

REGULAR SESSION MEETING MINUTES
January 25, 2005

MEMBERS PRESENT: Helene Fearon, P.T., President
Donna Borden, P.T., Vice President
Joni Kalis, P.T., Secretary
Merlin Gossman, Member

MEMBERS ABSENT:

OTHERS PRESENT: Heidi Herbst Paakkonen, Executive Director
Peggy Hiller, P.T., Program Compliance Specialist (Investigator)
Carol Lopez, Licensing Administrator
Dawn Walton Lee, Assistant Attorney General

CALL TO ORDER – 8:30 a.m.

The meeting was called to order by Helene Fearon, P.T., Board President, at 8:30 a.m.

1. Approval of Minutes:

December 21, 2004; Regular Session Meeting

Ms. Fearon introduced the agenda item and the Board noted the date on the header of the minutes should read “December 21, 2004”. Ms. Fearon moved the minutes be approved as corrected. Mr. Gossman seconded the motion. The motion carried by a unanimous vote.

January 4, 2005; Special Session Meeting

Ms. Fearon introduced the agenda item and moved the minutes be approved as drafted. Mr. Gossman seconded the motion. The motion carried by a unanimous vote.

COMPLAINTS AND INVESTIGATIONS

2. Informal Hearing:

#04-22; T. Michael Hakes, P.T.

Ms. Fearon introduced the agenda item and Mr. Hakes appeared for the informal hearing. Ms. Fearon reviewed the hearing procedures and potential outcomes of the case. Ms. Deborah Moreasch, Court Reporter, swore in Mr. Hakes, and the Board members and staff introduced themselves to the licensee. Ms. Hiller summarized the complaint for the Board and noted that on November 23, 2004 the Board reviewed the probation compliance status of Mr. Hakes, who is currently serving a one-year probation relating to Complaint #02-23. Mr. Hakes is on probation for violations of A.R.S. § 32-2044 (6) substandard care and A.R.S. §32-2044(20) failing to maintain adequate patient records. Mr. Hakes’ Order of Probation required that he (1) meet weekly for 6 months with a board-approved clinical mentor and submit weekly summaries of these meetings; (2) make available patient records for

monthly chart reviews by his clinical mentor (Dr. Kathleen Ganley, P.T., Ph.D.) for a period of 6 months; and (3) obtain 10 contact hours of Category A continuing education specific to pediatric physical therapy. During the November meeting the Board expressed concerns about Mr. Hakes' lack of timeliness in submitting his mentoring summaries and about the results of Dr. Ganley's 2nd review of patient records, which identified continuing deficiencies in Mr. Hakes documentation. The Board questioned the 100% attendance for pediatric home visits documented in Mr. Hakes' patient records, and they noted that his 10 hour requirement for pediatric continuing education needed to be completed by 02/23/05. The Board moved this complaint to an Informal Hearing under the jurisdiction of A.R.S. §32-2044(1), violating this chapter, Board rules or a written Order of the Board and under A.R.S. §32-2044(20), failing to maintain adequate patient documentation, and requested that Mr. Hakes submit a written response including evidence of having completed his required 20 contact hours of continuing competence for renewal in 2004 (in addition to his 10 hour probation requirement). In response to this complaint, Mr. Hakes submitted:

1. A written response from Mr. Hakes identifying completion of the required 26 mentoring sessions with Dr. Ganley and responding to the Board's concerns about his lack of timeliness in submitting the mentoring summaries, the perfect attendance records for his home-based pediatric patients, his continuing competence materials for 2002–2004, and a discussion of the deficiencies found in Dr. Ganley's 2nd review of patient records.
2. Summaries of mentoring sessions with Dr. Ganley 07/12/04—12/07/04 (Sessions #19–26).
3. Copies of course brochures for the following Category A pediatric physical therapy courses:
 - “Ready Bodies, Learning Minds!” sponsored by Professional Education Programs, approved by Kansas Physical Therapy Association for 6 contact hours (Category A)—*Approved 11/29/04*
 - “Strategies for Treating the child with Neurological Impairments” sponsored by Education Resources, Inc., approved by American Occupational Therapy Association for 12 contact hours (Category A)—*Approved 01/13/05*

Additionally, a report was submitted by Dr. Ganley dated January 14, 2005 concerning her 3rd review of 5 patient records for children treated by Mr. Hakes. Ms. Hiller advised the Board that Mr. Hakes has now completed all of the mentoring requirements, three (3) of the five (5) reviews of patient records, and he has obtained approval for all 10 hours of Category A pediatric physical therapy continuing education.

