

REGULAR SESSION MEETING MINUTES
June 28, 2005

MEMBERS PRESENT: Helene Fearon, P.T., President
Joni Kalis, P.T., Vice President
Merlin Gossman, Secretary
Randy Robbins, Member
Mark Cornwall, P.T., Ph.D., Member

MEMBERS ABSENT:

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

CALL TO ORDER – 8:30 a.m.

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

1. Approval of Minutes:

May 24, 2005; Regular Session Meeting

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

May 24, 2005; Regular Session Meeting

Ms. Fearon introduced the agenda item and the Board noted that the minutes should reflect that Marc Harris was present representing the Board as legal counsel. Ms. Fearon moved the minutes be approved as corrected. Mr. Gossman seconded the motion. The motion carried by a unanimous vote.

COMPLAINTS AND INVESTIGATIONS

2. Informal Hearing:

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

Ms. Fearon introduced the agenda item, and noted that this case was continued from the April 22, 2005 meeting. Mr. Edwards was connected to the hearing via telephone, and remained sworn in. Ms Hiller summarized the allegations and status of the complaint 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 with Mr. Edwards treating V.P. for 8 of her 12 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. 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.”

Ms. Hiller reminded the Board that 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 had 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 Mr. Page were still available and to obtain explanations about hospital billing department methodologies relating to physical therapy billings. Ms. Hiller noted that Mr. Edwards provided additional information to the Board concerning 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.

During his opening statement, Mr. Edwards announced that he had reviewed the patient records again, and admitted that he was initially defensive about his treatment plan, but has since come to the conclusion that – looking more objectively at the case – he can validate V.P.’s concerns. He noted that at the time he was treating V.P., he had been out of physical therapy school for less than one year. Mr. Edwards indicated that he wanted to be honest with the Board and with himself, and that he did now see that there is merit to V.P.’s billing concerns. While he meant no malicious intent, he advised the Board that while the November 14, 2003 billing reflects 3 units of therapeutic exercise, the patient did not require that many minutes to complete the exercise program and 1 unit would have been more appropriate and accurate. The Board concluded the hearing and Ms. Fearon reviewed the possible jurisdiction for the case. The Board concluded that Mr. Edwards’ actions did not constitute a violation of A.R.S. §32-2044(12). Ms. Fearon moved Mr. Edwards be found in violation of A.R.S. §32-2044(1) and (13). Ms. Kalis seconded the motion. The roll call vote was unanimous. The Board discussed the various options for discipline with Ms. Walton Lee. Ms. Fearon moved the Board issue a Decree of Censure be entered against Mr. Edwards. Ms. Gossman seconded the motion. The roll call vote was unanimous. Mr. Edwards complimented the Board on its work and stated that it is doing an effective job of protecting the public.

3. Review and Possible Action on Settlement Proposal:

#04-17; Dominic “Robert” Affuso, P.T.

#05-07; Dominic “Robert” Affuso, P.T.

Ms. Fearon introduced the agenda item, and Ms. Herbst Paakkonen summarized the complaints and briefed the Board on the status of the cases. Complaint #04-7 was filed by assistive personnel who worked with Mr. Affuso at Springdale West Rehabilitation Center in Mesa, Arizona. The complaint alleges that on April 28, 2004 Mr. Affuso left the facility while two physical therapist assistants (P.T.A.s) were still working with patients, that Mr. Affuso did not tell the assistive personnel or

administration why he was leaving or whether he would return, that he did not arrange for alternative supervision for the assistive personnel, and that he abandoned the patients scheduled for treatment that day without providing for their transfer of care. The version of events provided by the complainants describes Mr. Affuso leaving “in a huff” after slamming down a clipboard and yelling that he “could not take it anymore”. Mr. Affuso disputes that he left the facility under the circumstances that were alleged; he states that he left the facility because he was ill, but that he appropriately reported this according to established facility protocol. If true, these allegations would 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(6) “Failing to supervise assistive personnel in accordance with this chapter and rules adopted pursuant to this chapter”, or A.R.S. §32-2044(12) “Failing to adhere to the recognized standards of ethics of the physical therapy profession. Ms. Herbst Paakkonen advised the Board that complaint #05-07 was opened against Mr. Affuso after he failed to claim and respond to the notice of continuing competence audit that was sent to his address of record via certified mail. Mr. Affuso was initially offered the opportunity to settle that case by signing a Consent Agreement stipulating a violation of A.R.S. §32-2044(1), violating this chapter, Board rules or a written Order of the Board, however Mr. Affuso had previously rejected that offer. Ms. Herbst Paakkonen reported that on June 7, 2005 Mr. Affuso’s attorney, Susan Watchman, met with Ms. Walton Lee and herself to discuss a potential settlement for the two complaints rather than her client appearing before the Board for the scheduled hearings. The proposed Consent Agreement that was drafted was presented to the Board for review, along with a recommendation from Ms. Walton Lee advising the Board that the Agreement was an appropriate conclusion for the case with respect to the findings that were adopted, the violations of law established and the ensuing disciplinary action. Ms. Watchman addressed the Board on behalf of Mr. Affuso, and concurred that the Agreement was acceptable to her client. The Board noted that the Agreement contained violations of A.R.S. §32-2044(1) with the cited rule as A.A.C. R4-24-401(G)(2), failing to respond to a notice of continuing competence audit within 30 days, as well as A.R.S. §32-2044(6), failing to supervise assistive personnel. The disciplinary action stipulated in the agreement consisted of a \$300 civil penalty and a Decree of Censure. Ms. Herbst Paakkonen reported that Mr. Affuso had recently submitted his continuing competence documentation for the 2002-2004 licensure compliance period (for which he was sent the notice of audit) and the documentation indicated he was in compliance with the requirements. She also advised the Board that Mr. Affuso had indicated his willingness to sign the Agreement as Ms. Watchman had faxed to the Board office the page of the document where he was to sign, and his signature was on the page. The Board also discussed the fact that Mr. Affuso’s current supervisor at Casa Grande Regional Medical Center, Mr. Richard Wolff, P.T., had submitted a letter to the Board stating that Mr. Affuso was a valuable and dependable member of the patient care team. Ms. Kalis moved the Board accept the proposed Consent Agreement as drafted. Mr. Gossman seconded the motion. The motion carried by a unanimous roll call vote.

