

**Physical Therapist Licensing Board
Board Meeting
July 19, 2013
MINUTES**

Friday July 19, 2013

Board Members Present: Steve Alstot, PT, Chair; Jason Fiske, PT Vice Chair; Ruggie Canizares, PT Member; Richard Rutt, PT Member; Burke Selbst, 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

EXECUTIVE (CLOSED) SESSION

At 8:00 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 10:17 AM, 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.

Guests: Diana Godwin, AAL, Attorney for Oregon Physical Therapists in Independent Practice (OPTIP); Rich Jones, PT, Consonus Rehab, OPTA Liaison; Mike Billings, PT, Infinity Rehab.

Board Motions:

Case PT 452-9/12

Motion by Richard Rutt to issue a Stipulated Agreement and Final Order in accordance with the Notice of Proposed Disciplinary Action allowing six months for the completion of the course in Medicare regulations.

Seconded by Ruggie Canizares.

Motion passed unanimously by a vote of 8-0.

Case PT 436-5/12

Motion by Richard Rutt to issue a Stipulated Agreement and Final Order for violations of ORS 688.140(2)(h)(i). The order will close the Interim Agreement, where Licensee agreed not to practice physical therapy and will place the Licensee on probation for one year with the following requirements; Licensee provides monthly status reports regarding her continued recovery to the Board, Licensee's mental healthcare provider provide quarterly status reports to the Board, Licensee abstains from the use of alcohol or opiate pain medications unless otherwise subscribed by a medical provider and Licensee submits random monthly urine analysis reports to the Board for a period of twelve months.

Seconded by Ruggie Canizares.

Motion passed unanimously by a vote of 8-0.

Case PT 445-8/12

Motion by Richard Rutt to issue a Confidential Advisory Letter cautioning Licensee to strictly follow the PT Plan of Care and to document any consultation with the providing physical therapist regarding clarifications of the plan of care.

Seconded by Ruggie Canizares.

Motion passed by a vote of 7-1. Board member Costales voted nay.

Case PT 456-10/12

Motion by Richard Rutt to close case no violations.

Seconded by Ruggie Canizares.

Motion passed unanimously by a vote of 8-0.

Case PT 478-6/13

Motion by Richard Rutt to close case no violations and proceed with licensure.

Seconded by Ruggie Canizares.

Motion passed unanimously by a vote of 8-0.

Case PT 480-6/13

Motion by Richard Rutt to close case no violations and proceed with licensure.
Seconded by Ruggie Canizares.
Motion passed unanimously by a vote of 8-0.

Case PT 479-6/13

Motion by Richard Rutt to issue Confidential Advisory Letter citing the non disclosure of arrest and proceed with licensure.
Seconded by Ruggie Canizares.
Motion passed unanimously by a vote of 8-0.

Case PT 481-7/13

Motion by Richard Rutt to close case no violations and proceed with licensure.
Seconded by Ruggie Canizares.
Motion passed unanimously by a vote of 8-0.

Amend Public Agenda

Motion by Richard Rutt to amend the Public Session Agenda to include AAG Parks comments relative to the Court of Appeals Hearing of oral arguments in the case of the Oregon Acupuncture Association verses the Oregon Chiropractic Board.
Seconded by Ruggie Canizares
Motion passed unanimously by a vote of 8-0.

Approval of Board Meeting Minutes

The drafted minutes, from the May 17, 2013 Regular Board Meeting and the May 17, 2013 Administrative Rules Hearing were presented to the Board. The Board Chair opened the floor for additional discussion and comments. Hearing none, Chair Alstot asked for a motion to approve the May 17, 2013 minutes.

Motion by Richard Rutt to approve the Minutes from the May 17, 2013 Regular Board Meeting and the May 17, 2013 Administrative Rules Hearing as written.
Seconded by Ruggie Canizares
Motion passed unanimously by a vote of 8-0.

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 May 17, 2013 through July 18, 2013. The Board Chair opened the floor for discussion. Without noted discussion; Chair Alstot asked for a motion to ratify the new licenses.

