

**Physical Therapist Licensing Board
Board Meeting
May 29, 2015
MINUTES**

Friday, May 29, 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; Troy Costales, Public Member

Board Members Absent: Carol Sutton, Public Member

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

Legal Counsel: Carol Parks, AAG Executive Session only, via telephone.

EXECUTIVE (CLOSED) SESSION

At 8:56 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, and Board policy and administration.

At 12:34 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 12:44 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 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 minutes are published and available on the Board website.

Guests: Diana Godwin, AAL, Attorney for Oregon Physical Therapists in Independent Practice, Rose Speck, PT.

Board Motions

Case PT 562-4/15

Motion by Burke Selbst to issue a Stipulated Agreement and Final Order. Citing violations of ORS 688.140(2)(a); OAR 848-045-0020(2)(r) and OAR 848-045-0020(2)(z) and assess a civil penalty of \$100.

Seconded by Ruggie Canizares.

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

Case PT 563-4/15

Motion by Burke Selbst to issue a Stipulated Agreement and Final Order. Citing violations of ORS 688.140(2)(a) and OAR 848-045-0020(2)(r) and assess a civil penalty of \$75.

Seconded by Ruggie Canizares.

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

Case PT 564-4/15

Motion by Burke Selbst to issue a Stipulated Agreement and Final Order. Citing violations of ORS 688.140(2)(a); ORS 688.140(2)(c); OAR 848-045-0020(2)(r) and OAR 848-005-0030(3) and assess a civil penalty of \$325.

Seconded by Ruggie Canizares.

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

Case PT 506-3/14

Motion by Burke Selbst to issue a Termination of Interim Stipulated Order and reinstate the license without restrictions.

Seconded by Ruggie Canizares.

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

Case PT 515-4/14

Motion by Burke Selbst to issue a Final Order by Default and in addition to the civil penalty, include the assessment of costs from the Department of Justice and the Office of Administrative Hearings.

Seconded by Ruggie Canizares.

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

Case PT 565-5/15

Motion by Burke Selbst to accept initial licensure application, release eligibility to sit for the national exam and issue the temporary permit. Selbst also moved to issue a Confidential Advisory Letter requiring the Licensee to report any changes in the status of his court ordered probation and to provide the Board with documentation upon completion of the court ordered probationary period.

Seconded by Ruggie Canizares.

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

Board Policy Issues/Review

- Ratification of amendments made to the early NPTE release policy allowing PTAs along with PT students to take the national examination upon completion of all didactic work and prior to graduation.

Motion by Burke Selbst to ratify the early release policy as amended.

Seconded by Ruggie Canizares.

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

- Policy on distribution format for future Board Communications/Publications – The Director presented the Board with a proposal to use Board Only Email Addresses for the distribution of future Board communications including, renewal notices and newsletters. After discussion the Board determined that they would support using email addresses but only as an opt-in option. As part of the 2016 renewal cycle licensees would be given the option to select to receive future Board communications by email.
- Discussion of Director's recommendation that the Board continue taking Executive Session Notes (Notes) in a written format – The Director reported to the Board that the pilot for recording the Notes in a written format verses the audio recording is complete. That, in the future, the meetings will still be recorded and the executive session recording will be transcribed into written Notes. Following the transcription of the Notes, the recording will be deleted.

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

Discussion of State Statutes and Rules Regarding Ownership of a PT Clinic

Although authorized under ORS 58.367 to write rules governing the ownership of a PT clinic, the Board's current position and legal opinion is, there is nothing in the current physical therapy statute or rule that dictates who can and cannot own a physical therapy clinic. Based on further discussions of the Board with regards to general statutes the Board asked its legal counsel continue to research this issue looking closer at the legislative intent of ORS 688.140(2)(L) and to further research into the statutes governing ownership of a professional corporation ORS 58.367 and ORS 58.345.

Board and Pharmacy Statutes and Rules Regarding Purchasing and Storage of Medication for use with Iontophoresis.

ORS 688.135 states that a physical therapist may purchase, store and administer topical and aerosol medications as part of the practice of physical therapy. Recently, the Clinical Advisor/Investigator has received several calls with regards to changes in Pharmacy regulation that has created issues for some PTs obtaining the medications used to administer iontophoresis. Ms. Paru reported that she has been meeting with a representative of the Pharmacy Board and they have determined that they would do a joint communication, to educate all licensed Pharmacists and Physical Therapists outlining the changes in pharmacy rules and suggest best practices/procedures for pharmacist to use when dispensing medications to physical therapists.