4. Initial Review of Complaint:

#04-24; Pamela Rivero, P.T.

Ms. Fearon introduced the agenda item and Ms. Rivero introduced herself and indicated that she was available to address the Board’s questions. Ms. Hiller summarized the complaint as filed by J.C., a former patient who was treated by Ms. Rivero at Physiotherapy Associates for 13 treatment visits from July 7 through August 20, 2004 for left shoulder pain. J.C. alleged that her condition was misdiagnosed in that Ms. Rivero diagnosed J.C.’s problem as coming from the AC (acromioclavicular) joint and provided treatment for this condition, but when J.C. went to see a chiropractor after her therapy ended he said that her problem was a subluxation in her neck. She also alleged that she

experienced neglect at the hands of Ms. Rivero in that on August 20, 2004 she reported increased pain and weakness since the previous treatment visit; however Ms. Rivero was busy so several “assistants” had her perform weight-resisted exercises that severely worsened her pain. She further alleged that when Ms. Rivero had her lie down on a table to examine her shoulder her arm felt numb and then the next thing she remembers is Ms. Rivero putting a cold cloth on her forehead. J.C. stated that she left following an ice treatment but the pain continued to worsen and she ended up going to the emergency room that night. Finally, J.C. alleged that she was misinformed in that Ms. Rivero never really answered any of her questions about her shoulder pain and she wouldn’t tell Ms. Caballero how long she would be in 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 (4) “Engaging in the performance of substandard care by a physical therapist due to a deliberate or negligent act or failure to act regardless of whether actual injury to the patient is established.”
- A.R.S. § 32-2044(6) “Failing to supervise assistive personnel...in accordance with this chapter and rules adopted pursuant to this chapter.”

In her written response Ms. Rivero affirms that Ms. Caballero’s subjective history and her objective evaluation findings supported a diagnosis of Grade I AC (acromioclavicular) sprain and muscular strain. Ms. Rivero initiated a plan of care of ultrasound, isometric exercises, stretching, ice, home exercises and instructions to discontinue martial arts activities. At the time of evaluation and throughout her course of therapy cervical testing or specialist referral was not indicated. Ms. Rivero notes that she provided J.C. with an explanation of her injury as well as extensive explanation of her rehabilitation process. She noted that J.C. showed steady improvement over the course of treatment, demonstrated by her increased tolerance and ability to perform functional activities. Ms. Rivero maintained on-going communication with J.C.’s referring physician through the initial evaluation, periodic progress reports and a discharge summary. The patient’s progress was documented on a daily basis and summarized in progress notes written in July and August. Ms. Rivero had noted that J.C.’s persistence in performing martial arts activities contrary to her advice may have aggravated her condition. During the treatment visit on August 20, 2004 J.C. presented with complaints of increased pain from increased use of her left arm, similar to her subjective reports at previous treatment visits. Ms. Rivero’s assessment found no changes compared with prior visits and treatment was provided as at previous visits. J.C. received ultrasound and performed exercises under Ms. Rivero’s direct supervision, which were modified that day to lesser resistance due to J.C.’s complaints. Following exercise, Ms. Rivero performed manual therapy but this was discontinued due to J.C.’s poor tolerance. Ms. Rivero affirms the patient was alert throughout the entire session. She was given ice to her shoulder, which concluded that day’s treatment. J.C. had no additional contact with Ms. Rivero or her office regarding increased symptoms that night or concerning a visit to the emergency room. Mr. Randy Perdue, PTA, CSCS, was present at the treatment visit on August 20 and corroborates Ms. Rivero’s account of the events that day. The physical therapy treatment records were found to be in compliance with A.R.S. § 32-2044(20). Ms. Hiller advised the Board that the medical records, radiographic reports and physical therapy records support the appropriateness of Ms. Rivero’s assessment and treatment plan. There is no documentation to support J.C.’s allegations of injury from treatment on August 20, 2004, although the records document her complaints of worsening shoulder pain at that time. Ms. Hiller affirmed that work and leisure activities on the part of the complainant could have contributed to aggravation of symptoms as opposed to injury from treatment. The Board discussed the investigative report and concurred that Ms. Rivero’s documentation was very thorough, and concluded that there was enough evidence to conclude that J.C. could have aggravated her

