

**Physical Therapist Licensing Board
Board Meeting
January 23, 2009**

MINUTES

Friday, January 23, 2009

Board Members Present: Joana Freedman, PT, Chair; Steve Alstot, PT, Vice Chair; Cindy Cunningham, Public Member; Burke Selbst, PT Member; Jason Fiske, PT Member; Daiva Banaitis, PT Member; Nancy Wilson, PTA Member

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

Legal Counsel: Carol Parks, AAG

Board Chair, Joana Freedman convened the Board into Executive Session at 9:00 AM, citing ORS 192.660(2)(k). Pursuant to ORS 192.660(2)(k), this portion, of the Meeting, is closed to the public.

In Executive Session, the Board reviewed 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, 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 the completion of the Executive Session, Board Chair, Joana Freedman brought the Board into Public Session. In Public Session, the Board considers inquiries from licensees and the public; approves the prior Board Meeting minutes; ratifies new licenses; reviews general correspondence; entertains any motions; publicly votes on any actions so moved before the Board; and conducts any other Board Public Session business.

The public and interested parties are invited to attend this portion of the meeting. The Public Session is digitally recorded and stored electronically on the Board's file server. Audio copies are available, to the public or interested parties, for the administrative cost to reproduce the audio file.

Board Motions

Case PT 297-9/08

Motion, by Cindy Cunningham, to close the case citing no violations of Statute or Administrative Rule.

Seconded by Nancy Wilson.

Motion passed by unanimous vote.

Case PT 302-12/08

Motion, by Cindy Cunningham, to issue a Confidential Advisory Letter requesting Licensee to submit two progress status reports, to the Board, relative to Licensee's condition and continued treatment. One report should be submitted six months from the date of the letter, it should be written by the Licensee's Provider, and another letter should be submitted with the Licensee's 2010 renewal and should be completed by the licensee.

Seconded by Nancy Wilson.

Motion passed by unanimous vote.

Case PT 303-12/08

Motion, by Cindy Cunningham, to issue a Confidential Advisory Letter requesting Licensee to submit two progress status reports, to the Board, relative to Licensee's condition and continued treatment. Both reports must be completed by the program providers, one report should be submitted following the licensee's completion of six weeks into the program and another at the completion of the twelve week program.

Seconded by Nancy Wilson.

Motion passed by unanimous vote.

Case PT 242-5/07

Motion, by Cindy Cunningham, to close the case citing no violations of Statute or Administrative Rule.

Seconded by Nancy Wilson.

Motion passed by unanimous vote.

Case PT 298-10/08

Motion, by Cindy Cunningham, to issue a Notice of Proposed Disciplinary Action, citing violations of ORS 688.140(2)(e), OAR 848-045-0020(2)(h) and OAR 848-040-0110(1). Board to impose sanctions requiring Licensee to: work with on-site supervision of a physical therapist; complete a Board approved refresher course within 60 days of the Final Order; if the Board can find an appropriate PTA refresher course, complete that refresher course within 60 days of a Final Order; pay a civil penalty of \$500 and provide a copy of the Final Order to future employers.

Seconded by Nancy Wilson.

Motion passed by unanimous vote.

Case PT 306-7/08 (case renamed from PT 288-7/08 because it was a duplicate case number)

Motion, by Cindy Cunningham, to issue a Confidential Advisory Letter citing Board concern over providing professional treatment to co-workers without first performing an evaluation developing a plan of care or documenting the treatment. Also issue a Notice of Proposed Disciplinary Action, citing violations of ORS 688.140(2)(m), OAR 848-045-0020(2)(k) and OAR 848-045-0020(2)(L). Board to impose sanctions requiring the Licensee to: complete a Board approved boundaries course within 60 days of the Final Order and pay a civil penalty of \$1,000.

Seconded by Nancy Wilson.

Motion passed by unanimous vote.

Case PT 306b-7/08 (case renamed from PT 288b-7/08 because it was a duplicate case number)

Motion, by Cindy Cunningham, to issue a Confidential Advisory Letter citing Board concern over providing professional treatment to co-workers without first performing an evaluation developing a plan of care or documenting the treatment.

Seconded by Nancy Wilson.

Motion passed by unanimous vote.

Case PT 300-10/08

Motion, by Cindy Cunningham, to issue a Stipulated Agreement and Final Order, citing violation of ORA 688.140(2)(e). Board to impose sanction requiring Licensee to work with on-site supervision of a physical therapist and provide a copy of the Agreement to future employers. If Licensee elects not to sign the Agreement, the Board will issue a Notice of Proposed Discipline. Also, pursuant to ORS 688.140(3)(g), to issue an Order for a mental and chemical dependency evaluation, by a Board approved provider, to be completed within 45 days of the Order.

Seconded by Nancy Wilson.

Motion passed by unanimous vote.

Case PT 261b-12/07

Motion, by Cindy Cunningham, to rescind vote to issue Stipulated Agreement and Final Order so moved by the Board at its November 14, 2008 Board meeting. To issue a Confidential Advisory Letter citing Board concern over Licensee's failure to maintain current documentation records of completion of the required continuing education. And, putting the Licensee on notice that they will be selected for continuing education audit in 2010.

Seconded by Nancy Wilson.

Motion passed by unanimous vote.

Case PT 301-1/09

Motion, by Cindy Cunningham, to close the case citing no violations of Statute or Administrative Rule.

Seconded by Nancy Wilson.

Motion passed by unanimous vote.

Case PT 305-1/09

Motion, by Cindy Cunningham, to issue an Emergency License Suspension. Also, pursuant to ORS 688.140(3)(g), to issue an Order for a mental evaluation, by a Board approved provider, to be completed within 45 days of the Order.

Seconded by Nancy Wilson.

Motion passed by unanimous vote.

Federation of State Boards of Physical Therapy (FSBPT) Competency Presentation

FSBPT President Dargan Ervin and Vice President Susan Layton presented the Oregon Board members the FSBPT model for continuing competency. The presentation was 90 minutes and included the FSBPT Member Boards directive for development of the model, the planning and development of the model and the proposed rollout for the model. The Oregon Board invited the FSBPT to its meeting because the Board is interested in moving beyond just the traditional requirement for continuing education with regards to continuing competency. The Board is interested in all aspects of professional development and the FSBPT's competency model encompasses many of these aspects. An electronic copy of the FSBPT PowerPoint Presentation may be requested by contacting the Oregon Board Director.

General Topics/Business

- Second Quarter Financial Report – The Director presented the Board with the July 1 through December 31, 2008 financial report and narrative. A copy of the report and the narrative can be obtained by contacting the Board office.
- OTA letter to the Board regarding adoption of new rule language – The Director presented the Board with a copy of the OTA letter, dated December 8, 2008, thanking the Board for consideration of their request to amend certain Administrative Rule language.

- FSBPT 2009 budget – The Director presented the Board with a copy of the FSBPT 2009 operating budget. FSBPT bylaws require that all Board members, of member boards, receive a copy of the adopted budget. The Board guest Dargan Ervin, FSBPT President, answered questions for the Board regarding the budget and financial status of the FSBPT.
- Written versus electronic verification for endorsement licensure applicants – The Board Director had asked Board counsel for a ruling on the Board’s ability or limitations in the acceptance of electronic verifications of licensure for endorsement applicants. Currently, by policy, the Board will only accept written primary source verification of licensure from other states regarding the licensure status of endorsement applicants. Counsel indicated, to the Board, that there was nothing in Statute or Rule that would prohibit the Board from accepting electronic verifications. The Board instructed the Director that acceptance of the electronic verifications would be acceptable to the Board.

2009 Legislative Update

The Director reported that HB 2057 would remove the Physical Therapist Licensing Board from semi-independent status. The Board would revert back into state governance under the oversight of both the Executive Branch and the Legislative Branch. Currently, the Board is under only the oversight of the Executive Branch. The Board budget is currently established by Administrative Rule and not through the legislative process. The Board has its own authority for procurement, contracting, banking, accounting and setting policy for personnel. The Director completed and submitted a Fiscal Impact Statement indicating that using State resources, for all the above, would cost the Board approximately 75 to 100 thousand dollars in the 11-13 biennium. The Director and Board Physical Therapist Assistant member attended the January 21, 2009 Public Hearing on HB 2057. The Director and Board Member were prepared to testify in opposition to the bill; however, the Committee ran out of time before they could be called to testify.

CASE PT 271-4/08: GIL GUZMAN

The Contract Investigator reported that Mr. Guzman had not responded to a Board subpoena to appear and address allegations of unlicensed practice. In fact, the Board Investigator was unable to reach Mr. Guzman by telephone or by mail. The Board tabled the discussion of Mr. Guzman to the March 13, 2009 Board meeting asking the Director to contact the Board Legal Counsel, and ask for options available to the Board to move forward with this case.

Approval of Board Meeting Minutes

The Minutes, from the November 14, 2008 Administrative Rules Hearing, the November 14, 2008 Regular Board Meeting, the November 24, 2008 Special Board Meeting, the December 4, 2008 Special Board Meeting and the December 11, 2008 Special Board Meeting, were presented to the Board. The Board Chair opened the floor for additional discussion and comments. With noted corrections to the November 14, 2008 Regular Board Meeting Minutes and the December 11, 2008 Special Board Meeting Minutes, Cindy Cunningham made a Motion to ratify the minutes with corrections. The Motion was seconded by Nancy Wilson and the Motion passed by a Board quorum 4-0. Not present, for the vote, were Board members Fiske and Selbst.

2009 Board Meeting Dates

As established by the Board, the future Board Meeting dates are as follows: March 13, 2009; May 8, 2009; July 17, 2009; September 18, 2009; and, November 13, 2009. Meeting Dates, Meeting Notices, and published Minutes may be found on the Board website at www.ptboard.state.or.us.

Ratification of PT/PTA Licenses & Temporary Permits

The Board was presented a list of new licensees and temporary permit holders for the period of November 14, 2008 through January 22, 2009. The Board Chair opened the floor, for discussion, with regard to the new licensees and permit holders. Without noted discussion, Cindy Cunningham made a Motion to ratify issuance of the new licenses. The Motion was seconded by Nancy Wilson and the Motion passed by a Board quorum 4-0. Not present, for the vote, were Board members Fiske and Selbst.

Request from Nancy Kirsch, PT regarding Ethics Research Study

The Director presented the Board with a letter from Nancy Kirsch, PT, DPT, PhD. Ms. Kirsch is working on a research project funded by a grant from the FSBPT. The project studies the level of ethical decision making of physical therapists entering the field of physical therapy. Ms. Kirsch has asked the Board for their cooperation in distributing a survey questionnaire, along with its examination packets issued by the Board between March and May of 2009. After consideration and discussion, the Board approved and requested staff to participant in the project.

Other New Business

The Board Chair called for other new business. With no additional new business cited, Board Chair, Joana Freedman adjourned the Board Meeting at 3:40 PM.

