

# Oregon Physical Therapist Licensing Board

## NEWSLETTER

### FALL 2008

#### **BOARD MEMBERS**

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#### **BOARD WEBSITE**

[www.ptboard.state.or.us](http://www.ptboard.state.or.us)

#### **OFFICE HOURS**

Monday through Friday  
8:00 AM to 4:30 PM  
(Closed Holidays)

## **ADMINISTRATIVE RULES HEARING**

A Public Hearing, regarding the Board's proposed Administrative Rule changes, will be held at 8:30 am on FRIDAY, NOVEMBER 14, 2008 in Room 1-C of the Portland State Office Building, 800 NE Oregon Street, Portland, Oregon 97232

At the Hearing, the Board will welcome public testimony and comments on the proposed rules. If you would like to make comments but are unable to attend the meeting, you may submit written testimony or comments to the Board. For consideration, all written comments must be presented at the Hearing or received in the Board office by 10:00 am, Friday, November, 14, 2008. The Board appreciates and encourages all comments and suggestions from all interested parties.

State law requires the Board to provide all licensees with a copy of the Notice of Proposed Rulemaking and the Statement of Need and Fiscal Impact, which are located on pages 3 and 4 of this newsletter. The full text version of the changes are available at: [www.ptboard.state.or.us](http://www.ptboard.state.or.us)

## **TOPICS ADDRESSED IN PROPOSED RULES & THANKS TO ADVISORY COMMITTEE**

For almost a year, the volunteer members of the Rules Advisory Committee from across the state have met to assist the Board in clarifying, updating and/or adding proposed rule language regarding the following topics: \*

- Definition of physical therapy interventions
- Role of physical therapist assistants in the reassessment
- Endorsement of foreign educated physical therapists
- Screening Services
- Supervision and prohibited acts of aides
- Prohibited acts of physical therapist assistants
- Pain management CE requirements
- Grounds for refusal of an license application and for discipline of a licensee

*\*A more detailed summary is located on page 2 of this newsletter.*

The Board expresses sincere thanks to the following PT and PTA committee members who donated their valuable time and expertise to ensure quality physical therapy practice in the State of Oregon: David Komejii, Paul Rosenthal, Bill Temes, Chris Hoekstra, Dode Jackson, Glen Akers, Karen Gurske, Jane Cedar, Karen Brady, Linda Collins, Mary Goetz, Richard Rutt, Steve Alstot, Tim Esau, Tim Brinker, Dylan Hogan, Jen Wood, Rebecca Reisch and Kelven Mays. The Board is also grateful to Diana Godwin, Attorney at Law for her extensive work on this committee.

# SUMMARY OF PROPOSED RULE AMENDMENTS AND ADDITIONS

Following the Advisory Committee meetings, a sub-committee drafted language for several proposed rule changes and additions. This draft language was then approved by the Board. These rules, if adopted, will affect therapists practicing in all areas of physical therapy. The Board urges all licensees to review the changes. The full text of the proposed changes can be found on the Board's website at [www.ptboard.state.or.us](http://www.ptboard.state.or.us)

The Board would greatly appreciate any input that licensees may have regarding these new proposed rules. Once approved and adopted, the new rules will be communicated to all licensees and will go into effect on January 1, 2009. The most significant proposed rule changes are as follows:

## **Division 10– Licensed Physical Therapists and Physical Therapist Assistants**

- ⇒ New rules regarding endorsement of foreign educated physical therapists.
- ⇒ Clarification of rule stating that any applicant who has taken and failed the national PT examination 5 times in any state, may never obtain a license in Oregon.
- ⇒ New rule stating competency requirements for applicants who have not been licensed in any state for greater than 5 years.

## **Division 15– Physical Therapist Assistants**

- ⇒ New rule prohibiting high velocity manipulation of the spine or peripheral joints by a PTA.

## **Division 20– Physical Therapist Aides**

- ⇒ Clarification of rule stating that a PT or PTA must provide or administer an entire PT intervention before delegating that task to an aide.
- ⇒ Clarification of rule stating that a PT aide may not perform joint mobilization or manipulation.
- ⇒ New rule clarifying that a PT or PTA may supervise a maximum of 2 aides performing treatment related tasks.

## **Division 35 Continuing Education**

- ⇒ New rule requiring physical therapists to complete of 7 hours of CE dealing with the treatment or management of pain. One of these 7 hours must be the 1 hour on-line course offered by the Oregon Pain Commission.
- ⇒ New rule stating that Pain Management CE must be completed by March 31, 2010 for licensee initially licensed prior to March 31, 2008.
- ⇒ New rule requiring licensees initially licensed after April 1, 2008, to complete the Pain Management CE within 24 months either before or after the first renewal of their license.
- ⇒ New rule stating that PTAs are exempt for the pain management CE requirement.
- ⇒ Change in rule stating that CE certificates must be retained for 4 years (current rule states 3 years).
- ⇒ New rule allowing CE taken by a licensee while they were a student to count toward the CE requirement for that certification period.

