



James E. Miller, PT, DPT
President

ARIZONA STATE BOARD OF PHYSICAL THERAPY
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REGULAR SESSION MEETING MINUTES
April 24, 2018

MEMBERS PRESENT:

James E. Miller, PT, DPT, President
Michael S. Clinton, CPA; Vice President
Peggy Hunter, PTA, CLT; Secretary
Melinda Richardson, PT, MA; Member

MEMBERS ABSENT:

Nushka Remec, PT, MS, PCS; Member

**ASSISTANT ATTORNEY GENERAL
PRESENT:**

Mona Baskin, Assistant Attorney General

BOARD STAFF PRESENT IN PERSON:

Charles D. Brown, Executive Director
Monica Crowley, Office Manager
Veronica Cardoza, Licensing Administrator
Karen Donahue, Senior Investigator

- 1) **CALL TO ORDER – 8:30 A.M.;** Dr. Miller called the meeting to order at 8:32 A.M. (A recording of the meeting is available through the Board Office)

Roll Call – The following Board members were present: Ms. Richardson, Dr. Miller, Ms. Hunter, and Mr. Clinton.

2) **Review and Approval of Draft Minutes**

- a) March 27, 2018, Regular Session Meeting Minutes

The Board reviewed and discussed the minutes.

Dr. Miller and Ms. Richardson requested minor changes to the minutes. Mr. Clinton moved the Board approve the March 27, 2018; Regular Session Meeting Minutes with the suggested changes. Ms. Hunter seconded the motion. Following review and discussion, the motion carried.

Vote	Mr. Clinton	Ms. Hunter	Dr. Miller	Ms. Remec	Ms. Richardson		
Aye	X	X	X		X		
Nay							
Recused							

Abstained							
Absent				X			

b) March 27, 2018, Executive Session Minutes

Dr. Miller requested minor changes to the minutes. Ms. Richardson moved the Board approve the March 27, 2018; Executive Session Minutes with the suggested changes. Mr. Clinton seconded the motion. Following review and discussion, the motion carried.

Vote	Mr. Clinton	Ms. Hunter	Dr. Miller	Ms. Remec	Ms. Richardson		
Aye	X	X	X		X		
Nay							
Recused							
Abstained							
Absent				X			

5) COMPLAINTS, HEARINGS, INVESTIGATIONS and COMPLIANCE

c) Initial Review, Discussion, and Action on Complaint

i) Complaint #17-34; Judith Stratton, PT

Let the record reflect that Dr. Miller stated he knows Ms. Stratton for over 30 plus years, has formerly worked with her, and has no bias.

Ms. Stratton was present and was not represented by legal counsel.

Ms. Donahue provided a summary of the case for the Board. Ms. EG alleges substandard care by Ms. Stratton on date of service of November 11, 2015.

Ms. Stratton provided an opening statement.

The Board reviewed and discussed the case and asked question of Ms. Stratton.

Ms. Stratton provided a closing statement. The Board deliberated.

Ms. Richardson moved the Board dismiss the case. Dr. Miller seconded the motion. Following review and discussion, the motion carried.

Vote	Mr. Clinton	Ms. Hunter	Dr. Miller	Ms. Remec	Ms. Richardson		
Aye	X	X	X		X		

Nay							
Recused							
Abstained							
Absent				X			

iv) Complaint #17-40; James McCallum, PT

Let the record reflect that Dr. Miller stated he knows Mr. McCallum for about 20 years and has no bias.

Ms. Stratton was present and was not represented by legal counsel.

Ms. Donahue provided a summary of the case for the Board. Ms. C alleges that Mr. McCallum engage in sexual misconduct when providing treatment on November 13, 2017.

Mr. McCallum provided an opening statement.

The Board reviewed and discussed the case and asked question of Mr. McCallum.

Mr. McCallum provided a closing statement. The Board deliberated.

Dr. Miller moved the Board dismiss the case. Motion failed for no second.

Ms. Hunter moved the Board issue a Non-Disciplinary Order to include continuing education course in documentation to be completed within six (6) months for a minimum of six (6) hours. Ms. Richardson seconded the motion. Following review and discussion, the motion carried.

Vote	Mr. Clinton	Ms. Hunter	Dr. Miller	Ms. Remec	Ms. Richardson		
Aye	X	X			X		
Nay			X				
Recused							
Abstained							
Absent				X			

iii) Complaint #17-38; Deborah Johnson, PTA

Ms. Johnson was present and was not represented by legal counsel.

Ms. Donahue provided a summary of the case for the Board. Ms. Johnson was charged with DUI and Child Abandonment on March 28, 2017. She plead guilty to Count One: Endangerment, a Class Six Undesignated

offense and Count Two: Driving while Under the Influence of Liquors Drugs, Vapor Releasing Substances to the Slightest Degree Class One Misdemeanor on May 26, 2017. Ms. Johnson failed to notify the board of her charges within the required 10-day timeframe.

Ms. Johnson provided an opening statement.

The Board reviewed and discussed the case and asked question of Ms. Johnson.

Mr. Clinton moved the Board issue a Non-Disciplinary Order reminding Ms. Johnson to timely report to matters to the Board according to **A.R.S. 32-3208** and to regularly review statutes. Dr. Miller seconded the motion. Following review and discussion, the motion carried.

Vote	Mr. Clinton	Ms. Hunter	Dr. Miller	Ms. Remec	Ms. Richardson		
Aye	X	X	X		X		
Nay							
Recused							
Abstained							
Absent				X			

Dr. Miller announced that there were 3 items on the agenda that would not be heard because the Board did not have a quorum due to different recusals of current Board members. The 3 cases are:

5) COMPLAINTS, HEARINGS, INVESTIGATIONS and COMPLIANCE

- c) Initial Review, Discussion, and Action on Complaint
 - vi) Complaint #18-05; Caleb Lionberger, PTA
 - vii) Complaint #18-08; Antwan Faraj, PT
 - viii) Complaint #18-10; Chelsea Mieszala, PTA

5) COMPLAINTS, HEARINGS, INVESTIGATIONS and COMPLIANCE

- d) Review, Discussion, and Action on Board Order
 - i) Complaint #16-65; Scott Kushner, PT (Modification of Order)

Mr. Kushner was present and was not represented by legal counsel.

Mr. Brown provided a summary of the case for the Board. Mr. Kushner has provided updated information from his treating psychologist. Dr. Kushner requested to appear before the Board following the Board’s denial of modification of his order on March 27, 2018. Mr. Kushner has provided an updated letter from Dr. McBride, his treating psychologist. Dr. Kushner is again requesting modification of his order.

Mr. Kushner provided an opening statement.

The Board reviewed and discussed the case and asked question of Mr. Kushner.

Ms. Richardson moved the Board issues the following amendments to Board Order #16-65:

Probation: The Arizona Board of Physical Therapy hereby orders that Respondent, holder of License No. 7580, be placed on probation for a period of **eighteen (18) months** to commence upon execution of this Order. The probation may be extended or other enforcement actions taken, after notice and an opportunity for a hearing, in the event Respondent violates this Order or violates the Arizona Physical Therapy Practice Act. Respondent may petition the Board for early termination of probation after the equivalent of one-year fulltime work is achieved under the terms of probation. The Board Orders Respondent to comply with the following terms and conditions of probation:

b. **Restriction of Practice:** Respondent’s License No. 7580 to practice physical therapy in the State of Arizona is restricted as follows:

i. Respondent shall not practice physical therapy in a home health setting.

c. **Therapy:** During the period of probation, Respondent shall engage in therapy with a Board approved Arizona psychologist or **a licensed therapist who holds an independent level license by the Arizona Board of Behavioral Health Examiners** with the expertise in sexual boundary violations (“therapist”). Respondent shall submit the name of their therapist for pre-approval by the Board’s designee. Respondent shall comply with the recommendations of the therapist, and attend sessions at least once monthly. Respondent shall cause the therapist to submit quarterly reports to the Board by the 10th of each third month regarding Respondent’s participation in therapy, progress, prognosis, treatment plan, and safety to practice. Respondent shall execute all releases necessary to the Board approved therapist to comply with this Order. Board staff shall provide the quarterly reports to the Board for review and the next available Board meeting following receipt of the report. Respondent must appear before the Board upon request.