In his opening statement to the Board, Mr. Hakes advised the Board that he was working diligently to improve his clinical and documentation skills, and he stated that he believed the mentoring he had received from Dr. Kathleen Ganley, P.T., Ph.D., had been extremely helpful, and he is working to implement her suggestions. He called to the Board's attention the reason why his records appeared to suggest that his families have a perfect attendance with treatment visits – he selected for review those families who have the best attendance rates, he only recorded visits that were accomplished and did not record cancellations, and he pointed out the Arizona Early Intervention Program (AzEIP) requires families to be committed participants in the program. Mr. Hakes advised the Board that, in his best estimate, the actual attendance rate for the treatment visits is approximately 78%. He admitted to being tardy with submitting several of his mentoring reports to the Board office, and he cited the reasons for the delays as including forgetting to obtain Dr. Ganley's signature, lacking the time to immediately record his notes from the mentoring sessions, and lack of immediate access to a fax machine. In response to the Board's questions, Mr. Hakes described his training provided by AzEIP as lecture and discussions among fellow program providers. The courses addressed documentation, family interactions, collaborative services for families and administrative issues. He noted that the

courses are mandatory training for all AzEIP providers. Mr. Hakes advised the Board that the AzEIP assigned him a mentor as well – an occupational therapist – and that he believed the mentoring relationships were complementary as one addressed program specific information and the other helped him improve as a clinician. Board staff clarified Mr. Hakes’ status with respect to his continuing competence requirements; he has submitted his documentation for the 2002-2004 licensure period, and it will be audited by the Board’s Continuing Competence Audit Committee on January 27, 2005. Mr. Hakes is scheduled to complete his additional 10 hour requirement per the Board’s Order relative to complaint #02-22 at the end of January. The Board requested Dr. Ganley appear for questioning relative to the hearing; she was sworn in by Ms. Moreasch. Dr. Ganley summarized the previous report she had submitted for the Board which was reviewed during the initial review of the complaint on November 23, 2004. She reported that she felt the mentoring sessions have gone well and that she has observed significant improvements in Mr. Hakes’ documentation. Dr. Ganley stated that she felt as though the goals of the mentoring sessions have been met, although his documentation still has room for improvement. Mr. Hakes commented to the Board that he felt that continuation of his probation to accomplish additional mentoring and critique of his records would be very beneficial; Dr. Ganley concurred with this statement. She cited as one example that she expected Mr. Hakes to document in a child’s record his or her inability to perform age-appropriate tasks and skills. While AzEIP does not require this information, A.R.S. §32-2044(20) and A.A.C. R4-24-303 do require this information. Mr. Hakes and Dr. Ganley noted that it was more appropriate for her to be reviewing records for those patients who were assigned to his caseload prior to the complaint being filed as older patient records will likely lack an initial evaluation and documented treatment goals. In response to the Board’s questions, he stated that he feels he is not prepared to resume treating medically fragile infants and toddlers.

The Board concluded the hearing and deliberated the case. Ms. Fearon moved the Board offer Mr. Hakes a Consent Agreement that would extend his probation ordered in complaint #02-22 by 90 days for purposes of continuing his mentoring and records review sessions. Mr. Gossman seconded the motion. The roll call vote was unanimous.

Note: The Board Agenda was reordered as follows

4. Initial Review:

#04-13; Suzanne Brown, P.T

Ms. Fearon introduced the agenda item, and Ms. Hiller summarized the investigative report. The complaint against Suzanne Brown, P.T. was filed by Geert Cuypers, P.T., a student enrolled in the A.T. Still University (formerly Arizona School of Health Sciences, or ASHS) on-line Transitional DPT program (TDPT). Mr. Cuypers submitted a 17 page complaint with 63 pages of support documentation against Ms. Brown, as Chair and faculty of the TDPT program, alleging discrimination and unprofessional conduct. Specifically, Mr. Cuypers accuses Ms. Brown of discrimination against someone with a “social disability”, and displaying an attitude of contempt towards non-APTA (American Physical Therapy Association) members and foreign-educated applicants. If true, these allegations may be a violation of:

- A.R.S. §32-2044(1) “Practicing physical therapy in violation of this chapter or rules adopted pursuant to this chapter.”
- A.R.S. §32-2044(12) “Failing to adhere to the recognized standards of ethics of the physical therapy profession.”
 - **Code of Ethics Principle 1** “Physical therapists respect the rights and dignity of all individuals

- **Guide for Professional Conduct 1.1.C.** “Physical therapists shall not engage in conduct that constitutes harassment or abuse of, or discrimination against, colleagues, associates, or others.”
- **Code of Ethics Principle 4** “Physical therapists maintain and promote high standards for physical therapy practice, education, and research.”
 - **Guide for Professional Conduct 4.4 B.** “Physical therapists functioning in the educational role are responsible to the students, the academic institutions, and the clinical settings for promoting ethical conduct in educational activities. Whenever possible, the educator shall ensure: (3.) professional conduct toward the student during the academic and clinical educational processes.”

Ms. Hiller noted that the complainant had filed numerous complaints against several of his fellow students with their respective state licensing Boards as well as with the American Physical Therapy Association. Additionally, a complaint was filed against A.T. Still University with the Arizona Private Postsecondary Education Board. All of these complaints were dismissed, and Ms. Hiller noted that her investigation focused only on Ms. Brown’s conduct as it relates to the Board’s jurisdiction. The Board discussed the fact that on January 20, 2005 and January 21, 2005 the complainant had submitted two e-mail messages to the Board office that contained new allegations of misconduct by Ms. Brown. Board staff had advised Mr. Cuyper that the Board may either decide to open a new investigation concerning the new allegations, or it could incorporate those allegations into the existing complaint. Ms. Lee advised the Board that the licensee had not received notice of the new allegations, and had not had an opportunity to respond to them. Board staff advised the Board that the new allegations would have to be analyzed in order to determine whether the Board had jurisdiction to even investigate them. Ms. Fearon moved to table the review of the complaint and continue it during the February regular session meeting. Ms. Borden seconded the motion. The motion carried by a unanimous vote.

16. Discussion and Possible Action and Possible Proposed Legislation to Modify Supervision Statutes

Ms. Fearon introduced the agenda item, and Ms. Herbst Paakkonen apprised the Board of the reputed plans of the Arizona Association for Home Care to request a bill that would make changes to the Board’s statutes in terms of allowing physical therapist assistants to work in home health care setting without the on-site supervision of a physical therapist. The Association leadership met with the Arizona Physical Therapy Association (AzPTA) to discuss its interest in changing the statutes, and Ms. Herbst Paakkonen invited representatives of both organizations to this meeting to discuss the issue. Ms. Herbst Paakkonen shared with the Board some data concerning the number of P.T.A.s certified in Arizona, and reported on some figures compiled by the Commission on Accreditation of Physical Therapy Education (CAPTE) relative to the number of P.T.A. programs and estimated number of graduates from those programs. Suzanne Gilstrap, lobbyist for the Arizona Association for Home Health Care, and Mike Fostito, Chair of the Governmental Affairs Committee of the Association, were invited to address the Board. Ms. Gilstrap stated to the Board that it is the Association’s position that patient care is the predominant issue, and that patients are being turned away by home health care agencies due to the lack of physical therapists available to provide them with care. Ms. Gilstrap advised the Board that the home health care industry wants to have the flexibility to employ P.T.A.s to provide physical therapy services to their patients. She noted that their Association met with AzPTA to discuss this issue, and wanted to have the same discussion with the Arizona Board of Physical Therapy. Mr. Fostito spoke, and noted that their organizations view P.T.A.s in relation to P.T.s the same way they view certified occupational therapist assistants (C.O.T.A.s) to occupational therapists,

