member

Board Members Absent: N/A

Staff: James Heider, Executive Director; Sherri Paru, PT, Clinical Advisor/Investigator; Rick Sullivan, PTA, Licensing Coordinator

Legal Counsel: Joanna Tucker Davis, AAG

EXECUTIVE (CLOSED) SESSION

At 8:39 AM Chair Rutt convened the Board into Executive Session. Citing ORS 192.660(2)(f) and ORS 192.660(2)(L), this portion of the Meeting is closed to the public.

At 11:58 PM Chair Rutt adjourned Executive Session.

PUBLIC (OPEN) SESSION

At 12:30 PM, Board Chair Rutt convened the Board into Public Session. During this portion of the meeting the Board considered inquiries from licensees and the public, approved 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 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. Upon the approval of the Board, written public session minutes are published and available on the Board website.

Guests: Diana Godwin, Attorney at Law representing Oregon Physical Therapists in Private Practice (OPTIP); Ricci Susick, PT representing Oregon Physical Therapy Association (OPTA) Liaison to the PT Board, Justin Dunaway PT, DPT interested party; Nancy Schuberg Director of the Oregon Occupational Therapy Board and David Linn representing Oregon Board of Examiners for Speech-Language Pathology Audiology Board.

Board Motions

Case PT 581-2/16

Motion by Jennifer Julkowski to settle the case with a Stipulated Agreement and Final Order citing violations of ORS 688.140(2)(c) and OAR 848-045-0020(2)(a) and assessing a civil penalty of \$2,500.00.

Seconded by Carol Sutton.

Motion passed unanimously by a vote of 8-0.

Case PT 547-10/14

Motion by Jennifer Julkowski to accept the terms of the Stipulated Agreement and Final Order as submitted by the Licensee.

Seconded by Carol Sutton.

Motion passed by a vote of 7-1. Member Canizares vote nay.

Case PT 577-12/15

Motion by Jennifer Julkowski to issue a Default Final Order Letter of Reprimand.

Seconded by Carol Sutton.

Motion passed unanimously by a vote of 8-0.

Case PT 586-4/16

Motion by Jennifer Julkowski to issue a Confidential Advisory Letter for failure to report the conviction of a misdemeanor within 10 days of the court action.

Seconded by Carol Sutton.

Motion passed unanimously by a vote of 8-0.

Case PT 585-2/16

Motion by Jennifer Julkowski to issue a Notice of Proposed Discipline and Stipulated Agreement and Final Order for practicing with a lapsed license. Citing violation of ORS 688.140(2)(a) and OAR 848-045-0020(2)(r) and assessing a civil penalty of \$75.00.

Seconded by Carol Sutton.

Motion passed unanimously by a vote of 8-0.

Case PT 574-10/15

Motion by Jennifer Julkowski to issue a Confidential Advisory Letter regarding concerns of possible unprofessional conduct.

Seconded by Carol Sutton

Motion passed unanimously by a vote of 8-0.

Case PT 561-3/15

Motion by Jennifer Julkowski to issue a Confidential Advisory Letter regarding concerns over retention of aide training records.

Seconded by Carol Sutton.

Motion passed by a vote of 7-0. Member Canizares abstained from the vote.

Case PT 582-2/16

Motion by Jennifer Julkowski to close the case no action taken.

Seconded by Carol Sutton.

Motion passed unanimously by a vote of 8-0.

Case PT 592-4/16

Motion by Jennifer Julkowski to issue a Notice of Proposed Discipline and Stipulated Agreement and Final Order for practicing with a lapsed license. Citing violation of ORS 688.140(2)(a) and OAR 848-045-0020(2)(r) and assessing a civil penalty of \$100.00.

Seconded by Carol Sutton.

Motion passed unanimously by a vote of 8-0.

Case PT 593-4/16

Motion by Jennifer Julkowski to issue a Notice of Proposed Discipline and Stipulated Agreement and Final Order for practicing with a lapsed license. Citing violation of ORS 688.140(2)(a) and OAR 848-045-0020(2)(r) and assessing a civil penalty of \$75.00.

Seconded by Carol Sutton.

Motion passed unanimously by a vote of 8-0.

Case PT 594-5/16

Motion by Jennifer Julkowski to accept the application for initial licensure.

Seconded by Carol Sutton.

Motion passed unanimously by a vote of 8-0.