condition on her own. The Board discussed the fact that the patient's medical records support Ms. Rivero's diagnosis and treatment plan. Ms. Kalis moved the Board dismiss the complaint. Dr. Cornwall seconded the motion. The motion carried by a unanimous vote.

5. Initial Review:

#05-01; Curtis Becker, P.T.

Ms. Fearon introduced the agenda item and Ms. Hiller summarized the complaint filed opened in response to a letter from Curtis Becker, P.T., (former) Director of Therapies at El Dorado Hospital, received on September 2, 2004. In the letter Mr. Becker reported that on Sunday August 29, 2004 a physical therapist assistant (P.T.A.) treated patients on the rehab unit of the Hospital without the on-site supervision of a physical therapist. On that date, a physical therapist was scheduled to work but didn't show up and the physical therapist assistant continued to work without on-site supervision. Mr. Becker wrote "The PTA was working in one area of the hospital under the assumption that the PT was here and treating in a different area. Unfortunately, the PT had failed to show up for her shift and the PTA failed to make sure the PT was here before initiating care." Mr. Becker learned about the incident the following day and corrective action was immediately taken. Procedural changes were implemented to prevent a similar occurrence in the future, all patient charges for that day were rescinded and the personnel involved were counseled and educated about regulations that apply to supervision and delegation. By letter dated October 5, 2004 Mr. Becker identified R. Lauren Green, P.T. (license #5832) as the P.T. who did not come in on August 29, 2004, and Joanne Honkonen, P.T.A. (certificate #5690A) as the PTA who worked without on-site supervision. During a telephone conversation with Mr. Becker on December 23, 2004 he acknowledged to Ms. Hiller that he customarily leaves a list of patients at the end of the day on Friday for P.T. and P.T.A. patient assignments over the weekend. Mr. Becker stated that he sets up the weekend schedule for patient coverage on Friday for the patients who should be treated by a PT and those who would work with a PTA based on the established plan of care and patient status as of that Friday. The procedures for scheduling weekend staff were changed following this incident so that the PTA must make contact with the PT on weekends before beginning patient treatments. On January 21, 2005 Board staff met with legal counsel and determined that, based upon his statements that he left a list of staff assignments for weekend treatments, Mr. Becker would be considered the respondent in this complaint action. Mr. Becker's response to the complaint indicated that he did not believe that he was in any way directly or indirectly responsible for the incident on August 29, 2004. "I did not assign the patients that were seen by the P.T.A. that Sunday, and I did not schedule the P.T. or the P.T.A. to work that day. They both signed up voluntarily for that shift. All I did was put their names on the schedule board." Mr. Becker contends that staff had the responsibility to know what shift they signed up for and to show up as scheduled. Mr. Becker assigned patients for the Saturday staff on Friday, but the therapist(s) on Saturday would have decided which patients should be seen by Sunday staff. Ms. Hiller advised the Board that the billing records that were subpoenaed from the Hospital establish the immediately previous treatment date prior to treatment by Ms. Honkonen on August 29, 2004 as follows: two of the patients treated by Ms. Honkonen on that date were treated the previous day by Joy Richards (Denz), P.T. (according to the scheduling practices described, these patients would have been placed on Ms. Honkonen's schedule on Saturday by Joy Richards) and five of the patients treated on that date were not scheduled for treatment on Saturday but were last treated on Friday, August 27, 2004 (these patients may have been assigned to Ms. Honkonen's August 29, 2004 schedule by Mr. Becker). 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(6) “Failing to supervise assistive personnel, physical therapy students or interim permit holders in accordance with this chapter and rules adopted pursuant to this chapter.”
- A.R.S. §32-2043.A. “A physical therapist is responsible for patient care given by assistive personnel under the physical therapist’s supervision. A physical therapist may delegate to assistive personnel and supervise selected acts, tasks or procedures that fall within the scope of physical therapy practice but that do not exceed the education or training of the assistive personnel.
- A.R.S. §32-2043.H. “For each patient on each date of service, a physical therapist must provide and document all of the therapeutic intervention that requires the expertise of a physical therapist and must determine the use of physical therapist assistants and other assistive personnel to ensure the delivery of care that is safe, effective and efficient.”

The Board discussed the investigative record and discussed Mr. Becker’s level of responsibility for the events of August 29, 2004. Ms. Walton Lee advised the Board that it has the responsibility for determining whether Mr. Becker is actually culpable for the lack of physical therapist supervision on that date. The Board concurred that it could find no potential violation on the part of Mr. Becker. Ms. Fearon moved the complaint be dismissed. Ms. Kalis seconded the motion. The motion carried by a unanimous vote.