Ms. Hunter seconded the motion. Following review and discussion the motion carried by roll call.

Vote	Mr. Clinton	Ms. Hunter	Dr. Miller	Ms. Remec	Ms. Richardson		
Aye	X	X	X		X		
Nay							

Recused							
Abstained							
Absent				X			

3) CONSENT AGENDA: REVIEW, CONSIDERATION and ACTION

a) Applications for Licensure and Certification

The Board may vote to go into Executive Session pursuant to A.R.S. §38-431.03(A)(2) for purposes of discussing confidential information or §38-431.03(A)(3) to obtain legal advice.

i) Review, Consideration and Approval of Applications of Physical Therapist Licensure upon Receipt of Passing Scores on the NPTE/AZLAW and Final Transcript

Samantha Bellavance	Nathan Bush	Elizabeth Caparelli
Sara Colley	Nathan Coppola	Priscilla Duncan
Joe Escobedo	Jeanette Giatroudakis	Jacob Holland
David Hug	Paula Joyce	Samantha Kaufman
Theresa Lau	Jennifer Leach	Zhou-Yan Lee
Bernard Li	Ella Mantipty	Brittany Mayfield
Blake McDonald	Jordan McSweeney	Andrew Menigoz
Ashley Mitchell	David Montgomery	Hannah Neal
Victoria Noack	Ochuko Ojameruaye	Robert Osborne
Madalana Pegues	Chau Phan	Stephen Pietzak
Jean Read	Eric Striegel	Marisa Vargas
Richard Villanueva	David Waite	

ii) Review, Consideration and Approval of Applications for Physical Therapist Assistant Certification upon Receipt of Passing Scores on the NPTE/AZLAW and Final Transcript.

Bryant Cantrell	Katherine Figel	Peggy Golembeck
Arianna Gutierrez	Kimberly Maher	Josue Reyes
Delia Turton	Jennifer Veglio	

iii) Review, Consideration and Approval of Applications for Physical Therapist Assistant with Documentation Related to Disclosure on “Personal Information” Section of the Application.

Joel Burns		
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No applicants were pulled from the above consent agenda 3a(i)(ii) or (iii).

Ms. Richardson moved the Board all the approve Applications for Physical Therapist Licensure and Physical Therapist Assistant in the above consent agenda 3a(i)(ii)(iii) upon Receipt of Passing Scores on the

NPTE/AZLAW and Final Transcript. Ms. Hunter seconded the motion. Following review and discussion, the motion carried.

Vote	Mr. Clinton	Ms. Hunter	Dr. Miller	Ms. Remec	Ms. Richardson		
Aye	X	X	X		X		
Nay							
Recused							
Abstained							
Absent				X			

Consent Agenda End

4) Review, Consideration and Action on Applications for Licensure and Certification

- a) Review of and Possible Action on the Following Applications for Physical Therapist Licensure – Foreign Educated Graduates of Programs that is NOT U.S. Accredited.
 - (1) Christine Cuenca

The Board reviewed and discussed the application.

Ms. Richardson moved the Board find Ms. Cuenca Foreign Educated Graduates of Programs Not U.S. Accredited substantially equivalent and may pursue the S CPP. Ms. Hunter seconded the motion. Following review and discussion, the motion carried.

Vote	Mr. Clinton	Ms. Hunter	Dr. Miller	Ms. Remec	Ms. Richardson		
Aye	X	X	X		X		
Nay							
Recused							
Abstained							
Absent				X			

- b) Review of and Possible Action on the Following Applications for Physical Therapist Licensure – Foreign Educated Graduates of Programs Not U.S. Accredited.
 - i) Review of Education, Determination of Supervised Clinical Practice Period, Approval of S CPP Agreement, and Possible Licensure
 - (1) John Biggar

Ms. Richardson moved the Board approve Mr. Biggar primary and secondary SCPP supervisors. Dr. Miller seconded the motion. Following review and discussion, the motion carried.

Vote	Mr. Clinton	Ms. Hunter	Dr. Miller	Ms. Remec	Ms. Richardson		
Aye	X	X	X		X		
Nay							
Recused							
Abstained							
Absent				X			

(2) Jennifer Molyneux

Ms. Richardson moved the Board approve Ms. Molyneux primary and secondary SCPP supervisors. Ms. Hunter seconded the motion. Following review and discussion, the motion carried.

Vote	Mr. Clinton	Ms. Hunter	Dr. Miller	Ms. Remec	Ms. Richardson		
Aye	X	X	X		X		
Nay							
Recused							
Abstained							
Absent				X			

c) Review of and Possible Action on Application for Physical Therapist Licensure from Applicant Requesting ADA Accommodations.

(1) Taiwo Adeshigbin

Board received a letter from Ms. Adeshigbin giving the Board permission to process application without ADA accommodation, as proper documentation was not obtained by Ms. Adeshigbin.

Ms. Richardson moved the Board approve Ms. Adeshigbin to sit for the NPTE without ADA accommodation and approve Application for Physical Therapist Licensure upon Receipt of Passing Scores on the NPTE/AZLAW and Final Transcript. Ms. Hunter seconded the motion. Following review and discussion, the motion carried.

Vote	Mr. Clinton	Ms. Hunter	Dr. Miller	Ms. Remec	Ms.		

					Richardson		
Aye	X	X	X		X		
Nay							
Recused							
Abstained							
Absent				X			

- d) Review of and Possible Action on Physical Therapists Previously Licensed in the state of Arizona.
 - (1) Teresa Brown

Ms. Richardson moved the Board approve Ms. Brown’s Application for Physical Therapists Previously Licensed in the State of Arizona and issue her license upon receipts of 120 hours of CEU’s confirmed by Board Staff. Dr. Miller seconded the motion. Following review and discussion, the motion carried.

Vote	Mr. Clinton	Ms. Hunter	Dr. Miller	Ms. Remec	Ms. Richardson		
Aye	X	X	X		X		
Nay							
Recused							
Abstained							
Absent				X			

- e) Review, Consideration and Approval of Applications for Physical Therapist licensure upon Receipt of Passing Scores on the NPTE/AZLAW and Final Transcript and with documentation Related to Disclosure on “Personal Information” section of the application, and Possible Action on Physical Therapists Previously Licensed in the state of Arizona
 - (1) Robert Storevik

The Board reviewed and discussed the case.

Ms. Cardoza stated Mr. Storevik has submitted only 20 CEU hours out of the 220.

Mr. Brown, Executive Director provided the Board with options.

Dr. Miller move the Board require Mr. Storevik to take and pass the AZLAW exam and enter into a SCPP for a minimum of 500 hours in lieu of the 220 CEU required. Ms. Richardson seconded the motion. Ms. Hunter requested a friendly amendment to include six (6) hours of continuing education remedial course in

Ethics. Both Dr. Miller and Ms. Richardson accepted the friendly amendment. Following review and discussion, the motion carried.