and Registered Nurses (R.N.s) to Licensed Practical Nurses (L.P.N.s). He further stated that physical therapists working in home health care settings are too busy doing patient evaluations and that they don't have time to visit patients. In response to the question concerning whether the Association has considered patient protection, Mr. Fostito replied "no", but stated that they would be sensitive to it. He commented that it is his Association's belief that physical therapists should continue to evaluate, discharge and conduct periodic evaluations of patients. Additionally, the physical therapists must evaluate the qualifications of physical therapist assistants prior to allowing them to see patients unsupervised. In response to the Board's questions, Ms. Gilstrap and Mr. Fostito replied that they did not know the number of certified physical therapist assistants in Arizona. They commented that all states that surround Arizona have less stringent statutes relative to supervision of P.T.A.'s. The Board commented that this issue would require additional study to determine, among other things, whether the shortage of physical therapists is a distribution problem affecting home health care, or if it is a more systemic problem. The Board's position is that any proposed legislative changes must not affect patient care or safety. Robert Direnfeld, P.T. and President of AzPTA addressed the Board and stated that the Board of Directors is opposed to any plans to change the Board's statutes with respect to supervision of physical therapist assistants. He noted that nothing has changed since AzPTA and the Board established the current requirements in 1998. Mr. Direnfeld also advised the Board that AzPTA has no data to suggest that a serious problem exists in availability of physical therapy care for home health care patients. He reiterated the concerns of patient protection and safety given the care requirements of the patient population and their tendency to experience sudden changes in their health status that a P.T.A. would not have the education and training to address. Finally, Mr. Direnfeld reported that in California, many physical therapists are refusing to allow P.T.A.'s to go to a home health care patient because of the potential implications to the physical therapist's license should a patient be harmed. The Board and Mr. Direnfeld discussed the potential for any bill that would purport to change only the supervision statutes to be amended, compromising the Board's ability to protect the public. The Board thanked Ms. Gilstrap and Mr. Fostito for their attendance and information, and invited them to attend the Board's February meeting in order to continue the discussion.

8. Request for Early Termination of Probation

#03-08; Dan DeCraene, P.T.

Ms. Fearon introduced the agenda item, and Ms. Herbst Paakkonen reported that Mr. DeCraene had filed this request on the basis of his compliance with the terms of his probation. Mr. DeCraene had completed his required courses, and the review of his patient records by Ms. Hiller established that his documentation met the requirements of A.R.S. §32-2044(20). Mr. DeCraene is relocating to the State of Indiana which presents some challenges for Board staff to continue to review his patient records. Ms. Borden moved Mr. DeCraene's request for early termination of his probation be granted. Mr. Gossman seconded the motion. The motion carried by a unanimous vote.

BOARD BUSINESS AND REPORTS

14. Executive Director's Report:

a. Financial Report: No additional information to report.

b. Board Staff Activities: No additional information to report.

c. FSBPT Initiatives and News: Blair Packard, P.T. and immediate past president of the Federation of State Boards of Physical Therapy was granted permission to address the Board concerning the lawsuit filed by the American Physical Therapy Association against the Federation concerning breach of contract relative to the national examination transfer agreement. Mr. Packard stated that as the immediate past president, he continues to serve in an advisory role to the Board of Directors of

FSBPT, and he has participated in depositions concerning the lawsuit. He commented that he is strongly opposed to the APTA requesting P.T. and P.T.A. educational program directors to write to their respecting state licensing Board urging those Boards to support the APTA position on the lawsuit, and he opined that this conduct is inappropriate and that it unduly attempts to influence the regulation of the profession. Mr. Packard asked that the Board consider writing a letter to APTA stating its opposition and resistance to this type of intrusion. He noted that the Arizona Board of Physical Therapy could assume the lead in this effort and share its communication with the other physical therapy Boards throughout the country. The Board briefly reviewed the history of the establishment of the Federation and the rationale for the APTA – a professional membership association – divesting itself of the national licensure examination due to conflict of interest concerns. The Board thanked Mr. Packard for addressing this issue.

d. Legislative Update: No additional information to report.

COMPLAINTS AND INVESTIGATIONS

5. Review of Complaint and Possible Action Concerning Demurral to Invitation of Informal Hearing - CONTINUATION

#04-09; Marva Tahan, P.T.