**Oregon Physical Therapist Licensing Board
Emergency Board Meeting
March 6, 2009**

MINUTES

Friday, March 6, 2009

Board Members Present: Joana Freedman, PT, Chair; Steve Alstot, PT, Vice Chair; Daiva Banaitis, PT, PhD; Burke Selbst, PT; Nancy Wilson, PTA, Cindy Cunningham, Public Member

Board Members Absent: Jason Fiske, PT

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

Legal Counsel: Carol Parks, AAG

EXECUTIVE (CLOSED) SESSION

The Emergency Board Meeting was held via telephone conference. There was less than 24 hours notice of the meeting. Pursuant to ORS 192.640(3) notice of the meeting was not provided to interested parties.

The timeframe for the meeting was critical to the settlement of a single contested case hearing. Costs and time associated with the hearing preparation, for both the Board and the Licensee were critically tied to the settlement of the case. Availability and notice of a settlement was critical to the Board's out of state professional witnesses. The party, directly related to the sole topic of the meeting, had notice and encouraged the meeting.

At 3:00 PM, Board Chair, Joana Freedman convened the Board, into Executive Session, citing ORS 192.660(2)(k). Pursuant to ORS 192.660(2)(k), this portion, of the Meeting, is closed to the public.

In Executive Session, the Board reviewed information relative to the settlement of the pending contested case hearing. Also, under legal advisement, from Board Counsel, the Board considered possible actions regarding the settlement of the case.

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

At the completion of the Executive Session, Board Chair, Joana Freedman closed the Executive Session and convened the Board, into Public Session, to entertain any Motions, publicly vote on any actions so moved, before the Board, and cover any other Public Session business.

PUBLIC (OPEN) SESSION

The Public Session is digitally recorded and stored electronically on the Board's file server. Audio copies are available, to the public or interested parties, for the administrative cost to reproduce the audio file.

Board Motions

Case PT 202-8/05

Motion, by Nancy Wilson, for Board to issue a Stipulated Agreement and Final Order accepting the voluntary surrender of Licensee's physical therapist license with the following conditions: Licensee not eligible to reapply for licensure with the Physical Therapist Licensing Board for a period of three years, upon which time the Licensee will make a personal appearance before the Board and provide evidence of her compliance with the stipulated agreement; Licensee will continue with the Board approved after care program for the three years, during which time, she will submit to random monthly drug screening tests. If, after two years, all the screens have been clean, Licensee will test randomly once quarterly for the remaining year; Licensee to submit to a mental health evaluation by a Board approved provider and comply with the recommendations and any follow-up recommendations of the provider; Licensee must refrain from performing any activity which must be performed by a licensee of the Board, and shall refrain from providing patient treatment in any capacity.

Seconded by Daiva Banaitis

Motion passed, by quorum; 6-0; absent, for the vote, was Board member Jason Fiske.

Other New Business

The Board Chair called for other new business. With none noted, Board Chair, Joana Freedman adjourned the Board Meeting at 3:45 PM.

**Physical Therapist Licensing Board
Board Meeting
March 13, 2009**

MINUTES

Friday, March 13, 2009

Board Members Present: Joana Freedman, PT, Chair; Steve Alstot, PT, Vice Chair; Cindy Cunningham, Public Member; Burke Selbst, PT Member; Jason Fiske, PT Member; Daiva Banaitis, PT Member

Absent: Nancy Wilson, PTA Member

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

Legal Counsel: Carol Parks, AAG

Board Chair, Joana Freedman convened the Board into Executive Session at 8:30 AM, citing ORS 192.660(2)(k). Pursuant to ORS 192.660(2)(k), this portion, of the Meeting, is closed to the public.

In Executive Session, the Board reviewed 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, 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 the completion of the Executive Session, Board Chair, Joana Freedman brought the Board into Public Session. In Public Session, the Board considers inquiries from licensees and the public; approves the prior Board Meeting minutes; ratifies new licenses; reviews general correspondence; entertains any motions; publicly votes on any actions so moved before the Board; and conducts any other Board Public Session business.

The public and interested parties are invited to attend this portion of the meeting. The Public Session is digitally recorded and stored electronically on the Board's file server. Audio copies are available, to the public or interested parties, for the administrative cost to reproduce the audio file.

Board Motions

Case PT 301-10/08

Motion, by Burke Selbst, to issue Confidential Advisory Letter, closing the case, and noting concern that Licensee did not complete a PT evaluation and plan of care prior to treatment of a patient.

Seconded by Steve Alstot.

Motion passed by quorum 4-2, with Fiske and Cunningham opposing the motion.

Case PT 296-9/08

Motion, by Burke Selbst, to issue Notice of Proposed Disciplinary Action, citing violation of ORS 688.140(2)(d), suspending Licensee's PT license until Licensee completes a competency examination approved by the Board.

Seconded by Steve Alstot.

Motion passed by unanimous vote.

Case PT 203-10/05

Motion, by Burke Selbst, report, to appropriate authorities, suspicion of home remedy drug manufacturing, send Licensee another renewal form with a cover letter to latest known address, and continue with the on-going investigation.

Seconded by Steve Alstot.

Motion passed by unanimous vote.

Case PT 246-7/07

Motion, by Burke Selbst, to issue a Notice of Proposed Disciplinary Action, citing violations of ORS688.140(2)(a) and OAR 848-015-0020(2)(h), re-assessing the \$1,000 outstanding civil penalty, assessing a minimum 30-day license suspension period with license to remain suspended until the civil penalty is paid in full, and extending the existing probation from 2 years to 3 years.

Seconded by Steve Alstot.

Motion passed by unanimous vote.

Case PT 298-10/08

Motion, by Burke Selbst, to issue Stipulated Agreement and Final Order, citing all of the same violations and sanctions, as noted, in the Proposed Order of Discipline dated February 2, 2009, but removing the requirement to complete a Board approved documentation course.

Seconded by Steve Alstot.

Motion passed by unanimous vote.

Case PT 300-10/08

Motion, by Burke Selbst, to ratify and accept the Stipulated Agreement and Final Order as written and signed by the Licensee, and for the Executive Director to execute the Order on behalf of the Board.

Seconded by Steve Alstot.

Motion passed by unanimous vote.

Case PT 310-2/09

Motion, by Burke Selbst, to close the case, approving candidate's application for endorsement licensure and proceed with the licensing process.

Seconded by Steve Alstot.

Motion passed by unanimous vote.

Case PT 243-3/07

Motion, by Burke Selbst, to withdraw Final Order from the Court of Appeals for Board reconsideration and, after reconsideration, issue a Final Order of Reconsideration deleting the specific finding of fact, "The applicant did not think the arrest on September 8, 2005 was an issue as it was over 10 years since the original complaint and the charges were dropped after his court appearance", because it was not found to be supported by matter of record.

Seconded by Steve Alstot.

Motion passed by unanimous vote.

Case PT 202-8/05

Motion, by Burke Selbst, to ratify and accept the Stipulated Agreement and Final Order as signed by the Licensee, and for the Executive Director to execute the Order on behalf of the Board.

Seconded by Steve Alstot.

Motion passed by unanimous vote.

General Topics/Business

- Governor's Cost Saving Strategy – The Director presented the Board with a copy of the Governor's 2007-2009 cost saving strategies. Included, in the strategies, are proposals for mandated staff furlough days, a roll back of 2008 salary step increases and a salary freeze. The Board discussed the fact that, as a Semi-Independent Board, they were not subject to the Governor's plan. However, the Board has also set a policy to follow DAS personnel guidelines. The Board determined that in good faith, and for prudent economic reasons, the Board would abide by the Governor's plan of freezing salaries and implementing the required furlough days for the remainder of 2009. The Board staff did not recognize the top step increases implemented by the Governor's 2008 Executive Management Compensation Plan, so will not be impacted at this time. Lastly, the Board will also abide by the salary freeze and mandated furlough days proposed by the Governor for the 2009-2011 biennium commencing July 1, 2009. The total impact of that proposed plan is yet to be determined pending the outcome of the negotiations with the State Union Representatives.
- The Board reviewed its membership with regards to current members term dates and possible succession planning. After discussion of its current leadership roles, Burke Selbst moved to reinstate Joana Freedman, PT as the Board Chair, and Steve Alstot, PT as Board Vice Chair for another year. Steve Alstot seconded the motion. The motion passed unanimously.

2009 Legislative Update

The Director reviewed, for the Board, numerous House and Senate Bills that he is tracking. The Board took position on several of the Bills and delegated authority to the Director to represent the Board's position regarding the Bills.

Board 2009-2011 Budget

The Director presented, to the Board, the proposed Board 2009-2011 biennium budget. The Director also submitted a narrative comparing the 2009-2011 budget to the previous biennium. The proposed 2009-2011 budget will have an overall expense increase of 9% and is a deficit budget drawing on resources from the Board's reserves to cover the total proposed expenses of \$938,000. The Board approved the proposed 2009-2011 Biennium Budget and instructed the Director to proceed with the Rule Making Hearing process. Copies of the budget and narrative can be found in an addendum to these minutes.

Board 2007-2009 Budget

The Director presented, to the Board, proposed rule making that would amend OAR 848-005-0010 Board Budget for the current biennium. The Director cited that the current budget is in balance and on target; however, there is absolutely no room for any variance between January and June 2009. Also noted were the increased costs for a large contested case hearing that has exceeded any planned numbers for the biennium. To be on the conservative side, the Director proposed an amendment to the rule that would cover the Board's position in the event that the 2007-2009 expenses did exceed the budget. The Board approved the proposed amendment and instructed the Director to proceed with the Rule Making Hearing process.

Case PT 271-4/08: Gil Guzman

Motion, by Burke Selbst, to close case.

Seconded by Steve Alstot.

Motion passed by unanimous vote.

Board Approval of FSBPT Practice Review Tool (PRT) for Continuing Education

The Board approved the FSBPT practice review tool for continuing education. After review and discussion, the Board determined it would allow for 12 continuing education contact hours for anyone who elected to sit for the PRT exam and passes, and 6 continuing education contact hours for anyone who sits for the PRT but does not pass. The Board will allow a max of 12 CE contact hours per CE certification period, per each PRT specialty.

Letter to Board Regarding the Regulation of Personal Trainers

In a letter to the Board Colin Hoobler, PT cited his concerns regarding the unregulated practice of personal training. Mr. Hoobler was primarily concerned with the area of exercise as it relates to rehabilitation. Mr. Hoobler has personally witnessed personal trainers referring to themselves as “rehab experts” and even using the initials “PT” after their names, referencing that they are a Personal Trainer. The Board shares some similar concerns cited by Mr. Hoobler, and the Board would support legislative efforts in the regulation of personal trainers. However, the Board is not politically, statutorily, or financially poised to lead the quest to regulate the profession of personal training.

Compass Ethics

The Board cancelled the May 8, 2009 Compass Ethics presentation scheduled by the Executive Director. The Board delegated the Compass Ethics program review and acceptance to its Director and its Clinical Advisor/Investigator.

Spring 2009 Board Newsletter

The Board discussed the timing of the Spring 2009 Newsletter debating whether it needed to be published and distributed prior to March 31, 2009, as a reminder to those who have not yet renewed their licenses, or published in the first part of April. The Board determined the Spring Newsletter would be published in the first part of April and give Notice of Proposed Rule Making Hearing with regards to the proposed 2009-2011 biennium budget.