Vote	Mr. Clinton	Ms. Hunter	Dr. Miller	Ms. Remec	Ms. Richardson		
Aye	X	X	X		X		
Nay							
Recused							
Abstained							
Absent				X			

The Board Recessed from 9:47 A.M. to 10:00 A.M

5) COMPLAINTS, HEARINGS, INVESTIGATIONS and COMPLIANCE

- b) Informal Hearing and Possible Action on Complaint: 10:00 a.m.
 - i) Complaint #17-33; Raymond Finch, PT

For the record, Ms. Hunter stated she has previously been employed by the Core Institute and know Dr. Brown professionally and as a patient. Ms. Hunter stated she does not know Mr. Finch and has no bias.

Mr. Finch was present and was represented by legal counsel, Mr. Scott King. The Board members and Board staff introduced themselves. Both Mr. Finch and Mr. King introduced themselves. Dr. Miller read a summary of how the hearing would be conducted and reviewed the possible outcomes of the hearing. Mr. Brown read the allegations against Mr. Finch:

A) Engaged in the performance of substandard care by a physical therapist due to a deliberate or negligent act or failure to act regardless of whether actual injury to the patient is established.

1. Mr. Finch’s initial evaluation documentation may be incomplete for DOS 4/24/17.
 - a. Documentation may be deficient in the following:
 - i. The physical therapist interpretation of the results of the examination
 - ii. Clinical rationale for therapeutic interventions
 - iii. Lack of documentation regarding the results of the therapeutic intervention
 - b. Goals may be inappropriate for protocol parameters or in conflict with documentation.
 - i. Goal for ability to sleep at night when documentation indicates no pain at night.

- ii. Goal for eating/grooming/dressing in 6 weeks may significantly exceed protocol parameters.
 - iii. No documentation that the patient is employed or job description. Goal to improve work activities is not measurable.
- 2. Mr. Finch does not document a Re-evaluation on May 15, 2017 after Mr. Fiore documents the following:
 - a. “She states that she attempted to pick up her dog and since has had continuous pain in her left shoulder. She stated she saw Kyle Brooks and he informed her that it may be a torn TRC but to continue with PT until further notice.”
 - i. Mr. Finch delegated continuation with previous treatment plan without modification. Mr. Finch in his response stated that he communicates and delegates daily to Mr. Fiore prior to treatment.
 - ii. Mr. Finch states in his response that he performed the re-evaluation, but failed to document it in the patient record.
 - 1. “I acknowledge that I should have documented the re-evaluation that I performed and that Mr. Fiore implemented on May 15, 2017 and May 17, 2017
- 3. Mr. Finch statement in his response may be in conflict with the documentation on DOS 5/17/17.
 - a. Mr. Finch’s statement “I then discussed the treatment plan modification with Mr. Fiore which avoided all strengthening exercises and focusing on stretching instead. I acknowledge that I should have documented the re-evaluation that I performed and that Mr. Fiore implemented on May 15, 2017 and May 17, 2017”
 - b. Mr. Fiore documents on May 17, 2017 the addition of the following strengthening exercises:
 - i. UBE X 6 minutes
 - ii. Standing rows with Thera band X 20
- 4. Mr. Finch documentation of the initial evaluation goals on June 29, 2017 may be in conflict with protocol.
 - a. Goals are identical to the goals documented for the previous initial evaluation for a different surgery on DOS 4/24/17.

- b. Protocol and physician instructions are to stay in brace for 6 weeks 24 hours per day/ 7 days per week.
5. Mr. Finch does not document that performance of a re-evaluation following on DOS 7/11/17.
- a. Mr. Finch documents:
 - i. “Patient reported that she has been having increased pain in her shoulder and also some increased bruising along her anterior shoulder and chest. She did make an appointment to see her surgeon later this week regarding these symptoms.”
 - 1. DS subjective regarding seeking care from the physician regarding new acute status of the shoulder should have prompted Mr. Finch to perform a re-evaluation.
 - b. Mr. Finch states in his response:
 - i. “DS did not tell me she believed Mr. Fiore had injured her shoulder at the prior PT visit.”
 - ii. “I understand that DS did impart this information during a phone call earlier that day, but she did not tell me. “
 - iii. Ms. DS calls the physician office twice on 7/11/17 first at 8:59am and again at 9:28am. With request to be seen ASAP by Dr. Brown. She engages in treatment with Mr. Finch at 10:50am.
 - 1. It may be unlikely that DS failed to tell Mr. Finch of her concern that something happened to her shoulder in PT last visit given that she contacted the physician’s office twice that morning and within 1hr and 22 minutes prior to engagement with Mr. Finch.

B) Failed to supervise assistive personnel, physical therapy students or interim permit holders in accordance with this chapter and rules adopted pursuant to this chapter.

- 1. Mr. Finch delegates DS treatment interventions to Mr. Fiore on DOS May 15, 2017 without performing a re-evaluation based upon patient’s subjective report.
 - a. “She states that she attempted to pick up her dog and since has had continuous pain in her left shoulder. She stated she saw Kyle Brooks and he informed her that it may be a torn TRC but to continue with PT until further notice.”

2. Mr. Finch, in his response, stated that he modified the POC on DOS 5/15/17 to discontinue all strengthening exercises and to focus on stretching, however, documentation indicates strengthening exercises being added/instructed on May 17, 2015 by Mr. Fiore.
 - a. Mr. Finch's statement "I then discussed the treatment plan modification with Mr. Fiore which avoided all strengthening exercises and focusing on stretching instead. I acknowledge that I should have documented the re-evaluation that I performed and that Mr. Fiore implemented on May 15, 2017 and May 17, 2017"
 - b. Mr. Fiore documents on May 17, 2017 the addition of the following strengthening exercises:
 - i. UBE X 6 minutes
 - ii. Standing rows with Thera band X 20

C) Failed to maintain adequate patient records. For the purposes of this paragraph, "adequate patient records" means legible records that comply with board rules and that contain at a minimum an evaluation of objective findings, a diagnosis, the plan of care, the treatment record, a discharge summary and sufficient information to identify the patient.

1. Mr. Finch's initial evaluation documentation may be incomplete for DOS 4/24/17.
 - a. Documentation may be deficient in the following:
 - i. The physical therapist interpretation of the results of the examination
 - ii. Clinical rationale for therapeutic interventions
 - iii. Lack of documentation regarding the results of the therapeutic intervention
2. Mr. Finch does not document a re-evaluation on May 15, 2017.
 - a. "I acknowledge that I should have documented the re-evaluation that I performed and that Mr. Fiore implemented on May 15, 2017 and May 17, 2017"
3. Mr. Finch does not document on DOS 7/5/17 his evaluation and findings regarding patient's concern of a blood clot.
 - a. Subjective states:
 - i. "Pt reported to therapy today with c/o her shoulder being sore and achy. She stated that she is worried about a blood clot in her LUE and she is worried about all the bruising."

b. Mr. Fiore documents:

- i. “Supervising PT examined patient LUE with no conclusive evidence of blood clot.”

4. Documentation deficiencies as noted per detailed records review.

Ms. Donahue and Mr. Finch were sworn-in as witnesses. Mr. King provided an opening statement to the Board and stated he has signed declarations for Dr. Alan Beck and Dr. Steven Miller.

The Board reviewed and discussed the case and asked questions of Mr. Finch.

Mr. King called Dr. Steven Miller, general surgeon to testify on behalf of Mr. Finch. Dr. Miller was sworn in. Mr. King and the Board asked Dr. Steven Miller various questions. Dr. Steven Miller provide his medical option.

Mr. King provided a closing statement.

Dr. James E. Miller guided the Board through each allegation for discussion. Following discussion on the allegations

Dr. James E. Miller moved the Board adopt the following Findings of Fact as amended:

A) Engaged in the performance of substandard care by a physical therapist due to a deliberate or negligent act or failure to act regardless of whether actual injury to the patient is established.