6. Initial Review:

#05-02; Joanne Honkonen, P.T.

Board staff opened this complaint in response to a letter from Curtis Becker, P.T., (former) Director of Therapies at El Dorado Hospital, received on September 2, 2004. In the letter Mr. Becker reported that on Sunday August 29, 2004 a physical therapist assistant (PTA) treated patients on the rehab unit at El Dorado Hospital without the on-site supervision of a physical therapist (PT). A physical therapist was scheduled to work but didn’t show up and the physical therapist assistant continued to work and treat patients. He wrote that “the PTA was working in one area of the hospital under the assumption that the PT was here and treating in a different area. Unfortunately, the PT had failed to show up for her shift and the PTA failed to make sure the PT was here before initiating care.” In a subsequent letter Mr. Becker identified Joanne Honkonen, P.T.A. as the physical therapist assistant who had treated patients on August 29, 2004 without the on-site supervision of a PT. 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. § 32-2043.B. “A physical therapist assistant shall function under the on-site supervision of a licensed physical therapist and as prescribed by board rules.”
- A.R.S. § 32-2044(5) “Engaging in the performance of substandard care by a physical therapist assistant, including exceeding the authority to perform tasks selected and delegated by the supervising licensee regardless of whether actual injury to the patient is established.
- A.R.S. § 32-2044(12) “Failing to adhere to the recognized standards of ethics of the physical therapy profession.”
 - *Code of Ethics Principle 2* “Physical therapists comply with the laws and regulations governing the practice of physical therapy.”

In her written response Ms. Honkonen explained that at no time did she intend to work without a P.T.’s presence in the facility and that she affirmed that she will not again work without meeting face-to-face with her supervising PT. On August 29, 2004 Ms. Honkonen came to work and reviewed the work assignment outlined for her on the grease board (in the report room) made by the PT who worked on

Saturday. She had previously treated all of the patients she was assigned on the Inpatient Rehabilitation Unit. Ms. Honkonen began and completed her work without checking to see that the PT had arrived. Ms. Honkonen provided the medical record number, diagnosis, treatment plan and the treatment she provided to the seven patients she treated on August 29, 2004. She offers her apologies that this occurred and she assures the Board that she will not make this mistake again. Under subpoena, Martha Gerganoff, RN, MSN, Chief Nursing Officer, provided the staff schedules for the month of August and the patient schedule for both August 28 and 29, 2004. The patient schedule for the 29th was reconstructed from patient charging records. Peter West, P.T. and Joy Richards (Denz), P.T. worked on Saturday the 28th while R. Lauren Green, P.T. and Ms. Honkonen were scheduled to work on Sunday the 29th. Five of the patients treated on the 29th by Ms. Honkonen were last treated on Friday, August 27, 2004, and thus presumably were assigned to Ms. Honkonen's schedule on Friday the 27th by Mr. Becker. Two of the patients treated by Ms. Honkonen on the 29th were treated the previous day by Ms. Richards, and thus presumably were placed by Ms. Richards on Ms. Honkonen's schedule for Sunday. Finally, Ms. Hiller advised the Board that Revised policies and procedures following the incident on effective October 2004 require PTAs and other assistive personnel to work under the **on-site supervision** of a licensed P.T. in accordance with law. Requirements for collaboration with the supervising PT are as written in the previous policy: "Each shift, the PTA will discuss his/her assigned in-patients/rehab patients with the supervising PT prior to treatment. At their discretion, the PT may ask the PTA to review the plan of care and the last treatment note in lieu of a formal discussion." The Board discussed the investigative report and concluded a definite violation of A.R.S. §32-2043(B); the Board also discussed whether the jurisdiction of A.R.S. §32-2044(13), fraudulent billing, should be added given the gait training exercises that were noted for certain patients in their treatment records. Ms. Kalis moved the complaint be sent to an informal hearing with the addition of A.R.S. §32-2044(13); Mr. Gossman seconded the motion. Following discussion, the motion and second were withdrawn. The Board conducted a discussion of whether A.R.S. §32-2044(12) could be charged to a P.T.A. when the recognized code of ethics – a publication of the American Physical Therapy Association (APTA) – refers only to physical therapists. The Board concluded that by association the Code of Ethics and Guide to Professional Conduct do apply to physical therapist assistants. Dr. Cornwall moved Ms. Honkonen be found in violation of A.R.S. §32-2044(1), §32-2044(12) and §32-2043(B), Ms. Kalis seconded the motion. The motion carried by a unanimous vote. Ms. Fearon moved the Board offer Ms. Honkonen the opportunity to sign a Consent Agreement in lieu of attending an informal hearing; in addition to the conclusions of law adopted, disciplinary terms will consist of a 90 day probation period during which time Ms. Honkonen must complete an analytical written review of the Board's statues and rules that relate to supervision of assistant personnel, and provide evidence of having conducted an in-service training on the same topic to the staff of El Dorado Hospital. Dr. Cornwall seconded the motion. The motion carried by a unanimous vote. Should Ms. Honkonen reject the Board's offer, the complaint will be scheduled for an informal hearing during a future meeting of the Board. Mr. Robbins moved a complaint be opened against Ms. Green, the physical therapists who was scheduled to supervise Ms. Honkonen on August 29, 2004, but who had failed to report to work. Dr. Cornwall seconded the motion. The motion carried by a unanimous vote.