Board Policy/Scope of Practice Issues:

- PT role in medication management – Question from Kaiser Permanente; Is it within a physical therapist scope of practice to complete a medication reconciliation? The Board determined that there is nothing in the physical therapy statute that would prohibit a therapist from completing a medication reconciliation. The same question was posed to the Occupational Therapy Board and to the Board of Examiners for Speech-Language Pathology Audiology. It was suggested that the three boards write a joint response back to Kaiser. After discussion the PT Board determined that because each professions scope of

practice may differ, it would be best for each board make their own determination and respond to Kaiser separately.

- Use of anal menometry – Question from therapist; is it within a PT scope of practice to do menometry and to use it therapeutically? The Board determined that there is nothing in the physical therapy statute that would prohibit a therapist from doing anal menometry as it is a form of biofeedback.
- Licensure exemption for treatment of athletes, performing arts or theater company – The Board clarified that as written in the statute ORS 686.030(4)(b), the exemption for licensure is dependent on the patients affiliation with the athletic organization or theater company and, if that relationship exists, than any licensed therapist from outside the state of Oregon, may provide physical therapy services to that individual without first obtaining an Oregon license.
- Sale and promotion of nutritional products – The Board determined that the current policy statement that prohibits therapists from advertising and selling nutritional products will remain in place and that the prohibition should be written into rule.
- Cupping – The Board determined that there is nothing in the physical therapy statute that would prohibit a therapist from using a variety of techniques to achieve soft tissue mobilization.
- Ratify changes to policy on Application Review /Approval – After review of the amended language member Jennifer Julkowski moved to accept the amended policy on Application Review/Approval.
Seconded by Carol Sutton.
Motion passed unanimously by a vote of 8-0.

Future Rulemaking Questions and Issues:

- A citizen requested the Board to review Division 40, Standards for Discharging a Patient from therapy – After discussion the Board determined that it would review the rules relative to the standards of discharge rules and the implementation of some type of standard for wellness maintenance care.
- A group of therapists requested the Board to review Division 40, Standards for Performing the Required Reassessment - After discussion the Board determined that it would review the rules relative to the standards for reassessments.
- The Director provided the Board with a list of proposed rule making changes which will be amended to add, a new rule for sale of nutritional products, and review of division 40 for possible updates to the discharge rules and reassessment requirement. Below is a list of the proposed review items:

Division 5 Board Administration

- Review of new Compact language and its impact or need for rule changes. i.e. the requirement for finger printing, new fees, etc.
- Review implementation of the jurisprudence assessment module (JAM) scheduled for roll out January 1, 2017, new fees and processes.

Division 10 Licensed Physical Therapists and Licensed Physical Therapist Assistants

- Add language that directly ties back to the new FSBPT NPTE eligibility requirements.

- Discussion and recommendation to the Board as to allowing an applicant to appeal NPTE eligibility rules.
- Discussion and recommendation to the Board as to allowing an endorsement candidate to make application if they have passed the NPTE by virtue of being granted an appeal in another state.

Division 35 Continuing Competence

- Discussion and recommendation to the Board as to giving licensees CC credit for doing volunteer work promoting the practice of PT.
- Discussion and recommendation to the Board as to giving licensees CC credit for volunteering to serve or hold offices on physical therapy boards, commissions, organizations and task forces that aid in the advancement or regulation of the profession.
- Discussion and recommendation to the Board as to allowing a licensee to carry over excess CC credit from one certification period to another.

Division 40 Minimum standards for Physical Therapy Practice and Records

- Add language requiring and defining “Informed Consent.”
- Add language to define and set standards for therapists who volunteer....or who volunteer for sports events.
- Discussion and recommendation to the Board as to maintenance or disposal of patient records when closing a practice.

FSBPT Jurisprudence Assessment Module (JAM) for 2016:

Clinical Advisor/Investigator Paru reported the status of the Federation’s development of the Oregon JAM. The item writing is almost complete. The next step will be a standards setting meeting hosted by the Oregon Board. 3 to 5 Oregon licensees will be invited to attend the meeting, take the exam and the results will be used to set the passing score criteria and to validate the exam. This meeting will be held sometime in the summer of 2016. The Federation’s projected roll out of the final product will be November 1, 2016. Director Heider told the Board, staff plans to implement use of the JAM on January 1, 2017. Director Heider also suggested to the Board that they may consider using the JAM as a remedial tool in disciplinary cases, and as an optional continuing competency exercise for all Licensees, awarding CC credits to the successful completion of the JAM. The Board allocated \$45,000 as a portion of the upfront development costs for the JAM. The remaining costs for development and maintenance of the JAM will be a user charge of approximately \$48 per examination.