Ms. Fearon introduced the agenda item and moved the Board meet in Executive Session for purposes of obtaining legal advice from Board counsel. Ms. Kalis seconded the motion. The motion carried by a unanimous vote. Upon resuming the meeting in public session, Ms. Fearon moved the Board issues an Advisory Letter to Ms. Tahan addressing her failure to co-sign treatment notes for the patient P.W. who was treated by Ms. Janee Forbis – a physical therapy technician – on June 10, 2002 and on June 14, 2002. Mr. Gossman seconded the motion. The motion carried by a unanimous roll call vote. The Board thanked Ms. Chesica Hall, attorney for Ms. Tahan, for attending the review of this complaint and for preparing the most recent written response to the complaint, and advised Ms. Hall that has Ms. Tahan co-signed those treatment notes, the complaint would have been dismissed and would not have reached the Informal Hearing stage. Ms. Fearon moved the Board open a complaint against Patty Dunn, P.T. for purposes of investigating her conduct relative to supervision and documentation concerns during her employ at Sun Valley Physical Therapy. Mr. Gossman seconded the motion. The motion carried by a unanimous vote.

SUBSTANTIVE REVIEWS OF APPLICATIONS FOR LICENSURE & CERTIFICATION

10. Substantive Review and Possible Action on the Following Applications for Physical

Therapist Licensure:

Amy A. Bartley	Nicklaus E. Biederwolf	Rebecca A. Cook
James M. Druyvestein	Shelley J. Duflo	DeAnne L. Dunsmoor
Catherine E. Grimes	Joshua R. Hamilton	Krista L. Keck
Judith G. Nelson	Frederick H. Richardson	Christopher Stulginsky
Roseanne F. Teh	Timothy A. Williams	

Ms. Fearon introduced the agenda item, read the names of the applicants for the record, and noted that the files were administratively complete. The Board noted that Ms. Grimes had a two year absence from physical therapy school, but she earned good grades and passed the national examination. Ms. Borden moved the listed applicants be licensed with the exception of Mr. Williams; Ms. Kalis seconded the motion. The motion carried by a unanimous vote. Mr. Williams requested and was granted approval to address the Board concerning his application for licensure; his attorney, Mr. Bruce Griffin, accompanied Mr. Williams. Ms. Herbst Paakkonen summarized his application file consisting

of “yes” answers to several questions on his application concerning his felony conviction of sexual assault in Coconino County Court on June 14, 2002, his disciplinary action that commenced on April 26, 1994 and concluded on April 26, 1995 relative to a consensual sexual relationship with a patient, and his voluntary surrender of his physical therapist license on September 9, 2002 concerning the aforementioned criminal conviction. She noted that the Consent Agreement that stipulated the terms under which Mr. Williams’ license would be surrendered required that Mr. Williams undergo a psychological evaluation prior to reapplying for licensure. The Board discussed the evaluation report prepared by Dr. Kelly Krietsch, Ph.D., reviewed the Court’s ruling to vacate Mr. Williams’ conviction and noted that there were several letters of support for Mr. Williams. The Board concurred that it would make a request for additional substantive information in the form of interviews with Mr. Williams and with Dr. Krietsch. Board staff was directed to make the interview arrangements for the Board’s February 22, 2005 regular session meeting.

COMPLAINTS AND INVESTIGATIONS

6. Review of and Possible Action on Unlawful Practice Investigations:

#05-01-UPI Todd Lukasik, P.T.

Ms. Fearon introduced the agenda item, and Ms. Herbst Paakkonen summarized the investigation that consisted of Mr. Lukasik contacting the Board office to report that he had failed to renew his physical therapist license and that he continued to practice as a physical therapist doing contract work until December 29, 2004. His application for reinstatement of his license, and his Affirmation of Employment Status form were submitted to the Board office on December 30, 2004; however, he failed to submit the reinstatement fee of \$100. He did not submit that fee until January 5, 2005 at which time his license was reinstated. Ms. Kalis moved the Board find Mr. Lukasik in violation of A.R.S. §32-2044(1), violating this chapter, Board rules or a written Board order, and in violation of A.R.S. §32-2048(A), unlawful practice. Ms. Fearon seconded the motion. The motion carried by a unanimous roll call vote. Ms. Fearon moved the Board offer Mr. Lukasik a Consent Agreement stipulating that the licensee be placed on probation for 6 months during which time he shall pay a civil penalty of \$250, write a 500-word minimum essay summarizing the Board’s statutes and rules addressing timely renewal of licensure and ramification for unlawful practice, complete 40 hours of community service, and provide written evidence of having notified his employer of the period of time during which he practiced unlawfully. Ms. Borden seconded the motion. The motion carried by a unanimous roll call vote. Should Mr. Lukasik decline the opportunity to sign the agreement, the Board will conduct an informal hearing relative to the unlawful practice case.