7. Consideration of and Possible Action Concerning Probation Compliance and Request for Termination of Probation:

#02-23 and #04-22; T. Michael Hakes, P.T.

Ms. Fearon introduced the agenda item, and Ms. Hiller reported to the Board that Mr. Hakes was placed on probation for one year effective July 21, 2003 for violations of A.R.S. §32-2044(4) substandard care and A.R.S. §32-2044(20) failing to maintain adequate patient records in connection

with complaint #02-23. The effective date of Mr. Hakes' probation was delayed until November 18, 2003 due to Mr. Hakes request for rehearing, which was denied following Board review. His probation was further delayed until February 24, 2004 due to Mr. Hakes' difficulty in securing a clinical mentor as stipulated by Order of Probation #02-23. Finally, Mr. Hakes probation was extended for an additional 90 days pursuant to Amended Order of Probation #04-22 in order to allow Mr. Hakes to complete the required six reviews of his patient records by Dr. Kathleen Ganley. Mr. Hakes advised the Board that Mr. Hakes has complied with the terms of his Order of Probation and Amended Order, including the additional continuing competence requirements stipulated in the Order. The Board discussed the compliance report and noted that Mr. Hakes has improved significantly as indicated by Dr. Ganley's reports. Ms. Kalis moved the term of probation for Mr. Hakes be terminated according to the termination date of the Order. Ms. Fearon seconded the motion. The motion carried by a unanimous vote.

#03-16; Diana Engler, P.T.

Ms. Fearon introduced the agenda item, and Ms. Hiller reported to the Board that Ms. Engler has requested termination of her probation as stipulated by Consent Agreement and Order #03-16. Ms. Engler was placed on probation by the Board for 18 months effective November 19, 2003 for violation of A.R.S. § 32-2044(9) "Having had a license or certificate revoked or suspended or other disciplinary action taken or an application for licensure or certification refused, revoked or suspended by the proper authorities of another state, territory or country." This conclusion of law was based on disciplinary action taken against Ms. Engler by the Maryland State Board of Physical Therapy Examiners for violations of the Maryland physical therapy statute and regulations including improper patient billing and documentation, improper supervision of a physical therapist assistant and over-utilization of physical therapy services. The terms of the final order issued by the Maryland Board included 2 years probation, a \$3,000 fine, and completion of coursework in ethics, documentation and billing. The probationary term established by the Arizona Board was established to correspond to the termination of Ms. Engler's probation in Maryland. Ms. Hiller reported to the Board that Ms. Engler has complied with the terms of her Consent Agreement and Order #03-16 and with the terms of her probation required by the Maryland Board. Ms. Kalis moved the term of probation for Ms. Engler be terminated according to the termination date of the Order. Ms. Fearon seconded the motion. The motion carried by a unanimous vote.

SUBSTANTIVE REVIEWS OF APPLICATIONS FOR LICENSURE & CERTIFICATION

8. Substantive Review and Possible Action on the Following Applications for Physical Therapist Licensure:

Deidra E. Adams	Urvi K. Adani	Steven B. Ambler
Lora A. Andrews	Dania K. Barone	Anita R. Boehme
Cristina D. Brannock	Amy R. Brill	Steven P. Conforti
Jessica L. Dallman	Norma B. Dorr	Mark R. Goldentyer
Ari D. Goldenstein	Michael J. Granzin	Elizabeth E. Greenwald
Tiffany N. Grzan	Jamie M. Harms	Peer A. Himler
Bryan L. Hoyt	Theresa J. Kraemer	Shveta C. Lamb
Jace D. Nelson	Jill A. Pascoe	Patrice E. Sansone
Matthew D. Schmitz	Rachel A. Sherba	Bryan A. Smith
Cheryl L. Stangl	Jonathan C. Sum	Lisa J. Taylor
Lindsay M. Townsend	Mark J. Vergara	Eric A. Vial
Nicholas G. Wegener	Destin D. Whipple	Melanie L. Wrench
Lisa M. Zublonis		

Ms. Fearon introduced the agenda item and read the names of the applicants for the record. Dr. Cornwall disclosed that he had previously taught the following students, but that he has not maintained a continuing relationship with them and he derives no pecuniary interest in voting on their licensure: Mr. Himler, Mr. Hoyt, Ms. Lamb, Ms. Townsend, and Mr. Whipple. The Board discussed the completeness of the files and noted that the following applicants must submit additional information: Ms. Adani must complete her 5-year work history, Ms. Harms must explain how she worked as a physical therapist in Minnesota prior to becoming licensed in that state, Ms. Wrench must complete her 5-year work history, and Ms. Zublionis must provide additional information concerning the dismissed civil charge that was filed against her in Federal Court in New York (i.e. what were the nature and circumstances of the charges). Ms. Fearon moved the listed applicants be granted licensure with the exception of the four applicants who must provide additional information; Ms. Herbst Paakkonen may release their licenses upon receipt of the requested information that does not require the application(s) to go back before the Board. Mr. Gossman seconded the motion. The motion carried by a unanimous vote.