1. Mr. Finch’s initial evaluation documentation may be incomplete for DOS 4/24/17.
 - a. Documentation may be deficient in the following:
 - i. The physical therapist interpretation of the results of the examination
 - ii. Clinical rationale for therapeutic interventions
 - iii. Lack of documentation regarding the results of the therapeutic intervention
 - b. Goals may be inappropriate for protocol parameters or in conflict with documentation.
 - i. Goal for ability to sleep at night when documentation indicates no pain at night.
 - iii. No documentation that the patient is employed or job description. Goal to improve work activities is not measurable.
2. Mr. Finch does not document a Re-evaluation on May 15, 2017 after Mr. Fiore documents the following:

- a. “She states that she attempted to pick up her dog and since has had continuous pain in her left shoulder. She stated she saw Kyle Brooks and he informed her that it may be a torn TRC but to continue with PT until further notice.”
 - i. Mr. Finch delegated continuation with previous treatment plan without modification. Mr. Finch in his response stated that he communicates and delegates daily to Mr. Fiore prior to treatment.
 - ii. Mr. Finch states in his response that he performed the re-evaluation, but failed to document it in the patient record.
 1. “I acknowledge that I should have documented the re-evaluation that I performed and that Mr. Fiore implemented on May 15, 2017 and May 17, 2017
3. Mr. Finch statement in his response may be in conflict with the documentation on DOS 5/17/17.
 - a. Mr. Finch’s statement “I then discussed the treatment plan modification with Mr. Fiore which avoided all strengthening exercises and focusing on stretching instead. I acknowledge that I should have documented the re-evaluation that I performed and that Mr. Fiore implemented on May 15, 2017 and May 17, 2017”
 - b. Mr. Fiore documents on May 17, 2017 the addition of the following strengthening exercises:
 - i. UBE X 6 minutes
 - ii. Standing rows with Thera band X 20
4. Mr. Finch documentation of the initial evaluation goals on June 29, 2017 may be in conflict with protocol.
 - a. Goals are identical to the goals documented for the previous initial evaluation for a different surgery on DOS 4/24/17.
 - b. Protocol and physician instructions are to stay in brace for 6 weeks 24 hours per day/ 7 days per week.
5. Mr. Finch does not document that performance of a re-evaluation following on DOS 7/11/17.
 - a. Mr. Finch documents:
 - i. “Patient reported that she has been having increased pain in her shoulder and also some increased bruising along her anterior shoulder and chest. She did make an appointment to see her surgeon later this week regarding these symptoms.”

1. DS subjective regarding seeking care from the physician regarding new acute status of the shoulder should have prompted Mr. Finch to perform a re-evaluation.

b. Mr. Finch states in his response:

- i. “DS did not tell me she believed Mr. Fiore had injured her shoulder at the prior PT visit.”
- ii. “I understand that DS did impart this information during a phone call earlier that day, but she did not tell me. “
- iii. Ms. DS calls the physician office twice on 7/11/17 first at 8:59am and again at 9:28am. With request to be seen ASAP by Dr. Brown. She engages in treatment with Mr. Finch at 10:50am.

1. It may be unlikely that DS failed to tell Mr. Finch of her concern that something happened to her shoulder in PT last visit given that she contacted the physician’s office twice that morning and within 1hr and 22 minutes prior to engagement with Mr. Finch.

6. Re-evaluate warranted on July 5, 2017

Ms. Richardson seconded the motion. Following review and discussion, the motion carries by roll call.

Vote	Mr. Clinton	Ms. Hunter	Dr. Miller	Ms. Remec	Ms. Richardson		
Aye	X	X	X		X		
Nay							
Recused							
Abstained							
Absent				X			

Ms. Richardson moved the Board adopt the following Findings of Fact:

B) Failed to supervise assistive personnel, physical therapy students or interim permit holders in accordance with this chapter and rules adopted pursuant to this chapter.

1. Mr. Finch delegates DS treatment interventions to Mr. Fiore on DOS May 15, 2017 without performing a re-evaluation based upon patient’s subjective report.
 - a. “She states that she attempted to pick up her dog and since has had continuous pain in her left shoulder. She stated she saw Kyle Brooks and he informed her that it may be a torn TRC but to continue with PT until further notice.”
2. Mr. Finch, in his response, stated that he modified the POC on DOS 5/15/17 to discontinue all strengthening exercises and to focus on stretching, however, documentation indicates strengthening exercises being added/instructed on May 17, 2015 by Mr. Fiore.
 - a. Mr. Finch’s statement “I then discussed the treatment plan modification with Mr. Fiore which avoided all strengthening exercises and focusing on stretching instead. I acknowledge that I should have documented the re-evaluation that I performed and that Mr. Fiore implemented on May 15, 2017 and May 17, 2017”
 - b. Mr. Fiore documents on May 17, 2017 the addition of the following strengthening exercises:
 - i. UBE X 6 minutes
 - ii. Standing rows with Thera band X 20

Mr. Clinton seconded the motion. Following review and discussion, the motion carries by roll call.

Vote	Mr. Clinton	Ms. Hunter	Dr. Miller	Ms. Remec	Ms. Richardson		
Aye	X	X	X		X		
Nay							
Recused							
Abstained							
Absent				X			

Ms. Hunter moved the Board adopt the following Findings of Fact as:

- C) Failed to maintain adequate patient records. For the purposes of this paragraph, “adequate patient records” means legible records that comply with board rules and that contain at a minimum an evaluation of objective findings, a diagnosis, the plan of care, the treatment record, a discharge summary and sufficient information to identify the patient.**

1. Mr. Finch’s initial evaluation documentation may be incomplete for DOS 4/24/17.
 - a. Documentation may be deficient in the following:
 - i. The physical therapist interpretation of the results of the examination
 - ii. Clinical rationale for therapeutic interventions
 - iii. Lack of documentation regarding the results of the therapeutic intervention
2. Mr. Finch does not document a re-evaluation on May 15, 2017.
 - a. “I acknowledge that I should have documented the re-evaluation that I performed and that Mr. Fiore implemented on May 15, 2017 and May 17, 2017”
3. Mr. Finch does not document on DOS 7/5/17 his evaluation and findings regarding patient’s concern of a blood clot.
 - a. Subjective states:
 - i. “Pt reported to therapy today with c/o her shoulder being sore and achy. She stated that she is worried about a blood clot in her LUE and she is worried about all the bruising.”
 - b. Mr. Fiore documents:
 - i. “Supervising PT examined patient LUE with no conclusive evidence of blood clot.”
4. Documentation deficiencies as noted per detailed records review.
5. Re-evaluate July 5, 2017 not documented by Mr. Finch.

Ms. Richardson seconded the motion. Following review and discussion Dr. Miller requested a friendly amendment to add #5 Re-evaluate July 5, 2017 not documented by Mr. Finch. Friendly amendment accepted by both Ms. Hunter and Ms. Richardson. Following review and discussion, the motion carries by roll call.

Vote	Mr. Clinton	Ms. Hunter	Dr. Miller	Ms. Remec	Ms. Richardson		
Aye	X	X	X		X		
Nay							
Recused							
Abstained							
Absent				X			

Ms. Richardson moved the Board adopt the following Conclusions of Law:

A.R.S. §32-2044(1) “Violating this chapter, board rules or a written board order.”

A.R.S. §32-2044(4) “Engaging in the performance of substandard care by a physical therapist due to a deliberate or negligent act or failure to act regardless of whether actual injury to the patient is established.”

A.R.S. §32-2044(6) “Failing to supervise assistive personnel, physical therapy students or interim permit holders in accordance with this chapter and rules adopted pursuant to this chapter.”