Approval of Board Meeting Minutes

The drafted Minutes, from the January 23, 2009 Regular Board Meeting, and the March 6, 2009 Emergency Board Meeting were presented to the Board. The Board Chair opened the floor for additional discussion and comments. With noted written corrections, from absent member Nancy Wilson, to both the January and March drafted Minutes, Burke Selbst made a Motion to ratify the minutes with corrections. The Motion was seconded by Steve Alstot and the Motion passed by a unanimous vote.

2009 Board Meeting Dates

As established by the Board, the future Board Meeting dates are as follows: May 8, 2009; July 17, 2009; September 18, 2009; and, November 13, 2009. After reconsideration and discussion, the Board changed two of the remaining 2009 meeting dates. The meeting date for September 18, 2009 will be changed to September 11, 2009; and, the meeting date for November 13, 2009, will be changed to November 20, 2009. Meeting Dates, Meeting Notices, and published Minutes may be found on the Board website at www.ptboard.state.or.us.

Ratification of PT/PTA Licenses & Temporary Permits

The Board was presented a list of new licensees and temporary permit holders for the period of January 23, 2009 through March 12, 2009. The Board Chair opened the floor, for discussion, with regard to the new licensees and permit holders. Without noted discussion, Burke Selbst made a Motion to ratify issuance of the new licenses. The Motion was seconded by Steve Alstot and the Motion passed by a unanimous vote.

Board Delegation of Authority to Share Confidential Information

ORS 676.177 gives a health professional regulatory Board the statutory authority to share otherwise confidential information with another public entity. Burke Selbst moved to delegate the authority to determine what information to share with another entity to Board Staff, who will use the guidance of Board Legal Counsel in making the determination. Steve Alstot seconded the motion. The motion passed unanimously.

Other New Business

The Board Chair called for other new business. With no additional new business cited, Board Chair, Joana Freedman adjourned the Board Meeting at 2:48 PM.

**SCROLL DOWN TO SEE
2009-2011
PROPOSED BOARD BUDGET WITH NARRATIVE**

OREGON PHYSICAL THERAPIST LICENSING BOARD

2009-2011 PROPOSED BIENNIUM BUDGET

	Jul '09 - Jun 10	Jul '10 - Jun 11	TOTAL Jul '09 - Jun 11
Ordinary Income/Expense			
Income			
4000 · Income			
4100 · Physical Therapists			
4110 · PT Exam Applications	16,000.00	16,000.00	32,000.00
4120 · PT Endorsement Applications	30,000.00	30,000.00	60,000.00
4125 · PT Temporary Permits	2,000.00	2,000.00	4,000.00
4130 · PT Renewals	300,000.00	300,000.00	600,000.00
4140 · PT Delinquent Renewals	2,000.00	2,000.00	4,000.00
4150 · PT Duplicate Licenses	1,000.00	1,000.00	2,000.00
4160 · PT Wall Certificate	200.00	200.00	400.00
4170 · PT Civil Penalties	9,000.00	9,000.00	18,000.00
Total 4100 · Physical Therapists	360,200.00	360,200.00	720,400.00
4200 · Physical Therapist Assistants			
4210 · PTA Exam Applications	6,000.00	6,000.00	12,000.00
4220 · PTA Endorse Applications	6,000.00	6,000.00	12,000.00
4225 · PTA Temporary Permits	600.00	600.00	1,200.00
4230 · PTA Renewals	48,000.00	48,000.00	96,000.00
4240 · PTA Delinquent Renewals	1,000.00	1,000.00	2,000.00
4250 · PTA Duplicate Licenses	100.00	100.00	200.00
4260 · PTA Wall Certificate	100.00	100.00	200.00
4270 · PTA Civil Penalties	2,000.00	2,000.00	4,000.00
Total 4200 · Physical Therapist Assistants	63,800.00	63,800.00	127,600.00
4300 · PT & PTA Combined			
4330 · PTand/or PTA Mailing Diskette	18,000.00	18,000.00	36,000.00
Total 4300 · PT & PTA Combined	18,000.00	18,000.00	36,000.00
4400 · PT/PTA License Verification Fee	8,000.00	8,000.00	16,000.00
Total 4000 · Income	450,000.00	450,000.00	900,000.00
 Total Income	 450,000.00	 450,000.00	 900,000.00
 Gross Profit	 450,000.00	 450,000.00	 900,000.00
Expense			
5100 · Payroll Costs			
5132 · FICA (SS + Medicare)	17,180.00	17,800.00	34,980.00
5133 · FICA Administrative Fee	20.00	20.00	40.00
5110 · Gross Salaries	224,444.00	232,700.00	457,144.00
5136 · Mass Transit Tax	1,400.00	1,444.00	2,844.00
5140 · Employee Benefits			
5141 · PERS ER Paid EE Cont	13,464.00	13,960.00	27,424.00
5142 · PERS ER Admin Contribution	4,620.00	4,796.00	9,416.00
5143 · Obligation Bond Debt Repayment	13,356.00	13,844.00	27,200.00
5144 · Workers Compensation	180.00	180.00	360.00

5146 · PEBB Medical/Dental Insurance	40,950.00	44,982.00	85,932.00
Total 5140 · Employee Benefits	72,570.00	77,762.00	150,332.00
5150 · Employee Training	2,400.00	2,400.00	4,800.00
5190 · Board Stipends	6,600.00	6,600.00	13,200.00
Total 5100 · Payroll Costs	324,614.00	338,726.00	663,340.00
5600 · Travel Costs			
5610 · Instate Travel			
5612 · Lodging	1,800.00	1,800.00	3,600.00
5614 · Airfare/Mileage	3,300.00	3,300.00	6,600.00
5616 · Meals	720.00	720.00	1,440.00
5618 · OtherTravel Costs	120.00	120.00	240.00
Total 5610 · Instate Travel	5,940.00	5,940.00	11,880.00
5620 · Out of State Travel			
5622 · Lodging	1,200.00	1,200.00	2,400.00
5624 · Airfare/Mileage	1,200.00	1,200.00	2,400.00
5626 · Meals	360.00	360.00	720.00
5628 · Other Travel Costs	120.00	120.00	240.00
Total 5620 · Out of State Travel	2,880.00	2,880.00	5,760.00
Total 5600 · Travel Costs	8,820.00	8,820.00	17,640.00
6100 · General Office Expenses			
6110 · Copier	600.00	600.00	1,200.00
6120 · Printing/Copying	6,000.00	6,000.00	12,000.00
6140 · Office Supplies	1,800.00	1,800.00	3,600.00
6145 · Other	240.00	240.00	480.00
6150 · Board Meeting Expenses	900.00	900.00	1,800.00
6155 · Parking Validation Stickers	1,500.00	1,500.00	3,000.00
6160 · Dues	600.00	600.00	1,200.00
6180 · Telecommunications	4,200.00	4,200.00	8,400.00
6185 · Bank Charges/Fees	3,600.00	3,600.00	7,200.00
6186 · Liability Insurance (Risk Mgmt)	1,800.00	1,800.00	3,600.00
Total 6100 · General Office Expenses	21,240.00	21,240.00	42,480.00
6190 · Dues and Subscriptions	2,500.00	2,500.00	5,000.00
6200 · Postage			
6210 · Mail/Mail Room Charges	2,400.00	2,400.00	4,800.00
6240 · Other	6,000.00	6,000.00	12,000.00
Total 6200 · Postage	8,400.00	8,400.00	16,800.00
6400 · Contracted Services			
6410 · Investigators	5,500.00	5,400.00	10,900.00
6420 · Computer Support	6,000.00	6,000.00	12,000.00
6430 · Attorney General-Legal Counsel	36,000.00	36,000.00	72,000.00
6440 · Audit Charges	3,000.00	3,000.00	6,000.00
6450 · Accountant / CPA	600.00	600.00	1,200.00
6460 · Payroll Service Charges	1,800.00	1,800.00	3,600.00
6495 · EmplDept/HearingOfficerPanel	5,040.00	5,040.00	10,080.00
6499 · Other Services	2,486.00	2,484.00	4,970.00
Total 6400 · Contracted Services	60,426.00	60,324.00	120,750.00

6500 · Rent and Occupancy			
6510 · Rent	16,800.00	16,800.00	33,600.00
Total 6500 · Rent and Occupancy	16,800.00	16,800.00	33,600.00
6600 · Background Checks			
6630 · Vantage Data	15,000.00	14,990.00	29,990.00
Total 6600 · Background Checks	15,000.00	14,990.00	29,990.00
6800 · Computers & Accessories			
6810 · Software	1,200.00	1,200.00	2,400.00
6820 · Hardware	2,400.00	2,400.00	4,800.00
6840 · Other - Data Lines, etc.	600.00	600.00	1,200.00
Total 6800 · Computers & Accessories	4,200.00	4,200.00	8,400.00
Total Expense	462,000.00	476,000.00	938,000.00
Net Ordinary Income	-12,000.00	-26,000.00	-38,000.00

Oregon Physical Therapist Licensing Board 2009-2011 Budget Comparative Narrative to 2007-2009

4000 - Total Income

The majority of increase to income, over the last biennium, is attributed to the 2006 increase in renewal fees. Actual income over the past five years has still trended slightly upwards over the past five years. For the biennium 2009-2011, we have to consider three major factors in the income projections: 1) the number of out-of-state endorsement applications has increased by 5 to 10 % over the last three years, 2) because WA State now requires licensure for PTAs, the number of WA PTAs carrying OR licenses is estimated to drop. The drop in licensed PTAs will be anywhere from 10 to 15% (100 to 150 licensees), 3) when the Board implements on-line renewals, the renewal income will drop by 3% for those who choose to use the on-line system. The 3% will be net of the renewal fees to offset the credit card processing costs. Taking into account the pluses and minus', it will be assumed that overall income will remain flat for the 2009-2011 biennium. If anything, depending on the volume of users who use the online renewal system, income may be lower by a few percent.

5100 – Payroll Cost

Payroll costs consist primarily of salaries and benefits. Actual proposed salaries for 2009-2011 are up by 18%. The projected salaries do adhere to the DAS policies, guidelines and salary schedules, as adopted by the Board. The large percentage increase is due to the Governor's Management Salary Plan implemented in 2008. This was an unbudgeted increase in management level salaries of up to 10%. The proposed 2009-2011 salary budget assumes a step (merit) freeze of management salaries (Executive Director and Clinical Advisor). Built into the plan are the DAS standard merit increases for the support position and an annual estimated 3% cost of living (COL) increase for management and support positions. Currently, DAS is considering an across the Board salary freeze (including merit and COL) for all employees. The final determination, regarding a salary freeze, will depend on negotiations with State bargaining units. If the Board were to consider a total

salary freeze for the 2009-2011 biennium, payroll costs (salaries, taxes, and PERS assessments) would drop an estimated \$32,600.