Board Financial Snapshot 7/1/15-3/31/16:

Board Director Heider presented the Board with a financial report and narrative covering the fiscal period 7/1/15-3/31/16. The report included budget to actual expenditures with variances greater than \$1,000 covered by a narrative explanation. Director Heider reported that the Board was in a sound financial position and asked for questions from the Board, hearing none, the Director moved on to the next agenda item. Copies of the Board’s current budget and prior annual fiscal year-end reports can be found on the Board website at www.ptboard.state.or.us Copies of interim financial statement snapshots with narratives are available by contacting the Board office at 971.673.0200 or by emailing a request to physical.therapy@state.or.us.

Merchant Account Fee Comparison 2015-2016:

Board Director Heider presented the Board with a report comparing the renewal merchant account fees for the period January through March 2015 to 2016. Merchant account fees are a product of both the number of items processed and the dollar volume. In comparison 2016 was \$11,000 higher than 2015. The fees for 2015 included only one year renewal income where the fees for 2016 included two years of renewal income (noting the Board moved from an annual renewal period to a biannual renewal period in 2016). The volume of license renewals stay relatively constant however the dollars volume nearly doubled in 2016 driving the merchant fees up. There will be no large volume of renewals in 2017 thus no spike in merchant fees. If you average two years of annual renewal merchant fees and compare that to the one year with a biannual merchant renewal fee the board cost will be nearly the same.

Complaints Regarding Individual Using “physical therapy” in advertising:

After discussion the Board instructed its Investigator to wait on the two pending complaints and ask its Assistant Attorney General for a legal interpretation or clarification of current statute and rule relating to the use of the term “physical therapy”.

General Topics/Business

- Announcement of the upcoming combined Council on Licensure, Enforcement & Regulation (CLEAR)/Citizens Advocacy Center (CAC) Conference to be held in Portland, OR September 15th-18th and if any Board member is interested in attending the conference they should contact the Director so he can complete the registration.
- Confirmation of the Federation of State Boards of Physical Therapy (FSBPT) Delegates for the FSBPT annual meeting to be held November 3rd - 5th in Columbus, OH. This year's Delegate will be Chair Rutt. The Alternate Delegate will be Vice Chair Canizares. The Board Administrator (Director) will also attend the meeting. Travel expenses including air fare, hotel and meals will be paid for by the FSBPT.
- Announcement that the Board Clinical Advisor/Investigator has been recruited to serve as a Federation Item Writer to write exam items for the national PT examination. The term for completion of the initial assignment runs from May through September 2016.
- Announcement that the PT Compact was signed into Oregon law by Governor Brown on March 3, 2016 making Oregon the first State in the country to adopt the Compact language. Tennessee will be second followed by Arizona and perhaps Missouri. It takes a minimum of 10 states adopting the language to form the Compact Commission. The Federation is anticipating the Commission be formed the mid to latter part of 2017 with the first Compact Privileges to practice beginning in January 2018.

Approval of Board Meeting Minutes

The drafted minutes, from the February 29, 2016 Regular Board Meeting were presented to the Board. Board Chair Rutt opened the floor for additional discussion and comments. The minutes were amended per comments from Member Costales. Chair Rutt then asked if there was a motion to approve the minutes as amended.

Member Julkowski moved to approve the Minutes as amended.

Seconded by member Sutton.

Motion passed unanimously by a vote of 8-0.

Future Board Meeting Dates:

The Board Meeting dates for 2016 are as follows: Monday, July 25th; Friday, October 7th hosted by George Fox University and Friday, December 16th. Meeting Notices, Dates, Locations and published Minutes may be found on the Board website at www.ptboard.state.or.us.

Ratification of PT/PTA Licenses & Temporary Permits

Chair Rutt presented the Board with a list of new licensees and temporary permit holders for the period of February 27, 2016 through May 5, 2016. Chair Rutt opened the floor for discussion. With none noted, Chair Rutt asked for a motion to ratify the new licensees and permit holders. Member Julkowski moved to ratify the list of PT/PTA Licenses and Permits issued February 27, 2016 through May 5, 2016.

Seconded by member Sutton.

Motion passed unanimously by a vote of 8-0.

Board Member Reports/Other New Business:

Chair Rutt asked for other new business.