A.R.S. §32-2044(20) “Failing to maintain adequate patient records. For the purposes of this paragraph, “adequate patient records” means legible records that comply with board rules and that contain at a minimum an evaluation of objective findings, a diagnosis, the plan of care, the treatment record, a discharge summary and sufficient information to identify the patient.

Mr. Clinton seconded the motion. Following review and discussion, the motion carries by roll call.

Vote	Mr. Clinton	Ms. Hunter	Dr. Miller	Ms. Remec	Ms. Richardson		
Aye	X	X	X		X		
Nay							
Recused							
Abstained							
Absent				X			

Mr. Finch has no prior disciplinary actions against him.

The Board discussed possible disciplinary action against Mr. Finch license. Following discussion Ms. Hunter moved the Board adopt the following Order:

Mr. Finch be placed on probation for twelve (12) months with the possibility for early termination. Mr. Finch shall complete six (6) hours of continuing education in documentation All continuing education must be preapproved by Board staff and completed within six (6) months. CEU’s will not count towards renewal and cannot be completed online. Following completion of the continuing education documentation course Mr. Finch must undergo minimum of three months of Board approved monitoring. Monitoring shall consist of 3 randomly selected charts to focus on clinical rationale, re-evaluation, active

delegation to assistant personnel. Ms. Richardson seconded the motion. Following review and discussion the motion carried by roll call vote.

Vote	Mr. Clinton	Ms. Hunter	Dr. Miller	Ms. Remec	Ms. Richardson		
Aye	X	X	X		X		
Nay							
Recused							
Abstained							
Absent				X			

The Board Recessed from 11:40 A.M. to 11:55 A.M

ii) Complaint #17-25; Zachary Fiore, PTA

For the record, Ms. Hunter stated she has previously been employed by the Core Institute and know Dr. Brown professionally and as a patient. Ms. Hunter stated she does not know Mr. Fiore and has no bias.

Mr. Fiore was present and was represented by legal counsel, Mr. Scott King. The Board members and Board staff introduced themselves. Both Mr. Fiore and Mr. King introduced themselves. Mr. Brown read the allegations against Mr. Fiore:

A) Engaged in the performance of substandard care by a physical therapist assistant, including exceeding the authority to perform tasks selected and delegated by the supervising licensee regardless of whether actual injury to the patient is established.

1. SB reported on several documented occasions that she believed that she was injured on July 7, 2017 when Mr. Fiore engaged in PROM with her left UE.
 - a. 7/11/17 Call from Patient @ 8:59am. She c/o increased pain in the shoulder due to PT. She believes the therapist “did something to her shoulder” and believes she needs an X-Ray.
 - b. 7/13/17 She states she was in physical therapy last Friday 7/7 when she feels her arm was taken to 4 and 4 elevations. Should significant increased pain. Her pain worsened after her therapy. She noticed bruising, redness and increased swelling in her left shoulder. Patient contacted our office after her dramatic increase in pain and limited motion.

2. Mr. Raymond, PT on 7/11/17 reports patient's increased report of symptoms.
 - a. "Patient reported that she has been having increased pain in her shoulder and also some increased bruising along her anterior shoulder and chest."
3. Dr. Brown documents:
 - a. July 19, 2017 "The patient was in therapy about a week ago. She was doing passive range of motion exercises with the left upper extremity and felt a pop. The patient had immediate pain in her left shoulder."
4. Radiologist documents:
 - a. 7/14/17 CT SCAN Results: "During physical therapy 1 week ago, prosthesis broke."
5. Mr. Fiore denies, in his response, that he injured the patient on 7/7/2017
 - a. "I respectfully submit that the July 7, 2017 treatment that I performed did not cause the patient's comminuted fracture or the non-displaced fracture through the scapular body."
6. Mr. Fiore confirms in his response the PROM measurements achieved following his performance of PROM to the left shoulder:
 - a. July 5, 2017, I discussed with Mr. Finch DS Plan of Care before seeing the patient. DS was able to perform all exercises without increase in pain symptoms. Her PROM flexion was 105, abduction 100 and ER 50.
 - b. July 7, 2017, I saw DS for her third post-operative physical therapy visit. Her PROM flexion was 120, abduction 100 and ER 60. She experienced some discomfort at end of her ROM exercise. The amount of discomfort was consistent with the discomfort after prior treatments.
7. Mr. Fiore significantly increased PROM range on the second visit following reverse total shoulder as documented:
 - a. 7/5/17 PROM:
 - i. 105 degrees flexion (increase of 25 degrees from previous visit)
 - ii. 100 degrees abduction (increase of 50 degrees from previous visit)
 - iii. 50 degrees ER (increase 20 degrees from previous visit)
 1. Exceeds protocol limits of ER by 20 degrees. Protocol states not to exceed 30 degrees ER.
8. Mr. Fiore documents the following PROM measurements on 7/7/17, the date of the alleged injury:

a. PROM:

- i. 120 degrees flexion (increase in 40 degrees in 3 visits; increase in 15 degrees since last visit)
 1. Maximum allowable ROM for elevation per protocol.
- ii. 100 degrees abduction (identical to previous visit, however 50 degrees increase within 3 visits)
- iii. 60 degrees ER. (Increase in 30 degrees in 3 visits; increase in 10 degrees since last visit)
 1. Exceeds maximum allowable ROM for ER by 30 degrees as indicated in protocol.

9. 7/14/17 CT scan identifies:

- a. Comminuted periprosthetic fracture of the glenoid component is seen with almost 90-degree anteromedial rotation of the glenoid component.
- b. Nondisplaced fracture line courses through the scapular body.

Dr. Miller read a summary of how the hearing would be conducted and reviewed the possible outcomes of the hearing. Ms. Donahue and Mr. Fiore were sworn-in as witnesses. Mr. King provided an opening statement to the Board.

The Board reviewed and discussed the case and asked questions of Mr. Fiore.

Mr. King provided a closing statements.

Dr. Miller guided the Board through each allegation for discussion. Following discussion on the allegations.

Ms. Hunter moved the Board issue a Non-Disciplinary Order to include six (6) hours of continuing education in documentation to be completed within six (6) months.

Motion failed for no 2nd.

The Board reviewed and discussed the case.

Ms. Richardson moved the Board issue a Non-Disciplinary Order to include six (6) hours of continuing education in documentation and six (6) hours in **Shoulder**. All continuing education must be preapproved by Board staff and completed within six (6) months. CEU's will not count towards renewal and cannot be

completed online. Ms. Hunter seconded the motion. Following review and discussion the motion carried by roll call.

Vote	Mr. Clinton	Ms. Hunter	Dr. Miller	Ms. Remec	Ms. Richardson		
Aye	X	X	X		X		
Nay							
Recused							
Abstained							
Absent				X			

The Board Recessed from 12:37 P.M. to 1:05 P.M

- a) Formal Hearing and Action; 9:00 a.m.
 - i) Case #13-45; Michael Rich, PTA

Mr. Rich was not present and was not represented by legal counsel. Dr. Miller called the formal hearing to order. The Board members introduced themselves. Dr. Miller provided a review of the proceedings and possible outcomes. All Board members had been furnished with copies of the Complaint and Notice of Hearing. Mona Baskin, Assistant Attorney General representing the State of Arizona.

Mr. Brown reviewed process by which the respondent was served with the Notice of Hearing. Mr. Brown stated that Ms. May was served Notice of mail by certified mail and regular mail to the address of record. Certified mail was returned to sender unclaimed but the regular mail was not returned.

Karen Donahue, PT Investigator was sworn in.

The State requested a minor amendment to the complaint on page 3, line 9 the actual year Mr. Richa was licensed was 2005 and page 3, line 21 respondent holds a Physical Therapist Assistant Certificate. The Board accepts the clerical changes.

