

**REGULAR SESSION MEETING MINUTES**  
**April 22, 2005**

**MEMBERS PRESENT:** Helene Fearon, P.T., President  
Joni Kalis, P.T., Vice President  
Merlin Gossman, Secretary  
Donna Borden, P.T., 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 – 11:30 a.m.**

The meeting was called to order by Helene Fearon, P.T., Board President, at 11:30 a.m.

**Presentation of Plaque and Certificate to Retiring Board Member, Donna Borden, P.T.**

Ms. Fearon announced the retirement of Ms. Donna Borden after completion of her four-year term of service on the Arizona Board of Physical Therapy. On behalf of the Board, Ms. Fearon presented Ms. Borden with a Certificate of Appreciation issued by Governor Janet Napolitano, a plaque commemorating her service on the Board, and some personal tokens of gratitude. Due to the many members of the public in attendance, the Board members and staff were introduced. Ms. Fearon also introduced Dr. Mark Cornwall, P.T. (Ms. Borden's successor) and Mr. Randy Robbins who are recent appointees to the Board and who will begin their service in May.

**1. Approval of Minutes:**

**March 22, 2005; Regular Session Meeting**

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

**March 31, 2005; Special Session Meeting**

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

## **SUBSTANTIVE REVIEWS OF APPLICATIONS FOR LICENSURE & CERTIFICATION**

### **2. Substantive Review and Possible Action on the Following Applications for Physical Therapist Licensure:**

<b>Timothy K. Addie</b>	<b>Michael D. Beebe</b>	<b>Kirk T. Bradley</b>
<b>Maire E. Cuasin</b>	<b>Florin I. Dobrea</b>	<b>J.D. Gaynor</b>
<b>Jodi R. Gliray</b>	<b>Beth Habelow</b>	<b>Melissa C. Hills</b>
<b>Gillian J. Jackson</b>	<b>Monica M. Jensen</b>	<b>Traci M. Little</b>
<b>Elizabeth A. Lockwood</b>	<b>Scott J. Malena</b>	<b>Kris A. Metzler</b>
<b>Amy J. Pearson</b>	<b>Gina T. Pezzetti</b>	<b>Hugo R. Rodriguez</b>
<b>Laurie B. Stratton</b>	<b>Nicole L. Summerlin</b>	<b>Candace A. Watkinson</b>

Ms. Fearon introduced the agenda item, read the names of the applicants for the record and noted that the files were administratively complete. She moved licensure be granted to the listed applicants. Ms. Borden seconded the motion. The motion carried by a unanimous vote.

### **3. Substantive Review and Possible Action on the Following Applications for Physical Therapist Assistant Certification:**

<b>Carolyn D. Benally</b>	<b>Dina M. Davis</b>	<b>Cassandra K. Mead</b>
<b>Matthew A. Namihas</b>	<b>Suzanne L. Whitter</b>	

Ms. Fearon introduced the agenda item, read the name of the applicants for the record and asked the Board to comment on the files. The Board noted that on the New Mexico verification of licensure form for Ms. Benally, the box indicating whether there was disciplinary action was not checked. The Board directed Ms. Lopez to contact that Board office for follow-up. The Board also noted that Ms. Davis had not worked as a physical therapist assistant since March of 1999. The application of Mr. Namihas was also discussed relative to several notations that he made on his application indicating that he had previously worked as a "staff therapist". The Board directed Ms. Lopez to contact Mr. Namihas to request that he verify each job role he held previously and that she bring his application back on the next agenda if his responses indicate that he has ever functioned as a physical therapist. Ms. Fearon moved the listed applicants be granted certification with the exception of Ms. Banally and Mr. Namihas; their certification will be granted effective Ms. Lopez's research. Ms. Borden seconded the motion. The motion carried by an unanimous vote.

### **4. Substantive Review of and Possible Action on the Following Applications for Physical Therapist Licensure (Foreign Educated, Graduates of Program Not Accredited by (CAPTE): Amado T. Ariola**

Ms. Fearon read the name of the applicant and requested an update on his file. Ms. Lopez advised the Board that Mr. Ariola's corrected credential evaluation report did not arrive from the Foreign Credentialing Commission on Physical Therapy (FCCPT) as anticipated. Ms. Fearon noted that the substantive review of the application would be tabled until the report is received in the Board office.

