

Physical Therapist Licensing Board
Board Meeting
January 9, 2015
MINUTES

Friday January 9, 2015

Board Members Present: Richard Rutt, PT, Chair; Ruggie Canizares, PT, Vice Chair; Burke Selbst, PT Member; Aubree Benson, PT Member; Alan McAvoy, PT Member; Jennifer Wood, 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, PTA, Licensing Coordinator

Legal Counsel: Carol Parks, AAG

EXECUTIVE (CLOSED) SESSION

At 8:55 AM Chair Rutt 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.

At 12:27 PM Chair Rutt adjourned Executive Session.

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

PUBLIC (OPEN) SESSION

At 12:43 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 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.

Guests: Diana Godwin, Attorney for OPTIP, Ricci Susick, PT OPTA Liaison

Board Motions

Case PT 544-11/14

Motion by Ruggie Canizares to issue a Stipulated Agreement and Final Order for failure to complete the continuing competency requirement within the certification period, a violation of ORS 688.140(2)(a), ORS 688.120(2)(c) and OAR 848-035-0020(7). Licensee must complete the remaining CE within 60 days of the Order and the Board will assess a civil penalty of \$350.00.

Seconded by Carol Sutton.

Motion passed unanimously by a vote of 8-0.

Case PT 553-11/14

Motion by Ruggie Canizares to issue a Stipulated Agreement and Final Order for failure to complete the continuing competency requirement within the certification period, a violation of ORS 688.140(2)(a), ORS 688.120(2)(c) and OAR 848-035-0020(7). The Board will assess a civil penalty of \$450.00.

Seconded by Carol Sutton.

Motion passed unanimously by a vote of 8-0.

Case PT 548-10/14

Motion by Ruggie Canizares to issue a Confidential Advisory Letter regarding retention and maintenance of confidential patient records.

Seconded by Carol Sutton.

Motion passed unanimously by a vote of 8-0.

Case PT 551-11/14

Motion by Ruggie Canizares to issue a Confidential Advisory Letter regarding full disclosure of prior arrest record on application for licensure.

Seconded by Carol Sutton.

Motion passed unanimously by a vote of 8-0.

Case PT 552-11/14

Motion by Ruggie Canizares to issue physical therapist license and close case.

Seconded by Carol Sutton.

Motion passed unanimously by a vote of 8-0.

Case PT 549-11/14

Motion by Ruggie Canizares to closed the case with no action taken.

Seconded by Carol Sutton.

Motion passed unanimously by a vote of 8-0.

Case PT 521-5/14

Motion by Ruggie Canizares to issue Notice of Proposed Disciplinary Action for working beyond the scope of a physical therapist and failure to follow an order of the Board, violations of

ORS 688.140(2)(b) and ORS 688.140(2)(a). The Board will assess a civil penalty of \$2,000.00 and the assessment of costs.

Seconded by Carol Sutton.

Motion passed unanimously by a vote of 8-0.

Case PT 524-5/14

Motion by Ruggie Canizares to issue a Confidential Advisory Letter regarding documentation requirements and supervision of assistive personnel.

Seconded by Carol Sutton.

Motion passed unanimously by a vote of 8-0.

Case PT 441-6/12

Motion by Ruggie Canizares to issue an Emergency Suspension Order.

Seconded by Carol Sutton.

Motion passed by a vote of 7-0. PTA member Wood recused herself from the case.

National Insurance Crime Bureau (NICB) and US Office of the Inspector General (OIG)

Representatives Lori Person from the NICB and Kim Vu from OIG were invited to present. Ms. Vu was called from the meeting unexpectedly but will be invited back to present at a later date. Ms. Person from the NICB shared an overview of the agency's role in partnering with private sector insurance carriers and through them, data gathering and mining aimed at detection of insurance fraud and overutilization. Ms. Person applauded the Board's interest in the NICB and encouraged the Board Staff's continue attendance at the NICB quarterly meetings. Both the Oregon Chiropractic Board and the Massage Board also attend these meetings. Many of the current fraud cases NICB is working on involve chiropractors and massage therapists.

Board Policy Issues/Review

- The Board reviewed the amended policy on posting of final orders on the Board website. After review Ruggie Canizares moved to ratify the amended policy as written.
Seconded by Carol Sutton
Motion passed unanimously by a vote of 8-0.
- The Board reviewed the draft policy regarding the sharing of investigative information with other regulatory boards both in state and out of state. After review Ruggie Canizares moved to adopt the policy as written.
Seconded by Carol Sutton
Motion passed unanimously by a vote of 8-0.
- The Board reviewed the draft policy regarding the internal handling of LEDS reports. After review Ruggie Canizares moved to adopt the policy as written.
Seconded by Carol Sutton
Motion passed unanimously by a vote of 8-0.

Copies of any of the Board policies may be obtain by emailing a request to the Board office at physical.therapy@state.or.us or by calling 971.673.0200.