## **Division 40 Minimum Standards for Physical Therapy Practice and Records**

- ⇒ New rules regarding the performance of screening by a PT or PTA, including the definition of a screening.
- ⇒ New rules defining “physical therapy interventions”.
- ⇒ Clarification of rules, changing timeframe required for referral to an authorized provider from 60 days to 90 days.
- ⇒ New rule clarifying the requirements for the performance and documentation of a reassessment by a PT.
- ⇒ New rule allowing a PTA to prepare a summary of patient's status based on the physical therapist's reassessment.
- ⇒ Clarification of rule stating that a PT or PTA shall perform or attempt to perform physical therapy interventions only with qualified education and experience in that intervention.

## **Division 45 Grounds for Discipline of a Licensee**

- ⇒ New rule stating that a licensee may be subject to disciplinary action for failure to comply with a Confidential Advisory Letter issued by the Board.

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# Secretary of State

## STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

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### Oregon Physical Therapist Licensing Board

Chapter 848

Agency and Division

Administrative Rules Chapter Number

**Definitions:** Therapy Interventions, Screenings, Foreign Credentialing;

**Rule Clarifications:** Aides Role, Reassessments, Pain CE Requirements, Compliance

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#### Rule Caption

In the Matter of: Adoption of OAR 848-010-0022; 848-035-0035; 848-040-0175 and Amendment of OAR 848-010-0015; 848-010-0020; 848-010-0026; 848-010-0044; 848-015-0030; 848-020-0030; 848-020-0060; 848-035-0020; 848-035-0030; 848-035-0040; 848-040-0100; 848-040-0117; 848-040-0145; 848-040-0160; 848-045-0020

**Statutory Authority:** ORS 688.160

**Statutes Implemented:** ORS 688.160(6)(c); ORS 688.132(1)(b); ORS 409.520(1)(a)(Q)

**Need for the Rule(s):** The adoption of 848-035-0035 and amendments to 848-010-0040 are directly related to the passage of SB 879 and HB 2386 in the 2007 legislative session. The adoption of 848-010-0022 was a directive from the Board after careful consideration of unsolicited input from several Oregon employers unable to find enough qualified therapists and from foreign educated therapists themselves seeking licensure in the State of Oregon. The intent of the new rule is to remove road blocks to endorsement licensure of qualified foreign educated therapists as set by previous rule. The review, adoption and amendments to the remaining rules were as a result of the Board Administrative Rules Advisory Committee's review and recommendations. The review included new definitions and further clarification of existing rule language with no impact to the original intent of the existing rules.

**Documents Relied Upon, and where they are available:** SB 879 and HB 2386 available online Secretary of States Office Archives Division; current Board Statute and Administrative Rules and 4/4/08, 6/6/08/ 8/1/08 Board Meeting Minutes, available on Board website; 12/12/07, 1/29/08, 3/5/08, 4/29/08 Administrative Rules Advisory Committee Meeting Minutes available by contacting Board office; APTA Guide to Physical Therapy Practice copy available for viewing in Board office.

**Fiscal and Economic Impact:** The Board has analyzed the proposed administrative rule changes and finds that there should be no significant fiscal or economical impact to the Board, any other local government units, state agencies, schools, the public or the business community.

#### Statement of Cost of Compliance:

**1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):**

The Board has analyzed the proposed administrative rule changes and finds that there should be no cost of compliance to any local government units, state agencies, schools, the public or the business community.

**2. Cost of compliance effect on small business (ORS 183.336):**

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:  
The Board has analyzed the proposed administrative rule changes and finds that there should be no significant fiscal or economical impact to the Board, any other local government units, state agencies, schools, the public or the business community.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: Not applicable

c. Equipment, supplies, labor and increased administration required for compliance: Not applicable

**How were small businesses involved in the development of this rule?** The Legal Counsel representing Oregon Physical Therapists in Independent Practice (OPTIP) sat on both the Advisory Committee and the Drafting Committee. OPTIP represents 125 small independent PT Clinics throughout the State of Oregon.

#### Administrative Rule Advisory Committee consulted?:

**If not, why?:** Yes, an Administrative Rules Advisory Committee was formed and consisted of 23 members: 17 PTs; 2 PTAs; 1 Attorney; the Executive Director; the Board Clinical Advisor/Investigator, also a PT; and a Board Member, also a PT. Meetings were held on 12/12/07, 1/29/08, 3/5/08, 4/29/08 and 7/22/08. Additionally, a public Board meeting was held on 8/1/08 to review and approve the proposed rule adoption and amendments of the Administrative Rules Committee; this meeting was posted with notice sent to all interested parties.

Secretary of State  
**NOTICE OF PROPOSED RULEMAKING HEARING\***  
A Statement of Need and Fiscal Impact accompanies this form.

Oregon Physical Therapist Licensing Board

Chapter 848

Agency and Division

Administrative Rules Chapter Number

James D. Heider

800 NE Oregon Street Ste. 407, Portland, Oregon 97232

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Rules Coordinator

Address

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**RULE CAPTION**

**Definitions:** Therapy Interventions, Screenings, Foreign Credentialing; **Rule Clarifications:** Reassessments, Pain CE Requirements, Compliance and Aides Role.