5140 – Employee Benefits

Benefit costs are set by PEBB State contracts and collective bargaining agreements. Costs are estimated to be up a total of 11% which is close to the current trends in premiums and coverages. For the 2009-2011 biennium, a rate of 10% has been used to project medical/dental rate increases. Also, impacting the Board's projected 2009-2011 benefit costs, are the costs associated with an employee, who had previously opted out of the Board medical coverage. Due to a "change of life event", the employee is reinstating their option to participate in the Board medical coverage programs. The PERS administrative fee, based totally on a percentage of salaries, will decrease. The rate for the biennium is projected to decrease by nearly 60%. On the other hand, medical rate increases offset the PERS savings, netting a projected annual increase in employee benefits of nearly 11%.

5600 – Travel Costs

Travel costs are identified in two separate categories. In-State and Out-of-State travel. While projected Out-of-State travel costs remain relatively unchanged for 2009-2011, In-State travel costs are projected to decrease slightly by 3%. This is primarily due to a decrease in the federal mileage reimbursement rates; and, a closer analysis of the cost for out-of-town Board members who pre-arrange air travel to attend the Board meetings. Some of the savings from the air travel was reallocated to the rising costs for accommodations.

6100 – General Office Expense

General office expense is made up of several expenses categories. While the total expense for this classification remains relatively unchanged, the comparison shows a drop of 10%. There was one category that was over budgeted last biennium. The Board liability insurance was projected at \$7,200 last biennium. The actual expense was \$3,600 for the 2007-2009 biennium and that expense is projected to remain the same for the 2009-2011 biennium.

6200 - Postage

This classification decreased by nearly 10%. The 2007 – 2009 biennium was over projected. The Board started using an outside resource to handle mass mailings saving time and providing a better service and result. There was a reclassification of the postage expense categories. The 2009-2011 budget recognizes just two expense line items - Mail Room Charges and Other. The costs associated with the mailing of the Board Newsletter will now be booked into the Other classification.

6400 – Contracted Services

This classification will have an overall decrease of 10% over the 2007-2009 biennium budget. The decrease comes from the Board's strategic plan to cut costs, eliminating the regular scheduled use of an outside contract investigator. The contract investigator will be utilized on a strictly as needs basis. This savings, to the Board, will offset a 20% increase in the budgeted use of the Board legal counsel. This category has been historically under budgeted, and although the Board Staff has taken on more accountability, with the initial drafting and writing of Board Orders, the staff still has need for prudent usage of the Board AAG. Board legal counsel and staff look for every opportunity to minimize Counsel's intervention into Board activities. The other area of significant increase is in the category of Other Services. Through an informal agreement, between the Semi-independent Boards, the PT Board will continue to participate in the funding of a Lobbyist to support the interest of Semi-independent Boards in the legislative forum.

6600 – Background Checks

This classification was under budgeted for the 2007-2009 biennium. As mentioned in the income section above, initial applications to the Board are on an increase. The \$29,000 expense projected for the 2009-2011 biennium is based on actual usage and trends. This expense is offset by the collection of the criminal background fees as part of the \$190 application fee booked into the income classifications above.

6800 – Computers & Accessories

This classification purposely remained relatively unchanged. It is DAS policy to replace each piece of computer equipment every four years. The Board currently has three computers and purchased a laptop and a printer for staff shared usage in 2008. This gives the Board four computers and three printers for replacement consideration every four years. If the Board follows the DAS replacement policy the Board will be replacing three or four pieces of computer hardware each biennium cycle.

Total Expense

The total projected expense for 2009-2011 biennium is up a total of 9.00%. If the Board determines that it will implement a total salary freeze, or if DAS implements a total salary freeze, the expense for salaries and associated taxes and benefits will drop an estimated total of \$32,600. Then, the projected % increase in expense would be 5%.

Income/Expense Analysis

Regardless of Board approval on the proposed 2009-2011 budget or the proposed budget adjusted for a salary freeze, the Board will be in a deficit position for 2009-2011. This is not a concern as the Board has over \$500,000 in reserve from which to operate and cover the deficit. Agency best practices would dictate that the Board draw down its reserves prior to consideration of any type of fee increase. Also, please note that the last fee increase for the Board was with the 2006 renewals.

Rule Making Process

ORS 182.462 outlines the procedures for the adoption of the Board budget. In accordance to ORS 182.462, once the Board approves a proposed budget, Notice of Rulemaking Hearing will be posted in the Oregon Bulletin and also sent to the Legislature, all Interested Parties, and to all Licensees of the Board. The Board will have a public hearing on the budget and take into consideration any testimony prior to final adoption of the proposed budget.

Lastly, anytime during a biennium if the Board needs to amend an adopted budgeted amount, they must do so through the above Rulemaking Hearing Notice and process. In conjunction with the rulemaking for the 2009-2011 budget, I would propose that the Board amend its 2007-2009 budgeted expense amount by \$41,000 to an even \$900,000. The Board expenses are currently running on plan but it is very tight. There is no room for variance between now and the end of the biennium, June 30, 2009. It is my understanding that the legal fees, between now and June 30th, could be substantial, and I want to make certain that the Board has a cushion and does not overspend its authority. If the expense does exceed current budget levels, the excess will come out of Board reserves.

**Physical Therapist Licensing Board
Administrative Rules Hearing
May 8, 2009**

MINUTES

Friday, May 8, 2009

Board Members Present: Joana Freedman, PT, Chair; Steve Alstot, PT, Vice Chair, Daiva Banaitis, PT, PhD Member; Jason Fiske, PT Member; Burke Selbst, PT Member; Nancy Wilson, PTA Member; Cindy Cunningham, Public Member

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

Legal Counsel: Carol Parks, AAG

The Proposed Administrative Rules Hearing was held Friday, May 8, 2009 in Room 445 of the Portland State Office Building, 800 NE Oregon Street, Portland, OR. Pursuant to OAR 848-001-0000; Notice of the Hearing was sent to all interested parties, posted in the April 1, 2009 Edition of the Oregon Bulletin, published in the Spring (March 2009) Board Newsletter sent to all Licensees, and published on the Board Website. The Hearing convened, at 8:30 AM, by Jim Heider, Board Executive Director and Presiding Hearing Officer.

The Board did not receive any written testimony and no one attended the Public Hearing to present testimony regarding the proposed amendment to the 2007-2009 budget and adoption of the 2009-2011 proposed budget. The Board waited a reasonable amount of time to allow for possible late parties. Mr. Heider adjourned the Hearing at 9:00 AM with a recommendation to the Board to amend the existing budget and adopt the proposed budget rule changes as submitted.

The Hearing is 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.

Physical Therapist Licensing Board

Board Meeting

May 8, 2009

MINUTES

Friday, May 8, 2009

Board Members Present: Joana Freedman, PT, Chair; Steve Alstot, PT, Vice Chair; Cindy Cunningham, Public Member; Burke Selbst, PT Member; Jason Fiske, PT Member; Daiva Banaitis, PT Member; Nancy Wilson, PTA Member

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

Legal Counsel: Carol Parks, AAG

Following the Administrative Rules Public Hearing, Board Chair, Joana Freedman convened the Board into Executive Session at 9:00 AM, citing ORS 192.660(2)(k). Pursuant to ORS 192.660(2)(k), this portion, of the Meeting, is closed to the public.

In Executive Session, the Board reviewed 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, 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 the completion of the Executive Session, Board Chair, Joana Freedman brought the Board into Public Session. In Public Session, the Board considers inquiries from licensees and the public; approves the prior Board Meeting minutes; ratifies new licenses; reviews general correspondence; entertains any motions; publicly votes on any actions so moved before the Board; and conducts any other Board Public Session business.

The public and interested parties are invited to attend this portion of the meeting. The Public Session is digitally recorded and stored electronically on the Board's file server. Audio copies are available, to the public or interested parties, for the administrative cost to reproduce the audio file.

Board Motions

Case PT 296-9/08

Motion, by Nancy Wilson, to issue Final Order by Default, citing same violations and actions as noted in the Notice of Proposed Discipline dated March 16, 2009.

Seconded by Cindy Cunningham.

Motion passed by unanimous vote.

Case PT 246-7/07

Motion, by Nancy Wilson, to close the case effective May 31, 2009 if Licensee fails to reinstate their physical therapist license that lapsed on March 31, 2009, and sign the Stipulated Agreement and Final Order by May 31, 2009.

Seconded by Cindy Cunningham.

Motion passed by unanimous vote.

Case PT 295-9/08

Motion, by Nancy Wilson, to close the case citing no violations.

Seconded by Cindy Cunningham.

Motion passed by unanimous vote.

Case PT 309-1/09

Motion, by Nancy Wilson, to issue a Confidential Advisory Letter noting Board concern over Licensee's practice to clearly identify personal training patients, from physical therapy patients, and making certain, at all times, that they are in compliance with OAR 848-040-0147(3).

Seconded by Cindy Cunningham.

Motion passed by unanimous vote.

Case PT 315-4/09

Motion, by Nancy Wilson, to issue a Stipulated Agreement and Final Order, citing violation of OAR 848-045-0020(2)(r) and assessing a civil penalty of \$75.00.

Seconded by Cindy Cunningham.

Motion passed by unanimous vote.

Case PT 316-4/09

Motion, by Nancy Wilson, to issue a Stipulated Agreement and Final Order, citing violation of OAR 848-045-0020(2)(r) and assessing a civil penalty of \$100.00.

Seconded by Cindy Cunningham.

Motion passed by unanimous vote.

Case PT 317-4/09

Motion, by Nancy Wilson, to issue a Stipulated Agreement and Final Order, citing violation of OAR 848-045-0020(2)(r) and assessing a civil penalty of \$100.00.

Seconded by Cindy Cunningham.

Motion passed by unanimous vote.

Case PT 318-4/09

Motion, by Nancy Wilson, to issue a Stipulated Agreement and Final Order, citing violation of OAR 848-045-0020(2)(r) and assessing a civil penalty of \$100.00.

Seconded by Cindy Cunningham.

Motion passed by unanimous vote.

Case PT 319-4/09

Motion, by Nancy Wilson, to issue a Stipulated Agreement and Final Order, citing violation of OAR 848-045-0020(2)(r) and assessing a civil penalty of \$100.00. Additional motion for licensee to provide the Board with a release of Licensee's psychiatric and medical health records, within 14 days, or issue an Order for Mental Health Evaluation citing ORS 688.140(3)(g).

Seconded by Cindy Cunningham.

PT Board Member Burke Selbst recused himself from this case and abstained from the vote.

Motion passed by unanimous vote 6-0.

Case PT 312-3/09

Motion, by Nancy Wilson, to issue a Confidential Advisory Letter noting Board concern over possible violations of ORS 688.132(1)(b) and OAR 848-040-0117(1)(a), duty to refer a patient after 60 days. Motion to request clarification from Licensee's mental health providers regarding the Licensee's ability to practice safely and competently.

Seconded by Cindy Cunningham.

Motion passed by unanimous vote.

Case PT 203-10/05

Motion, by Nancy Wilson, to complete current scheduled interviews and then to close the case and open a new case if Licensee requests reinstatement of his physical therapist license that lapsed March 31, 2009.

Seconded by Cindy Cunningham.

Motion passed by unanimous vote.

Amendment of Board 2007-2009 Biennium Budget

Motion, by Nancy Wilson, to accept proposed Rule Amendments to the Board 2007-2009 Biennium Budget as presented.