Ms. Baskin provided a power point presentation as her opening statement to the Board.

Ms. Baskin entered Exhibits 1 and 10 into evidence.

Ms. Donahue provided testimony. Ms. Baskin went over Exhibit 1 and 10. Ms. Baskin requested the Board accept Exhibits 5 - 10 under-seal as it contained confidential patient information. The Board accepted the Exhibits 5 -10 under-seal.

Ms. Baskin provided a closing statement.

The Board reviewed and discussed the case. Following review and discussion Ms. Richardson moved the Board accept Allegations 1 through 39 as Findings of Fact from the Complaint and Notice of Hearing:

PARTIES

1. The Arizona State Board of Physical Therapy is the duly constituted authority for licensing and regulating the practice of physical therapy in the State of Arizona.
2. Michael Rich, PTA, holds Certificate No. 7101A, issued on June 23, 2009, to work as a physical therapist assistant in the State of Arizona.

FACTUAL ALLEGATIONS

1. On or about December 13, 2013, a complaint was opened by the Board after reviewing Respondent's website and determining that he identified himself to the public as a physical therapist. The website banner provided, Mike Rich, Physical Therapist, Restore Group Rehabilitation. Following the banner and logo for Restore, is Respondent's personal biography which opens with the following statement, "Mike Rich brings a combination of education, experience and vision to the organization." Respondent's work experience, is highlighted in part as follows, "In 1994 Mike and his partners opted to merge their growing number of local physical therapy clinics with Physiotherapy Associates, a national group based in Memphis. He served as a Director for the firm until 2007 when his vision for Restore came to fruition." Respondent holds a physical therapist certificate issued by the Board; is not licensed by the Arizona Board of Physical Therapy or any other state board of physical therapy to practice as a physical therapist; and does not possess physical therapist educational credentials. At the time the complaint was opened, Respondent was the owner of Restore. Respondent admitted that he was responsible for the marketing of the business, including advertising, all the internal business functioning, hiring and staffing, the electronic medical record system, policies and procedures, and billing.
2. After receipt of notification of the Board complaint, Respondent filed a written response. Respondent stated that the website "was definitely misleading and as soon as I was notified I had the website taken down."
3. On or about May 2, 2014, Board staff reviewed Respondent's website and determined that the "team" page was entitled "Arizona Physical Therapists" and the first person listed was "Mr. Mike Rich." There was no documentation on this page that identified Respondent as a physical therapist assistant.

4. On or about May 2, 2014, Respondent was interviewed by Board staff. Respondent advised that he was the sole owner of Restore PT and was the administrator of the software system. Regarding the security of employees' passwords, Respondent stated that contract physical therapists, covering for employee vacations or absences, were not issued their own password for access to the electronic system. According to Respondent, the contract physical therapists used the password of the therapist on vacation or absent. Respondent stated that he was unaware of the supervision requirements for physical therapist assistants under general or on-site supervision. The physical therapist employees also stated that contract physical therapists had access to their secure passwords, failed to supervise physical therapist assistants in accordance with Board statutes and rules, and that they cosigned notes without adherence to the physical therapist supervision requirements.

Patient GG

5. From November 20, 2013 through December 10, 2013, Patient GG, a 52-year-old male with pain in joint, lower leg was receiving physical therapy at Restore PT following a right knee scope. On all of Respondent's notes, he signed the note with his electronic signature followed by the notation, "Lic: 1437178845." The number listed is Respondent's NPI number. Respondent did not include his required physical therapist assistant designation and certificate number, which identifies him as a physical therapist assistant.ⁱ There is no documentation that Respondent is being supervised under general supervision.

6. On or about November 20, 2013, Patient GG was listed on Respondent's schedule at 7:00 a.m.; however, Respondent's name does not appear in the physical therapy note. The note is signed by a physical therapist that is listed on the schedule as treating two different patients at 7:00 a.m. and 7: 15 a.m. respectively.

7. On or about November 21, 2013, Patient GG is listed on Respondent's schedule at 7:00 a.m., however, Respondent's name does not appear in the physical therapy note. Respondent is not present in the facility and on vacation. The note is signed by a physical therapist that is listed as not being present in the facility at the time. The physical therapist who signed the note is listed on the schedule starting at 10:00 a.m., after Patient GG's 7:00 a.m. appointment.

8. On or about November 25, 2013, Patient GG is listed on Respondent's schedule at 7:00 a.m., however, Respondent's name does not appear in the physical therapy note. The note is signed by a physical

therapist that is listed on the schedule as treating two different patients at 7:00 a.m. and 7:30 a.m. respectively.

9. On or about November 26, 2013, Patient GG is listed on Respondent's schedule at 7:00 a.m.; however, Respondent's name does not appear in the physical therapy note. The note is signed by a physical therapist that is listed on the schedule as treating two different patients at 7:00 a.m. and 7:30 a.m. respectively.

10. On or about November 27, 2013, Patient GG is listed on Respondent's schedule at 7:00 a.m. Respondent's name does not appear in the physical therapy note. The note is signed by a physical therapist that is listed on the schedule as treating two different patients at 7:00 a.m. and 7:30 a.m. respectively.

11. On or about December 2, 2013, Patient GG is listed on Respondent's schedule at 7:00 a.m. Respondent signed the note with his electronic signature followed by the notation, "Lic: 1437178845." The billing for neuromuscular re-education, manual therapy and electrical stimulation is not supported in Respondent's documentation.

Patient KG

12. On August 6, 2013, Patient KG, a 49-year-old female, was seen for an initial evaluation with a diagnosis of a surgical procedure for 2nd and 3rd metatarsal osteotomies/plantar plate repair. Patient KG was seen for approximately 14 visits and was discharged on November 12, 2013. On all of Respondent's notes, he signed the note with his electronic signature followed by the notation, "Lic: 1437178845. The number listed is Respondent's NPI number. Respondent did not include his required physical therapist assistant designation and certificate number, which identifies him as a physical therapist assistant. There is no documentation that Respondent is being supervised under general supervision.

13. On August 9, 2013, Respondent's signature is documented as providing treatment. The observation section of the note is copied and pasted from the initial evaluation and there is insufficient documentation of the patient's subjective report. The billing for manual therapy and electrical stimulation is not supported in Respondent's documentation.

14. On or about September 9, 2013, Respondent's electronic signature is documented as providing treatment to Patient KG. The billing for manual therapy and electrical stimulation is not supported in Respondent's documentation. Respondent documented, "Added hip stretches to HEP today", however, the hip had not been evaluated by a physical therapist.

15. On October 10, 2013, Respondent provided treatment to Patient KG. Patient KG is listed on Respondent's schedule at 8:00 a.m., however, there is no physical therapist in the facility. There is no documentation that Respondent is being supervised under general supervision. The physical therapist who signed the note is listed as being on vacation. The billing for electrical stimulation is not supported in Respondent's documentation.

Respondent is listed on the schedule as providing treatment to six (6) patients from 7:00 a.m. through 10:00 a.m., when there is not a physical therapist in the facility. The schedule indicates that two physical therapists were scheduled to commence treating patients at 10:00 a.m. and 2:00 p.m.

16. On October 18, 2013, Patient KG is listed on Respondent's schedule at 8:30 a.m., however, Respondent's electronic signature is not contained within the treatment record. The physical therapy note is signed by two physical therapists, one of which is treating another patient at that time and the other physical therapist is not in the facility until noon.