Director Heider also provided the Board with a copy of the FSBPT's first quarter NPTE satisfaction survey which is completed by every national examination test taker. For Oregon this represented approximately 67 applicants. On an average 96.2% of Oregon's applicants stated they were "very satisfied" with the Oregon application process. The national average satisfaction rating for all exam takers throughout the US was 88.7% so Oregon ranks way above the national average. Director Heider acknowledged and attributed this high rating to Rick Sullivan, PTA, Licensing Coordinator and the excellent work he continues to do for the Board.

Chair Rutt asked again for other new business, with none noted Chair Rutt adjourned the meeting at 2:59 PM.

**Physical Therapist Licensing Board
Board Meeting
July 25, 2016
MINUTES**

Monday, July 25, 2016

Board Members Present: Richard Rutt, PT Chair (via teleconference); Ruggie Canizares, PT, Vice Chair; Phil Haworth, PT Member; Aubree Benson, PT Member; Alan McAvoy, PT Member; Jennifer Julkowski, PTA Member; Carol Sutton, Public Member, Troy Costales, Public Member

Board Members Absent: (Rutt absent from Public Session)

Staff: James Heider, Executive Director; Sherri Paru, PT, Clinical Advisor/Investigator; Rick Sullivan, PTA, Licensing Coordinator

Legal Counsel: Joanna Tucker Davis, AAG

EXECUTIVE (CLOSED) SESSION

At 8:39 AM Vice Chair Canizares convened the Board into Executive Session. Citing ORS 192.660(2)(f) and ORS 192.660(2)(L), this portion of the Meeting is closed to the public.

At 11:45 AM Vice Chair Canizares adjourned Executive Session.

PUBLIC (OPEN) SESSION

At 12:16 PM, Vice Chair Canizares convened the Board into Public Session. During this portion of the meeting the Board considered inquiries from licensees and the public, approved 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 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. Upon the approval of the Board, written public session minutes are published and available on the Board website.

Guests: Diana Godwin, Attorney at Law representing Oregon Physical Therapists in Private Practice (OPTIP); Ricci Susick, PT representing Oregon Physical Therapy Association (OPTA) Liaison to the PT Board.

Board Motions

Case PT 590-4/16

Motion by Aubree Benson to close the case no action taken.

Seconded by Carol Sutton.

Motion passed unanimously by a vote of 7-0. Board member Rutt was not present for the vote.

Case PT 589-4/16

Motion by Aubree Benson to close the case no action taken.

Seconded by Carol Sutton.

Motion passed unanimously by a vote of 7-0. Board member Rutt was not present for the vote.

Case PT 599-5/16

Motion by Aubree Benson to issue a Stipulated Agreement and Final Order for violation of ORS 688.140(2)(a)(c) and OAR 848-035-0020(7) and assess a civil penalty of \$350.00.

Seconded by Carol Sutton.

Motion passed unanimously by a vote of 7-0. Board member Rutt was not present for the vote.

Case PT 600-5/16

Motion by Aubree Benson to issue a Stipulated Agreement and Final Order for violation of ORS 688.140(2)(a)(c) and OAR 848-035-0020(7), assess a civil penalty of \$350.00 and require licensee to complete remainder of continuing competency credits within 60 days from the date the Order is fully executed by the Board.

Seconded by Carol Sutton.

Motion passed unanimously by a vote of 7-0. Board member Rutt was not present for the vote.

Board Policy/Scope of Practice Issues:

- Public records policy – The Director presented the Board with a draft policy for their consideration. After review and discussion the Board instructed the Director to move forward with the draft and submit it to the State Archives Division for approval. Once approved the Director will bring the policy back to the Board for adoption.
- Dry needling update – The Director informed the Board that a Board request was submitted to the State’s Office of the Attorney General asking an opinion relative to “dry needling” and whether or not the practice of “dry needling” is within the scope of practice of a licensed physical therapist. The AG’s response is expected within the next 60 to 90 days.
- Use of title “doctor” on printed materials – The Board discussed two separate issues: First, when using the title “doctor” on written materials, ORS 676.110 requires a licensee to designate the health care profession in which the individual doctoral degree was earned. The Board discussed whether using the initials “DPT” after one’s name was enough to designate the profession or does the licensee have to write out the words “doctor of physical therapy”. The Board determined that the use of the initials DPT after someone’s name was sufficient, but clarified that this requirement was not in the PT statute and further what may satisfy the Board may not meet the standards of other interested parties. Secondly, while discussing the title issue, the Board determined that in the interest of public safety and public recognition the Board may consider promulgating a rule that would require all licensees to designate their professional license on all written materials directly after their

name and before degree designation or specialty certificate, for example, John Doe, PT, DPT. The Board instructed staff to add the license designation to the list of discussion items for the advisory rules committee.

