

REGULAR SESSION MEETING MINUTES
October 25, 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)
Carol Lopez, Licensing Administrator
Dawn Walton Lee, Assistant Attorney General

CALL TO ORDER

Ms. Fearon called the meeting to order at 8:00 a.m.

1. Approval of Minutes

Ms. Fearon introduced the agenda item and directed the Board to a revised draft of the minutes with highlighted sections that was available for review. The Board noted additional corrections concerning clarifying the outcome of the investigation conducted by the Scottsdale Police Department under the Informal Hearing of Connie Hardin, P.T.; clarifying the statements made by Timothy Borden, P.T. concerning his taking prescription medication from existing or former patients; and correcting Ms. Suzanne Brown's professional credentials. The Board tabled action on the minutes pending confirmation of the statements that Mr. Borden made relative to taking medication from patients or former patients.

2. Initial Review of Complaint:

#05-11: Bryan Hannley, P.T.

Ms. Fearon introduced the agenda item, and Ms. Kalis announced that she would recuse herself as Mr. Hannley has in the past arranged for her contract employment at the NovaCare facility at which he is the rehabilitation manager. Ms. Hiller summarized the complaint filed by F.B., daughter of a former patient, R.B. who was treated at NovaCare Rehabilitation on four occasions from February 16 through March 2, 2005 for left leg pain. Prior to the 2nd treatment visit on February 22, 2005 R.B. fell and experienced a decline in function. Despite R.B.'s report of the fall and reports of his decline in function, the patient was treated by an 'exercise physiologist'

(athletic trainer) and not observed or treated by Mr. Hannley at the treatment visits on February 22, 2005 and on February 25, 2005. Additionally, mechanical traction was added to the treatment plan on February 25 that was not ordered by R.B.'s physician. 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, physical therapy students or interim permit holders in accordance with this chapter and rules adopted pursuant to this chapter."
- A.R.S. § 32-2044(12) "Failing to adhere to the recognized standards of ethics of the physical therapy profession."
 - *Code of Ethics* Principal 3 "Physical therapists accept responsibility for the exercise of sound judgment."
 - *Guide for Professional Conduct 3.1 Acceptance of Responsibility A.* "Upon accepting a patient/client for provision of physical therapy services, physical therapists shall assume the responsibility for examining, evaluating, and diagnosing that individual; prognosis and intervention; re-examination and modification of the plan of care; and maintaining adequate records of the case including progress reports. (*Emphasis added*)
 - *Guide for Professional Conduct 3.2 Delegation of Responsibility A.* Physical therapists shall not delegate to a less qualified person any activity that requires the unique skill, knowledge, and judgment of the physical therapist."

Ms. Hiller included the possible jurisdiction of a violation of A.R.S. § 32-2044(20) "Failing to maintain adequate patient records because the physical therapy records for R.B. included an initial evaluation performed by Mr. Hannley on February 16, 2005 that lacked a subjective history, lacked any objective tests or measurements and lacked certain critical assessments, combined with the fact that no neurologic or special tests were performed. Ms. Hiller advised the Board that in his response to notification of the complaint, Mr. Hannley stated that R.B. was treated under his supervision on four visits following referral by his physician for left leg pain. He noted that after being informed by Todd Linden, ATC on February 22, 2005 that Mr. Bianco had fallen stepping off a curb when he "felt his legs gave out", he instructed Mr. Linden to continue with the established treatment plan consisting of modalities and mat exercises. Ms. Hiller also briefly summarized her interviews with both Mr. Hannley and R.B. (accompanied by his daughter who filed the complaint on his behalf), and noted they had different recollections with respect to whether R.B. had used an assistive device for walking prior to his fall. Ms. Hiller advised the Board that her review of the physical therapy and referring physician records and interviews with R.B., F.B. and Mr. Hannley confirm that Mr. Hannley did not perform a thorough evaluation of Mr. Bianco at his initial visit and that he failed to reassess R.B. following a fall with documented aggravation of symptoms and decline in function. On February 22 and 25, 2005 Mr. Hannley did not see or speak with R.B. or participate in his treatment beyond discussions with the athletic trainer performing R.B.'s treatments on those dates. Mr. Hannley requested and was granted approval to address the Board. He read a statement in which he noted he had practiced physical therapy for several years in Texas and has practiced in Tucson since June of 2004. He stated that the policy of NovaCare is that all patients who should be seen by a

