

REGULAR SESSION MEETING MINUTES
December 20, 2005

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

MEMBERS ABSENT: Merlin Gossman, Secretary

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

CALL TO ORDER – 8:30 a.m.

1. Approval of Minutes:

November 22, 2005; Regular Session Meeting

Ms. Fearon introduced the agenda item and clarified that the Board adopted the iBT score of 100 based on the fact that Northern Arizona University requires that score for admission to its graduate Business Administration program. Ms. Fearon moved the minutes be accepted with the correction; Mr. Robbins seconded the motion. The motion carried by a unanimous vote.

COMPLAINTS AND INVESTIGATIONS

2. Informal Hearing:

#05-08; Virginia Morgan, P.T.

Ms. Fearon introduced the agenda item and the Board members and staff introduced themselves to the licensee and her counsel, Ms. Teressa Sanzio. Ms. Michelle Elam, Court Reporter, swore in Ms. Morgan. Ms. Hiller summarized the complaint noting that the Board held its initial review of the case during its regular session meeting on August 23, 2005. This complaint was filed by the husband of a former patient P.W. who was treated by Ms. Morgan on six occasions for neck and radiating left arm pain. The complaint alleges that the physical therapy provided by Ms. Morgan was not thorough or frequent enough and that Ms. Morgan was indifferent to P.W.'s concerns and needs (i.e. delays in obtaining a cervical collar and TENS unit, pressure on P.W. to have surgery and to stop using her physician-prescribed pain medication). The complaint further alleges that on October 1, 2004 Ms. Morgan was inattentive while performing a treatment maneuver to P.W.'s neck that resulted in extreme/violent dizziness (vertigo) and for which she was taken by ambulance to the ER. In her response to the complaint Ms. Morgan affirmed that the frequency of treatment was appropriate and was customary for a patient who was improving with treatment. She denied indifference in her conduct towards P.W. although she had little recollection of the conversations described in the complaint

concerning a cervical collar, surgery or pain medication. Ms. Morgan denied that she was inattentive or that she was responsible for injuring P.W. during her treatment visit on 10/01/04. Ms. Morgan's invitation to Informal Hearing included the following possible violation(s):

- **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 PT 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 (12)** Failing to adhere to the recognized standards of ethics of the physical therapy profession;
 - ***Code of Ethics/Guide for Professional Conduct 1.1.B*** "Physical therapists are to be guided at all times by concern for the physical, psychological, and socioeconomic welfare of those individuals entrusted to their care."
- **A.R.S. §32-2044(13)**, Charging unreasonable or fraudulent fees for services performed or not performed;
- **A.R.S. §32-2044(20)**, Failing to maintain adequate patient records.

Ms. Hiller also summarized the follow-up investigation she conducted concerning P.W.'s ongoing vertigo, as well as her review of the appropriateness of the charges Ms. Morgan billed for treatment provided to P.W. On behalf of Ms. Morgan, Ms. Sanzio commented in her opening statement that the billing concerns will be addressed by another witness, but stated that the complainant's records demonstrate that Ms. Morgan followed the SOAP method of documenting patient records and therefore there is no evidence to support a violation of A.R.S. §32-2044(20). Ms. Sanzio further advised that with respect to a violation of A.R.S. 32-2044(12), the investigative record demonstrates that Ms. Morgan demonstrated due diligence with the patient and did not violate the standard of ethics. Ms. Sanzio addressed the possible violation of A.R.S. 32-2044(4), by stating that there is no consistency between what the complainant reports and what the patient records indicate. Ms. Sanzio stated that the medical literature that she reviewed indicates that the maneuver in question, administered to the patient on October 1, 2004, could not have caused the positional vertigo that the patient may have. She requested additional time with which to have an expert witness review the records to substantiate her conclusion. Finally, Ms. Sanzio noted that P.W.'s new physical therapist developed a plan of care that closely emulated that of Ms. Morgan in terms of frequency of visits (i.e. two times per week). Ms. Morgan stated to the Board that during the initial evaluation with the patient she asked several questions about the pain she was experiencing, performed range of motion and strength testing, evaluated the patient's gait, identified the multiple spinal faults, identified tremors in the right arm even though the patient's pain was in the left arm. Ms. Morgan noted that she identified a neurological problems associated with P.W.'s neck; she then determined the patient's rehabilitation goals and established her plan of care. Ms. Morgan advised the Board that she learned on September 24, 2004 about the patient's bulging disk as a result of the MRI. Ms. Morgan identified P.W.'s pain as radicular pain based on the symptoms; it originated at one point and moved throughout the limb following the nerve pattern. Ms. Morgan distinguished radicular pain as being distinct from other pain patterns. The Board questioned how Ms. Morgan tested the patient to determine the type of pain the patient was experiencing, and the licensee stated that she has to rely on subjective statements from the patient as well as her observations. Ms. Morgan advised the Board that she utilized an over-the-door traction unit that the patient could also perform at home since traction produced positive results with P.W. Ms. Morgan described the manual therapy she used with P.W. and stated to the Board that she routinely requests feedback from her patients while she utilizes it. The Board questioned Ms. Morgan as to why did she not document P.W.'s reflexes or myotome findings? Ms. Morgan stated that she usually leaves that for the doctor to test; she will occasionally do so, but since the patient had demonstrated weakness that was suitable to indicate to her that the patient did have a neurological problem. She also stated that obtaining information on the reflexes would not have caused her to change her therapy protocol for P.W. The Board questioned Ms.