Motion by Richard Rutt to ratify the list of new licensees and permit holders for the period May 17, 2013 through July 18, 2013 as submitted.
Seconded by Ruggie Canizares
Motion passed unanimously by a vote of 8-0.

Board Policy Issues:

- Board to review and approve the new policy on acceptance of primary source verifications

The Director presented the proposed policy to the Board citing that the Board would accept either a primary source written verification or a primary source online verification of licensure as evidence that the applicant hold a valid an unencumbered license in another State or Jurisdiction of the United States.

After review and discussion Richard Rutt moved to adopt the policy as presented. Ruggie Canizares seconded the motion. With no further discussion, the Board approved the policy by a unanimous vote of 8-0.

- Board to review and approve policy naming the Federation of State Boards of Physical Therapists' (FSBPT) National Physical Therapy Examination (NPTE), for both PTs and PTAs, as an "approved" examination of the Board.

The Director presented the proposed policy to the Board naming the FSBPT's NPTE as an approved examination of the Board.

After review and discussion Richard Rutt moved to adopt the policy as presented. Ruggie Canizares seconded the motion. With no further discussion, the Board approved the policy by an unanimous vote of 8-0.

Board 2012-2013 Year End Financials:

The Director provided the Board with copies of the 2012-2013 fiscal year-end financial report with the narrative for variances over \$1,000. Although, per Statute, the financial report specifically addresses the 2012-2013 fiscal year-end, the Director reviewed the variances for the 2011-2013 biennium in its entirety. A copy of the fiscal year-end financial report is posted on the Board's website at www.ptboard.state.or.us or can be obtained by contacting the Board office at 971.673.0200.

2013 Law Enforcement Data System (LEDS) Audit Results:

The Director reported that the 2013 LEDs audit was complete. There were no cases that needed to be brought before the Board.

Report from Rules Advisory Committee:

The Director presented the findings and recommendations of the 2013 Administrative Rules Advisory Committee. After review and discussion, the Board agreed with the Committees findings and proposed changes to the current rules. The Board directed staff to convene a drafting subcommittee of the Advisory Committee and begin to draft proposed rule change language for presentation back to the Board.

Federal Trade Commission (FTC) versus NC Dentistry Board:

The Board discussed the case of the FTC verses the NC Dentistry Board. Of concern to the Board was any precedence set that would jeopardize the OR PT Board members'

personal State indemnity when conducting business for the Board. Noted was the finding of the Court who stated that because the NC Dentistry Board members are elected by the profession they are not truly State employees, they would be consider as a private entity and therefore not covered under the State's blanket of indemnity. Unlike the NC Dentistry Board, the Oregon Physical Therapist Licensing Board members are appointed by the Governor, confirmed by the Senate, serve at the pleasure of the Governor and are considered employees of the State, therefore when acting in good faith on Board business the PT Board members would be covered under the State's blanket of indemnity.

Assistant Attorney General's Report on Court of Appeals Hearing on Dry Needling

AAG Parks reported that she attended the Oregon Court of Appeals Hearing of oral arguments from the case Oregon Acupuncture Association verses Oregon Chiropractic Board. The case, brought forth by the Acupuncture Association alleges that the Chiropractic Board illegally adopted rules allowing for a Chiropractic Doctor to perform dry needling when it is not in their scope to do so. The suite resulted in the Appellate Court placing on stay on Chiropractic doctors stating they could not practice dry needling pending a further order of the court. Parks reported the Justices were engaged and asking questions relative to the arguments presented on both sides.

The PT Board Director reminded the Board of the position they took in November 2009 which states "In the interest of public safety, until training and education can be determined, the Board strongly advises its licensees to not perform dry needling of trigger points". And further, that the advancement of this policy was pending the outcome of this case. For the record the Board restated their position (which is posted on the Board's website)

Legislative Session Update:

The Director provided the Board an updated legislative tracking report. The Director highlighted all the bills that passed through both houses and were signed into law by the Governor that may have some impact on the Board statutes, rules, administration and operations. None of which will create an undue hardship for the Board.