physical therapist are. Mr. Hannley asserted that Mr. Linden is a competent provider of physical therapy assistive personnel services, and that the patient received appropriate care under his supervision. He admitted to deficiencies with his documentation and stated he is willing and eager to learn how to develop greater skills in this area. Mr. Hannley further stated that he would like to move forward with whatever professional development the Board advises. He noted that NovaCare scheduling policies have been revised to better ensure that patients have access to care provided by a physical therapist. The Board questioned Mr. Hannley concerning whether the NovaCare scheduling policies created a situation rendering his documentation to be deficient and incomplete. Mr. Hannley explained that this was not the case with this patient as R.B. had elected to be scheduled for the gym rather than on his P.T. schedule as it was more conducive to his own schedule. The Board noted that the patient's chart does not clearly reflect this, and Mr. Hannley explained that it would not have been recorded in this manner. Mr. Hannley stated that because the patient was not on his schedule but was on the "gym schedule" for February 22, he did not reassess him after his fall; had the patient been on his schedule he definitely would have evaluated the patient. The Board questioned why he did not move R.B. to his schedule after he learned from the athletic trainer that the patient had experienced a fall. Mr. Hannley responded that he does not have an answer for this question. In response to the Board's question concerning physical therapist assistants providing supervision to other assistive personnel at the NovaCare clinic at which he practices, Mr. Hannley clarified that P.T.A.s do not supervise other assistive personnel. The Board noted that the clinic policies do seem to suggest that P.T.A.s supervise aides and technicians. Ms. Fearon moved to invite Mr. Hannley to an informal hearing; Dr. Cornwall seconded the motion. The motion carried by a unanimous vote. Additionally the Board directed staff to obtain a statement from Mr. Todd Linden, the athletic trainer who treated R.B. in the gym, concerning the patient's ambulatory status specific to his use of an assistive device prior to the fall he sustained.

3. Initial Review of Complaint:

#05-14; Dawn Florek, P.T.

Ms. Fearon introduced the complaint and Ms. Hiller summarized the complaint opened by Board staff in response to receipt of an Adverse Action Report from the Federation of State Boards of Physical Therapy (FSBPT) concerning disciplinary action taken against Ms. Florek by the Texas Board of Physical Therapy Examiners (Texas P.T. Board) in 2003. On June 24, 2003 the Texas Board of P.T. entered into an Agreed Order with Ms. Florek finding that she lacked a sufficient number of approved hours in ethics education required for purposes of renewing her Texas P.T. license in 2002. 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 (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."

Ms. Hiller explained that according to the Agreed Order Case #03038 Ms. Florek failed to properly renew her Texas license in that, while taking a sufficient number of approved hours, she failed to take the required ethics course. Ms. Florek admitted her failure to obtain the required ethics course work and the Texas Board concluded that she violated Section 453.351 of the Texas Physical Therapy Practice Act and Chapters 322.4 and 341 for failing to properly renew her license. The Board ordered Ms. Florek to 1) complete 2 hours of ethics coursework; 2) complete 30 hours of Board approved community service; 3) reimburse the Board for the costs

of the investigation; and 4) comply with all of the provisions of the Texas physical therapy act and Board Rules. In her response to the notification of the opening of the complaint, Ms. Florek explained that she worked as a traveling physical therapist and holds licenses in several states, and she acknowledged that she was unaware of the ethics and professional responsibility coursework required for renewal of her Texas license. Ms. Florek completed all of the requirements stipulated in her Order by the imposed deadline of October 31, 2003. The Board questioned the delay in receiving the information from the Texas Board of Physical Therapy and was advised by staff that the Adverse Action report was likely filed late, delaying transmission of the information to the Arizona Board. The Board discussed its authority and appropriate action when a licensee is found by another physical therapy jurisdiction to have violated the law. Following discussion of the fact that Ms. Florek complied with all of the terms of her Agreed Order with the Texas Board, Ms. Fearon moved to dismiss the complaint. Mr. Gossman seconded the motion. The motion carried by a unanimous vote.

3. Initial Review of Complaint:

#05-15; Patricia Crean, P.T.

Ms. Fearon introduced the case, and Ms. Hiller provided a summary of the complaint opened by Board staff in response to receipt of an Adverse Action Report from the Federation of State Boards of Physical Therapy (FSBPT) concerning disciplinary action taken against Patricia Crean, P.T. by the Texas Board of Physical Therapy Examiners (Texas PT Board) in 2002. On December 3, 2002 the Texas Board of PT entered into an Agreed Order with Ms. Crean finding that she completed only 26 of the required 30 hours of approved continuing education, therefore lacking four (4) hours of approved coursework when she renewed her Texas PT license in 2002. 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 (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.”