Seconded by Cindy Cunningham.

Motion passed by unanimous vote.

Adoption of Board 2009-2011 Biennium Budget

Motion, by Nancy Wilson, to adopt the proposed Board 2009-2011 Biennium Budget, as presented.

Seconded by Cindy Cunningham.

Motion passed by unanimous vote.

General Topics/Business

- **FSBPT 2009 Delegates Assembly San Diego 10/1-10/4/09** – The Federation will fund the costs for travel, hotel, meals and incidentals for member Boards to send a Delegate and the Board Administrator to the 2009 Delegates Assembly. After discussion and consideration, the Board chose Joana Freedman, Board Chair to act as the Board's Delegate, and Jim Heider will attend as the Board Administrator. Because the Federation no longer funds the Alternate Delegate, the Board appointed Jim Heider to also serve in the capacity of Alternate Delegate. The Board will save its budgeted travel dollars for future educational and training opportunities.
- **FSBPT Course Work Tool #5** – The Board approved adding the 5th Edition of the Federation's Course Work Tool to its toolkit when preparing the credentials for foreign-educated therapists. The 5th Edition of the tool will be available and effective July 1, 2009. It will be applied to all foreign-educated therapists who graduate from physical therapy programs on or after that date. In 2006, the Board adopted a policy for the use of the retro course work tools. This policy requires, for

credentialing proposes, the credentialing agency use the appropriate course work tool in place at the time the candidate graduated from physical therapy school.

- **Board Bank Account Status Changes/Costs** – The Executive Director reported that he and the Board Chair met with representatives from US Bank to discuss the Board's current bank fees and services. The Board voiced concern over increasing costs of Bank lockbox service fees and diminishing offset for reserve account credits. Bank Representatives will work, with the Board's Director, to look for opportunities to elevate some of the costs associated with the bank lockbox fees, and move the Board closer to the processing of on-line renewals and automatic deposits.
- **Lane County Community College PTA program** – The Executive Director reported that the Lane County Community College PTA program had received its program accreditation from the Commission on Accreditation of Physical Therapy Education (CAPTE). Christina Howard, MPT, is the Program Coordinator for Lane County. Ms. Howard says Lane County will commence with their first class this fall. The program will accept a maximum of 24 students. Lane County currently has 125 known applicants for these spots. As part of the application prerequisites, Lane County requires an applicant to have logged 25 hours of observation of a PT, in clinical settings, prior to making application. The program is designed for didactic distance learning and on-site laboratory work.

2009 Legislative Update

The Director reported on numerous bills, that the Board is following, all of which could have some impact on the Statutes, operations, or even the physical make up of the Board. Two noted major bills of concern, to the Board, were HB 2057 and HB 2118.

HB 2057 would have taken away the Board's semi-independent agency status. This bill never made it out of committee, primarily due to lack of committee support and a large opposition from the Boards from constituents and from the professional associations.

HB 2118 did pass, from the House Healthcare Committee, and was sent to Joint Ways and Means Committee pending Hearing, Work Session and approval. HB 2118 is sponsored by the Governor's office. The Bill has several facets, most of which this Board supports. However, the Bill has two sections that are of concern to this Board. One would take away the Board's ability to set the parameters, duties and compensation for its Executive Director. The Bill would allow the Board to select its Director, but under the policies and procedures as established by the Department of Administrative Services. The second section would mandate that the Board Director serve at the pleasure of the Governor. This would give the Governor the authority to dismiss and reappoint the Board's Director for any reason or without cause. The Board members already serve at the pleasure of the Governor. This section would give the Governor full authority over any health Board. The concern is that these Boards then become totally politicized.

Board Position on the Scope and Use of Dry Needling

The Board received an inquiry from Licensee, Sean Roach, PT and also received a position statement from the AAOMPT (American Association of Manual Physical Therapy) stating their position that dry needling is in the scope of practice for PTs. Prior to the Board meeting, data was obtained from the FSBPT regarding 10 states position on dry needling. The Clinical Advisor/Investigator shared with the Board that when last discussed, the Board took the position that dry needling was not within the current scope of practice. To prepare for the Board discussion, the Clinical Advisor asked Board Counsel to research the Medical Board and Acupuncture Board Statutes to see if their Statutes would limit a licensee of the Physical Therapist Board from using dry needling. The Board Counsel advised that there was nothing

within the Medical Board or Acupuncture Board Statutes that would limit a licensed physical therapist from using dry needling. So the question for consideration remains whether or not the Board feels it is within the physical therapist scope of practice to use dry needling. Ms. Banaitis mentioned that many years ago, the Board issued an opinion, that it is in the scope of practice for a PT to perform needle EMG. The Executive Director will research old board meeting minutes to attempt to locate evidence of such statement. After discussion and consideration the Clinical Advisor suggested that she do further research on the topic prior to the Board reconsidering their position on dry needling. The Clinical Advisor will communicate with Licensee Roach to see if he can provide additional information and will also obtain additional information from other states that allow dry needling to see what their certification requirements are, if any.

Approval of Board Meeting Minutes

The drafted Minutes, from the March 13, 2009 Regular Board Meeting, were presented to the Board. The Board Chair opened the floor for additional discussion and comments. With none noted, Nancy Wilson moved to adopt and publish the minutes as written. The Motion was seconded by Cindy Cunningham and passed by a unanimous vote.

Complaint Against Lebanon Community Pool

The Board Clinical Advisor Investigator shared, with the Board, information brought to the Board from a licensee. The complaint stated that the Lebanon Community Pool had advertised a physical therapy water program and also advertised that a physical therapist was part of the program, which was not the case. The licensee talked with the program director who indicated that there was no physical therapist involved in the class. He stated that the program was physical and the activities were therapeutic, thus he felt that they could use the term physical therapy. After the Board sent a letter to the program director, he agreed to take the word “physical” out of the program title and would now refer to the program as Water Therapy. He also stated that he would take out any reference to a PT being available in the class. After discussion, the Board agreed with the Investigator that she should contact the program director again and suggest that they rename the program Water Exercise and take out the word “therapy”.

Investigation of Unlicensed Practice

Based on the previous discussion, relative to the complaint against the Lebanon Community Pool, Board Counsel informed the Board that the Department of Justice Financial Fraud Section may be willing to represent the Board in the investigation of any unlicensed practice cases pending before the Board. They will do this without costs to the Board. Counsel asked the Board Investigator to provide her with the case files, and she will forward them onto the Financial Fraud Division and see if they wish to investigate the cases.

OT Role in Work Hardening Programs

The Board Clinical Advisor and Investigator shared with the Board questions that came from Salem Hospital regarding their work hardening program. The questions were whether an OT can run a group of PT patients and whether the patients could be seen by either an OT or a PT. The OT Licensing Board had provided a statement to the facility that it was within the OT scope of practice for an OT to work with work hardening patients, even if the patients were not being treated specifically for upper extremity injuries. The Board discussed the questions and determined that yes, the OTs can treat these patients in a work hardening setting but each discipline must follow their own evaluation and treatment plan. An OT can not work off a PT plan of care and the PT or PTA can not work off an OT plan of care.

2009 Board Meeting Dates

As established by the Board, the future Board Meeting dates are as follows: July 17, 2009; September 11, 2009; and, November 20, 2009. Meeting Dates, Meeting Notices, and published Minutes may be found on the Board website at www.ptboard.state.or.us.

Ratification of PT/PTA Licenses & Temporary Permits

The Board was presented a list of new licensees and temporary permit holders for the period of March 13, 2009 through May 7, 2009. The Board Chair opened the floor, for discussion, with regard to the new licensees and permit holders. Without noted discussion, Nancy Wilson made a motion to ratify issuance of the new licenses. The motion was seconded by Cindy Cunningham and passed by a unanimous vote.

Other New Business

The Board Chair called for other new business. Cindy Cunningham shared, with the Board, that she would write something relative to her recent Federation Ethics and Legislative Committee meeting. The topics for discussion will include upcoming changes to the Model Practice Act language; offering of a HIPDB on-line training for the reporting of Board actions to the disciplinary data bank; and considerations for amendments to current Administrative Rules relative to terminology, disaster planning; and other housekeeping issues. With no additional new business cited, Board Chair, Joana Freedman adjourned the Board Meeting at 2:55 PM.

END OF PUBLIC SESSION AGENDA

**Physical Therapist Licensing Board
Board Meeting
July 17, 2009**

MINUTES

Friday, July 17, 2009

Board Members Present: Joana Freedman, PT, Chair; Steve Alstot, PT, Vice Chair; Cindy Cunningham, Public Member; Burke Selbst, PT Member; Jason Fiske, PT Member; Daiva Banaitis, PT Member; Nancy Wilson, PTA Member

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

Legal Counsel: Carol Parks, AAG

Board Chair, Joana Freedman convened the Board into Executive Session at 8:30 AM, citing ORS 192.660(2)(k). Pursuant to ORS 192.660(2)(k), this portion, of the Meeting, is closed to the public.

In Executive Session, the Board reviewed 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, 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 the completion of the Executive Session, Board Chair, Joana Freedman brought the Board into Public Session. In Public Session, the Board considers inquiries from licensees and the public; approves the prior Board Meeting minutes; ratifies new licenses; reviews general correspondence; entertains any motions; publicly votes on any actions so moved before the Board; and conducts any other Board Public Session business.

The public and interested parties are invited to attend this portion of the meeting. The Public Session is digitally recorded and stored electronically on the Board's file server. Audio copies are available, to the public or interested parties, for the administrative cost to reproduce the audio file.

Board Motions

Case PT 319b-4/09

Motion, by Daiva Banaitis, to issue a Confidential Advisory Letter, citing concerns for failure to disclose a second arrest on the renewal application. Motion to request biannual progress reports from licensee's two mental health providers for one year.

Seconded by Nancy Wilson.

Motion passed by unanimous vote 5-0; Board member Selbst abstained from the vote.

Case PT 312-3/09

Motion, by Daiva Banaitis, to close case citing no violation of Statute or Rule.

Seconded by Nancy Wilson.

Motion passed by unanimous vote.

Case PT 260-3/07

Motion, by Daiva Banaitis, to issue Amended Stipulated Agreement and Final Order removing the requirement that licensee must practice with on-site supervision.

Seconded by Nancy Wilson.

Motion passed by unanimous vote.

Case PT 320-5/09

Motion, by Daiva Banaitis, to issue Stipulated Agreement and Final Order, citing licensee for violation of OAR 848-045-0020(2)(r) (practicing with a lapsed license), and imposing a civil penalty of \$250.00.

Seconded by Nancy Wilson.

Motion passed by unanimous vote.

Case PT 287-7/08

Following a contested case hearing and ALJ issuance of proposed order, motion, by Daiva Banaitis, to issue Final Order, citing licensee for violations of ORS 688.140(2)(a) and OAR 848-045-0020(2)(q)(D) (using the title doctor) and assessing a civil penalty of \$1,000.

Seconded by Nancy Wilson.

Motion passed by unanimous vote.

