

JANICE K. BREWER
Governor

LISA AKERS, PT, MS
President



CHARLES D. BROWN
Executive Director

ARIZONA STATE BOARD OF PHYSICAL THERAPY
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REGULAR SESSION MEETING MINUTES
September 23, 2014

MEMBERS PRESENT:

Lisa Akers, PT, MS; President
Melinda Richardson, PT, MA; Vice President
Michael S. Clinton, CPA; Secretary
James E. Miller, PT, DPT, Member
Al D'Appollonio, PT, MBA; Member
Peggy Hunter, PTA, CLT; Member
Fredric B. Zook, Ph.D. Public Member

Members Absent

None

OTHERS PRESENT IN PERSON:

Charles D. Brown, Executive Director
Paula Brierley, Licensing Administrator
Karen Donahue, Senior Investigator
Veronica Cardoza, Office Manager
Mona Baskin, Assistant Attorney General

CALL TO ORDER – 8:34 a.m.

Ms. Richardson called the meeting to order at 8:30 a.m. Ms. Akers was not yet present. (A recording of the meeting is available through the Board Office)

Mr. D'Appollonio was present telephonically.

1) Review and Approval of Draft Minutes

- a) Regular Session Meeting Minutes

Mr. Brown noted the minutes listed on the agenda stated the wrong date; therefore, the Board would need to review and approve the August 26, 2014 meeting minutes in October. No action was taken.

2) CONSENT AGENDA: REVIEW, CONSIDERATION and ACTION

- a) Applications for Licensure and Certification

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

Akinremi, Omolade	Bottazzi, Sarah	Boergers, Anthony
Brooks, Brianna	Brown, Clancy	Buffham, Kevin
Choi, Myung	Cochran, Audri	Darden, Cortino
Duran, Joshua	Fischer, Ronald	Harju, Dulcinea
Holster, Elizabeth	Jones, Jessica	Sodorff, Steven
Roberson, Meredith	Tilford, Andrew	Schmid, Wendi
Kelly, Aaron	Norberg, Erin	McCleen, Courtney
Longoria, Kim	Lostracco, Mark	Kilbreath, John
Morris, James	McCall, Matthew	Pink, Melissa
Roberts, Karen	Rossi, Samantha	Stallings, Michelle
Warren, Staci	Young, Cortney	Berlin, John
Hale, Linda		

ii)

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

Altamirano, Brittaney	Mateman, Angela	Boeskin, Tania
Gregory, Brandon	Mills, Talmadge	Hurley, Terry
Lane, Christine	Porter, Jonathan	Loebbaka, Tim
Marin, Carlos	Stapleton, John	Mbinga, Fredrick
McHenry, Tara	Watson, Jessica	Montoya, Felicia
Murray, Rachel		Valdez, Chelsea
Priest, Joshua		Young, Samuel

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

Hodges, Savannah	Meyer, Philip
Lopez, Luis	Read, Marcus

Mr. Clinton moved to approve the consent agenda minus the applicants removed by the Board. Ms. Hunter seconded the motion. Following review and discussion the motion carried by unanimous vote.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye	X		X	X	X	X	X
Nay							
Recused							
Abstained							
Absent		X					

Choi, Myung

The Board reviewed Ms. Choi’s application. It was noted that the SSN provided on the application was different than the SSN provided on the transcripts. Mr. Brown stated it is most likely an issue of an alternate ID used for school while on a student visa and an SSN being gained for employment purposes which was provided in the application. Ms. Hunter moved to approve the application pending staff verifying the applicants SSN. Dr. Miller seconded the motion. Following review and discussion the motion carried.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye	X		X	X	X	X	X
Nay							
Recused							
Abstained							
Absent		X					

Hale, Linda

The Board reviewed Ms. Hale's application. Mr. D'Appollonio moved to approve the application. Dr. Miller seconded the motion. Following review and discussion the motion carried by unanimous vote.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye	X		X	X	X	X	X
Nay							
Recused							
Abstained							
Absent		X					

Darden, Cortino

The Board reviewed Md. Darden's application. Mr. Brown stated Mr. Darden did not request ADA accommodations at the time of application, but has now requested accommodations. The Board has all the required material for review. Dr. Miller moved to approve the ADA accommodations requested and approve the application for licensure or certification upon receipt of passing scores and final transcripts. Ms. Hunter seconded the motion. Following review and discussion the motion carried by unanimous vote.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye	X		X	X	X	X	X
Nay							
Recused							
Abstained							
Absent		X					

Berlin, John

The Board noted Mr. Berlin is an applicant for a physical therapist assistant certification. Ms. Richardson moved the Board approve Mr. Berlin for certification upon receipt of passing scores and receipt of final transcripts.