#### **Maria T. Ariola**

Ms. Fearon read the name of the applicant and noted that her file was administratively complete. The Board reviewed her credential evaluation report which indicated that she had met the requirement of a substantially equivalent education to that of a graduate of a U.S. accredited program pursuant to A.R.S. §32-2022(B)(3). Ms. Borden moved the Board find the applicant's education substantially equivalent to that of a graduate of a U.S. accredited program. Ms. Kalis seconded the motion. The motion carried by a unanimous vote. The Board directed Ms. Lopez to inform Ms. Ariola that she may either submit

documentation to demonstrate that she had met the requirement of the supervised clinical practice period, or she may submit a proposal for a supervised clinical practice period.

**Miguel Anton Bunag**

Ms. Fearon read the name of the applicant and noted that the file was administratively complete. The Board reviewed Mr. Bunag's credential evaluation report and noted that it indicated his education was substantially equivalent pursuant to A.R.S. §32-2022(B)(3). The Board reviewed the documentation Mr. Bunag submitted to support his request that the Board find he had already met the requirement of the supervised clinical practice period. His resume indicated some repetitive information with respect to the professional positions he held previously, but the Board concluded that he had provided sufficient information to support his request. Ms. Borden moved the Board find the education of Mr. Bunag substantially equivalent to that of a graduate of a U.S. accredited program, find he had met the requirement of the supervised clinical practice period, and grant him licensure. Ms. Fearon seconded the motion. The motion carried by a unanimous vote.

**Patricia B. Scott**

Ms. Fearon read the name of the applicant and noted that the file was administratively complete. The Board attempted to review the credential evaluation of Ms. Scott and cross-check the information with additional credit hours that she had completed at Philadelphia Community College and Scottsdale Community College. After significant analysis by Ms. Lopez, it was determined that Ms. Scott had earned a total of 9 hours between the two schools that were not reflected on her credential evaluation report. These courses bring her general education credit hours to 59 – one more than the required minimum. Ms. Scott's professional education credits totaled 103.5. Ms. Borden moved the Board find the applicant's education substantially equivalent to that of a graduate of a U.S. accredited program. Ms. Fearon seconded the motion. The motion carried by a unanimous vote. The Board discussed the fact that Ms. Scott had not practiced as a physical therapist since May of 1999, and that her previous practice experience did not demonstrate that she had met the requirement of the supervised clinical practice period. Ms. Borden moved the Board grant Ms. Scott an Interim Permit for purposes of completing a supervised clinical practice period. Ms. Fearon seconded the motion. The motion carried by a unanimous vote.

**Elaine Start**

Ms. Fearon read the name of the applicant, and the Board discussed the fact that Ms. Start's credential evaluation report indicated that she had earned only 9 hours credit hours of general education resulting in a deficiency of 49 credit hours. The Board also reviewed the statement in the report that indicated Ms. Start's professional education was lacking in required content against A.R.S. §32-2022(B)(3) which states that an applicant's professional education cannot contain deficiencies of such a magnitude that would cause the education to be deemed below entry level preparation for practice in Arizona. Ms. Borden moved Ms. Start's education be found not substantially equivalent, and that she be advised she may complete her general education deficiencies by either completing college coursework, or through the College Level Examination Program (CLEP). Ms. Kalis seconded the motion. The motion carried by a unanimous vote.

**Note: The agenda was reordered as follows**

**BOARD BUSINESS AND REPORTS**

**8. Jurisprudence Examination Development Project**

**a. Update and Possible Action Concerning Time-Line**

Ms. Borden and Ms. Herbst Paakkonen reported to the Board the status of the project. They recently participated in a teleconference meeting with the other Steering Committee members – Federation of

State Boards of Physical Therapy (FSBPT) staff members Mark Lane, P.T., Vice President of Professional Standards and Assessment and with Dr. Cynthia Searcy, Managing Director of Assessment – to discuss the remaining tasks and the development time-line. Dr. Searcy was able to develop two test forms with the items that were reviewed and assign a pass-point to each of the forms (the forms also include 10 pre-test questions). The Committee assigned the 20 items remaining un-reviewed items to Ms. Joan Knapp, P.T. (a member of the Item Review Committee) as she graciously agreed to review them. Ms. Herbst Paakkonen will then verify the citations for these items before they are entered into the bank for future use. Ms. Borden and Ms. Herbst Paakkonen discussed two tasks that the Board must accomplish relatively soon – approval of the two test forms, and development of the candidate materials. They recommended that the Board schedule a teleconference meeting to review, discuss, edit and approve the exams; Ms. Walton Lee will review the Arizona Open Meeting law in order to determine whether this review can be conducted in Executive Session given the confidential and high-stakes nature of the information being discussed. Ms. Herbst Paakkonen will work on the drafting of the candidate informational materials during the last week of April and first week of May. Finally, Ms. Borden stated that she and Ms. Herbst Paakkonen were explained the process through which the examination forms are tested by Federation staff; as a result of hearing that information, they indicated that it was not necessary to “test” the examination in Arizona using volunteers. The Steering Committee has projected an October 1, 2005 roll-out date for the examination.