Patient MB

17. On July 17, 2013, Patient MB, a 72-year-old woman, was seen for an initial evaluation for a left frozen shoulder, rotator cuff tendon partial tear following a fall while on vacation. Patient MB was seen for 30 visits and was discharged on October 31, 2013. Patient MB's exercise plan of care remained identical for approximately 30 visits with a modification only on July 24 and October 10, 2013. On all of Respondent's notes, he signed the note with his electronic signature followed by the notation, "Lic: 1437178845." The number listed is Respondent's NPI number. Respondent did not include his required physical therapist assistant designation and certificate number, which identifies him as a physical therapist assistant. Respondent does not consistently document the time in and time out for the patient visit. Respondent assumed patient care when his supervising physical therapist, who cosigned his notes, was absent from the facility and does not document that he was being supervised under general supervision.

18. On July 26, 2013, Respondent documents that he is providing services on this date. The billing for manual therapy and electrical stimulation is not supported in Respondent's documentation.

19. On July 31, 2013, Respondent documents that he is providing services on this date. The billing for ultrasound, manual therapy and electrical stimulation is not supported in Respondent's documentation.

20. On August 2, 2013, Respondent documents that he is providing services on this date. Respondent documents the following in the subjective history, "Frustrated with swelling in whole arm." Girth measurements of the arm were not documented. Passive range of motion is documented as improving; however, there is no documentation of a related measurement. The billing for ultrasound, manual therapy and electrical stimulation is not supported in Respondent's documentation.

21. On August 7, 2013, Respondent documents that he is providing services on this date. Respondent's documentation for the assessment and plan is identical to the previous note. Respondent documented that "Patient is able to perform exercises correctly"; however, he documented an increase in time to 40 minutes without any change in the exercises documented on the flow sheet. The billing for electrical stimulation is not supported in Respondent's documentation.

22. On August 9, 2013, Respondent documents that he is providing services on this date. The subjective documentation indicates "swollen in whole arm" however girth measurements were not documented. The billing for electrical stimulation and ultrasound is not supported in Respondent's documentation.

23. On August 12, 2013, Respondent documents that he is providing services on this date. Respondent's documentation indicated the "PROM is progressing, but pain is the same." Respondent does not document PROM measurements. The billing for electrical stimulation and ultrasound is not supported in Respondent's documentation.

24. On August 14, 2013, Respondent documents that he is providing services on this date. Respondent's documentation indicated the "PROM is progressing, but pain is the same." Respondent does not document PROM measurements. The billing for electrical stimulation and ultrasound is not supported in Respondent's documentation.

25. On August 16, 2013, Respondent documents that he is providing services on this date. Respondent's documentation indicated the "PROM is progressing but pain is the same." Respondent does not document PROM measurements. Respondent documents that he "will take measurement next visit then pt sees Dr. Tues." Respondent's documentation in the assessment is identical to the prior visit. The billing for electrical stimulation and ultrasound is not supported in Respondent's documentation.

26. On August 21, 2013, Respondent documents that he is providing services on this date. Respondent does not document PROM or strength measurements. Respondent documents that he is changing

the plan of care to reduce MB's visits to once a week that exceeds his authority to perform as a physical therapist assistant. The billing for electrical stimulation and ultrasound is not supported in Respondent's documentation.

27. On August 27, 2013, Respondent documents that he is providing services on this date. The change in the plan of care to reduce the frequency to one per week is copied from the August 21, 2013, without any explanation. The billing for electrical stimulation and ultrasound is not supported in Respondent's documentation.

28. On September 3, 2013, Respondent documents that he is providing services on this date. The change in the plan of care to reduce the frequency to one per week is copied from the August 21, 2013, without any explanation. Respondent documents that "PROM is progressing although still painful at end range." Respondent does not include any PROM measurements. The billing for electrical stimulation and ultrasound is not supported in Respondent's documentation.

29. On September 10, 2013, Respondent documents that he is providing services on this date. Respondent documents that the "PROM is progressing although still painful at end range." Respondent does not include any PROM measurements. The billing for electrical stimulation and ultrasound is not supported in Respondent's documentation. Respondent has increased the time for performance of exercises from 40 minutes to 50 minutes when the exercises have not changed since July 24, 2013, and when Respondent documents that Patient MB is motivated, performing the exercises correctly, tolerance to treatment is good, and progress towards goals is good. The billing for electrical stimulation and ultrasound is not supported in Respondent's documentation.

30. On September 12, 2013, Respondent documents that he is providing services on this date. Respondent documents the identical plan of care from the September 10, 2013, note which states as follows, "Continue with current plan. Will cont on trip insurance starting next wk due to mcr cap." The documentation for PROM does not contain any measurements. Respondent documents a change in the plan of care without consultation or delegation by his supervising physical therapist as follows, "Trying mcconnel taping for jt approximation post tx." The billing for electrical stimulation and ultrasound is not supported in Respondent's documentation.

31. On September 17, 2013, Respondent documents that he is providing services on this date. Respondent documents the identical plan of care from the September 10, 2013, note which states as follows,

“Continue with current plan. Will cont on trip insurance starting next wk due to mcr cap.” No billing was provided to the Board for this date of service. Respondent’s documentation of ultrasound and electrical stimulation do not describe parameters, duration, or location. The documentation for PROM does not contain any measurements.

32. On September 19, 2013, Respondent documents that he is providing services on this date. Respondent documents the identical plan of care from the September 10, 2013, note which states as follows, “Continue with current plan. Will cont on trip insurance starting next wk due to mcr cap.” No billing was provided to the Board for this date of service. Respondent’s documentation of ultrasound and electrical stimulation do not describe parameters, duration, or location. The documentation for PROM does not contain any measurements. Respondent also documents that Patient MB is on a Medrol pak for a foot injury, however, there is not an initial evaluation of the foot until October 17, 2013.

33. On October 10, 2013, Patient MB is on Respondent’s schedule at 7:30 a.m. The progress note is signed by a physical therapist who is on vacation on Thursday, October 20 and Friday, October 21, 2013. The Restore Physical Therapy time sheets indicate that another physical therapist is covering for the vacationing physical therapist. The Restore Physical Therapy schedule indicates that Patient MB was scheduled to be seen by Respondent at 7:30 a.m. and there are no other physical therapists scheduled on-site until 10:00 a.m. Patient MB’s functional status is not documented, and PROM of the left shoulder is the only test or measurement documented.

34. On October 15, 2013, Patient MB is on a physical therapist’s schedule at 7:30 a.m. Respondent signs the note as providing treatment, however, he is not in the facility at 7:30 a.m. Respondent’s schedule indicates he is seeing patients at 8:30 a.m. and Patient MB is not on his schedule. Another physical therapist cosigned Respondent’s note, however, this physical therapist was not on the schedule until 10:00 a.m. Respondent documents that the PROM “is almost full now” which is conflict with the October 10, 2013, note which states, “Pt has significant decrease in ROM, increased pain, and severe lss of function due to post- operative status.” Respondent’s documentation of ultrasound and electrical stimulation does not describe parameters, duration, or location.

35. On October 17, 2013, Patient MB has an initial evaluation by a physical therapist for a foot injury that Respondent had documented in his note on September 19, 2013. Patient MB is on Respondent’s schedule at 9:00 a.m. and Respondent signs the note and the note is co-signed by another physical therapist

who is not on the schedule until 10:00 a.m. Patient MB's AROM is not measured. The plan is identical to the last visit on October 15, 2013, and states, "Continue with current plan Will cont on trip insurance starting next kd due to mcr cap. Start this on 10/10." The billing for electrical stimulation and ultrasound is not supported in Respondent's documentation and does not describe parameters, duration, or location.

36. On October 22, 2013, Respondent documents that he is providing services on this date. Patient MB is on Respondent's schedule at 8:00 a.m. The note is cosigned by a supervising physical therapist who was not present at the time of treatment and is scheduled to treat patients at 10:15 a.m. The plan is identical to the last visit and states, "Continue with current plan Will cont on trip insurance starting next kd due to mcr cap. Start this on 10/10." The documentation for PROM does not contain any measurements. The billing for electrical stimulation and ultrasound is not supported in Respondent's documentation and does not describe parameters, duration, or location.