- Investigations of licensee's who self report arrests/convictions – Following Board discussion there was confusion amongst the Board members relative to current procedures when dealing with a self report within the 10 day regulation, self reports on an initial or renewal application and alleged violations via a complaint delivered to the board. When does the Board open a case? When is a case considered an investigation? Noting the importance that an application or information received as part of an application is a public record. Once the Board makes further requests for additional information or inquiries into an open case it then becomes an investigation and no longer subject to the public records law. Needing further clarity the Board asked staff to map out its current processes relative to handling of these three different scenarios.

Future Rulemaking Questions and Issues:

The Director reported that the Advisory Rule Committee meeting will be held at the end of September and the OPTA has been made aware of the rule making topics and the timing.

FSBPT Jurisprudence Assessment Module (JAM) for 2016:

Clinical Advisor/Investigator Paru reported the status of the Federation's development of the Oregon JAM. On September 7, 2016 the Board will host Rich Wolf from the Federation of State Board's of Physical Therapy for a standard setting workshop. The workshop will be for one day and will take 5 to 6 hours. Participants will actually take the examination. There should be 5 or 6 participants and they need to be trusted individuals. All of the Board staff Heider, Paru and Sullivan will participate as well as Board Chair Rutt and Board Member Benson. The Director has extended an invitation to have the OPTA send a representative as well. The Federation roll out date for the JAM is November 1, 2016 but the staff will implement the use of the JAM for new applications effective January 1, 2017.

General Topics/Business

- CLEAR and CAC Portland Conference – Director Heider again informed the Board that there was still time to register for this conference and any Board member interested in attending should contact him. The Director further indicated that the Board Clinical Advisor/Investigator Paru would be attending both portions of the conference.
- FSBPT Board Member Training Report – Board Members Benson and Haworth both attended the Federation of State Board's of Physical Therapy new Board Member training and gave the training session high marks and acknowledged it was of great value and a good use of their personal time.
- FARB Regulatory Law Seminar – Director Heider asked the Board's approval to again co-sponsor the Board's AAG to attend the FARB conference in Chicago. The PT Board along with the Veterinary and Medical Imaging Board's will share equally in the expense of the conference, travel, hotel and legal time. This is the fourth year in a row that the three Boards have sponsored their assigned AAG to attend. The Board approved the expenditure.

Continuing Competency Audit Update

Director Heider reported that of the 500 licensees randomly audited the Board has received response from all but 33. Of the responding licensees only three were found to be in non-compliance. The remaining 33 have been sent second notices both via US mail and email. The remaining 33 audit responses and those in non-compliance will be brought to the Board at its October meeting.

Approval of Board Meeting Minutes

The drafted minutes, from the May 6, 2016 Regular Board Meeting were presented to the Board. Vice Chair Canizares opened the floor for additional discussion and comments. With none noted Vice Chair Canizares asked if there was a motion to approve the minutes as written.

Member Benson moved to approve the Minutes as written.

Seconded by member Sutton.

Motion passed unanimously by a vote of 7-0. Board member Rutt was not present for the vote.

Future Board Meeting Dates:

The Board Meeting dates for 2016 are as follows: Friday, October 7th hosted by George Fox University and Friday, December 16th. Meeting Notices, Dates, Locations and published Minutes may be found on the Board website at www.ptboard.state.or.us. The Board meeting calendar for 2017 will be scheduled at the October meeting.

Ratification of PT/PTA Licenses & Temporary Permits

Vice Chair Canizares presented the Board with a list of new licensees and temporary permit holders for the period of May 6, 2016 through July 24, 2016. Vice Chair Canizares opened the floor for discussion. With none noted, Vice Chair Canizares asked for a motion to ratify the new licensees and permit holders.

Member Benson moved to ratify the list of PT/PTA Licenses and Permits issued May 6, 2016 through July 24, 2016.

Seconded by member Sutton.

Motion passed unanimously by a vote of 7-0. Board member Rutt was not present for the vote.

Board Member Reports/Other New Business:

Vice Chair Canizares asked for other new business.

- Director Heider reported that he'd had a luncheon meeting with Derek Fenwick PT, President of the OPTA. Director Heider and President Fenwick shared current events and activities of both organizations. Director Heider shared future plans for rulemaking and implementation of both the new Board jurisprudence examination and the requirement for FBI background fingerprint checks on all new applicants for licensure effective January 1, 2017. Director Heider and President Fenwick discussed the upcoming 2017 legislative session; President Fenwick disclosed that the OPTA, at this time was not planning on any new legislative concepts for 2017.
- Director Heider shared with the Board that he would be out on a leave of absence from August 8th through September 5th. The Director would coordinate his leave with staff and would be working part time via telework during the leave.
- Director Heider shared the YTD activity reports with the Board including; expense and revenue YTD figures and licensure activities.