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

Michelle L. Book	Valerie L. DiCicco	Daniel S. Lebedies
Patrick E. Marmon	Robyn R. Reichenberger	

Ms. Fearon read the names of the applicants, and the Board discussed the files. The Board noted that Mr. Reichenberger did not provide a complete 5-year work history. Ms. Fearon moved the listed applicants be granted certification with the exception of Mr. Reichenberger who must provide the additional information requested; Ms. Herbst Paakkonen may release his certificate upon receipt of information that does not require the application to go back before the Board. Ms. Kalis seconded the motion. The motion carried by a unanimous vote.

10. Review of and Possible Action on the Following Applications for Physical Therapist Licensure (Foreign Educated, Graduates of Program Not Accredited by CAPTE):

a. Review of Request to Find Applicant has Met Requirement of Supervised Clinical Practice Period (SCCP)

Amado T. Ariola

Ms. Fearon read the name of the applicant for the record, and Ms. Herbst Paakkonen advised the Board that the substantive review of the application was performed on June 28, 2005 and the Board found the applicant to have a substantially equivalent education to that of a graduate of a U.S. accredited program. Mr. Ariola had also submitted two Interim Period Evaluation Forms completed by his previous supervisors in an effort to demonstrate that he had already met the requirement of the SCPP. The Board had requested additional information from his previous supervisors including a description of the facilities, the patients treated, and clarification with respect to how Mr. Ariola was supervised. The Board reviewed the information submitted by Mr. Ariola and concurred that he had not provided sufficient information to warrant granting his request. Ms. Kalis moved Mr. Amado be required to complete a 90-day SCPP as required by A.R.S. §32-2022(B)(7). Ms. Fearon seconded the motion. The motion carried by a unanimous vote.

Maria T. Ariola

Ms. Fearon read the name of the applicant for the record, and Ms. Herbst Paakkonen advised the Board that the substantive review of the application was performed on April 22, 2005 and the Board found the applicant to have a substantially equivalent education to that of a graduate of a U.S. accredited program. Ms. Ariola had subsequently submitted three Interim Period Evaluation Forms completed by

her previous supervisors in an effort to demonstrate that she had already met the requirement of the SCPP. The Board had requested additional information from her previous supervisors including a description of the facilities, the patients treated, and clarification with respect to how Ms. Ariola was supervised. The Board reviewed the information submitted by Ms. Ariola and concurred that she had provided sufficient information to warrant granting her request. Ms. Fearon moved the requirement of A.R.S. §32-2022(B)(7) be waived for Ms. Ariola and that she be granted licensure. Mr. Gossman seconded the motion. The motion carried by a unanimous vote.

Elizabeth Soares

Ms. Fearon read the name of the applicant for the record, and Ms. Herbst Paakkonen advised the Board that the substantive review of the application was performed on June 28, 2005 and the Board found the applicant to have a substantially equivalent education to that of a graduate of a U.S. accredited program. Ms. Soares had also submitted an Interim Period Evaluation Forms completed by a previous supervisor in an effort to demonstrate that she had already met the requirement of the SCPP. The Board had requested additional information from Ms. Soares' previous supervisor including a description of the facilities, the patients treated, and clarification with respect to how Ms. Soares was supervised. The Board reviewed the information submitted by Ms. Soares and concurred that she had provided sufficient information to warrant granting her request. Ms. Kalis moved the requirement of A.R.S. §32-2022(B)(7) be waived for Ms. Soares and that she be granted licensure. Mr. Fearon seconded the motion. The motion carried by a unanimous vote.

b. Review of Request for Approval for Supervised Clinical Practice Period (SCCP)

Patricia Scott

Ms. Fearon introduced the agenda item and the Board reviewed the SCPP proposal submitted by the physical therapy department of the Scottsdale Mayo Clinic identifying Ms. Pamela Kline, P.T. as the primary supervisor of Ms. Scott; two additional supervisors were named in the proposal to cover any work absences on the part of Ms. Kline. The Board complimented the proposal for being comprehensive and complete; Ms. Scott is scheduled to begin a 90-day period that, if approved, will begin on July 18, 2005. Ms. Kalis moved the SCPP proposal for Ms. Scott be approved and that she be granted an interim permit pursuant to A.R.S. §32-2025. Ms. Fearon seconded the motion. The motion carried by a unanimous vote. The Board also directed Ms. Herbst Paakkonen to request that Ms. Kline, a Clinical Performance Instrument (CPI) trainer for the APTA, complete the CPI for Ms. Scott and report to the Board on its use for interim permit holders who are completing a SCPP.