**Not more than 15 words that reasonably identify the subject matter of the agency's intended action.**

November 14, 2008      8:30 AM      Portland State Office Building 800 NE Oregon Street Room 1-C      James D. Heider

Hearing Date

Time

Location

Hearings Officer

*Auxiliary aids for persons with disabilities are available upon advance request.*

**RULEMAKING ACTION**

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

**ADOPT:** 848-010-0022; 848-035-0035; 848-040-0175

**AMEND:** 848-010-0015; 848-010-0020; 848-010-0026; 848-010-0044; 848-015-0030; 848-020-0030; 848-020-0060; 848-035-0020; 848-035-0030; 848-035-0040; 848-040-0100; 848-040-0117; 848-040-0145; 848-040-0160; 848-045-0020

**Stat. Auth. :** ORS 688.160

Stats. Implemented: ORS 688.160(6)(c); ORS 688.132(1)(b); ORS 409.520(1)(a)(Q)

**RULE SUMMARY**

Adopt rules that will define: CE Pain Management requirements for PTs; the endorsement process of Foreign Educated PTs working in the US; and, PT Screenings. Amend rules to define or further clarify: the term physical therapy interventions; documentation requirements of a PT reassessment; requirement for PT to refer a direct access patient; qualifications of examination application candidates; historical exam passing score criterion used by the Board when considering endorsement licensure; grounds for refusal of a license applicant; supervision and use of Aides, prohibited acts for Aides; prohibited acts for PTAs; use of CE credits taken by PT/PTA students while still in PT programs, records retention for CE documentation; adding "Failure to comply with an Advisory Letter from the Board" to Grounds for Discipline.

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

Written comments must be received by 10:00 AM, Friday, November 14, 2008.

**Last Day for Public Comment** (Last day to submit written comments to the Rules Coordinator)

James D. Heider

Signature

Printed name

Date

\*Hearing Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. ARC 920-2005

# DISCIPLINARY ACTIONS

NAME & LICENSE NO.	DATE OF ACTION TAKEN	ACTION TAKEN	REASON FOR DISCIPLINARY ACTION
Kristin Shimek, PT License # 3277	8/5/2008	EMERGENCY LICENSE SUSPENSION: Indefinite license suspension until further order of the Board	Failure to comply with an order of the Board
Joseph Kurtyka, PT License # 2150	5/27/2008	STIPULATION AND FINAL ORDER 2 year license probation with conditions and \$5000 civil penalty with \$2500 stayed.	Failure to cooperate with the Board and record keeping violations
Ruth Claire Barton, PT License # 3185	8/8/2008	STIPULATION AND FINAL ORDER 1 year license probation with conditions and \$4000 civil penalty with \$2000 stayed.	Boundary violations
Andrew Fecteau, PT License # 2914	9/2/2008	STIPULATION AND FINAL ORDER \$550 Civil Penalty	Failure to complete required continuing education
Kathleen O'Hara, PT License # 2133	9/2/2008	STIPULATION AND FINAL ORDER \$450 Civil Penalty	Failure to complete required continuing education
Michael Johanson, PT License # 3575	9/17/2008	STIPULATION AND FINAL ORDER: \$450 Civil Penalty	Failure to complete required continuing education
Susan Priestman, PT License # 5672	6/9/2008	STIPULATION AND FINAL ORDER: Reprimand and \$ 250 Civil Penalty	Failure to disclose prior disciplinary action on application for licensure
Carroll Esterhuizen, PT License # 4076	7/2/2008	STIPULATION AND FINAL ORDER: \$250 Civil Penalty	Practicing without a valid license for greater than one month
Janet O'Connor, PT License # 1997	5/15/2008	STIPULATION AND FINAL ORDER: \$250 Civil Penalty	Practicing without a valid license for two months
Patricia Aarestad, PT License # 0532	6/20/2008	STIPULATION AND FINAL ORDER: \$100 Civil Penalty	Practicing without a valid license for less than one month
David Helde, PTA License # 8427	8/29/2008	STIPULATION AND FINAL ORDER: 30 day License Suspension and 2 year license probation with conditions.	Practicing outside of the scope of practice for a PTA
Greg Halvorson	6/19/2008	FINAL ORDER OF DEFAULT: Denial of License	Practicing PT without a license and attempting to renew a license by misrepresentation
Michael Friedenber, PTA License # 8050	4/18/2008	STIPULATION AND FINAL ORDER: Licensee required to practice with on-site supervi- sion for 2 years and agrees to undergo treatment	Alleged impaired practice



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**AVAILABLE ON THE BOARD WEBSITE: [www.ptboard.state.or.us](http://www.ptboard.state.or.us)**

- *THIS NEWSLETTER AND PREVIOUS NEWSLETTERS*
- *COMPLAINT, ADDRESS, NAME CHANGE & WRITTEN VERIFICATION FORMS*
- *ON-LINE LICENSE VERIFICATION*
- *COPIES OF THE PHYSICAL THERAPY STATUTES AND RULES*
- *FUTURE BOARD MEETING DATES*
- *RECENTLY ADOPTED RULE CHANGES AND PENDING RULE CHANGES*