Vice Chair Canizares asked again for other new business, with none noted Vice Chair Canizares adjourned the meeting at 2:14 PM.

**Physical Therapist Licensing Board
Board Meeting
October 7, 2016
MINUTES**

Friday, October 7, 2016

Board Members Present: Richard Rutt, PT Chair, Ruggie Canizares, PT, Vice Chair; Phil Haworth, PT Member; Aubree Benson, PT Member; Alan McAvoy, PT Member; Carol Sutton, Public Member, Troy Costales, Public Member

Board Members Absent: Jennifer Julkowski, PTA Member (Excused)

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

Legal Counsel: Joanna Tucker Davis, AAG

EXECUTIVE (CLOSED) SESSION

At 9:04 AM Chair Rutt convened the Board into Executive Session. Citing ORS 192.660(2)(f) and ORS 192.660(2)(L), this portion of the Meeting is closed to the public.

At 11:50 AM Chair Rutt adjourned Executive Session.

PUBLIC (OPEN) SESSION

At 12:51 PM, Chair Rutt convened the Board into Public Session. During this portion of the meeting the Board considered inquiries from licensees and the public, approved 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 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. Upon the approval of the Board, written public session minutes are published and available on the Board website.

Guests: The October meeting was held at George Fox University in Newberg, OR. The majority of the first and second year physical therapy students were in attendance for public session. Also attending was Diana Godwin, Attorney at Law representing Oregon Physical Therapists in Private Practice (OPTIP).

Board Motions

Case PT 605-9/16

Motion by Ruggie Canizares to issue a Stipulated Agreement and Final Order for violations of ORS 688.140(2)(a), ORS 688.140(2)(c) and OAR 848-035-0020(7) and assess a civil penalty of \$350.00.

Seconded by Troy Costales.

Motion passed unanimously by a vote of 7-0. PTA Board member Julkowski was not present for the vote.

Case PT 604-9/16

Motion by Ruggie Canizares to issue a Stipulated Agreement and Final Order for violations of ORS 688.140(2)(a), ORS 688.140(2)(c) and OAR 848-035-0020(7) and assess a civil penalty of \$350.00.

Seconded by Troy Costales.

Motion passed unanimously by a vote of 7-0. PTA Board member Julkowski was not present for the vote.

Case PT 601-8/16

Motion by Ruggie Canizares to issue a Stipulated Agreement and Final Order for violations of ORS 688.140(2)(a), ORS 688.140(2)(c), OAR 848-035-0020(7), OAR 848-045-0020(2)(u)(B) and OAR 848-045-0020(2)(u)(E) and assess a civil penalty of \$800.00.

Seconded by Troy Costales.

Motion passed unanimously by a vote of 7-0. PTA Board member Julkowski was not present for the vote.

Case PT 607-9/16

Motion by Ruggie Canizares to issue a Stipulated Agreement and Final Order for violations of ORS 688.140(2)(a), ORS 688.140(2)(c), OAR 848-035-0020(7), OAR 848-045-0020(2)(u)(B) and OAR 848-045-0020(2)(u)(E) and assess a civil penalty of \$800.00.

Seconded by Troy Costales.

Motion passed unanimously by a vote of 7-0. PTA Board member Julkowski was not present for the vote.

Case PT 608-9/16

Motion by Ruggie Canizares to issue a Stipulated Agreement and Final Order for violations of ORS 688.140(2)(a), ORS 688.140(2)(c) and OAR 848-035-0020(7), assess a civil penalty of

\$350.00. Licensee must also provide evidence of completion of the 1 hour continuing competency credit needed to fulfill the requirement and the evidence of completion must be provided to the Board within 10 business days of the execution of the Agreement.

Seconded by Troy Costales.

Motion passed unanimously by a vote of 7-0. PTA Board member Julkowski was not present for the vote.

Case PT 602-8/16

Motion by Ruggie Canizares close the case with no action taken.

Seconded by Troy Costales.

Motion passed unanimously by a vote of 7-0. PTA Board member Julkowski was not present for the vote.

Case PT 588-4/16

Motion by Ruggie Canizares to close the case and issue a Confidential Advisory Letter noting insufficient daily documentation found during the course of investigation.