Ms. Hiller noted that the Agreed Order issued by the Texas Board in Case #02173 found that Ms. Crean failed to properly renew her Texas license in that she completed only 26 of the required 30 hours of approved continuing education, thereby lacking four hours required for renewal. Ms. Crean acknowledged that she has submitted to the Texas Board 32 hours of completed coursework, but only 26 of the hours were approved by that Board leaving her 4 hours deficient. She admitted that the Texas Board had concluded that she violated Section 453.351 of the Texas Physical Therapy Practice Act and Chapters 322.4 and 341 for failing to properly renew her license. The Board ordered Ms. Crean to 1) complete 4 hours of approved coursework; 2) complete 30 hours of Board approved community service; 3) reimburse the Board for the costs of the investigation; and 4) comply with all of the provisions of the Texas PT Act and Board Rules. In her written response to notification of the complaint opened by the Arizona Board of Physical Therapy, Ms. Crean included documentation confirming completion of the conditions of her Agreed Order and restoration of her Texas license 1-00286-3 in good standing. She explained that when she renewed her Texas license in 2002 she submitted 32 hours of continuing education for approval to the Texas PT Board but only 26 of the hours she submitted were approved. Ms. Crean was found to be deficient four (4) hours of the required board-approved continuing education and thus found to have failed to properly renew her license. Since she was living out of state Ms. Crean signed an Agreed Order in December 2002 acknowledging that she

lacked the required amount of continuing education for renewal and agreeing to fulfill the terms of the Consent. Ms. Crean requested and was granted approval to address the Board. She explained that she has long been a proponent of continuing education for physical therapists and that she had routinely completed many continuing education courses before it was a requirement for licensure renewal in Arizona. She explained that while she took an appropriate course with respect to its content, it was not approved by the Texas Board because the title suggested that the course was not relevant to the practice of physical therapy. Ms. Crean also noted that she had long ago met the requirements of the Texas Board Order, and that she has been adversely affected by the ripple effect that has been created by the actions of the Texas Board. Ms. Fearon moved to dismiss the complaint, and Ms. Kalis seconded the motion. The motion carried by a unanimous vote.

Note: The agenda was reordered as follows

16. Review of and Possible Action Concerning Physical Therapist Assistant Sunrise Application Filed by the Arizona Association for Home Care

Ms. Fearon introduced the agenda item and announced that the Board would take public comments prior to discussing the matter. Debbie Bierwas, P.T., requested and was granted permission to address the Board. Ms. Bierwas stated that she practiced for 8 years in home health and that it is her observation that patients in a home health system requiring the care of a P.T. due to their acuity upon discharge from hospital care. She advised the Board that she would feel very uncomfortable providing off-site supervision to a P.T.A. in that clinical setting as many P.T.A.s would not have the necessary clinical and assessment skills to treat that population. She further stated that home health is absolutely the wrong environment to introduce general supervision. Ms. Bierwas encouraged the Board to discuss with the Arizona Occupational Therapy Examiners Board this issue as that agency hears many cases concerning inappropriate supervision on the part of occupational therapists and improper delegation of treatment skills to certified occupational therapist assistants (COTAs). She warned that employers will abuse general supervision and noted that there is a deficit of P.T.A.s in Arizona which means that general supervision is not an appropriate solution to the problem. Robert Drenfeld, P.T. and President of the Arizona Physical Therapy Association (AzPTA) requested and was granted permission to address the Board. Mr. Drenfeld reiterated that the AzPTA is opposed to the change, and that the legislative agenda recently adopted by the Association includes opposition to general supervision of P.T.A.s. Suzanne Gilstrap, lobbyist for the Association for Home Care (AAHC), requested and was granted permission to address questions posed by the Board. In response to the Board's questions, Ms. Gilstrap stated that the AAHC membership is about 50, and there are approximately 80 home health agencies in Arizona. The Board asked how the Association perceives physical therapy care in home health changing should the statutes in Arizona change to allow general supervision of P.T.A.s. Ms. Gilstrap indicated that she envisioned the P.T. conducting the initial visit and assessment, the P.T.A. would provide treatment with intermittent follow-up and eventual discharge by the P.T. She stated that there would be ongoing involvement in the patient's care by the P.T. Ms. Gilstrap advised the Board that the AAHC has clarified its position that the home health agency may elect whether to employ P.T.As, and that P.T.s would make the clinical determination whether to allow a P.T.A. to treat a home health patient. Michelle Hindman from Capitol Consulting, the lobbying firm that represents the AAHC, advised the Board that the AAHC does not believe that changing the