11. Request for Approval to Take National Physical Therapist Examination; Review of Documentation Related to Disclosure on "Personal Information" Section of Application:

David J. Elasser

Ms. Fearon introduced the agenda item and read the name of the applicant for the record. Ms. Herbst Paakkonen advised the Board that applicants by examination who answer "yes" to one of the questions listed on the application for licensure or certification be reviewed by the Board prior to granting approval to sit for the National Physical Therapy Examination (NPTE). The purpose of the review is to assess whether the applicant has met the requirement of "good moral character" found in A.R.S. §32-2022. The Board reviewed the application of Mr. Elasser and noted that he had disclosed a DUI conviction in 2003 while a student at the University of Nebraska. The Board discussed the fact that Mr. Elasser had completed all court-ordered requirements for the conviction, and he provided a suitable explanation for how the event has modified his behavior. Ms. Kalis moved Mr. Elasser be approved to take the NPTE and that he be granted licensure upon receipt by the Board office of a passing score. Mr. Gossman seconded the motion. The motion carried by a unanimous vote.

12. Request for Accommodation to the National Physical Therapy Examination In Accordance with the Americans with Disabilities Act

Ronda L. Moriarty

Ms. Fearon introduced the agenda item and Ms. Herbst Paakkonen reminded the Board that on May 24 its reviewed a letter submitted by Dr. Theresa Dombrowski, Associate Dean of Student at Northwestern University, in support of Ms. Moriarty’s request that the Board grant her the accommodation of time-and-a-half with which to take the National Physical Therapy Examination (NPTE) given that she has a hearing impairment. The Board had discussed the fact that while the letter stated that Ms. Moriarty received this accommodation throughout her enrollment at Northwestern, the Board required additional information in the form of justification for why extra time is warranted for a hearing impaired applicant given that the NPTE is computer based. In response to a request for the additional information, Dr. Dombrowski submitted a letter of explanation noting that because Ms. Moriarty’s first language is American Sign Language, she requires additional time to understand the meaning of questions on an examination as she adjusts to differences in sentence construction, grammar and syntax. The Board concluded that Dr. Dombrowski had provided the necessary clarification. Ms. Fearon moved the accommodation of time-and-a-half with which to take the NPTE be granted to the applicant. Mr. Robbins seconded the motion. The motion carried by a unanimous vote.

13. Review and Possible Action Concerning Compliance with Continuing Competence Requirements

a. Licensees Recommended by Audit Committee as In Compliance with Continuing Competence Requirements for 2002-2004 Licensure Period:

Lisa Brady	Linda Cory	Fred Enke
Jaimie Forbes	Jennifer Johnson	Kathryn Keeling
Brian Moss	Ramona Osborne Gill	Sharon Pullins
Nancy Segel	Leah Shoemaker	Marion Stiles
Dorothy Waldo	Joan Walker	

Ms. Fearon introduced the agenda item and noted that Ms. Herbst Paakkonen had reviewed the submissions of the listed licensees and found them to be in compliance with the requirements described in Board rules at A.A.C. R4-24-401 through R4-24-403. Ms. Fearon moved the Board find the licensees in compliance with the Board’s continuing competence requirements. Ms. Kalis seconded the motion. The motion carried by a unanimous vote

b. Licensees Recommended by Audit Committee as Out of Compliance with Continuing Competence Requirements for 2002-2004 Licensure Period:

Michael Clark		
----------------------	--	--

The Board reviewed Ms. Herbst Paakkonen’s recommendation that Mr. Clark be found out of compliance with the Board’s continuing competence requirements for failing to complete activities that comply with the Board’s continuing competence requirements as defined by Board rules. Ms. Herbst Paakkonen noted that his second submission lacked any supporting documentation, and that his 6 month deadline for compliance is July 22, 2005. Ms. Fearon moved Mr. Clark be again found out of compliance and be notified that his 6 month deadline to come into compliance with the requirements pursuant to R4-24-401(J) is July 22, 2005. Mr. Gossman seconded the motion. The motion carried by a unanimous vote.

BOARD BUSINESS AND REPORTS

13. Executive Director's Report:

a. Financial Report: Ms. Herbst Paakkonen summarized the agency revenue and expenditures report as of May 31, 2005 and reported that the Board continues to be in a very strong financial position, especially with respect to agency revenues. Income for the year may exceed projections by anywhere from \$20,000 to \$25,000 due to higher than anticipated fee collections in almost all revenue categories. She predicted that she will not be able to spend all of the remaining fiscal year 2005 appropriation, but that she is trying to pre-purchase certain items and is looking at spending some funds in Information Technology areas such as data-base and web-site development as well purchasing upgraded computer hardware for the staff. The recent newsletter issue printing and mailing costs will also obligate some fiscal year 2005 funds.