Meyer, Philip

The Board reviewed Mr. Meyer's application. The Board noted Mr. Meyer had not provided proof of completing his criminal sentence. Mr. Clinton moved the Board require staff to collect verification of Mr.

Meyer completing his sentencing and approve his licensure. Dr. Miller seconded the motion. Following review and discussion the motion carried.

Consent Agenda Ends

Ms. Akers arrived at 8:45 am and took over the running of the meeting following the end of the consent agenda.

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

- a) Substantive Review of Documentation Related to Disclosure on “Personal Information” Section of Application
 - (1) Physical Therapist Assistant Applications and Approval to take the NPTE and the AZLAW (Jurisprudence) Exam and Possible Certification.
 - (a) Gobie, Todd

Mr. Gobie was not present and was not represented by legal counsel. Mr. Gobie has a personal disclosure regarding a criminal conviction; however, he had not provided documents related to the case as requested by Board staff. Dr. Zook moved the Board table the application until Mr. Gobie provides the requested documents. Ms. Richardson seconded the motion. Following review and discussion the motion carried by unanimous vote.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye	X	X	X	X	X	X	X
Nay							
Recused							
Abstained							
Absent							

- b) Review of and Possible Action on Application for Physical Therapist Licensure from Applicant Requesting ADA Accommodations.
 - (a) Pratt, Delaney

Ms. Pratt was present, but did not address the Board. Dr. Miller moved the Board approve the requested accommodations. Mr. Clinton seconded the motion. Following review and discussion the motion carried by unanimous vote.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye	X	X	X	X	X	X	X
Nay							
Recused							
Abstained							
Absent							

(b) Linhart, Ryan

Mr. Linhart was not present and was not represented by legal counsel. Ms. Akers moved the Board approve Mr. Linhart’s requested accommodations. Ms. Richardson seconded the motion. Following review and discussion the motion carried by unanimous vote.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye	X	X	X	X	X	X	X

Nay							
Recused							
Abstained							
Absent							

- c) Substantive Review and Possible Licensure for Applicant Who is the Spouse of Active Military Personnel Stationed in Arizona
(a) DeSmith, Susan

Ms. DeSmith was not present and was not represented by legal counsel. Dr. Zook moved the Board approve Ms. DeSmith for licensure. Dr. Miller seconded the motion. Following review and discussion the motion carried by unanimous vote.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye	X	X	X	X	X	X	X
Nay							
Recused							
Abstained							
Absent							

The Board recessed at 8:58 a.m.
The Board reentered Regular Session at 9:05 a.m.

4) COMPLAINTS, HEARINGS, INVESTIGATIONS and COMPLIANCE

- a) Informal Hearing and Possible Action on Complaint:
i) Complaint #14-14; Charu FNU, PT; Time 9:00 a.m.

Ms. Charu was present and represented by Susan McLellon. The Board and staff introduced themselves. Ms. Charu introduced herself and counsel. Ms. Akers provided a review of how the proceeding will be conducted. Ms. Charu and Ms. Donahue were sworn-in as witnesses. Mr. Brown provided a summary of the allegations against Ms. Charu.

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. Ms. Fnu, PT may have been responsible to conduct the evaluation and administration of the POET evaluation of Mr. Gory.
2. Ms. Fnu, by statute, may not have been able to delegate the POET to Ms. Hernandez, her physical therapy aide.
 - a. Mr. G's first and only visit to Spooner Physical Therapy was for the testing to be completed.
 - b. 32-2043 (F) "A physical therapist is responsible for managing all aspects of the physical therapy care of each patient. A physical therapist must provide:
 - i. The initial evaluation and documentation for a patient.
 1. Ms. Hernandez administers and interprets the test.
3. Ms. Fnu co-signs the document as the "secondary evaluator"; co-signatures are required for delegated care/documentation performed by assistive personnel who are not PTA's.

4. Ms. Fnu’s acknowledges that she was engaged as a physical therapist delegating and supervising her aide to conduct Mr. G’s test as indicated in her statement (Untitled Document (hand written as Spooner Internal Software Report)):
 - o “POET completed on BTE system performed by Ginnifer Hernandez, DPT under the supervision of Charu Fnu, PT #8784”
 - o This document was only electronically signed by Ms. Fnu.
5. The Billing documentation indicates that Mr. Gory was a patient of Ms. Fnu’s as indicated by:
 - a. ICD-9 code diagnosis (333.84)
 - b. CPT code 97750 Physical Performance/ FCE for \$200 for 4 units.
 - c. Identification of Ms. Fnu as the physical therapist who provided the services.