law to allow general supervision of P.T.A.s will miraculously erase the problem of staffing shortages on the part of the home health agencies, but that statutory change would be one tool to use to solve the problem that the agencies are experiencing. In response to the Board's questions, Mike Saugstio, Chair of the Governmental Affairs Committee of the AAHC, affirmed that a survey conducted jointly with the AzPTA only measured how many patients were referred and declined access to physical therapy care, but did not capture any information relative to whether specific patients who were turned away by one agency were picked up by a different agency. He stated that in the best case scenario patients eventually received care, but after a delay. The Board asked Mr. Saugstio what strategies have the home health agencies used in an attempt to recruit P.T.s. He replied that they are looking at every possible avenue to solve the problem. He further surmised that the deficit of P.T.A.s in Arizona is because their ability to care for patients is limited by the Board's statutes. Mr. Saugstio advised the Board that if the statutes were to change to allow general supervision of P.T.A.s' the home health agencies will make efforts to recruit P.T.A.s from other states, and would adopt policies that would emulate how an R.N. provides general supervision to an L.P.N. The Board questioned why the AAHC would attempt to pursue statutory change at this time when historically there have been similar shortages of P.T.s and P.T.A.s. Mr. Saugstio replied that the AAHC only recently began looking at what other states allow in terms of general supervision. He further noted that the position of the AAHC is that care is being compromised now because patients are not being seen. Mr. Saugstio relayed concerns about their audit findings with respect to delays in P.T.s making initial visits with patients; the regulations require an evaluation within the first 48 hours of referral but they can't always meet that deadline. In response to the Board's questions, Mr. Saugstio stated that he cannot provide any information to the Board at this time that would indicate what percentage of patients could be treated by a P.T.A. versus a P.T. He further explained that traditional forms of advertising for P.T. positions frequently yield no responses. With respect to offering incentives, he noted that small agencies cannot do this, but signing bonuses are often offered by larger agencies. Peter Zawicki, P.T. and Director of the PTA program at Gateway Community College then addressed the Board and reviewed the Commission on Accreditation of Physical Therapy Education (CAPTE) comprehensive curriculum of P.T.A. educational programs. Mr. Zawicki noted that the comprehensive curriculum includes crucial interventions that are taught to P.T.A. students, including those at Gateway. Mr. Zawicki commented that from an educational perspective the Board can review this information and determine whether a P.T.A. would therefore be competent to perform these interventions in home health care settings. Mr. Zawicki also commented that the position of the American Physical Therapy Association (APTA) is that general supervision is an appropriate level of supervision of P.T.A.s, while states make the ultimate decision whether to require a more restricting form of supervision. He encouraged the Board to consider this position, along with the fact that general supervision currently exists in 44 other states (3 states are silent on this issue because the P.T.A. is not regulated in those jurisdictions). Pennsylvania, New Jersey and Arizona are the only states that require on-site supervision. Mr. Zawicki also asked the Board to examine whether the 44 states that have general supervision of P.T.A.s have regulatory problems. In closing, Mr. Zawicki stated that the P.T. is trained to evaluate the patient, develop the plan of care for the patient (modifying when necessary) and discharge the patient; the P.T. can also direct the P.T.A. to provide appropriate treatment to the patient under general supervision. In response to the Board's questions, Mr. Zawicki indicated that the CAPTE P.T.A. accreditation guidelines for curriculum were updated last in 2003. He noted that at this time Gateway Community College

P.T.A. students do not complete clinical experiences in home health because currently the employment possibility in this field in Arizona is non-existent. This dynamic could be perceived as a detriment to the students because they do not get to have that experience. He further commented that CAPTE does not require students to have clinical experience in home health. Mr. Zawicki agreed with the Board that the administrative rules for those 44 states that allow general supervision vary widely in terms of the frequency with which the P.T. must return to the patient's home for on-going evaluation. The Board noted that while the statutes provide the broad guidelines, it will be the administrative rules that provide the key to public protection. In response to the Board's questions, Mr. Zawicki stated that it is his opinion that the PT must have the latitude in making the decision concerning the frequency with which the patient must be seen by the P.T.; in certain cases every other visit would be necessary, but in others it may be only at evaluation and discharge. He reminded the Board that the law requires a P.T. to document the basis for delegation of care on every date of service. Mr. Zawicki stated that sections 3.3.2.9 and 3.3.2.10 of the comprehensive curriculum are embedded in every aspect of the educational programs as patient safety is tantamount – from an educational standpoint they emphasize this. He further emphasized that it is that plan of care that dictates the treatment the patient shall receive and that the P.T.A. is never allowed to modify or progress the plan of care. Mr. Zawicki concluded by stating that the P.T.A. should know when to call 911, and when to contact the supervising physical therapist. James Tompkins, P.T. Director of Therapy at the Mayo Clinic and supervisor of several P.T.s and P.T.A.s requested and was granted approval to address the Board. Mr. Tompkins requested that the Board focus on its purpose of public protection and recall that supervision of assistive personnel is often a concern. He stated that patients discharged from hospital care are sicker than they ever have been, and he advised the Board that that the Mayo Clinic would not be comfortable allowing P.T.A.s to do home health on discharged patients, and that this position should be the model. He reminded the Board that many facilities are currently struggling to hire physical therapists and, while access is the argument, financial motivations are at play. Carol Leonard, Director of Assisted Healthcare (a home health care agency), requested and was granted approval to address the Board. She explained that home health operates in a “different manner”; employees can make anywhere from \$60,000 to \$200,000 and have many benefits such as mileage, paid cellular phones and fax machines and others. Ms. Leonard further stated that many times her agency turns away patients because they do not have the P.T.s on staff to treat the patients. She urges their P.T.s not to accept the patient if they cannot meet the 48-hour evaluation requirement. She implored the Board to accept the argument that the AAHC is not motivated by money – they just don't have the P.T. personnel. Ms. Leonard stated that the home health agencies are forced to use P.T. staffing agencies at a high cost and that the care these P.T.s are providing is “appalling”. She further accused the P.T.s of “hustling” patients. She commented that the home health care agencies are willing to pay whatever it takes to ensure that care is provided. The Board asked Ms. Leonard how hiring a P.T.A. – a person lacking the knowledge and skill of a P.T. – would improve this situation. She responded by stating that agencies would be allowed to choose whether to hire P.T.A.s in the first place and they would have more options to utilize salaried personnel rather than the P.T. staffing companies. Al D'Appolonio, P.T. addressed the Board and noted that he would soon forward some new information to the Board collected by APTA that illustrates trends in employment of P.T.s and P.T.A.s in home health settings. The Board then reviewed the draft position statement, and noted there were some additional topics to