General Topics/Business

- **FSBPT Probe PT Ethics Class** – The Board reviewed the announcement made by the Federation of State Boards of Physical Therapy regarding the first pilot of the Probe Ethics remediation program for physical therapists. The pilot is scheduled for December 11th through the 13th, 2009 in New Jersey. An overview of the Probe program will be presented at the FSBPT Delegate Assembly, in October, in San Diego CA. The cost of the program is \$1,500 plus cost for the licensee to travel and stay.
- **State of Oregon Mandated Furlough Days** – The Director shared, with the Board, the most recent communication, from the Department of Administrative Services (DAS), regarding mandated furlough days. The Director indicated that although the Board had adopted, and followed, DAS personnel policies in the past, the Board had the option to do something different with regards to the furlough requirement. After consideration, the Board determined it would continue to follow DAS personnel policy and the Board staff would take the unpaid furlough days as directed by DAS.
- **Board Project Queue Update** – The Executive Director reported that the project to scan and publish all public records, relative to Board actions, on the Board website was approximately 50% done. With the cutbacks in spending on contracted services and the mandated furlough days, continuance of the project would be placed on hold, pending priority given to the on-line renewal and electronic payment project. The Director indicated he would advance the project as time and dollars allowed. The Board suggested using the salary savings, from the furlough days, to contract help to get the project done. The Director indicated that although the scanning project itself was not a difficult task, the exposure risk of error and the consequences require direct supervision of the project, and the Director's time just is not going to allow it now. In addition to the scanning project, the on-line renewal, and credit payment project, the Board is now going to have to start Administrative Rule making to incorporate the statutory changes as mandated by the outcome of the 2009 Legislative

Session. The Director indicated staff could not get this all done at the same time. Further, the Director indicated that the legislative rule changes and on-line renewal system, with electronic payment, should take precedence over the scanning of public documents. The Board noted the importance of all the projects but seemed to understand and agreed with the priorities as set.

Governor's Letter Calling for Elimination, Suspension and Consolidation of Boards

The Director reviewed the June 8, 2009 letter from Governor Kulongoski to the President of the Senate and the Speaker of the House. The letter encouraged the Senate and the House to consider the elimination, suspension and consolidation of several boards in an effort to further balance the State's budget. The Director wanted to know if the PT Board was going to take a position on the Governor's plan to consolidate the health boards into one large umbrella board. After consideration, the Board determined it was too early to take a position. The Board would need to know exactly how the PT Board would be impacted. However, if in the efforts to consolidate, the PT Board lost its autonomy with regards to a stand alone unique profession, the Board would oppose the consolidation proposals.

Board Information Security Policy

The Director presented the Board with a draft of the Board's proposed Information Security Policy. The policy requires that all staff, Board members, contractors and vendors read and sign off on the policy. After review and consideration the Board voted to adopt the policy as written and instructed the Director to file the policy with the State Enterprise Security Office. Once the policy has been approved by the policy division, the Director will collect the written compliance statements from the Board members, staff and other appropriate parties. A copy of the policy may be obtained by contacting the Director and making a request.

2009 Legislative Update

The Director presented the Board with a matrix of all the legislation being tracked by the Board. The matrix identified any legislation passed that may impact the Board and require administrative rule making changes. Below are some of the highlights presented:

Legislation that passed in Salem that will affect PTs includes:

- Effective January 1, 2010, PTs holding a doctoral degree may use the title doctor on written or printed material or in connection with advertising, billboards, signs or professional notices. He or she must designate the health profession in which the doctoral degree was earned.
- Effective January 1, 2010, PTs and PTAs are added to list of mandatory reporters of child abuse.
- Effective January 1, 2010, PTs and PTAs have a mandatory requirement to report unprofessional conduct/crimes of other healthcare professionals.
- Effective January 1, 2010, PTs and PTAs now have a mandatory requirement to report their own conviction of misdemeanor or felony; or arrest for felony to Licensing Board within 10 days of the event.
- Licensee's personal e-mail, phone number and address may be held from public record disclosure.
- Fingerprinting authority given to PT Licensing Board; however, the Board is not contemplating requiring finger printing at this time.

Other issues impacting all health licensing boards:

- Licensing Boards: appointments, public members, terms, hiring directors.
- Additional oversight and reporting for the health-related licensing boards.
- Collection of data in applications and renewals for healthcare workforce needs assessment.
- Changes to Administrative Hearings Office (where discipline cases are appealed).
- Uniform impaired practitioner program.

Board Discussion Regarding Use of Dry Needling

The Board Clinical Advisor presented the Board with a significant amount of current research and literature regarding physical therapy and use of dry needling. After consideration and discussion of the issue, the Board determined that dry needling is in the scope of PT, as long as the licensee has the appropriate training.

Board Discussion Concerning Rochville University and Affordabledegrees.com

The Board Clinical Advisor presented the Board with information regarding her investigation into the Rochville University and Affordabledegrees.com program. The Board received a request for a licensure application by examination from a candidate who insisted that the PTA program he completed at Rochville University was an accredited program. After researching the program, it was determined that Rochville University was not CAPTE accredited and that Affordabledegrees.com was a diploma mill. The Board instructed the Clinical Advisor to report her findings to the Oregon Office of Degree Authorization.

2009 Fiscal Year-End Financial Report

The Director presented the Board with a copy of the 2008-2009 fiscal year-end financial report with a variance narrative. The Board reviewed and approved the report. A copy of the Board's 2008-2009 fiscal year-end report, with the narrative, can be found on the Board website at www.ptboard.state.or.us.

Approval of Board Meeting Minutes

The drafted Minutes, from the May 8, 2009 Administrative Rules Hearing and Regular Board Meeting, were presented to the Board. The Board Chair opened the floor for additional discussion and comments. With a few corrections noted, Daiva Banaitis moved to adopt and publish the minutes as written. The Motion was seconded by Nancy Wilson and passed by a unanimous vote.

Questions Regarding Animal Rehabilitation

The Board Clinical Advisor invited the Director of the Veterinary Board to discuss the issue of animal rehabilitation as related to physical therapy. The PT Board and Director of the Vet Board reviewed both Boards' statutes and rules. It was determined, by both Boards, that in order to practice any form of rehabilitation on animals, you need to either be a licensed physical therapist, working under a referral from a licensed veterinarian, or an individual working under the supervision of a veterinarian. An individual working as a physical therapist aide, treating animals, must work under the supervision of a licensed physical therapist who has received a referral from a veterinarian.

2009 Board Meeting Dates

As established by the Board, the future Board Meeting dates are as follows: September 11, 2009 and November 20, 2009. Meeting Dates, Meeting Notices, and published Minutes may be found on the Board website at www.ptboard.state.or.us. Board members were asked to bring their calendars with them to the September 11, 2009 Board meeting so the 2010 meeting dates could be established.

Ratification of PT/PTA Licenses & Temporary Permits

The Board was presented a list of new licensees and temporary permit holders for the period of May 8, 2009 through July 16, 2009. The Board Chair opened the floor, for discussion. Without noted discussion, Daiva Banaitis moved to ratify the list of licensees and temporary permit holders. The Motion was seconded by Nancy Wilson and passed by a unanimous vote.

Other New Business

The Board Chair called for other new business. Cindy Cunningham shared, with the Board, a document she had drafted relevant to the discussions she had participated in at the most recent FSBPT Ethics and Legislative Committee meeting. Cindy reviewed several model practice act language changes that the Board may want to consider the next time legislation warrants changes to the physical therapist practice act. There were also several issues that could be resolved in the upcoming Administrative Rules changes as dictated by the most recent legislative session. The Board asked the Director to take all of these proposed updates and housekeeping issues into consideration during the next Administrative Rules Committee process. Further, the Board instructed the Director to also include review of the Board's current rule offering temporary permits. The Board would like an advisory committee to consider the repeal of offering temporary permits. With no additional new business cited, Board Chair, Joana Freedman adjourned the Board Meeting at 2:25 PM.

END OF PUBLIC SESSION AGENDA

**Physical Therapist Licensing Board
Special Telephone Board Meeting
August 13, 2009**

MINUTES

Thursday, August 13, 2009

Board Members Present: Joana Freedman, PT, Chair; Steve Alstot, PT, Vice Chair; Burke Selbst, PT Member; Daiva Banaitis, PT Member; Nancy Wilson, PTA Member

Board Members Absent: Cindy Cunningham, Public Member; Jason Fiske, PT Member

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

Legal Counsel: Carol Parks, AAG

Board Vice Chair, Steve Alstot convened the Board into Executive Session at 12:22 PM, citing ORS 192.660(2)(k). Pursuant to ORS 192.660(2)(k), this portion, of the Meeting, is closed to the public.

In Executive Session, the Board reviewed investigatory information regarding one investigative case. The Board also considered legal advisement, from Board Counsel, regarding this case.

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

PUBLIC (OPEN) SESSION

At the completion of the Executive Session, Board Chair, Joana Freedman brought the Board into Public Session. In this Public Session, the Board publicly voted on any actions so moved before the Board.

The public and interested parties are invited to attend this portion of the meeting. The Public Session is digitally recorded and stored electronically on the Board's file server. Audio copies are available, to the public or interested parties, for the administrative cost to reproduce the audio file.

Board Motions

Case PT 298-10/08

Motion, by Burke Selbst, PT, to issue Amended Stipulated Agreement and Final Order removing the restriction on Licensee's license requiring her to practice with onsite supervision and adding a requirement for Licensee to provide the Board with a statement of performance proficiency from a supervising physical therapist 90 days from the date of the Order.

Seconded by Nancy Wilson, PTA.

Motion passed by unanimous vote 5-0. Not present for the vote were Jason Fiske, PT and Cindy Cunningham.

Other New Business

The Board Chair called for other new business. With no additional new business cited, Board Chair, Joana Freedman adjourned the Board Meeting at 12:34 PM.

**Physical Therapist Licensing Board
Board Meeting
September 11, 2009**

MINUTES

Friday, September 11, 2009

Board Members Present: Steve Alstot, PT, Vice Chair; Burke Selbst, PT Member; Jason Fiske, PT Member; Daiva Banaitis, PT Member; Nancy Wilson, PTA Member

Board Members Absent: Joana Freedman, PT, Chair; Cindy Cunningham, Public Member

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

Legal Counsel: Carol Parks, AAG

Board Vice Chair, Steve Alstot convened the Board into Executive Session at 8:30 AM, citing ORS 192.660(2)(k). Pursuant to ORS 192.660(2)(k), this portion, of the Meeting, is closed to the public.

In Executive Session, the Board reviewed 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, 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 the completion of the Executive Session, Board Vice Chair, Steve Alstot brought the Board into Public Session. In Public Session, the Board considers inquiries from licensees and the public; approves the prior Board Meeting minutes; ratifies new licenses; reviews general correspondence; entertains any motions; publicly votes on any actions so moved before the Board; and conducts any other Board Public Session business.

The public and interested parties are invited to attend this portion of the meeting. The Public Session is digitally recorded and stored electronically on the Board's file server. Audio copies are available, to the public or interested parties, for the administrative cost to reproduce the audio file.

Board Motions

Case PT 322-5/09

Motion, by Jason Fiske, to close the case citing no violations of Statute or Administrative Rule. Seconded by Nancy Wilson.