B. Aided or abetted a person who is not licensed or certified in this state and who directly or indirectly performs activities requiring a license or certificate.

Ms. Fnu knew, or should have known that Ms. Hernandez was not licensed, and proceeded to delegate the evaluation of Mr. Gory.

1. Ms. Ginnifer Hernandez is not a licensed physical therapist in the State of Arizona as she has failed to complete her application due to inability to pass the NPTE. As such, Ms. Hernandez is classified, by statute as a physical therapy aide.
2. Regardless of the fact that BTE certified Ms. Hernandez to become an evaluator on the BTE system for the purposes of conducting a POET, AZ Statutes limit the performance of any initial evaluation, examination or test to be performed only by a licensed physical therapist. This was Mr. G’s first and only visit at Spooner Physical Therapy with the intent to receive an evaluation to determine his functional status to complete work required activities.
3. Ms. Fnu documents that she delegated and supervised Ms. Hernandez when she conducted the POET for Mr. Gory.
4. Ms. Fnu response contained documents, in which, clearly indicates that Ms. Hernandez is utilizing a designation as DPT and did not correct the document or restrict Ms. Hernandez from utilizing that designation. To the public, the signed documentation indicates that a licensed physical therapist performed the evaluation of Mr. Gory.

Ms. McLellon provided an opening statement. Following the opening statement the Board asked questions of Ms. Charu. Following questioning by the Board Ms. Charu provided a closing statement. The Board entered deliberations. In deliberation Dr. Miller noted the multiple times that the records and billing demonstrate Ms. Charu was acting as a supervisor of assistive personnel and providing physical therapy services. Dr. Zook noted that the billing was only internal tracking and that he did not see that the special testing being done was a physical therapy service. The Board continued deliberations. Dr. Zook moved the Board dismiss the complaint. Ms. Akers seconded the motion. In discussion Dr. Miller and Ms. Hunter noted that they feel there is sufficient evidence to show Ms. Charu was providing a physical therapy service and allowing a person not licensed to use the initials DPT. The motion carried.

Vote	Mr. D’Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
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Aye	X	X		X			X
Nay			X		X	X	
Recused							
Abstained							
Absent							

The Board recessed from 10:30 a.m.
The Board reentered the regular session at 10:40 a.m.

- b) Initial Review, Discussion and Action on Complaint
 - ii) Complaint #14-32; Mark Roberts, PT

Mr. Roberts was present with his counsel Kevin Nicholas. Ms. Donahue provided a summary of the complaint. The Allegations claimed Mr. Roberts provided Dry Needling treatment through cloths. Mr. Roberts provided a statement claiming he did not needle through cloths and was not aware what was happening until after the complaint was filed against his past employee. He has instituted policies to help prevent this from occurring again. Ms. Richardson moved the Board dismiss the complaint against Mr. Roberts. Dr. Zook seconded the motion. Following review and discussion the motion carried by unanimous vote.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye	X	X	X	X	X	X	X
Nay							
Recused							
Abstained							
Absent							

- iii) Complaint #14-33; Jodi Sawicki Roberts, PT

Ms. Roberts was present and represented by Kevin Nicholas. Ms. Donahue provided a summary of the complaint allegations which included an allegation that Ms. Roberts provided Dry Needling treatment through clothing. Ms. Roberts provided a statement that she has never provided any Dry Needling treatment. The Board questioned Ms. Roberts. Ms. Hunter moved the Board dismiss the complaint against Ms. Roberts. Dr. Zook seconded the motion. Following review and discussion the motion carried by unanimous vote.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye	X	X	X	X	X	X	X
Nay							
Recused							
Abstained							
Absent							

- iv) Complaint #14-34; Noah Abrahams, PT

Mr. Abrahams was present and was not represented by legal counsel. Ms. Donahue provided a summary of the allegations to include that Mr. Abrahams disposed of used needles in a public recycling container. Mr.