Seconded by Troy Costales.

Motion passed unanimously by a vote of 7-0. PTA Board member Julkowski was not present for the vote.

Case PT 610-9/16

Motion by Ruggie Canizares close the case with no action taken.

Seconded by Troy Costales.

Motion passed unanimously by a vote of 7-0. PTA Board member Julkowski was not present for the vote.

2016 Fiscal Year-end Financials:

The Director presented the Board with a draft of the 2016 Fiscal Year-end Financials. After review and deliberation Board Chair Rutt asked for a motion to accept the financials.

Motion by Ruggie Canizares to accept the 2016 financial statement as submitted and to post it on the Board website.

Seconded by Troy Costales.

Motion passed unanimously by a vote of 7-0. PTA Board member Julkowski was not present for the vote.

Board Policy/Scope of Practice Issues:

- Review/Approval of PT Board 2017-2019 Affirmative Action Policy and Summary Statement – The Director presented the Board with a draft of the 2017-2019 Affirmative Action Policy and Summary Statement for their review. The Director explained that this was a draft and that it has been submitted to the Office of Diversity and Inclusion for approval. Once approved by the Office of Diversity and Inclusion the final draft will be presented to the Board for approval and adoption.

- Policy on investigation of applicants/licenseses with arrests/convictions – The Director presented the Board with an amended policy. After review and deliberation Board Chair Rutt asked for a motion to adopt the amended policy.
 Motion by Ruggie Canizares to adopt the amended policy on Disclosure of Arrest and/or Conviction of a Felony and Conviction of a misdemeanor within 10 days of the event.
 Seconded by Troy Costales
 Motion passed unanimously by a vote of 7-0. PTA Board member Julkowski was not present for the vote.
- Public records policy – The Director presented the Board with a draft of the Public Records Management policy as approved by the DAS State Archives Division. After review and deliberation Board Chair Rutt asked for a motion to adopt the amended policy.
 Motion by Ruggie Canizares to adopt the Public Records Management policy as presented.
 Seconded by Troy Costales
 Motion passed unanimously by a vote of 7-0. PTA Board member Julkowski was not present for the vote.
- Dry needling update – The Director reported that the Board’s request to the State’s Office of the Attorney General asking for an opinion relative to “dry needling” was still pending. To date, the legal fees associated with the request are at approximately \$16,000. Also Diana Godwin, Attorney representative for Oregon Physical Therapists in Independent Practice reported the status of the dry needling initiative in Washington State. Ms. Godwin reported that the Washington Department of Health did not support the proposal by the Physical Therapy Association of Washington to add dry needling to the physical therapy scope of practice stating “The proposal as submitted does not meet the sunrise criteria for increasing a profession’s scope of practice.
- Federation of State Boards of Physical Therapy (FSBPT) Practice Review Tool (PRT)/OPTion – The PRT is an exam created by the FSBPT to be used as an assessment tool for therapist in current practice. PRT is designed to assess an individual’s general knowledge of current entry level practice. The Board currently uses the PRT as a competency measurement tool for physical therapists who choose to re-enter practice after an absence from the profession of five years or longer. The Board also allows for licensees to take the PRT for continuing competency credit. Effective November 1, 2016 the FSBPT will no longer offer the PRT. In its place they have developed a new web based tool they refer to as “OPTion”. OPTion is very similar to the PRT in that it is a measurement of entry level general practice, however it is offered online and not in a controlled environment. The question to the Board is what do we do now that the PRT is no longer available? Do we replace it with OPTion or look for something else? The Board determined they wanted more information on OPTion and that they want to review both uses of the PRT as separate issues. They asked staff to do some further information gathering and bring the issue back to the Board at its December meeting.

Future Rulemaking Questions and Issues:

The Director reported that due to his recent leave of absence staff was unable to schedule the Advisory Rules Committee meetings for September. Also, with the upcoming 2017-2019 budget

preparation deadline for the December meeting and the implementation of the new FBI fingerprint requirement and jurisprudence exam both slated for January 2017, staff is unable to prepare and convene an Advisory Rules Committee meeting prior to the end of the year. The Director suggested that the Committee meet sometime after the first of next year. The Board approved this scheduling change.

FSBPT Jurisprudence Assessment Module (JAM) for 2016:

Clinical Advisor/Investigator Paru reported the status of the Federation's development of the Oregon JAM. On September 7th JAM oversight review was completed. Staff, Board members Rutt and Benson and former Board member Alstot all participated in the day long paper review. The next step will be for the same group to test the online version of the JAM. This is scheduled for the end of October first of November. The Federation and the Board will be ready to go live with the new exam in January 2017. The new exam will be required for completion by all applicants whose first access the online application forms after January 1, 2017.