**b. Review of Introduction of Preliminary Research Proposal for Analysis  
of Jurisprudence Examination Outcomes**

**Michael T. Lebec, P.T., Ph.D., Assistant Professor of Physical Therapy,  
Northern Arizona University**

Ms. Fearon introduced the agenda item and invited Dr. Lebec to appear before the Board to summarize his preliminary research project that he hopes to launch sometime in the Fall of 2005 after the jurisprudence examination has been implemented as a requirement for initial licensure in Arizona. Dr. Lebec will be interested in pursuing a course of study that will consider the analysis of outcomes from the Jurisprudence Examination with the primary focus of assessing the validity and efficacy of the exam in preparing individuals to practice physical therapy in accordance with Arizona law. He will apply for a research grant from the Federation of State Boards of Physical Therapy. He described the data that he tentatively anticipates collecting for the project, and the Board indicated that the staff could assist him with providing any data that is public record. Dr. Lebec anticipates coming back to the Board in the Fall with a final research summary. The Board agreed by consensus that the preliminary project will likely return some research findings in which it will be interested, and thanked Dr. Lebec for his interest and active involvement in the examination.

**6. Review, Discussion and Possible Action – Presentation on the Federation of State Boards of  
Physical Therapy’s Continuing Competence Pilot Project**

**Chris Larson, P.T., Director of Professional Standards for FSBPT**

Ms. Fearon introduced the agenda item and invited Ms. Larson to present her information concerning the Federation’s Continuing Competence Pilot Project (CAPPs). Ms. Larson announced that the previous night she presented the project to the Board of Directors of the Arizona Physical Therapy Association (AzPTA), and that Board approved a motion that would grant continuing education approval for participation in the project; the number of contact hours will be determined by the Education Committee at a later date. Ms. Larson described the project in terms of one of the continuing competence areas of focus of the Federation, and reported that CAPPs was piloted in Washington State with 84% of the participants reporting that the self-assessment portion of the project

was somewhat helpful to very helpful. She was interested in launching the program next in Arizona due to the close working relationship between the AzPTA and the Board. Nebraska has also agreed to participate. Ms. Larson provided an overview of the project consisting of a training and orientation session, the portfolio development tools, and an evaluation. She explained that CAPPS was designed as a tool to assist physical therapists participating in programs promoting continued professional competence and as a tool for state Boards that are required to assess the continuing competence of physical therapists seeking to meet jurisdictional licensing requirements. Ms. Larson stated that the Federation acknowledges that there is no one 'best practice' approach to assess the continued competence of physical therapists; a multi-faceted approach to the evaluation containing elements of professional reflection, an understanding of jurisprudence and a review of relevant and focused areas of practice provide the licensee, the state and, the public with a better overall picture of professional competence. CAPPS includes the development of a professional portfolio, the completion of a self assessment and the maintenance of a learning tracker, is one component of the FSBPT continued competence program, and supports the principles of adult learning including the components of continued learning and self-reflection. Ms. Larson advised the Board that CAPPS is a formative evaluation, providing a structured tool for the physical therapist to assess his/her knowledge, skill, knowledge and abilities and plan necessary, appropriate and relevant professional development activities identified by the tool. CAPPS was developed to meet the following objectives 1) to provide a tool for practitioners to assess their knowledge, skills and abilities compared to the *FSBPT Standards of Competence*; 2) to provide a tool for practitioners to plan, track and evaluate professional development activities, and 3) to assist jurisdictions in the continued competence evaluation of licensees by providing a tool that can form the basis of an audit. Ms. Larson stated that CAPPS is divided into three activity sections consisting of the Portfolio, the Self Assessment and the Learning Planner/Tracker. She also noted that the CAPPS program materials can be used for documenting competence development and assessment activities; tracking personal and professional development including short and long term goals related to physical therapy practice; communicating professional achievements, serving as a marketing tool for presentation to employers, payors, consumers; demonstrating compliance with state requirements; and establishing documentation for insurance company credentialing. The Board thanked Ms. Larson for the informative presentation, and for selecting Arizona as one of the expansion states for the continuation of the pilot study of the project. Ms. Fearon also announced that any licensee who completed CAPPS would earn the assigned number of Category A contact hours toward meeting his or her continuing competence requirements for renewal of licensure.