Abrahams stated he did dispose of the needles in the recycling contained but stated they were in a container when he placed them and does not know how the container opened so the patient found them when using the container. Once he was notified he cleaned up the needles the best way he could, but may have missed some since it started raining. He now uses a lock top to dispose of needles. Ms. Hunter moved the Board vote the matter to a Formal Hearing. Ms. Akers seconded the motion. Following review and discussion the motion failed.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye			X				
Nay	X	X		X	X	X	X
Recused							
Abstained							
Absent							

Ms. Akers moved the Board dismiss the complaint and issue a non-disciplinary advisory letter to be cautious when disposing of biohazards and to follow his newly established procedures at all times. Dr. Zook seconded the motion. Following review and discussion the motion carried.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye	X	X		X	X	X	X
Nay			X				
Recused							
Abstained							
Absent							

- c) Review, Discussion, and Action on Board Order
 - ii) Complaint #13-27; Anthony Spillman, PTA

Mr. Spillman was present and was not represented by legal counsel. Mr. Spillman requested his restriction that prevented him from working under general supervision was preventing him from finding employment and requested the restriction be terminated. The Board discussed the request. Dr. Zook moved the Board terminate the restriction of not allowing Mr. Spillman to work under general supervision. Ms. Hunter seconded the motion. Following review and discussion the motion carried by unanimous vote.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye	X	X	X	X	X	X	X
Nay							
Recused							
Abstained							
Absent							

- a) Initial Review, Discussion and Action on Complaint
 - i) Complaint #14-15; James Kostrewa, PT

Mr. Kostrewa was not present and was not represented by legal counsel. Ms. Donahue reviewed the allegations to include substandard care and inadequate records. Dr. Miller moved the Board forward the complaint to an informal hearing and add all allegations noted in the investigative report. Ms. Richardson seconded the motion. Following review and discussion the motion carried by unanimous vote.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye	X	X	X	X	X	X	X
Nay							
Recused							
Abstained							
Absent							

- c) Review, Discussion, and Action on Board Order
 - i) Complaint #14-16; Brittany Tetlow, PT

Ms. Tetlow was not present. Ms. Donahue reported Ms. Tetlow has requested a five month extension to complete the terms of her order. Dr. Miller moved the Board approve the five month extension. Ms. Akers seconded the motion. Following review and discussion the motion carried by unanimous vote.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye	X	X	X	X	X	X	X
Nay							
Recused							
Abstained							
Absent							

- d) Review of Consent Agreement and Possible Action of Request for Termination of Board Order
 - i) Complaint #13-25; Susan Butler, PT

Ms. Butler was not present. Ms. Donahue reported Ms. Butler has met the terms of her order and requests early termination of probation. Ms. Akers moved the Board approve early termination of Ms. Butler's probation. Dr. Miller seconded the motion. Following review and discussion the motion carried by unanimous vote.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye	X	X	X	X	X	X	X
Nay							
Recused							
Abstained							
Absent							

- e) Review, Discussion and Action on Addition of Allegations on Complaint Forwarded to Informal Hearing
 - i) Complaint #13-40; Scott Jackson, PT

Mr. Jackson was not present and was not represented. Ms. Donahue explained that Mr. Jackson has disclosed criminal matters on his renewal that were not reported in the 10 days required and has a current pending case. Board staff requests the Board add the new allegations to the current pending case. Ms. Hunter moved to have the new allegations to the complaint currently awaiting an Informal Hearing. Dr. Zook seconded the complaint. Following review and discussion the motion carried by unanimous vote.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye	X	X	X	X	X	X	X
Nay							
Recused							
Abstained							
Absent							

- f) Review, Discussion and Action on Consideration of Opening A Complaint
 - i) Carissa Millikan, PT

Ms. Millikan was not present. Ms. Akers moved to open a complaint against Ms. Millikan's license. Ms. Richardson seconded the motion. Following review and discussion the motion carried by unanimous vote.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye	X	X	X	X	X	X	X
Nay							
Recused							
Abstained							
Absent							

5) BOARD BUSINESS AND REPORTS

- a) Executive Director's Report – Discussion and Possible Action
 - i) Financial Report
 - ii) Board Staff Activities
 - iii) Legislation
 - iv) Rule Activity
 - v) FSBPT
 - vi) Formal Hearings Pending with the Office of the Attorney General

Mr. Brown reviewed the Board's written report. Mr. Brown noted that the request to the Office of the Attorney General for a plan to address the pending Formal Hearings was not received to include no response to the consideration of a one-time increase to the contract paying for their services. Mr. Brown will put the request in writing to the Office of the Attorney General.

6) CALL TO THE PUBLIC

No person came forward requesting to address the Board.

Ms. Akers moved to adjourn the meeting. Ms. Richardson seconded the motion. After review and discussion the motion carried by unanimous vote.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye	X	X	X	X	X	X	X
Nay							
Recused							
Abstained							
Absent							

Meeting adjourned at 12:29 PM

Prepared by,

Charles D. Brown
Executive Director

Approved by,

Michael S. Clinton, CPA
Secretary