General Topics/Business

- Update on 2015-2016 renewal process – The Director reported the smoothest online renewal period to date. Of the 5,200 renewals notices mailed out there were 4,900 applicants who completed the process. 3,800 PTs and 1,100 PTAs. That is an attrition of 300 Licensees or a rate of 6% which is normal based on historic trends. Most of the non-renewals are attributed to travelers coming into the State to complete short term assignments. The Director reminded the Board that in 2016 the Board was moving to a 2 year renewal cycle. This change was made to sync the renewal cycle with the biannual Continuing Competency (CC) cycle. The rules are being amended now to accommodate for the change in cycle. Other changes for the 2016 renewal cycle will include having to have completed all of the required CC prior to completing the renewal. Along with the attestation the applicant will be required to list the CC activities and the associated credit. All applicants will have to complete a minimum of 24 hours of CC prior to renewal. There will still be a post renewal random CC audit where the selected licensees will have to provide the Board with the Certificates of Completion that document the CC activities they listed on the renewal form.
- Office Furniture/Ipad Purchase Discussion – The Director shared with the Board the current financial position and the projected fiscal yearend (FYE) June 30, 2015 position. Estimating FYE income over budget at \$190,000 and expense under budget by \$45,000. This will leave a net estimated ending balance of \$235,000. At the Board's request, the Director explained the budget process and policies relative to Semi-independent Boards budget approvals and appropriations. After the budget discussion, the Director introduced two standing projects; the purchase of Ipad or Tablets to move the Board to electronic paperless Board meetings and, the replacement of the old office furniture moving to a more ergonomic environment. After discussion, the Board approved the purchase of the Ipad at an estimated cost of \$10,000 and the new ergonomic furniture at an estimated cost of \$7,700.
- The Director announced the appointment of Board Member Philip Haworth, PT. Mr. Haworth is the current Outpatient Rehabilitation Manager for Salem Hospital. He will replace the outgoing Board member Burke Selbst, PT. Mr. Haworth's term is slated for 6/01/14 through 3/31/18.

Proposed Draft Telehealth Rules

The Director presented the Board with draft Telehealth Rules as written by the Telehealth Rules Advisory Committee. With a few points of clarification the Board approved the draft rules for rulemaking. The Notice of Rule Making Hearing will be submitted to the Secretary of State's office for publishing in the August Oregon Bulletin. The Hearing will be set for Friday, August 21st at 8:00 AM. The Notice, Fiscal Impact Statement and a copy of the proposed rule draft will be posted on the Board website, written notice will be sent to all interested parties and notification will be posted in the Board's Summer Newsletter sent to all Licensees.

Discussion of Two Year Renewal Cycle

As mentioned in the update of 2015-2016 renewal process, the Board will be moving to a 2 year renewal cycle effective April 1, 2016. After discussion of budget income, expense and Board reserves, the Director proposed that the Board consider lowering total renewal fees by up to 15%. The Director indicated that amendments to the current renewal rules and fees will be

presented at the August Board meeting and that he would like the Boards approval to lower the fees. After the Board's consideration and discussion, the Board determined they would approve lowering the renewals fees effective April 1, 2015 by 15%. It was noted that although the overall fee is being reduced, the total out of pocket cost to a licensee will be more because they will be paying for a two year license as opposed to an annual license.

Approval of Board Meeting Minutes

The drafted minutes, from the March 20, 2015 Administrative Rules Hearing and Regular Board Meeting were presented to the Board. Board Chair Rutt opened the floor for additional discussion and comments. With none noted;

Member Burke Selbst moved to approve the Minutes as presented.

Seconded by Ruggie Canizares.

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

Future Board Meeting Dates:

The remaining Board meeting dates for 2015 are all on Fridays; August 21st, October 9th and December 4th. 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 March 20, 2015 through May 27, 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 Burke Selbst moved to ratify the list of new licensees and temporary permit holders as presented.

Seconded by Ruggie Canizares.

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

Board Member Reports/Other New Business:

Chair Rutt asked for other new business.

The Board said farewell to Burke Selbst, PT, board member. Burke served two full terms on the Board and he will be missed by the Board and the Staff.

The Director announced the pending retirement of the Board's long time Senior Assistant Attorney Carol Parks. Carol will retire at the end of December 2015.

Chair Rutt asked for any other new business. With none noted, Chair Rutt adjourned the meeting at 2:47 PM.