##### **5. Arizona Early Intervention Program (AzEIP) Presentation**

Ms. Molly Dries, Ms. Karen Nelson and Ms. Beth Page, P.T. introduced themselves to the Board and thanked the members for agreeing to allow them as Arizona Early Intervention Program (AzEIP) representatives to deliver their presentation concerning the planned significant service system design for qualified children and families. Ms. Dries advised the Board that the current system of service delivery has many problems – most notably lack of coordination and communication across service providers. She stated that the proposed system addresses the necessary reimbursement considerations, and ensures improved consistency with respect to what children and families should expect regardless of where in Arizona they reside. She emphasized that the proposed model adopts a "team-based approach". Ms. Dries noted that AzEIP is a collaboration of the Arizona Department of Health Services, the Arizona Department of Economic Security (specifically, the Division of Developmental Disabilities), the Arizona School for the Deaf and Blind, the Arizona Department of Education and the

Arizona Health Care Cost Containment System. The goal of AzEIP for the system design is to weave the services together and have fewer entities involved in delivering services which causes delays and breakdowns in service delivery. Ms. Dries reviewed the policy implications of AzEIP implementing the change in positive terms; the goal is to purchase a “core team” for service delivery – not simply purchasing physical therapy, occupational therapy, speech therapy, etcetera. She insisted that the service delivery system will not require any professional to attempt to provide a service or intervention that should only be provided by another professional. She explained how the Individuals with Disabilities Education Act (IDEA) requires that services be provided to qualified children in their natural environments – this would not typically be a medical clinic. Ms. Dries further stated that medical services can be provided outside the scope of IDEA. Ms. Page addressed the Board and stated that she supports the proposed model for delivery of services to AzEIP families as she has worked with similar models in other states where she has practiced. She praised the flexibility of the proposed service delivery system as it allowed her to provide the additional support to her client families that she deems is necessary – such as comforting a family in a time of loss. At the conclusion of the presentation the Board accepted comments from the public. Tami Hirasawa, P.T. stated to the Board that she believes the system redesign will preclude physical therapists from billing for their services in instances where they are not delivering physical therapy services, but are providing other services such as “playing with the child”. She cited concerns with the system relative to the recognized standard of ethics that all Arizona licensed physical therapists are required to follow, as well as concerns relative to substandard care. Ms. Hirasawa indicated that she had grave concerns with delegating physical therapy services to unqualified individuals who would be required to function as assistive personnel to her according to the service system. She further commented that she felt that parents would be deceived into believing that their children would be receiving physical therapy services, when in reality they would not. Furthermore, parents’ choices of providers would be undermined. Allison Whiteside, P.T. also provided public comment in terms of advising the Board that she was not an “Early Interventionist” – she is a physical therapist. She also questioned whether the system redesign actually created a “trans-disciplinary” model for service delivery rather than the “multi-disciplinary” system that is being touted by AzEIP. Ms. Whiteside predicted that the Board would see many complaints of substandard care from parents whose children are program participants. Ms. Kelly King, P.T. stated to the Board that she had concerns relative to physical therapists billing for services that are not actually physical therapy, and expressed doubt that physical therapists delivering services through AzEIP would be practicing within their scope. Mr. Trent Nessler, P.T. addressed the Board not as a physical therapist, but as a parent of a child with special needs. He expressed concerns to the Board that the proposed model would rob him as a parent of his choice of providers. He urged the Board to review this as a parent and public protection issue. After accepting public comment the Board discussed the fact that Board counsel could not be asked at this time to review the proposed plan against the Board’s statutes and rules because the plan is not in final form. However, the Board articulated the primary areas of concern to include scope of practice, standards of practice, ethical practice, and supervision of assistive personnel. Ms. Walton Lee urged the AzEIP representatives to request a review of the proposed plan by their legal counsel. The Board also encouraged the AzEIP representatives to work with the physical therapists in attendance to better understand and address the concerns that were articulated during the presentation.