3. Initial Review:

#04-12; Erwin “Mike” Edwards, P.T.

Ms. Fearon introduced the agenda item and Ms. Hiller summarized the complaint filed against Erwin (“Mike”) Edwards (license # 6250) as filed by V.P., a former patient who was treated at the Kingman Regional Medical Center Wellness Clinic from 11/03/03–12/18/03. Mr. Edwards treated V.P. at 8 of her 12 treatment visits. The complaint alleges that Mr. Edwards’ charges were excessive in that he billed for “skilled services” when she was actually working on her own during the treatment session performing her “repetitious” home exercise routine. V.P. was referred by J. Cruvey Spencer, M.D. for evaluation and treatment for a 3 year history of low back pain. Ramona Osborne Gill, P.T. performed an initial evaluation on 11/03/03 with findings of lumbar and abdominal muscle weakness, poor posture, neural tension RLE with slump test and lumbar paraspinal muscle spasm due to pain. Ms. Gill initiated a treatment plan of therapeutic exercise, therapeutic activities, modalities for pain relief, and instruction in home exercises. According to her narrative complaint, V.P. was given home exercises to

do twice daily and she performed these exercises as well during her treatment visits. She states that when Mr. Edwards was her treating therapist she did her exercises on her own either at the beginning or end of the treatment session. V.P. objects to being billed for “skilled services” for these treatment visits. If true, these allegations may be a violation of:

- A.R.S. § 32-2044 (13) “Charging unreasonable or fraudulent fees for services performed or not performed.”
- A.R.S. § 32-2044 (12) “Failing to adhere to the recognized standards of ethics of the physical therapy profession.”
 - **Code of Ethics** Principle 5 “Physical therapists seek remuneration for their services that is deserved and reasonable
- A.R.S. § 32-2044 (1) “Violating this chapter, board rules or a written board order.”

In response to the allegation that V.P. performed repetitious and duplicative home exercises during her treatment visits, Mr. Edwards explained that the stretching exercises given to V.P. needed to be performed often and accurately to be of benefit. He noted that V.P. was told to demonstrate the home exercises under his supervision so that she could communicate any concerns and for him to obtain feedback and insight concerning exercise performance and patient motivation. The exercises also served as warm-up for other exercises performed during treatment. Mr. Edwards attributes V.P.’s dissatisfaction as stemming from a lack of understanding about the purposes of performing her home exercises during treatment. With respect to the allegation that V.P. was not supervised during these exercises and that he was inattentive, Mr. Edwards affirmed that his daily notes demonstrate his involvement in V.P.’s treatment sessions. He performed manual hamstring stretching and attempted manual therapy/muscle energy techniques to increase pelvic mobility. He regularly assessed and adjusted V.P.’s plan of care based on her subjective reports, signs and symptoms. Mr. Edwards believes that she perceived him as uninvolved because her independence and reliability with her exercises allowed him to direct his attention to other clients who needed his supervision or input. “She may have been performing her program independently, but was always under my supervision or the supervision of another therapist or support staff on site.” Finally, Mr. Edwards addresses the allegation that V.P. was wrongfully billed for modalities, especially moist heat by stating that he used moist heat as part of V.P.’s treatment as a “warm-up intervention” in conjunction with the stretching exercises. He responded that V.P. was charged only for the services she received. Mr. Edwards stated that he is bound by Principle 7 of the APTA’s Code of Ethics to “seek such remuneration that is deserved and reasonable for physical therapy services, and he would never charge for services that were not rendered or unnecessary. Ms. Hiller advised the Board that the physical therapy treatment records were reviewed for compliance with A.R.S. § 32-2044 (20) “adequate patient records”. The treatment records meet the minimum standards in that they are legible and contain an initial evaluation of objective findings, a diagnosis, the plan of care, a record of daily treatment and a discharge summary. She noted the following with respect to the records relating to the allegations of this complaint:

- The initial evaluation on 11/03/03 was performed by Ramona Osborne-Gill, P.T. license # 6101) and Mr. Edwards provided treatment on the 3rd—9th visits and at the final treatment visit on 12/18/03;
- The treatment notes for almost all dates when services were provided by Mr. Edwards (except for the last 2 visits where a different note form was utilized) contain meticulous detail about V.P.’s subjective reports, treatment interventions provided, exercises performed and patient response to treatment;

- Mr. Edwards wrote a progress report dated 11/19/03 noting patient status and increased symptoms, and he wrote the discharge summary dated 12/18/03;
- V.P.'s treatment documentation supports Mr. Edwards' skilled involvement in her physical therapy treatment sessions.

The Board discussed the report and questioned several aspects of the billings statements as they related to the treatment notes. The Board questioned whether additional documentation in the form of Mr. Edwards' charge sheets and a written explanation of how his charge sheets were coded for billing purposes would indicate whether charges were appropriate and accurate. Ms. Fearon moved Mr. Edwards be invited to an informal hearing before the Board; Ms. Kalis seconded the motion. The motion carried by a unanimous vote.

7. Request for Voluntary Surrender of Licensure

Kathleen A. Parke, P.T.

Ms. Fearon introduced the agenda item and Ms. Herbst Paakkonen summarized the matter consisting of Ms. Parke's failure to submit her continuing competence documentation in response to a notice of audit that she received on November 2, 2004. Ms. Parke had affirmed on her licensure renewal application that she had met the requirement. Ms. Herbst Paakkonen participated in a conversation with Ms. Parke on December 22, 2004 at which time Ms. Parke stated that she could not take the time to report her continuing education hours in the format required by the Arizona Board of Physical Therapy. Ms. Herbst Paakkonen advised Ms. Parke that placing her license on an "inactive status" was not an option as the Board's statutes have no such provision; she also reported to Ms. Parke the Board's decision on December 21, 2004 to find her in violation of A.R.S. §32-2044(1), violating this chapter, Board rules or a written Order of the Board relative to A.A.C. R4-24-401(G)(2), within 30 days of receipt of a notice of audit, a licensee shall submit evidence to the Board that shows compliance with the requirements of continuing competence. Ms. Parke indicated to Ms. Herbst Paakkonen that she would likely submit a request for voluntary surrender of her license. The Board office received that request on January 13, 2005. The Board reviewed and discussed A.R.S. §32-2047(7) which states that the Board may accept a voluntary surrender of licensure if approved by the Board. Ms. Fearon moved the Board send Ms. Parke a Consent Agreement that would accept her voluntary surrender of licensure with the following findings: Ms. Parke failed to submit her continuing competence documentation in response to a notice of audit in violation of A.R.S. §32-2044(1), violating this chapter, Board rules or a written Order of the Board, and a violation of A.R.S. §32-2044(3), obtaining or attempting to obtain a license or certificate by fraud or misrepresentation. Mr. Gossman seconded the motion. The motion carried by a unanimous vote.

9. Revision of Board Order

#04-11; Lorri Bentley, P.T.

Ms. Fearon introduced the agenda item and Ms. Herbst Paakkonen advised the Board that she had drafted the Order for this complaint to include a provision that Ms. Bentley provide restitution for any overpayment that may be due to the complainant for incorrect treatment billing; she had understood the Board's action on December 21, 2004 relative to the complaint to include this provision. Ms. Lee had reviewed the draft Order and noted that the Board lacked the statutory authority to order a licensee to make restitution. The Order was presented to the Board for modification. Ms. Fearon moved the restitution provision be struck from the draft Order. Ms. Borden seconded the motion. The motion carried by a unanimous vote.

SUBSTANTIVE REVIEWS OF APPLICATIONS FOR LICENSURE & CERTIFICATION

11. Substantive Review of and Possible Action on the Following Applications for Physical Therapist Assistant Certification:

Dana L. Belzner	Jane M. Jackson	
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Ms. Fearon introduced the agenda item, read the names of the applicants for the record, and noted that the files were administratively complete. The Board discussed the fact that the application for Ms. Belzner indicated that she had not worked as a physical therapist assistant since 1998. The Board questioned whether Ms. Belzner had maintained her knowledge in the field of physical therapy through completion of continuing education courses or activities, and questioned her plans to reenter the profession after an absence of approximately six years. Ms. Borden moved certification be granted to Ms. Jackson and that Ms. Belzner be invited to an application interview during the Board's regular session meeting on February 22, 2005. Mr. Gossman seconded the motion. The motion carried by a unanimous vote.