37. On October 24, 2013, Respondent documents that he is providing services on this date. Patient MB is on Respondent's schedule at 7:30 a.m. and 8:00 a.m. The note is cosigned by a physical therapist who is scheduled to treat patients at 10:00 a.m. The plan is identical to the last visit with the addition of the last sentence and states, "Continue with current plan Will cont on trip insurance starting next kd due to mcr cap. Start this on 10/10." The documentation for PROM does not contain any measurements. The billing for electrical stimulation and ultrasound is not supported in Respondent's documentation and does not describe parameters, duration, or location.

38. On October 28, 2013, Respondent documents that he is providing services on this date. Respondent does not document a subjective history. The objective findings are identical to the initial evaluation of October 17, 2013. The billing for manual therapy, electrical stimulation and ultrasound is not supported in Respondent's documentation and does not describe parameters, duration, or location.

39. On October 31, 2013, Respondent documents that he is providing services on this date. Respondent does not document a subjective history beyond "feeling good" yet documents pain in the objective findings and that she is going to have shoulder surgery. The objective findings are identical to the initial evaluation of October 17, 2013 and note of October 28, 2013. The billing for manual therapy, electrical stimulation and ultrasound is not supported in Respondent's documentation and does not describe parameters, duration, or location.

Ms. Hunter seconded the motion. Following review and discussion the motion carried by roll call.

Vote	Mr. Clinton	Ms. Hunter	Dr. Miller	Ms. Remec	Ms. Richardson		
Aye	X	X	X		X		
Nay							
Recused							
Abstained							
Absent				X			

Ms. Richardson moved the Board accept as Conclusions of Law, the allegations of unprofessional conduct which include violations **A.R.S. §32-2044(1), A.R.S. §32-2044 (14), A.R.S. §32-2044(20), A.R.S. §32-2044(13), A.R.S. §32-2044(5)** as outlined in the Allegations of Unprofessional Conduct from the Complaint and Notice of Hearing for case #13-45. Ms. Hunter seconded the motion. Following review and discussion the motion carried by roll call.

Vote	Mr. Clinton	Ms. Hunter	Dr. Miller	Ms. Remec	Ms. Richardson		
Aye	X	X	X		X		
Nay							
Recused							
Abstained							
Absent				X			

There is no prior discipline for Mr. Rich.

Dr. Miller moved the Board accepts the states Attorney General for recommendations and issue a Board Order to include:

Mr. Rich be placed on two (2) months suspension followed by a twelve (12) months' probation, complete six (6) hours of continuing education in Documentation and a ProBe Ethics course or PBI to be completed within six (6) months. After CEU's are completed. Mr. Rich must undergo Board Approved Monitoring for a minimum of three (3) with 6 randomly selected patient records a month. Mr. Rich must have onsite supervision only and pay a \$5,000 Civil Penalty. Ms. Richardson seconded the motion. Following review and discussion the motion carried by roll call vote.

Vote	Mr. Clinton	Ms. Hunter	Dr. Miller	Ms. Remec	Ms.		

					Richardson		
Aye	X	X	X		X		
Nay							
Recused							
Abstained							
Absent				X			

5) COMPLAINTS, HEARINGS, INVESTIGATIONS and COMPLIANCE

- c) Initial Review, Discussion, and Action on Complaint
- v) Complaint #18-03; Susan Marker, PT

Ms. Marker was not present and was not represented by legal counsel.

Ms. Donahue provided a summary of the case for the Board. Board opened complaint following self-report of charges for possession of drug paraphernalia. Ms. Marker did not notify the Board within the required 10-day period.

The Board reviewed and discussed the case.

Mr. Clinton moved the Board offer a Consent Agreement to include a \$250 Civil penalty for failure to report according to **A.R.S. §32-3208**. Civil penalty to be paid within three (3) months. If consent agreement is not accepted case will be forward to an Informal Heading. Ms. Richardson seconded the motion. Following review and discussion, the motion carried by roll call vote.

Vote	Mr. Clinton	Ms. Hunter	Dr. Miller	Ms. Remec	Ms. Richardson		
Aye	X	X			X		
Nay			X				
Recused							
Abstained							
Absent				X			

- i) Complaint #17-29; Cheri Hodges, PT (Continued from Previous Meeting)

Dr. Miller moved the Board tabled this agenda item until next Board meeting. Mr. Clinton seconded the motion. Following review and discussion, the motion carried.

Vote	Mr. Clinton	Ms. Hunter	Dr. Miller	Ms. Remec	Ms. Richardson		
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Aye	X	X	X		X		
Nay							
Recused							
Abstained							
Absent				X			

- e) Review, Discussion and Action on Consideration of Opening A Complaint
 - i) Michael Perryman

This item was tabled from last months Board meeting.

The Board reviewed and discussed the above complaint. The Board has no jurisdiction.

Ms. Richardson moved the Board forward this complaint to the Attorney General’s Consumer Protection Agency. Ms. Hunter seconded the motion. Following review and discussion, the motion carried.

Vote	Mr. Clinton	Ms. Hunter	Dr. Miller	Ms. Remec	Ms. Richardson		
Aye	X	X	X		X		
Nay							
Recused							
Abstained							
Absent				X			

6) BOARD BUSINESS AND REPORTS

The Board may vote to go into Executive Session pursuant to A.R.S. §38-431.03(A)(2) for purposes of discussing confidential information or §38-431.03(A)(3) to obtain legal advice.

- a) Executive Director’s Report – Discussion and Possible Action
 - i) Financial Report- Verbal Report
 - ii) Board Staff Activities- Verbal Report
 - iii) Legislation- Verbal Report
 - (1) SB1436 People with criminal histories can get a Board opinion on whether a criminal history blocks licensure before a person has met any licensing requirements.
 - (2) HB2062 Denial of license, rules of evidence, burden of proof on the Board.
 - (3) HB2197 Health professionals; workforce data.
 - (4) HB2207 Board meetings must be covered by audio/visual means; posted within 5 days.
 - (5) HB2238 Administrative decisions
 - (6) SB1273 Public can appeal licensing requirements to GRRC, GRRC and may eliminate a licensing requirement in response.

Mr. Brown provided verbal summary on the above topics. No action was needed or taken.

(7) FSBPT- Election of 2018 Delegate and Alternate to Federation of State Boards of Physical Therapy Annual Meeting and Delegate Assembly; Leadership Issues Forum Participant

Federation of State Boards of Physical Therapy Annual Meeting is being held July 14-15, 2018. The Board elected Ms. Peggy Hunter as the primary delegate and Ms. Karen Donahue as the Alternate delegate to attend the 2018 Federation of State Boards of Physical Therapy Annual Meeting.

b) Review, Discussion and Action on July 2018 Board Meeting Date.

The Board agreed to change the July 24th Board meeting to July 17, 2018 and appear telephonically and added Special Telephonic Board meeting on June 12, 2018 to go over licensing, ADA accommodations and possibly some consent agreements.

7) CALL TO THE PUBLIC

No one came forward.

8) ADJOURNMENT

Dr. Miller moved the Board adjourn. Ms. Hunter seconded the motion. Following review and discussion, the motion carried.

Meeting adjourned at 2:27 P.M.

Vote	Mr. Clinton	Ms. Hunter	Dr. Miller	Ms. Remec	Ms. Richardson		
Aye	X	X	X		X		
Nay							
Recused							
Abstained							
Absent				X			

Prepared by,

Monica Crowley
Office Manager

Approved by,

Peggy Hunter, PTA
Secretary