## COMPLAINTS AND INVESTIGATIONS

### 10. Informal Hearing – 1:30 p.m.:

#### #04-12; Erwin "Mike" Edwards, P.T.

Ms. Fearon introduced the agenda item and announced that the Board had elected to conduct the informal hearing with Mr. Edwards via telephone in order to accommodate him as he now resides in Nevada. Ms. Fearon reviewed the hearing procedures and potential outcomes of the case, and swore in Mr. Edwards. The Board members and staff introduced themselves to the licensee. Ms. Hiller summarized the complaint for the Board and noted that the initial review and discussion of the complaint was conducted during the regular session meeting on January 25, 2005. This complaint against "Mike" Edwards, P.T. was filed by V.P., a former patient who was treated at the Kingman Regional Medical Center Wellness Clinic from November 3, 2003 through December 18, 2003. Mr. Edwards treated V.P. at 8 of her 12 treatment visits. The complaint alleges that the physical therapy charges were excessive in that "skilled services" were billed when V.P. was actually working on her own during the treatment session performing her "repetitious" home exercise routine. In response to these allegations Mr. Edwards affirmed that he was actively engaged in each of V.P.'s treatment sessions in that he provided manual stretching and manual therapy techniques, exercise supervision and ongoing reassessment/ adjustment of her plan of care based on her subjective responses, signs and symptoms. The treatment records were reviewed and found to contain meticulous detail about the patient's subjective reports, treatment interventions provided, exercises performed and the patient's response to treatment. If true, these allegations may be a violation of:

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

During the initial review of this complaint the Board questioned several aspects of the patient's billing statements as they related to Mr. Edward's treatment documentation. The Board directed staff to obtain a written response from Mr. Edwards describing how his charge sheets were coded for billing purposes, and also directed staff to determine if Mr. Edward's billing sheets for V.P. were still available and to obtain explanations about hospital billing department methodologies relating to physical therapy billings. Mr. Edwards responded to the Board's questions about how he determined daily charges for V.P., how he communicated to the hospital billing department what services were provided to V.P., and how his charge sheets were processed for the purpose of preparing billing statements. Copies of the physical therapy charge sheets marked by Mr. Edwards and the other physical therapists who provided services to V.P. were obtained by subpoena from Ms. Denise Casson, OTR/L, Director of Rehabilitation, for all dates of service during this episode of care. Ms. Hiller interviewed Ms. Rebecca Barnes, Director of the billing department at Kingman Regional Medical Center (KRMC) concerning the methodology for billing for physical therapy services. Her explanation relates to the systems utilized at KRMC, but not the specific billings for the patient involved in this complaint. Ms. Hiller advised the Board that Ms. Barnes had explained to her that following treatment of a patient the physical therapist generates a charge sheet based upon the therapist's notes and the services provided to the patient on that date. Every therapist marks a charge sheet for each patient treated on that date. These charge sheets are collected in the physical therapy department where department personnel electronically enter the treatment modalities/procedures and units of time for

each procedure/modality into the billing system's electronic account established for each patient. Once the patient account reaches the billing department the billing editors look at the CPT codes billed for each date and the ICD-9 diagnostic code for the patient to ensure that the codes are current and correct for that patient's payer. If the codes entered are not the current CPT or ICD-9 codes then the billing editor makes the necessary changes so that the codes are correct. The charge master software utilized by the billing department automatically generates a UB 92 Revenue Center code based upon the CPT codes entered for the physical therapy services provided. Ms. Barnes is responsible for updating the charge master program with revisions or edits to the CPT codes to reflect changes in CMS coding guidelines. Using the program, the billing editors can identify the proper UB 92 revenue codes based upon the CPT codes or, conversely, the proper CPT codes for each UB 92 revenue code.

In his opening statement, Mr. Edwards thanked the Board for allowing him to appear for the hearing via telephone. He also stated that he does not disagree with any of the statements made in the investigative report. In response to the Board's questions Mr. Edwards explained that with the patient V.P. he was trying to ensure that she was performing her home exercise program properly by requiring her to do the exercises during her treatment visits with him. He indicated that his documentation demonstrates that he was observing her home exercise program, and that the notes reflect the additional treatments he provided to her. Mr. Edwards believed that V.P. was confused as to whether she should have been billed for "skilled services", which led to a meeting with his supervisor to discuss her plan of care, the treatments provided, and the resultant charges. The outcome of the meeting was an adjustment to V.P.'s billing with some of the charges being removed based on her concerns. Mr. Edwards explained the billing process utilized by KRMC as follows: the physical therapist advises the billing office of what treatments were provided, and the office then prepares the billing. He assured the Board that whenever he was with another patient he maintained "line of sight vision" of V.P. The Board questioned whether Mr. Edwards could understand how V.P. might be upset when the documentation reflects the fact that she performed her exercises but was billed for skilled services that would suggest that he was with her performing treatments.