research. The Board agreed by consensus to meet via teleconference on November 2, 2005 at 8:00 a.m. to further revise the draft.

5. Review and Possible Action Concerning Compliance with Board Order:

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

Ms. Fearon introduced the agenda item, and Ms. Hiller provided a summary concerning the status of Ms. Bentley's probation compliance. During its regular session meeting of September 27, 2005, the Board discussed concerns identified by Ms. Hiller with respect to Ms. Bentley's compliance with the Board's Order – specifically the fact that Ms. Bentley thus far had submitted certain compliance requirements on time, but that the materials submitted demonstrated that she may be out of compliance in terms of their content. The Board noted that while Ms. Bentley had not yet completed the required documentation course, her documentation continues to reflect the violations of law that resulted in the disciplinary action, including the use of triple codes for billing purposes. Also discussed was the lack of clarity concerning Ms. Bentley's billing methodology (i.e. how does she determine and justify specific charges). At the conclusion of the discussion, the Board directed staff to subpoena Ms. Bentley for purposes of reviewing its concerns with her, and in order to attempt to negotiate a Consent Agreement that would modify the current Order. The modification would include revised or additional probation terms intended to better ensure that she can come into compliance with respect to her documentation and billing before her scheduled probation termination date. Ms. Bentley was present for the discussion and provided an opening statement in which she explained that she had better understood the Board's concerns during Ms. Hiller's most recent on-site review of her records; Ms. Hiller was better able to clarify the incorrect use of triple coding, and she stated that she is confident that she corrected the billing appropriately in accordance with the requirements of her Order. Ms. Bentley explained that her plans of care for her patients consist of referral from the physician at which time she prepare an evaluation and implements the plan for a minimum of six weeks per the physician's script. She noted that the physician is referring the patients to her specifically and exclusively for MedEx treatment. Ms. Bentley admitted that her evaluations have been incomplete, and the Board agreed that the objective measurements and findings have been deficient and even absent. The Board also noted concerns with respect to the use of the assistive personnel as the treatment notes indicate that the technician is treating the patient while Ms. Bentley only co-signs the notes. Ms. Bentley insisted that she is involved in every treatment session but the Board noted that this cannot be determined from her notes. The Board questioned whether she supplementing her skills while the technician monitors the patient, or is the patient simply doing the MedEx program? Ms. Bentley stated that she is actively involved in the care provided to each patient. The Board noted that she is not demonstrating that she had corrected her deficiencies pursuant to the Order – specifically, her documentation still does not support what was billed and she is failing to establish a treatment plan. The Board discussed offering Ms. Bentley a Consent Agreement including the term that she must meet periodically with a mentor who will evaluate her documentation, and instruct her as to how to come into compliance with the law with respect to her documentation. The Board noted that the purpose of the Consent Agreement would allow Ms. Bentley an opportunity to correct her deficiencies prior to coming to the end of her term of probation and being found out of compliance with the Order which may result in additional disciplinary action. The Board discussed possible mentors to include a management firm or an individual physical therapist mentor who could assist with Ms. Bentley's documentation deficiencies. Dr. Cornwall moved to offer Ms. Bentley a Consent Agreement that would extend the term of probation 12 months from the effective date of the

Agreement and would require her to meet with a mentor who has experience with instruction on patient care documentation skills; an additional term of the Agreement would allow her to petition for early termination after working with her mentor for a minimum of 6 months. The Agreement will require Ms. Bentley to present her choice of clinical mentor to the Board for approval during its regular session meeting of November 22, 2005. Ms. Fearon seconded the motion. The roll call vote was unanimous.