FSBPT new NPTE Eligibility Requirements and Impact on the Board

Effective January 1, 2016 the Federation of State Boards of Physical Therapy (FSBPT) will impose the first two of four new eligibility requirements to sit for the National Physical Therapy Examination (NPTE). The first two requirements impose a life time limit of six attempts at the examination and a lifetime limit for anyone receiving two low scores on the exam. A low score is set at chance (400 or less). Passing is 600. In January 2017 the second two eligibility requirements will become effective. They are; the requirement for a foreign educated physical therapist or physical therapist assistant to provide evidence that their foreign program was deemed substantially equivalent to that of a US graduate using the most recent version of the Federation's Course Work Tool and that the candidate show proof of English proficiency with passing scores on the Test of English as a Foreign Language (TOEFL). Standards on the TOEFL as set by the FSBPT. The Director informed the Board that in implementing these requirements the FSBPT will have an appeal process allowing member Boards to request an exception to the eligibility requirements on a case by case basis. In doing so, the Director told the Board that Oregon will have to determine whether they are going to allow for appeals and, if not, they are going to have to have administrative rule or policy in place to deal with endorsement applicants who have been successful on the exam following an appeal. The Director suggested, and the Board agreed, that for now staff will monitor the Federation's progress on building the appeal model and will address the issue when more is known about that process.

2015-2017 Proposed Financial Budget Review

The Director presented the Board with a proposed 2015-2017 Biennial Budget. The budget was presented with a line item comparison and written narrative to the 2013-2015 budget. The Director reviewed the proposed line item budget with the Board indicating that proposed 2015-2017 expenditures were projected to increase by less than 2.2% whereas the State agencies projected general inflationary factor for expenditures was set at 3.0%. The largest increase in the allocation of dollars on the expense side was in the area of employee benefits. On the income side, through a more thorough analysis of the income accounts, the biennium ending balance was projected to be around \$187,000.00. The Board determined that based on current reserves they would amend the proposed budgeted income to reflect a zero ending balance. The \$187,000 of income would be adjusted by lowering 2016-2018 renewal fees.

Ruggie Canizares moved to adopt the proposed budget as amended.

Seconded by Carol Sutton.

Motion passed unanimously by a vote of 8-0.

New legislation, ORS 182.462(2), requires the Board to present the approved budget to the Governor, the President of the Senate, the Speaker of the House of Representatives and the Legislative Fiscal Officer before February 1 of each odd-numbered year. The Budget Rules Hearing will be held on Friday, March 20th with prior Notice sent to the Interested Parties list and all licensees and posted in the March 2015 Oregon Bulletin. Copies of the Notice for Hearing, the Fiscal Impact Statement, the Proposed Budget and the Narrative can be found on the Board Website at www.ptboard.state.or.us.

General Topics/Business

- Posting Final Order on the Board website – The Director reported that this project was complete that in accordance to the new policy. Only “Final Order” documents are now posted on the Board’s website.
- Fingerprinting of staff for LEDS certification audits – this is still an outstanding issue.
- 2015-2016 renewal process is ready to go. The process will begin Monday January 12th with the mailing of a renewal reminder postcard followed by a blast email to all currently licensed PT’s and PTA’s.
- The Director updated the Board on the scheduled meeting dates for the upcoming Rules Advisory Committee addressing the topic of Telehealth. The meeting dates are set for Tuesday, February 10th and Tuesday, February 24th. The Committee is comprised of 8 PTs representing a variety of work settings, 2 PTAs one a Board member, an Attorney representing a group of privately owned PT Clinics and Board staff.

Approval of Board Meeting Minutes

The drafted minutes, from the October 24, 2014 Regular Board Meeting and the November 25, 2014 Emergency Board Meeting were presented to the Board. Board Chair Rutt opened the floor for additional discussion and comments. With none noted;

Member Ruggie Canizares moved to approve the Minutes as presented.

Seconded by Carol Sutton.

Motion passed unanimously by a vote of 8-0.

Future Board Meeting Dates:

The Board meeting dates for 2015 are all on Fridays; March 20th, May 29th, August 7th, October 9th and December 4th. The May meeting is scheduled to be held in Bend, OR and the October meeting is scheduled to be held at Mt. Hood Community College in Gresham, OR. 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

Board Chair Rutt presented the Board with a list of new licensees and temporary permit holders for the period of October 23, 2014 through January 8, 2015. 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 Ruggie Canizares moved to ratify the issuance of new licenses and temporary permits as presented.

Seconded by Carol 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 reminded the Board of the upcoming FSBPT new board member training scheduled for June 12th through the 14th in Alexandria, VA. The program is fully funded by the Federation and Board members interested in attending the training should contact the Director.

Chair Rutt asked again for other new business. With none noted, Chair Rutt adjourned the meeting at 3:04 PM.