The Board concluded the interview and discussed concerns relative to Mr. Edwards not being aware of exactly what was being charged to the patient. The Board also discussed whether Mr. Edwards himself actually delivered skilled services as established by the patient's billing statements. The Board noted that Mr. Edwards seemed to possess some ignorance of the billing preparation and practices at KRMC. The Board agreed by consensus that Mr. Edwards did not violate A.R.S. §32-2044(12), failing to adhere to the recognized standards of ethics of the physical therapy profession, but expressed concerns that Mr. Edwards may have violated A.R.S. §32-2044(13), charging unreasonable or fraudulent fees for services performed or not performed when on November 11 and 19, 2003 he did not document that skilled services were provided to V.P., but she was billed for them. Ms. Fearon moved Mr. Edwards be found in violation of §32-2044(13), Ms. Borden seconded the motion. The Board deliberated the motion, culminating in a withdrawal of the motion by Ms. Fearon. Ms. Kalis moved to dismiss the complaint. The motion died for failure of a second to the motion. Ms. Borden moved an Advisory Letter be issued to Mr. Edwards that would address the Board's concerns that the licensee's treatment documentation did not accurately depict what treatment was delivered to the patient. Mr. Gossman seconded the motion. The motion failed to pass on a 2-2 vote. Ms. Fearon moved to table further action on the complaint and to continue the informal hearing during a future meeting of the Board. Ms. Kalis seconded the motion. The motion carried by a unanimous vote.



## **11. Initial Review of Complaint:**

### **#04-19; Lori Francoeur, P.T.**

Ms. Fearon introduced the agenda item and Ms. Hiller summarized the filed by Spencer Coddling, Senior Special Investigator for Geico Direct. Mr. Coddling submitted information obtained in his investigation concerning the physical therapy services provided to C.D. at Foothills Sports Medicine Physical Therapy ("Foothills PT"). C.D. was injured in an automobile accident on October 16, 2002, and Mr. Coddling's investigation concerned C.D.'s treatment at Foothills Sports Medicine PT between November 27, 2002 and March 6, 2003. The complaint alleges that over the course of 43 visits the patient's treatment program never changed and it appeared the patient never "progressed". Additionally, the complaint alleges that the average cost of \$295 per visit may have been excessive (her final billing was \$12,595). If true, these allegations may be a violation of:

- 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 (13) "Charging unreasonable or fraudulent fees for services performed or not performed."
- A.R.S. § 32-2044 (22) "Providing treatment intervention unwarranted by the condition of the patient or treatment beyond the point of reasonable benefit."
- A.R.S. § 32-2044 (12) "Failing to adhere to the recognized standards of ethics of the physical therapy profession."

In response to the notification of complaint, Ms. Francoeur confirmed that she treated C.D. at Foothills PT between November 27, 2002 and March 6, 2003. She described C.D. at the initial evaluation as presenting with muscle guarding, reduced cervical (neck) range of motion, and "obvious" strength deficits (unable to lift her head against gravity); these symptoms were compounded by the length of time before she sought treatment and by three previous motor vehicle accidents. The initial plan of care was to restore range of motion and strength, decrease muscle spasm and pain and improve daily functioning. Treatment consisted of hot packs, electric stimulation, ultrasound, soft tissue mobilization, joint mobilization, cervical & thoracic stabilization and upper extremity strengthening. Ms. Francoeur stated that C.D. responded fairly well to therapy initially although her pain level remained fairly constant while her cervical range of motion improved with reports of longer episodes with pain relief. Ms. Francoeur was concerned about future progress and work tolerance so she encouraged C.D. to consult a neurologist because of her slow progress and persistent pain. C.D. gradually improved but she plateaued over the final weeks of therapy. She was instructed in a home exercise program and treatments were discontinued. Ms. Francoeur believes C.D. received excellent care at Foothills PT and at no time did she express dissatisfaction with her care.