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

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

Ms. Fearon introduced the agenda item and Ms. Hiller reported that Ms. Honkonen is seeking termination of her probation as stipulated by Consent Agreement and Order issued pursuant to Complaint #05-02. Ms. Honkonen was placed on probation by the Board for 90 days effective July 7, 2005 for violating A.R.S. §32-2044(12), failing to adhere to the recognized standards of ethics of the physical therapy profession, and 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. This conclusion of law was based on findings that on August 29, 2004 Ms. Honkonen treated patients at El Dorado Hospital without a supervising physical therapist on-site and present in the facility. Ms. Honkonen's Consent Agreement and Order required that she write an essay addressing supervision requirements in the Arizona physical therapy statute and rules and the ethical standards of the physical therapy profession, and that she conduct an in-service training to physical therapy personnel at El Dorado Hospital concerning supervision in statute, rules and ethical standards. Ms. Hiller reported that Ms. Honkonen has complied with all terms of her Consent Agreement and Order. The Board reviewed the documentation submitted by Ms. Honkonen concerning her compliance with the Order. Ms. Kalis moved to grant termination of probation. Mr. Gossman seconded the motion. The motion carried by a unanimous vote.

7. Request for Voluntary Surrender of Licensure for Failure to Comply with Continuing Competence Requirements

Jo Lied, P.T.

Ms. Fearon introduced the agenda item and Ms. Herbst Paakkonen reported that on August 23, 2005 the Board had reviewed a memorandum concerning five licensees who failed to comply with the continuing competence requirements for renewal of licensure pursuant to A.A.C. R4-24-401 through 403 even after being granted a six-month extension. These five licensees were found in violation of A.R.S. §32-2044(1), violating this chapter, Board rules or a written order and of §32-2044(3), attempting to obtain a license by fraud or misrepresentation and their cases were remanded to informal hearing. Additionally, the Board had directed Ms. Herbst Paakkonen to offer a Consent Agreement to the licensees containing appropriate findings of fact, the above cited conclusions of law, and disciplinary terms including a \$500 civil penalty, a 5-day licensure suspension and 60 days with which to complete 20 qualifying hours of continuing competence. One of the five licensees, Ms. Lied, left a voice mail message for Ms. Herbst Paakkonen after receiving her notice of the Board's action and the Consent Agreement in the mail. Her voice mail message recorded on September 16, 2005 stated that she was no longer interested in maintaining her Arizona physical therapist license as she never intends to return and practice physical therapy in this state as she had lived and practiced physical therapy in Colorado for the past several years. Ms. Lied indicated that she wished to "cancel" her physical therapist license.

Ms. Herbst Paakkonen responded in writing to Ms. Lied informing her that the Board's statutes did not establish a mechanism whereby her license could be "cancelled", but that pursuant to A.R.S. §32-2047(7), the Board may accept a voluntary surrender of her license. Enclosed with that letter was a Consent Agreement that the Board has previously approved that has been offered to licensees under circumstances virtually identical to that of Ms. Lied. On October 11, 2005 the Board office received the signed voluntary surrender Consent Agreement back from Ms. Lied, along with the wall certificate issued to her at the time of her initial licensure. Because this action was not previously approved by the Board, and because A.R.S. §32-2047(7) requires Board approval, this matter is presented to the Board for final action. Mr. Gossman moved the Board accept Ms. Lied's voluntary surrender of her Arizona physical therapist license; Mr. Robbins seconded the motion. The motion carried by a unanimous vote. The Board questioned whether the Colorado Board of Physical Therapy would learn of this action and was advised by Board staff that the public record of this matter can be forwarded to that Board directly, or through the Adverse Action reporting system of the Federation of State Boards of Physical Therapy.

SUBSTANTIVE REVIEWS OF APPLICATIONS FOR LICENSURE & CERTIFICATION

13. Review of Supervised Clinical Practice Period Requirement and Possible Action to Grant Unrestricted Licensure:

Amado Ariola

Ms. Fearon read the name of the Interim Permit holder, and the Board reviewed the documentation submitted by Gladys Marino, P.T., supervisor to Mr. Amado during his 90-day supervised clinical practice period. In her correspondence to the Board, Ms. Marino advised the Board that she found Mr. Amado to be a skilled clinician and recommended licensure be granted to him. Ms. Kalis moved to grant licensure to Mr. Amado. Mr. Robbins seconded the motion. The motion carried by a unanimous vote.

Patricia Scott

Ms. Fearon read the name of the Interim Permit holder, and the Board reviewed the documentation submitted by Pamela Kline, P.T. and supervisor to Ms. Scott during her 90-day supervised clinical practice period. Ms. Kline addressed the Board and advised that Ms. Scott's clinical skills observed during the supervision period were such that she could recommend granting licensure. Ms. Kalis moved licensure be granted to Ms. Scott. Mr. Gossman seconded the motion. The motion carried by a unanimous vote.

8. Initial Review of Licensees Failing to Come Into Compliance with Continuing Competence Requirements After Six Month Allowance [A.A.C. R4-24-401(J)] and Discussion of Possible Disciplinary Action in Accordance with A.A.C. R4-24-401(K):

Sharon Yacovone, P.T.