Motion passed by unanimous vote 5-0.

Case PT 323-5/09

Motion, by Jason Fiske, to close the case citing no violations of Statute or Administrative Rule.

Seconded by Nancy Wilson.

Motion passed by unanimous vote 5-0.

Case PT 288-7/08

Motion, by Jason Fiske, to issue license upon the signing of a civil penalty repayment schedule and the receipt of the first payment.

Seconded by Nancy Wilson.

Motion passed by unanimous vote 5-0.

Case PT 321-5/09

Motion, by Jason Fiske, to issue a Confidential Advisory Letter affirming the requirement for a full evaluation prior to the delivery of physical therapy services or treatment.

Seconded by Nancy Wilson.

Motion passed by unanimous vote 5-0.

Case PT 314-4/09

Motion, by Jason Fiske, to close the case citing no violations of Statute or Administrative Rule.

Seconded by Nancy Wilson.

Motion passed by unanimous vote 5-0.

Application Status of PT Licensure Candidate Jodi Segawa

After discussion and consideration, the Board approved Ms. Segawa's request to change the status type of her Oregon application from endorsement to examination and issue her Oregon physical therapist license.

Jason Fiske then moved to delegate, to Board staff, the future authority to change an application type as appropriate, without first bringing it to the Board for approval and without the applicant having to pay an additional application fee. The motion was seconded by Nancy Wilson and the motion passed unanimously 5-0.

Discussion Regarding Board Policy Requiring Use of Legal Name for Licensure

After discussion and consideration the Board determined that it would consider allowing a licensee to print a second "Also Known As" (AKA) name on the license. The Board asked the Director to investigate adding this capability to the data base and the licensure print program and report back to the Board.

Request From Licensee Tina Buettell to Consider Internship for Continuing Education Credit

After discussion and consideration, the Board determined that the objective outlined internship, submitted by Ms. Buettell regarding pulmonary rehabilitation, would qualify for continuing education credit. The instructor must supply a certificate of completion. In the future, the Board would consider similar internship programs on a case-by-case basis as a special request.

FSBPT Updates and Announcements

- The FSBPT requested input, by the Board, regarding the APTA's proposed action to amend the evaluative criteria of physical therapy education programs to require a doctorate at the completion of the program. After discussion, the Board instructed the Director to send a copy of the FSBPT email request for input, via an on-line survey, back out to the Board so Board members might respond to the survey independently.

- The FSBPT Ethics and Legislative Committee announced that they now have available two PowerPoint education modules available for Member Boards to use for presentations in their local schools. The modules are on taking the NPTE and Licensing and Regulation. Both modules include course objectives and have pre- and post-tests. After discussion, the Board instructed the Director to gather further information, regarding the modules, and to report back to the Board.

FARB and Citizens Advocacy Annual Meetings

The Director announced the upcoming FARB and Citizens Advocacy annual meetings. The Director told the Board members that any of them who are interested in possibly attending either of the annual meetings, to please contact him directly.

Information Security Plan Acknowledgement Form

The Director told the Board that the new Information Technology Security Plan, submitted to the Department of Administrative Services, had been approved. The next step will be for the Director to gather the Security Plan Acknowledgement forms from all Board Members, Staff and Contractors. The Director indicated that, via e-mail, he would send each Board Member a copy of the approved plan along with the acknowledgement form. He would plan on collecting the signed acknowledgement forms at the next Board meeting.

General Topics/Business

- **Update Regarding Furlough Days** – The Director reviewed, with the Board, the final outcome of the State Labor Unions contract regarding scheduled furlough days. After discussion, the Board determined that it would follow the DAS policy with regards to the furlough days. Over the remainder of the biennium the PT Board staff will take a total of 14 furlough days. Ten of the days are pre-determined by DAS and four of the days are floating. On the pre-determined days, the State Office Building will be closed to all state workers. Those days are as follows; 10.16.09; 11.27.09; 3.19.10; 4.16.10; 6.18.10; 8.20.10; 9.17.10; 11.26.10; 3.18.11; and 5.20.11. All the planned closure dates are Fridays and will be taken without pay. The Board agreed to allow the Board Staff to determine what other four floating furlough days they might consider taking as a group and completely close the PT Board office down on those days. The Director will keep the Board apprised of the 4 floating closure dates.
- **Public Records Scanning Project** – The Director told the Board that a contractor had been hired to help complete the public records scanning project. The contractor is scheduled to begin work on September 21, 2009. The Director indicated that the project should take about 6 weeks to complete, with a target completion date of October 31, 2009. The Director estimated the total hours at 120 and a total cost of \$2,400. At the completion of the project, a citizen will be able to access copies of all Board Action Public Records on the Board Licensure Look-up/Verification screen.
- **Online Renewal Project Update** – The Director told the Board that the on-line renewal project is on schedule. Actually, the project is ahead of schedule. By January 1, 2010, all licensees will have the option to complete a renewal form and pay their renewal fee on-line. Testing of the new system and merchant account will begin later in October or in the first part of November.
- **Update regarding Board Member Appointments** – The Director reviewed the recent legislative changes as related to Board appointment: there are no term limits, prior to this statute change, Board appointees were held to a two term limit; however, the Governor's Office of Executive Appointments has stated that, regardless of the new Statute, the Governor will not reappoint Board members to more than two consecutive terms. The Board

will also increase from one to two public members increasing the size of the PT Board to eight members; all newly appointed Board members must be confirmed by the Senate; and, lastly, Board Directors will now serve at the pleasure of the Governor as do Board members. Board members whose terms are up this year are: Steve Alstot, PT Board Member, term ending 10/31/09; Daiva Banaitis, PT Board Member, term ending 11/15/09; and Cindy Cunningham, Public Member, term ending 12/31/09. Steve Alstot is planning on applying for a second term. Daiva Banaitis' position will be replaced, hopefully by a physical therapist working in the academic field. Cindy Cunningham's public member position will be replaced by two public members. Per the Office of Executive Appointments, they will work towards the recruiting, selection and appointment of the three open positions. The Board can help with the solicitation and submission of applicants. By Statute the OPTA can present a panel of candidates to the Governor for consideration. Also, now that all appointees must have Senate confirmation, current Board members, whose positions are up for expiration, may remain on the Board until the new appointee is confirmed. The next Senate confirmation will be in February of 2010.

- **2007-2009 Independent Outside Financial Audit** – The Director informed the Board that the biennial financial audit, of the Board, is coming up. By Statute, every two years, on even numbered years, all semi-independent Boards are subject to a full external financial audit with the completed audit report submitted to the Secretary of States Audits Division for review, approval and publication. The auditors this year are from the CPA firm of Moss Adams, LLP out of Eugene. The audit is scheduled for Wednesday and Thursday, October 14th and 15th. The Director will be the auditor's point of contact and is responsible to make certain all the financials, accounting records and any audit collateral files are made available to the auditors for review.

Rules Advisory Committee

The Director shared the list of Administrative Rules Advisory Committee Members. The members include: Brooke Collins, PT; David Komeiji, PT; Diana Godwin, Attorney for OPTIP; Dode Jackson, PT; Donna Maebori, PT; Dylan Hogan, PT; Herc Merrifield, PT; Jaime Dutra, PT; Jim Heider, Board Director; Jen Wood, PTA; Joana Freedman, PT, Board Chair; Karen Gurske, PTA; Lars Kellow, PT; Lisa Protsman, PT; Maura Gabbiel, PT; Pat Fitzpatrick, PTA; Sherri Paru, PT, Board Clinical Advisor; Steve Alstot, PT, Board Vice Chair; Suzanne Maresh, PT; and Tim Esau, PT. The Director then shared the rule change discussion topics as mandated by new Statute changes or as directed by the interest of the Board. The following is a list of the items to be consider by the Committee for rule making: proposed elimination of temporary permits; use of the title doctor; limit of 5 attempts for the NPTE; supervised practice for foreign-educated therapists; elimination of duplications of language between Division 45 and the Statute; CE exemption for therapists initially licensed between January and March in even numbered years; convenience fee for use of on-line renewals system; change in the renewal cycle from annually to biannual; impaired practitioners program; repeal of Division 50; PT/PTA documentation of Aide assignments; inactive license status; Board stipends; request for hearing change from 21 to 30 days; mandatory self reporting of arrests for misdemeanors and felonies; mandatory reporting of unprofessional behaviors of other professionals; option for Board to withhold licensee personal contact information; Board's retaining jurisdiction over licensees under investigation who let their license lapse; clean-up language from FSBPT Ethics and Legislative Committee, i.e. terms like reciprocity; FET requirement for the actual CWT under new OAR 848-010-0022; clearer definition for student patient vs. a PT student; Board member rules; terms, profile and adding a public member; flat fee for reinstatement of a lapsed license; mandatory requirement for reporting of child and elder abuse; and the Board mandate for reporting of criminal activity to law endorsement. The first rules advisory meeting was scheduled to be held, in the board conference room Monday, September 21, 2009 from 4:30 PM to 7:30 PM.

Approval of Board Meeting Minutes

The drafted Minutes, from the July 17, 2009 Regular Board Meeting and the August 13, 2009 Special Board Meeting, were presented to the Board. The Board Vice Chair opened the floor for additional discussion and comments. With a few corrections noted, Jason Fiske moved to adopt and publish the minutes as corrected. The Motion was seconded by Nancy Wilson and passed by a unanimous vote.

2009 Board Meeting Dates

As established by the Board, the future Board Meeting dates are as follows: November 20, 2009; February 5, 2010; April 30, 2010; September 10, 2010 and November 12, 2010. The July 2010 meeting tentatively scheduled for the 9th will be changed pending further research by Board staff. Meeting Dates, Meeting Notices, and published Minutes may be found on the Board website at www.ptboard.state.or.us.

Case PT 283-6/08 Tamara Felix

The Board Clinical Advisor/Investigator stated that no further action had been taken on this case, that the actions of the Board were pending the outcome of the Massage Board's investigation into Ms. Felix's practice.

Ratification of PT/PTA Licenses & Temporary Permits

The Board was presented a list of new licensees and temporary permit holders for the period of July 17, 2009 through September 10, 2009. The Board Chair opened the floor for discussion. Without noted discussion, Jason Fiske moved to ratify the list of licensees and temporary permit holders. The Motion was seconded by Nancy Wilson and passed by a unanimous vote.

Other New Business

The Board Clinical Advisor/Investigator provided the Board with a copy of the APTA new Code of Ethics to be effective July 2010. She will review the new code and note any significant changes at the Board's next meeting.

After discussion and consideration regarding the changing of type of application status, Jason Fiske moved to delegate, to Board Staff, the authority to change the status of an application from examination to endorsement and vice versa on a case-by-case basis where warranted. The Motion was seconded by Nancy Wilson and passed by a unanimous vote.

The Board discussed the new Statute allowing for the Board to withhold certain personal contact information of its Licensees. The Board determined it would wait and allow for the Administrative Rules Advisory Committee to discuss the issue and present its proposed rule making actions to the Board for its final consideration.

With no additional new business cited, Board Vice Chair, Steve Alstot adjourned the Board Meeting at 12:26 PM.