With respect to treatment billings, Ms. Francoeur affirmed that patients are billed according to the specific services provided. Typical therapy sessions last up to two (2) hours including therapeutic exercise, manual therapy and modalities. Ms. Francoeur maintains that the charges and fee schedule are fair and comparative to other outpatient orthopedic PT facilities in the Valley. Ms. Hiller conducted a telephone interview with C.D. on April 12, 2005; she was not aware that Geico Direct had filed this complaint concerning her physical therapy treatments and charges. C.D. described her physical therapy treatments at Foothills PT as "excellent", and said that her sessions with Ms. Francoeur were "just great". C.D.'s treatments usually lasted 2-3 hours during which Ms. Francoeur did the stretching, massage, and icing and oversaw her exercises while someone else did the heat, ultrasound and sometimes worked with her on exercises. All of her treatment sessions were pretty

much the same except that Ms. Francoeur would add additional exercises or change the exercises she was supposed to perform. Treatments were done in an open room where Ms. Francoeur could observe her exercises even when she worked with someone else. C.D. stated that she made a lot of improvement over the course of her physical therapy but when she stopped getting any better she and Ms. Francoeur agreed that her treatments should stop. She believes that the people at Foothills PT did everything they could do to help her get better. The Board requested clarification from Ms. Hiller concerning some of the treatments that were documentation relative to their purpose as Ms. Francoeur has seemingly provided them repeatedly in spite of the fact that C.D. was showing no improvement. Ms. Fearon moved to invite Ms. Francoeur to an informal hearing before the Board. Mr. Gossman seconded the motion. The motion carried by a unanimous vote.

## **12. Initial Review of Complaint:**

### **#05-03; Lauren Kozela, P.T.**

Ms. Fearon introduced the agenda item and Ms. Hiller summarized the complaint opened by the Board concerning Ms. Kozela's written admission that she had failed to complete her continuing competence requirements for the 2002-2004 licensure period. Ms. Kozela submitted her application for renewal of her physical therapist license for 2004-2006 and signed the affirmation of completion of continuing competence requirements on August 18, 2004. Her renewal application was received on August 23, 2004 but the information was incomplete and the application was returned to Ms. Kozela for completion of current addresses and telephone numbers. Her resubmitted renewal application was received on September 2, 2004. Since this was past the deadline for timely submission Ms. Kozela was audited for continuing competence compliance. On October 29, 2004 Ms. Kozela was mailed a notice of audit for continuing competence compliance which she received on November 3, 2004. Ms. Kozela called the Board office on November 3, 2004 and spoke with this investigator about the fact that she received a notice of audit and that she had not completed any continuing competence activities from September 1, 2002—August 31, 2004. She acknowledged that she had signed the affirmation of continuing competence compliance on her licensure renewal application. Ms. Kozela submitted a letter dated November 3, 2005 explaining the family problems, illnesses and the death of her aunt that caused her to forget about her compliance requirements for renewal. On December 21, 2004 at the Regular Session Meeting the Board found Ms. Kozela out of compliance with the continuing competence requirements for renewal of licensure at A.A.C. R4-24-401(A) and opened a complaint against her for possible violation of A.R.S. § 32-2044 (3) "Obtaining or attempting to obtain a license or certificate by fraud or misrepresentation." Ms. Kozela received a Notification of Complaint and Request for Response dated March 3, 2005. Ms. Kozela's response was received on March 25, 2005. The Board discussed the facts of the case and Ms. Borden moved Ms. Kozela be found in violation of A.R.S. §32-2044(1), violating this chapter, Board rules or a written Order of the Board, and A.R.S. §32-2044(3), attempting to obtain a license or certificate by fraud or misrepresentation, but that Ms. Kozela be offered the opportunity to settle this case by signing either a Consent Agreement through which the Board would accept a voluntary surrender of licensure, or a Consent Agreement that would place her on probation for 6 months with disciplinary terms of a \$250 civil penalty, a 500-word minimum essay of the Board's statutes and rules, and completion of her 20 hours of continuing competence. Ms. Fearon seconded the motion. The motion carried by a unanimous vote. The Board requested that Ms. Walton Lee offer the licensee an opportunity to discuss these options during a settlement conference; Board staff will report the outcome of the negotiations to the Board.