Ms. Fearon introduced the agenda item and Ms. Herbst Paakkonen advised the Board that Ms. Yacovone had reinstated her physical therapist license for the 2004-2006 licensure compliance period on December 6, 2004, and, as a requirement of that renewal process, had signed statements affirming that she had completed her continuing competence requirements of R4-24-401 through R4-24-403. Ms. Yacovone was audited for compliance with the requirements and her submission was reviewed by the Continuing Competence Audit Committee on January 27, 2005. As a result of the review, the Committee recommended the Board find her out of compliance with the continuing competence requirements; during its February 22, 2005 regular session meeting the Board voted to find Ms. Yacovone out of compliance and, in accordance

with R4-24-401(J), granted her 6 months (from certified mail notice by the Board) with which to come into compliance with the requirement. Ms. Herbst Paakkonen reported that the 6 month period has elapsed for Ms. Yacovone. She noted that A.A.C. R4-24-401(K) states that “penalties for failure to comply with continued competence requirements may be imposed by the Board under A.R.S. §32-2047 [Disciplinary Actions; Penalties] following a hearing” and that the Board may determine whether the licensee has violated A.R.S. §32-2044(1), violating Board rules A.A.C. R4-24-401 through 403, and may determine whether a hearing will be held at a future date to review Ms. Yacovone’s lack of compliance with the Board’s continuing competence requirements. Alternatively, the Board may opt to offer the licensee the opportunity to enter into a Consent Agreement containing findings of fact, conclusions of law and disciplinary action. Ms. Fearon moved to find Ms. Yacovone in violation of 32-2044(1) and in violation of A.A.C. R4-24-401. Mr. Gossman seconded the motion. The motion carried by a unanimous vote. Ms. Fearon moved to offer Ms. Yacovone a Consent Agreement with terms to include a \$500 civil penalty, completion of 20 hours of continuing competence meeting the requirements of the Board’s rules within 60 days, and a 5-day license suspension; should the licensee decline the opportunity to sign the agreement, a hearing will be scheduled. Ms. Kalis seconded the motion. The motion carried by a unanimous vote.

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

Shabana N. Banfill	Barbara L. Berkhout	Carrie A. Betts
Douglas A. Blaney	Alison J. Cobb	Laura M. Coco
Christine L. Cook	Darcie L. Corrigan	Colleen M. Doherty
Leah R. Gass	Tana M. Gocken	Sane E. Goss
Scott W. Gregory	Donald S. Hardwick	Cari Houghton
Daria M. Jacobs	Raymond P. Johnston	Emily N. Keeble
Kristen L. Kirkman	Brandi M. Kozemski	Patrick J. Kozemski
William R. Lee	Jeffrey C. Lentz	Holly M. Logan
Neil M. Loughlin	Matthew T. McPherson	Marilyn A. Moffett
Alena Papenfuss	Chad E. Parrett	Yohan Peck
Aaron J. Pervier	Courtney L. Roberts	Monali D. Roy
Stanley J. Rozanski	William A. Sparks	Julie R. Tetreau
John P. Utz		

Ms. Fearon introduced the agenda item and announced the Board would review the applicants as listed on the agenda. The Board noted that Mr. Roy did not list dates of employment on his application. Also, Mr. Rozanski indicated work experience as a physical therapist that preceded his license being granted in Michigan. Ms. Fearon moved licensure be granted to all listed applicants with the exception of Mr. Roy and Mr. Rozanski while Board staff contacts them to obtain the missing information or explanations; licensure will be granted to the two applicants unless information is received that requires Board review. Ms. Kalis seconded the motion. The motion carried by a unanimous vote.

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

Cecil G. Abrea	Johana P. Aguilera	Suzanne M. Cain
Jamie D. Carter	Deborah J. Cochran	Katrina S. Fuhrman
Jordan R. Jenkins	Carolyn A. Lentz	Misty A. Oakes
Melissa S. Rogers	Steven Roldan	Katherine M. Skrabala

Ms. Fearon introduced the agenda item and announced the Board would review the applicants as listed on the agenda. The Board discussed the application of Ms. Rogers, physical therapist assistant from Louisiana who was displaced by Hurricane Katrina; her application is administratively complete with the exception of a passing score on the Jurisprudence Examination. Board staff placed her on the agenda given her circumstances and requested the Board substantively review her application in the absence of the final certification requirement. Ms. Kalis moved certification be granted to all listed applicants with Ms. Rogers to receive certification upon receipt of a passing score on the Jurisprudence Examination. Mr. Gossman seconded the motion. The motion carried by a unanimous vote.

11. Substantive Review of Education and Possible Action on Request by Foreign Educated Physical Therapist to take the National Physical Therapy Examination (Graduate of Program Accredited by CAPTE):

Frank Ramovs Jr.