END OF PUBLIC SESSION AGENDA

**Physical Therapist Licensing Board
Special Telephone Board Meeting
October 15, 2009**

MINUTES

Thursday, October 15, 2009

Board Members Present: Joana Freedman, PT, Chair; Steve Alstot, PT, Vice Chair; Burke Selbst, PT Member; Daiva Banaitis, PT Member; Nancy Wilson, PTA Member; Cindy Cunningham, Public Member

Board Members Absent: Jason Fiske, PT Member

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

Legal Counsel: Carol Parks, AAG

Board Chair, Joana Freedman convened the Board into Executive Session at 9:10 AM citing ORS 192.660(2)(k). Pursuant to ORS 192.660(2)(k), this portion, of the Meeting, is closed to the public.

In Executive Session, the Board reviewed policy decisions as previously announced by the Board. The Board also considered legal advisement, from Board Counsel, regarding this issue.

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

PUBLIC (OPEN) SESSION

At the completion of the Executive Session, Board Chair, Joana Freedman brought the Board into Public Session. In Public Session, the Board determined that it would place the issue of dry needling on its November 20, 2009 agenda. Further, the Board instructed its Director to contact the Oregon Medical Board and invite a representative, from that Board, to attend its November 20th Public Session to share the OMB's concerns regarding this issue.

The public and interested parties are invited to attend this portion of the meeting. The Public Session is 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.

Other New Business

The Board Chair called for other new business. With no additional new business cited, Board Chair, Joana Freedman adjourned the Board Meeting at 10:59 AM.

**Physical Therapist Licensing Board
Board Meeting
November 20, 2009**

MINUTES

Friday, November 20, 2009

Board Members Present: Joana Freedman, PT, Chair; Steve Alstot, PT, Vice Chair; Cindy Cunningham, Public Member; Burke Selbst, PT Member; Jason Fiske, PT Member; Nancy Wilson, PTA Member

Board Members Absent: Daiva Banaitis, PT Member

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

Legal Counsel: Carol Parks, AAG

Board Chair, Joana Freedman convened the Board into Executive Session at 8:30 AM, citing ORS 192.660(2)(k). Pursuant to ORS 192.660(2)(k), this portion, of the Meeting, is closed to the public.

In Executive Session, the Board reviewed 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, 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 9:30 AM, Board Chair Freedman recessed Executive Session and convened the Board into a special Public Session. During this portion of the Public Session, the Board invited the Oregon Medical Board (OMB) and its Acupuncture Committee to address the Board regarding their concerns, with the Board's recent declaration, which stated "dry needling" was in the scope of physical therapy practice. After the PT Board's statement was made public, the OMB determined that "dry needling" constituted the practice of acupuncture. Presenting for the OMB and its subcommittee were: Kathleen Haley, Director of the OMB, Malvin Finkelstein LAc, Chair of the OMB Acupuncture Committee, Ellen Shefi LAc, Committee Member, and Hilary Laferriere, LAc. Upon completion of the testimony, the Board invited responsive comments from Susan Bamberger PT, OPTA President, and Sean Roach, PT.

When all interested parties present had the opportunity to speak, Board Chair Freedman recessed this special portion of the Public Session and reconvened into Executive Session to finish the Board's Executive Session business.

At the end of the Executive Session, Chair Freedman convened the Board back into Public Session. During this portion, of the Public Session, 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 were invited to attend this portion of the meeting. The Public Session was digitally recorded and stored electronically on the Board's file server. Audio copies are available, to the public or interested parties, for the administrative cost to reproduce the audio file.

Board Motions

Case PT 248-7/07

Motion, by Burke Selbst, to close the case citing no violations of Statute or Administrative Rule.

Seconded by Nancy Wilson.

Motion passed by unanimous vote 5-0.

Case PT 272a-4/08

Motion, by Burke Selbst, to issue a Confidential Advisory Letter citing the importance of maintaining proper and consistent billing practices.

Seconded by Nancy Wilson.

Motion passed by unanimous vote 5-0.

Case PT 272b-4/08

Motion, by Burke Selbst, to issue a Confidential Advisory Letter citing the importance of maintaining proper and consistent billing practices.

Seconded by Nancy Wilson.

Motion passed by unanimous vote 5-0.

Case PT 272c-4/08

Motion, by Burke Selbst, to issue a Confidential Advisory Letter citing the importance of maintaining proper and consistent billing practices.

Seconded by Nancy Wilson.

Motion passed by unanimous vote 5-0.

Case PT 313-3/09

Motion, by Burke Selbst, to issue a Notice of Proposed Disciplinary Action citing violations of ORS 688.140(2)(a); and, OARs 848-020-0010(1), 848-020-0040(1)&(2), 848-020-0050(2)(a), 848-040-0110(4)&(15), 848-040-0135(1) and 848-040-0145(1). Licensee must submit aide training records, stop using the daughter as an aide for providing patient care, take and pass the Board Jurisprudence Examination, provide the Board with a written explanation of changes made in Licensee's clinical practice to comply with Statute and Rules, payment of a civil penalty of \$5,000.00 and work under a probationary license for a period of two years.

Seconded by Nancy Wilson.

Motion passed by unanimous vote 5-0.

Case PT 325-10/09

Motion, by Burke Selbst, to issue a Stipulation and Final Order citing violation of ORS 688.140(2)(j) and payment of a civil penalty of \$500.00. If License does not agree to the stipulation, the Board will issue a Notice of Proposed Disciplinary Action.

Seconded by Nancy Wilson.

Motion passed by unanimous vote 5-0.

Case PT 308-1/09

Motion, by Burke Selbst, to issue a Confidential Advisory Letter requiring Licensee to take and pass the Board Jurisprudence Examination.

Seconded by Nancy Wilson.

Motion passed by unanimous vote 5-0.

Case PT 308b-1/09

Motion, by Burke Selbst, to close the case and refer the case to the Oregon Board of Massage.

Seconded by Nancy Wilson.

Motion passed by unanimous vote 5-0.

Issues Regarding Dry Needling by Physical Therapists

As noted above, the Board heard the testimony of the Oregon Medical Board regarding their concerns with the PT Board's recent declaration which stated "dry needling" was in the scope of physical therapy practice. Upon further consideration, the Board issued the following statement which was initially communicated to all the interested parties attending the meeting; it was also posted on the Board's website and included in a Winter Newsletter mailed to all Licensees:

November 20, 2009. Upon further discussion, the Physical Therapist Licensing Board believes that the dry needling of trigger points is likely within the physical therapist Scope of Practice (excluding PTAs).

The Board acknowledges that the dry needling of trigger points is an advanced intervention requiring post physical therapy graduate training and education.

Further, the Board recommends that the acupuncture committee, physical therapist and medical Boards work in partnership, with their professional associations, to define a minimum competency by which a physical therapist can safely practice the intervention of dry needling of trigger points.

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.

2009-2011 First Quarter Financial Report

The Director presented the Board with a copy of its first quarter 2009 Financial Statement. The Statement included a narrative. The Director gave a verbal review and asked for questions. With no noted questions or concerns, the financials were approved by a consensus of the Board. Board financial statements can be found on the Board website at www.ptboard.state.or.us .

Rules Advisory Committee Report

The Director presented the Board with a summary of the findings and proposed drafted language for rule changes from the 2009 Administrative Rules Committee. After review, consideration, and a few minor changes to the Committee's drafted language, the Board instructed the Director to proceed with the Notice of Proposed Rule Making Hearing. Further, the Board directed staff to produce and issue a special newsletter that included the Notice of Rule Making Hearing, the availability of the new on-line renewal system, and the new requirements for the completion of both the mandated pain management CE and the demographics survey.

Tom Watson, PT Scope of Practice Question

At its meeting on November 20, 2009, the Board reviewed Mr. Watson's letter regarding the use of aromatherapy. The Board does not have jurisdiction over the practice of aromatherapy. In fact, aromatherapy is not regulated by any Board in the State of Oregon. The PT Board determined that if a therapist has expertise in the area, they may recommend the use of such oils to patients. However, since Mr. Watson consults with various other providers, the Board suggested that it may be wise to refer the patients to these providers regarding the risks and interactions.

General Topics/Business

- **Public Records Scanning Project Update** – The Director reported that the scanning of public records was complete and pending publication to the Board website. The project came in ahead of schedule and under projected budget.
- **Online Renewal Project Update** – The Director reported that the online renewal project was not on schedule. Problems, with the bridge programming between the US Bank merchant account system and the Board's data base system, have to be worked out by the Board's IT provider. The Board approved the Director's request to mail the renewal forms out the second week in January instead of the first week in January, if necessary.
- **2007-2009 Independent Audit Report** – The Director reported that the Board received a favorable independent financial audit. The final audit report was due mid December. The audit was performed by Moss Adams and Associates from Eugene. They were selected by the Secretary of State Office. The cost of the 2007-2009 biennium audit was twice the budgeted amount, coming in just over \$10,000.

Approval of Board Meeting Minutes

The drafted Minutes, from the September 11, 2009 Regular Board Meeting and the October 15, 2009 Special Board Meeting, were presented to the Board. The Board Chair opened the floor for additional discussion and comments. With a few corrections noted, Chair Freedman moved to adopt and publish the minutes as corrected. The Motion was seconded by Nancy Wilson and passed by a unanimous vote 4-0. Banaitis, Fiske and Selbst were not present for the vote.

2010 Board Meeting Dates

As established by the Board, the future Board Meeting dates are as follows: February 5, 2010; April 30, 2010; July 16, 2010; September 10, 2010 and November 12, 2010. Meeting Dates, Meeting Notices, and published Minutes may be found on the Board website at www.ptboard.state.or.us.

Case PT 283-6/08 Tamara Felix

The Board Clinical Advisor/Investigator stated that no further action had been taken on this case, and the actions of the Board are pending the outcome of the Massage Board's investigation into Ms. Felix's practice.

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 September 11, 2009 through November 19, 2009. The Board Chair opened the floor for discussion. Without noted discussion, Chair Freedman moved to ratify the list of new licensees. The Motion was seconded by Nancy Wilson and passed by a unanimous vote 4-0. Banaitis, Fiske and Selbst were not present for the vote.

Other New Business

Credentialing Simplification Project/Process – The Director advised the Board that a group referring to themselves as the Credentialing Work Group made up of numerous healthcare facilities, hospitals, third party payers and a couple of health regulatory boards, is preparing a legislative concept by which the State, by Statute, would establish a Central Verification Organization (CVO). The concept, which is still in development, introduces a “Golden Egg” (as they call it). It would **“create a single source (state mandated and accredited) that provides primary source verification (to the highest standard) used by all credentialing entities for all licensed providers.”** Although the passage of such legislation would have far reaching effects on regulatory Boards, it is unclear, at this time, what those total effects would be. This will be an initiative to closely follow during legislative session.

Information Security Policy Signature Statements – The Director asked for, and collected, the remaining Information Security Policy Signature Statements from the remaining Board members.

With no additional new business cited, Board Chair Freedman adjourned the Board Meeting at 3:33 PM.

END OF PUBLIC SESSION AGENDA