### **13. Initial Review of Complaint:**

#### **#05-05; Shashi Rohrbough, P.T.**

Ms. Fearon introduced the agenda item and Ms. Hiller summarized the complaint opened by the Board concerning Ms. Rohrbough's written admission that she had failed to complete her continuing competence requirements for the 2002-2004 licensure period. Ms. Rohrbough submitted to the Board her application for renewal of her physical therapist license on July 14, 2004 and she signed the affirmation statement that she had completed her continuing competence requirements for the 2002-2004 licensure compliance period. Ms. Rohrbough was selected at random for an audit of her continuing competence documentation; she received her notice on October 25, 2004. In response to this notice, Ms. Rohrbough returned her Continuing Competence Audit Reporting on which she had written "no courses completed during compliance period". This information was reported to the Board during its regular session meeting on December 21, 2004; the Board's action was to find Ms. Rohrbough out of compliance with the continuing competence requirement and to open a complaint against the licensee under the jurisdiction of: A.R.S. §32-2044(3), obtaining or attempting to obtain a license or certificate by fraud or misrepresentation. Ms. Hiller noticed Ms. Rohrbough of the Board's action by letter dated March 3, 2005, and Ms. Rohrbough responded with a letter dated March 21, 2005. In this letter, Ms. Rohrbough attempted to explain her confusion about the reporting of her continuing competence hours. Ms. Rohrbough's physical therapist license lapsed on September 1, 2002 and she reinstated her license on April 19, 2004. She received a notice of audit for continuing competence compliance following her reinstatement, and although the notice was for compliance during the 2000-2002 compliance period she mistakenly thought the audit was for her renewal/reinstatement compliance in 2004 covering the 2002-2004 compliance period. She did not respond to her 1st notice of audit but following her 2<sup>nd</sup> notice she submitted a course taken October 18-19, 2003 thinking that this course would fulfill the requirements for 2002-2004 for which she (mistakenly) thought she was being audited. When she received her renewal application in June 2004 she signed the affirmation of compliance with the continuing competence requirement believing that her submission from June 2004 was fulfilling her compliance requirements for renewal in 2004. It was not until Ms. Rohrbough received the letter of compliance dated September 28, 2004 informing her that her submission was reviewed and accepted for compliance for 2000-2002 and couldn't be used for 2002-2004 compliance that she realized her mistake. By then she had long since signed her renewal application affirming compliance. On April 11, 2005 the Board received a second letter from Ms. Rohrbough that reiterated her misunderstanding; in this letter she requests that the Board consider allowing her to withdraw her application for renewal of her physical therapist license for the 2004-2006 licensure period. According to Ms. Walton Lee, Assistant Attorney General and counsel for the Board, the Board does not have the authority to exercise this option. The Board discussed the facts of the case and Ms. Fearon moved Ms. Rohrbough be found in violation of A.R.S. §32-2044(1), violating this chapter, Board rules or a written Order of the Board, and A.R.S. §32-2044(3), attempting to obtain a license or certificate by fraud or misrepresentation, but that Ms. Rohrbough be offered the opportunity to settle this case by signing either a Consent Agreement through which the Board would accept a voluntary surrender of licensure, or a Consent Agreement that would place her on probation for 6 months with disciplinary terms of a \$250 civil penalty, a 500-word minimum essay of the Board's statutes and rules, and completion of her 20 hours of continuing competence. Ms. Kalis seconded the motion. The motion carried by a unanimous vote. The Board requested that Ms. Walton Lee offer the licensee an opportunity to discuss these options during a settlement conference; Board staff will report the outcome of the negotiations to the Board.

## **BOARD BUSINESS AND REPORTS**

### **7. Review, Discussion and Possible Approval of Draft Substantive Policy Statement – Graduates of Physical Therapist Education Programs**

Ms. Fearon introduced the agenda item, and Ms. Herbst Paakkonen presented the draft substantive policy statement to which some minor edits were made since the Board initially reviewed the draft during its special session meeting on March 31, 2005. The Board discussed that the draft accurately reflected the law with respect to assistive personnel, supervision, documentation and use of titles. The Board also discussed publication of the statement in its newsletter and the newsletter of the Arizona Physical Therapy Association, as well as dissemination of the document to the Arizona physical therapy education programs for purposes of sharing it with the 2005 graduates. Ms. Borden moved the Board adopt the draft substantive policy statement as presented. Mr. Gossman seconded the motion. The motion carried by a unanimous vote. Ms. Herbst Paakkonen assured the Board that the statement will be submitting for filing with the Arizona Secretary of State during the week of April 25, 2005.

### **9. 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:** no additional information to report
- d. Legislative Update:** no additional information to report

## **CALL TO THE PUBLIC**

*Public input is encouraged. Presentations will be limited to five minutes. Please be aware, however, that the Board may not discuss, consider or take action at this meeting on any item not appearing on its agenda. During the Board meeting, additional public comment may be requested, but is generally not allowed.*

## **ADJOURNMENT**

The meeting was adjourned at 3:30 p.m.

Prepared by,

Heidi Herbst Paakkonen  
Executive Director

Approved by,

Merle Gossman  
Secretary