Ms. Fearon read the name of the applicant for the record and the Board reviewed the application file of Mr. Ramovs, noting that he was a graduate of a CAPTE-accredited foreign program thus allowing the Board to waive the requirement of the credential evaluation report and the supervised clinical practice period. Ms. Kalis moved to grant permission to the applicant to take the National Physical Therapy Examination and to be licensed upon receipt of a passing score. Mr. Robbins seconded the motion. The motion carried by a unanimous vote.

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

a. Review for Determination of Substantially Equivalent Education and Review of Request to Find Applicant has Met Requirement of Supervised Clinical Practice Period (SCCP)

Sylvia Balazo-Revelo

Ms. Fearon read the name of the applicant for the record and the Board reviewed the additional information submitted by Ms. Balazo-Revelo, consisting of a letter of clarification from the applicant's former supervisor, as well as Ms. Balazo-Revelo's resume. The Board determined that the additional information requested substantiated the applicant's request to find that she had met the requirement of the supervised clinical practice period. Ms. Kalis moved licensure be granted to Ms. Balazo-Revelo. Mr. Gossman seconded the motion. The motion carried by a unanimous vote.

b. Review for Determination of Substantially Equivalent Education

Kiren Jaswal

Ms. Fearon read the name of the applicant for the record and the Board received assurance from staff that the file was administratively complete. The Board reviewed Ms. Jaswal's credential evaluation report prepared by International Consultants of Delaware (ICD) and noted that she

had earned the required number of semester credit hours in both general and professional education. The Board then noted her grade of a D in her Gross Anatomy course and then discussed it against R4-24-203(A)(3), which requires a grade of C or higher in all professional education courses. The Board concurred that a Gross Anatomy course would be considered a professional education as opposed to a general education course. Ms. Kalis moved the Board find Ms. Jaswal's education is not substantially equivalent to that of a graduate of a U.S. accredited program in that she lacks a passing grade in the Gross Anatomy course; Dr. Cornwall seconded the motion. The motion carried by a unanimous vote.

c. Review for Determination of Substantially Equivalent Education and Possible Action on Approval to Take National Physical Therapist Examination

Ilana Levin

Ms. Fearon read the name of the applicant for the record. Board staff briefed the Board on Ms. Levin's original application status with respect to 45 hours deficient in general education semester credit hours. Ms. Levin then filed a subsequent application and continued to complete general education coursework. Ms. Kalis moved approval for the exam. Dr. Cornwall seconded the motion. The motion carried by a unanimous vote.

Amanda MacNally

The Board reviewed the credential evaluation report by ICD and noted that she lacks 13 hours of general education. The Board discussed the fact that she lacks professional education credits to transfer to general education. Ms. Kalis moved the Board find her education not substantially equivalent and that she may complete the hours with college credit or the College Level Entrance Program (CLEP) examinations. Mr. Robbins seconded the motion. The motion carried by a unanimous vote.

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

Stacy J. Lemke

Ms. Fearon introduced the agenda item and the Board reviewed Ms. Lemke's explanation of her hiatus from the physical therapy program at A.T. Still University following some personal problems related to her family and friends. Ms. Suzanne Brown, program chair at A.T. Still, submitted a letter explaining the university's actions with respect to granting Ms. Lemke a temporary leave of absence from the program after she failed her clinical course, and Ms. Lemke's eventual completion of the program with improved grades. Ms. Kalis moved Ms. Lemke be granted approval to take the National Physical Therapy Examination (NPTE) with licensure granted upon completion of a passing score.

BOARD BUSINESS AND REPORTS

15. 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. Rules Revision Update:** Dr. Cornwall advised the Board that he had obtained the required iBT scores (Internet Based Test of English as a Foreign Language) required for admission to certain programs at Northern Arizona University, and that he would provide those to Ms. Herbst Paakkonen. He noted that the Business Administration program requires a score of 100, and the Political Science graduate programs require a score of 93. Ms. Herbst Paakkonen

also reviewed the anticipated timing of the filing of the rule package as January 3, 2006, and noted that some foreign educated applicants may be affected by the change in the English proficiency examinations such that the Board may be asked to review applications that are incomplete as far as the exams are concerned and to grant licensure to those applicants upon receipt of a passing score.

e. Legislative Update: Ms. Herbst Paakkonen reported that she and Ms. Fearon were in the process of scheduling appointments with members of the Health Committee of Reference to discuss the filing of the Sunrise Application by the Arizona Association for Home Care. Ms. Herbst Paakkonen will report to the Board the outcome of those discussions.

CALL TO THE PUBLIC

None

ADJOURNMENT

The meeting adjourned at 11:05 a.m.

Prepared by,

Heidi Herbst Paakkonen

Approved by,

Merle Gossman