b. Board Staff Activities: Ms. Herbst Paakkonen reported that while the applications for licensure and certification were keeping her very busy, Deb Turner, the Board's new part-time administrative assistant (shared with the Veterinary Board) is quickly coming up to speed on her application processing tasks. She also reported that she has somewhat enjoyed immersing herself in the applications processes so that she is able to maintain her skills in this program area. She further noted that Carol Lopez is scheduled to return to work on August 1, 2005.

c. FSBPT Initiatives and News: The Board discussed the letter written by the New Jersey Board of Physical Therapy to FSBPT concerning the decrease in the pass point for the NPTE and its potential implications for public protection. The Board also discussed the early high pass rate trends for the NPTE among Arizona applicants. The Board directed Ms. Herbst Paakkonen to continue tracking the pass rate for physical therapist applicants and to report that information to the Board at subsequent meetings.

d. Legislative Update: No additional information to report.

e. Rules Revision Update: Ms. Herbst Paakkonen reported that the draft changes to Articles 1 and 2 are still undergoing a courtesy review by Bill Hylen, the Board's attorney liaison with the Governor's Regulatory Review Council (GRRC). She had hoped the review would be completed before the end of June, however, Mr. Hylen requires additional time to complete his work.

14. Review, Discussion and Possible Approval of Draft Jurisprudence Examination Forms *

**Executive Session planned for this agenda item*

Ms. Fearon introduced the agenda item and Ms. Herbst Paakkonen advised the Board that the two draft forms presented for review contained the edits that were made during the Board's May 5, 2005 special session meeting. She had verified that the edits were made as requested. The Board also discussed the letter addressed to the Board and prepared by Dr. Cynthia Searcy, Managing Director of Assessment with the Federation of State Boards of Physical Therapy that addressed the varying degrees of difficulty of the examination questions. Fearon moved the Board meet in Executive Session to discuss a questionable item on one of the test forms. Ms. Kalis seconded the motion. The motion carried by a unanimous vote. Upon resuming the meeting in public session. Ms. Fearon moved the examination forms be approved as presented with the edit that was discussed in Executive Session. Mr. Gossman seconded the motion. The motion carried by a unanimous vote. The Board Directed Ms. Herbst Paakkonen to notify Dr. Searcy of the one change that will need to be made to the examination.

15. Credentialing of Delegate and Alternate Delegate to the Federation of State Boards of

Physical Therapy Fall Meeting & Delegate Assembly (September 9-12, 2004; Austin, TX)

Ms. Fearon introduced the agenda item and Ms. Herbst Paakkonen explained that the Federation funds the attendance and participation of each member Board's administrator as well as the Delegate that each member Board designates. Additionally, Ms. Hiller will be one of the facilitators for a pre-

conference session and accordingly the Federation will fund her attendance and participation. She further explained that Ms. Lopez will attend at least one day of the educational sessions, and will share her room in order to minimize costs. Finally, the agency budget allows the Board to send an Alternate Delegate which is not funded by FSBPT. Dr. Cornwall announced that Northern Arizona University is funding his participation, and he hopes to be able to attend both the faculty track sessions as well as the sessions for regulatory Board members. Mr. Gossman moved Ms. Kalis be credentialed as the Arizona delegate to the Federation's Assembly and that Ms. Fearon be credentialed as the Alternate Delegate with her participation funded by the Board. Mr. Robbins seconded the motion. The motion carried by a unanimous vote.

16. Review and Possible Approval of Proposed Fiscal Year 2007 Fee Increase for Original and Renewal Licensure and Certification

Ms. Fearon introduced the agenda item and Ms. Paakkonen summarized the draft rule prepared by she and Ms. Jeanne Hann – who will assume a new position with the Arizona Department of Administration beginning July 1 as a contract rule writer for small Arizona Boards and Commissions. She clarified the proposed fees that had been presented to the Board previously, as well as the suggested fees calculated by Ms. Herbst Paakkonen and Ms. Hann that take into consideration the disparity between what physical therapists and physical therapist assistants earn on average. The Board also reviewed the spreadsheet illustrating the projected revenue, expenditures and cash balances for the agency through fiscal year 2011. The report indicates the necessity to increase fees effective July 1, 2006 (the beginning of fiscal year 2007). Ms. Herbst Paakkonen advised the Board that the agency's budget analyst with the Governor's Office of Strategic Planning and Budget (OSPB) had reviewed the proposed and suggested fee increases, and concurred that the increases and timing were appropriate. Ms. Hann had provided the Board with a Notice of Proposed Rulemaking in addition to the draft rule outlining the fee increases; all that is required to initiate the change is approval by the Board and selection of a date to hold the public hearing for the rule change. Ms. Fearon moved the Board approve the draft rule. Mr. Robbins seconded the motion. The motion carried by a unanimous vote. The Board directed Ms. Herbst Paakkonen to check availability for either September 6 or September 7 for the public hearing on the rule change, and to notify the Board of the final date.

CALL TO THE PUBLIC

None

ADJOURNMENT

The meeting was adjourned at 11:40 a.m.

Approved by,

Merle Gossman,
Secretary

Prepared by,

Heidi Herbst Paakkonen
Executive Director