General Topics/Business

- Physical Therapy Compact – Director Jim Heider gave the Board an update on the current status of the Compact. Director Heider reported that to date four states have passed the Compact language through their legislative process and passed the language into law. That the Compact language requires a minimum of 10 states to pass the legislation in order to form the Compact Commission. The FSBPT is anticipating the Commission will form in 2017 with the first Compact privileges granted in 2018.
- CLEAR and CAC Portland Conference – Clinical Advisor/Investigator, Sherri Paru, PT attended both the CLEAR and CAC conferences held in Portland September 16th through the 18th. Ms. Paru reported details of the conference back to the Board. She said the most valuable aspect of the conference was her opportunity to network with other attendees.
- FARB Regulatory Law Seminar – Assistant Attorney General Joanna Tucker Davis attended the FSRB seminar held in Chicago September 29 through October 1st. Ms. Tucker Davis reported her insights and findings back to the Board.

Continuing Competency Audit Update

Director Heider reported the outcome of the CC audit noting concerns with the abuse of last minute online CC programs and the commitment of staff time and resource to perform the audit. The Board tabled the discussion CC, its purpose and value as a true measurement of competency for a future meeting.

Approval of Board Meeting Minutes

The drafted minutes, from the July 25, 2016 Regular Board Meeting were presented to the Board. Chair Rutt opened the floor for additional discussion and comments. Member Costales noted one small change. With the change noted, Chair Rutt asked if there was a motion to approve the minutes as amended.

Motion by Ruggie Canizares to approve the July 25, 2016 Meeting Minutes as amended.

Seconded by Troy Costales

Motion passed unanimously by a vote of 7-0. PTA Board member Julkowski was not present for the vote.

Future Board Meeting Dates:

The Board Meeting dates for 2016 are as follows: Friday, December 16th. The meeting dates for 2017 are: Thursday, March 2nd; Friday, May 19th; Friday, July 28th; Friday, October 6th and Friday, December 8th. Meeting Notices, Dates, Locations and published Minutes may be found on the Board website at www.ptboard.state.or.us.

Ratification of PT/PTA Licenses & Temporary Permits

The list of new licenses and temporary permits issued July 25, 2016 through October 5, 2016 was not available for Board review. The vote to ratify licenses and permits for this timeframe will be tabled until the next Board meeting.

Board Member Reports/Other New Business:

Chair Rutt asked for other new business.

- Director Heider reported the second quarter 2016 FSBPT national exam application satisfaction application processing survey results. The national average was reported at 88.25% Oregon's satisfaction result was 93.8%. Oregon has topped the national average for every quarter since the implementation of the survey question.
- Clinical Advisor Investigator Paru asked the Board if they would like to renew the publication "Professional Licensing Report". The cost to renew is \$213/year. The Board approved the renewal of the publication.

Chair Rutt asked again for other new business, with none noted Chair Rutt adjourned the meeting at 3:22 PM.

**Physical Therapist Licensing Board
Special Telephone Board Meeting
December 29, 2016
MINUTES**

Thursday December 29, 2016

Board Members Present via Phone Conference Line: Richard Rutt, PT, Chair; Ruggie Canizares, PT, Vice Chair; Phil Haworth, PT Member; Aubree Benson, PT Member; Alan McAvoy, PT Member; Jennifer Julkowski, PTA Member; Carol Sutton, Public Member; Troy Costales, Public Member

Board Members Absent: None

Staff: James Heider, Executive Director; Sherri Paru, PT, Clinical Advisor/Investigator; Rick Sullivan, Licensing Coordinator

Legal Counsel: Joanna Tucker Davis, AAG

Board Chair, Richard Rutt convened the Board into Executive Session at 11:47 AM citing ORS 192.660(2)(k). In Executive Session, the Board confided with legal counsel and discussed a new case with possible public safety implications. Pursuant to ORS 192.660(2)(k), this portion, of the Meeting, is closed to the public.

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

At 12:22 PM, Board Chair Rutt adjourned the Executive Session.

PUBLIC (OPEN) SESSION

At 12:23 PM, Board Chair Rutt 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:

Chair Rutt asked for Board motions, hearing none Chair Rutt asked for any other public business. With no other public business noted Chair Rutt adjourned the Public Session at 12:24 PM.