12. Request for Waiver of Continuing Competence Requirements Sharon Yacovone, P.T.

Ms. Fearon read the agenda item and Ms. Herbst Paakkonen explained to the Board that Ms. Yacovone was audited for completion of her continuing competence by virtue of the fact that she renewed and reinstated her physical therapist license on December 6, 2004. Ms. Yacovone completed the audit reporting form and listed some course she had taken, but attached a note explaining that she could not locate her documentation and could not recall all of the courses that she had completed. She had also stated in the note that she had suspended practicing as a physical therapist to care for an adult daughter who had been severely injured in a motor vehicle accident on October 19, 2003. Although Ms. Yacovone did not expressly request a waiver or partial waiver of her continuing competence requirements, Board staff elected to present her note to the Board for consideration of the waiver. The Board discussed the matter and determined that the information presented did not rise to the level of justifying a waiver. Ms. Borden moved the Board deny the request for waiver; Ms. Kalis seconded the motion. The motion carried by a unanimous vote. Board staff noted that Ms. Yacovone's documentation will be reviewed by the Board's Continuing Competence Audit Committee on January 27, 2005 at which time it will assuredly be recommended that the Board find her out of compliance. Her file will then come back to the Board during its February 22, 2005 regular session for review and action. If she is found out of compliance by the Board, pursuant to A.A.C. R4-24-401(K) she will be granted six months with which to come into compliance.

BOARD BUSINESS AND REPORTS

13. Update and Possible Action Related to Jurisprudence Examination Development Project

Ms. Fearon introduced the agenda item, and Ms. Kalis reported that the Item Review meeting held on January 22, 2005 was a success. The meeting ran from 8:00 a.m. until 6:30 p.m. during which time 109 items were reviewed – enough for two examination forms. Cindy Searcy, Ph.D. and Managing Director of Assessment for the Federation of State Boards of Physical Therapy facilitated the meeting, and she has made arrangements for the Item Reviewers to complete the remaining items by logging in to the secure examination development web-based software system. The Board members and staff who were present for the Item Review meeting commented that the items were rather challenging with few of the items consisting of simple recall questions. Ms. Borden advised the Board that the Pass-Point Committee meeting – scheduled for February 12, 2005 – will be critical in terms of weighting each item to establish the pass point for the examination. Ms. Herbst Paakkonen advised the Board

that several of the original applicants for the Pass Point Committee were not available for the scheduled date; the Board suggested several physical therapists to contact for purposes of requesting they volunteer for the Committee.

15. Review, Discussion and Possible Approval of Proposed Revisions to A.A.C. Title 4, Chapter 24, Articles 1 and 2

Ms. Kathleen Phillips met with the Board to review the comments and questions that arose from the Board's review of the rules draft during its special session meeting on January 4, 2005. The Board reviewed the changes that were made by Ms. Phillips and discussed additional changes that were necessary. Ms. Phillips also advised the Board concerning some changes that could not be made due to complexity, lack of statutory authority and compliance with rule-writing standards and proper form. Ms. Phillips and Ms. Lee also discussed some legal questions concerning grounds for denial of an application and waiver of confidential records by licensees and applicants. Ms. Phillips assured the Board that she would draft the new changes and present an updated draft to the Board.

17. Election of Board Officers for 2005

Ms. Fearon introduced the agenda item, and Ms. Kalis moved Ms. Fearon be elected President of the Board. Ms. Gossman seconded the motion. The motion carried by a unanimous vote. Ms. Fearon moved Ms. Kalis be elected Vice President and Mr. Gossman be elected Secretary. Ms. Borden seconded the motion. The motion carried by a unanimous vote.

CALL TO THE PUBLIC

None

ADJOURNMENT

The meeting adjourned at 1:35 p.m.

Prepared by,

Heidi Herbst Paakkonen
Executive Director

Approved by,

Joni Kalis, P.T.
Secretary