Providence Proposal Regarding Use of Telemedicine:

Providence rehab group has solicited the Board's input regarding an outpatient pilot program in which Providence therapists, in concert with the patient's care-giver, would utilize iPad or Smart phone technology to 1) perform a home safety assessment for trip hazards and grab bar placement and 2) perform exercise checks for accuracy and to progress a patient's exercise program. Both applications of telemedicine will meet a triple aim; to reduce costs, provide the right care and at the right time. After discussion, the Board determined that, as long as Providence therapists were meeting all other standards of care in current rule, including documentation, there is nothing in Statute or Rule that would prohibit Providence from proceeding with the pilot.

Next on the topic of telemedicine, the Board invited guest Mike Billings, PT to address the Board. Mike is the President of Infinity Rehab with clinics in both Oregon and Washington. Mike was instrumental in working with the WA PT Board and Legislature to establish rules and regulations allowing for the use of telemedicine within the State. Mike shared Infinity's motivation, rationale, research and outcomes along with a little bit of the process Infinity went through to advance telemedicine within WA State.

The Board was interested in the concept, and the future application of telemedicine in the State of Oregon. The Board instructed staff to continue to gather data and research into what other States are doing and to report back to the Board at its November 15th Board meeting.

General Topics/Business:

2011-2013 Financial Review – The Director reported that the Review was completed the week of July 8th. The audit seems to have gone well. The auditor already provided the Director with four Findings that need to be further discussed prior to completing the report. One of the Findings may go away altogether. The final report is due by the end of August however the auditor thought the report may be ready as early as July 31st. The auditor congratulated the Board for maintaining an operation that is well organized and runs smoothly. The Director did not know the timing or scope of the pending Secretary of State audit of all health boards as requested by the legislature, only that the most recent audit, completed for the SOS office and conducted by an outside auditor will not play a role in the upcoming SOS audit.

FSBPT Board Member Training - Member Ruggie Canizares attended this year's FSBPT New Board Member Training. This training is sponsored and paid for by the Federation. Member Canizares reported that he was glad he invested the time to attend the meeting. He learned a lot about regulatory board function and responsibility, the national examination and the benefits and resources the Oregon Board can prevail upon as a member of the Federation. Member Canizares said he was glad he had some experience on the Oregon Board prior to attending the training and would recommend that any future Board members give themselves at least one year prior to attending the training.

FSBPT Leadership Information Forum – This meeting is hosted by the Federation. Vice Chair Fiske is scheduled to attend the meeting for the Oregon Board. The topics of discussion will focus on motions to be made by the Federation Board at its upcoming Delegates Assembly in October. Discussed will be the Federations intent to set eligibility criteria for sitting for the National Physical Therapy Examination i.e. lifetime limits, English language requirements and low score limits and; and to further explore the Federations role in providing its members with tools and programs targeted at increased portability amongst the States.

Citizens Advocacy Center Annual Meeting – The annual CAC meeting is scheduled to be held October 29-30 in Seattle WA. The Director asked Board members are interested in attending the CAC meeting to send him an email. The Board requested Board staff to email them a copy of the meeting agenda.

2013 Board Meeting Dates:

As established by the Board, the remaining 2013 Board Meeting dates are as follows: September 20th and November 15th. Board members were asked to bring their 2014 calendars to the September 20, 2013 Board meeting to set the 2014 meetings calendar. Consideration will be given, at that time, to holding a remote meeting on one of the school campuses or in a rural area within the State. Meeting Dates, Meeting Notices, and published Minutes may be found on the Board website at www.ptboard.state.or.us.

Board Member Reports/Other New Business:

Chair Alstot asked for any other business, hearing none, Board member Costales moved to adjourn the meeting.

Seconded by Jennifer Wood.

Motion passed unanimously by a vote of 8-0.

Board Chair Alstot adjourned the meeting at 1:18 PM.