Morgan relative to how she was able to determine that P.W. had trunk instability? She responded by stating that she could tell there was instability when the patient moved from supine to sitting. The Board asked Ms. Morgan to elaborate concerning the alleged delay in obtaining the TENS unit for P.W.; Ms. Morgan advised the Board that she was unable to speak with P.W.'s doctor concerning that unit until October 1, 2004 – the last date that she treated P.W. Ms. Morgan noted that she cannot order TENS by herself as that requires a doctor's order and this caused the delay. She was only able to fax an order to an outside supplier after P.W.'s physician approved it. In response to the Board's questions concerning use of manipulations, Ms. Morgan stated that she does not do manipulations as a chiropractor would, but she will sometimes use a "grade one" manipulation using two index fingers. She mentioned that because she performs manual therapy slowly, she uses that time to discuss the patient's plan of care with the patient. The Board questioned the events of October 1, 2004, specifically asking the licensee to describe her level of attentiveness and what occurred. Ms. Morgan stated that she recalled that P.W. was calm and lying supine. She used a light distraction while P.W.'s head is turned so the patient's muscles can be slowly stretched and commented that the treatment requires 2-4 minutes as the muscle layers release. Ms. Morgan could not positively identify based on her records which arm was being stretched during that maneuver, but stated that she is aware that even minor turning of the head can cause a bulging disc to shift. Ms. Morgan noted that she had observed that the patient was under stress, and she attempted to minimize the stress. The Board questioned whether Ms. Morgan had elected to perform a vertebral artery stress test on P.W. Ms. Morgan stated she kept the patient's head in neutral and did not want to place her head in any position to place stress on the vertebral artery, nor did she want to cause tightening to the spine. Ms. Morgan advised the Board that she suspected that something had shifted or changed with the patient prior to the therapy session. She recalled that the patient was fine while she was lying down, but that the vertigo occurred briefly when P.W.'s head turned on the table, and again when she sat up. At that time, Ms. Morgan took P.W.'s blood pressure and contacted Urgent Care. The interview with Ms. Morgan was suspended to allow P.W. and the complainant, Mr. Michael Wise to address the Board. P.W. and Mr. Wise were sworn in by Ms. Elam. Mr. Wise stated that in addition to the information he submitted in conjunction with the complaint, he wanted the Board to be aware that they stand nothing to gain from this experience, but that they want to protect others as they believe that Ms. Morgan presents a threat to other patients and that she is not competent. Mr. Wise stated to the Board that Ms. Morgan did not help P.W. and that she gave her bad medical advice. He further stated that P.W. was adversely affected by the treatment provided by Ms. Morgan and she will suffer for the rest of her life. Mr. Wise asserted that Ms. Morgan did not provide the prescribed traction to P.W. and that she only provided "twisting" and "contorting". In his opinion, P.W. was later treated appropriately by Mr. Bob Direnfeld, P.T. and that the traction he has utilized has been successful in terms of relieving P.W.'s symptoms. Mr. Wise stated that Ms. Morgan had accused P.W. of turning her head in order to suggest that P.W. herself was responsible for her own resultant pain and vertigo. Mr. Wise refuted the suggestion that he and P.W. provided Ms. Morgan with inconsistent information concerning P.W.'s condition and symptoms. He insisted that P.W. still experiences vertigo. In response to the Board's questions, P.W. stated that she was taken aback by Ms. Morgan's description of the treatment that she provided to her on October 1, 2004. She remembered that her left arm was pinned down and her neck was in Ms. Morgan's hands. She recalled thinking that she was upset that Ms. Morgan was discussing a picture on the wall with Mr. Wise when she should have been paying attention to her. P.W. stated that she remembered the pulling on her neck and the resultant feeling that she had lost all control of her body. She reported that she had expected to receive treatment from the TENS unit, and to leave with the unit in order to pursue treatment from another physical therapist. P.W. stated that she was twisted and contorted during the October 1 treatment session which was different than her previous treatment visits; she further noted that Mr. Direnfeld has not used that treatment maneuver with her. P.W. stated that she had been in chronic pain which required a number of years to diagnose the cause. The Board questioned the patient's recollection of the outcome of the initial evaluation. P.W. stated that she left the clinic wondering why she was prescribed a treatment plan that required her body

to be so contorted during treatment. She described her course of treatment with Mr. Direnfeld to be more slow and incremental, with the traction finally providing her with some relief; she no longer has the pain in her arm, and her neck pain has improved considerably. P.W. reported that the vertigo still occurs, however. She stated that her first vertigo experience was immediately after the treatment maneuver with Ms. Morgan on October 1, 2004. The Board clarified that the progress she experienced with Mr. Direnfeld was what she was originally seeking from Ms. Morgan. P.W. also stated that Ms. Morgan consistently suggested to her that she have surgery, recommended that she discontinue the pain medication she was taking and suggested that she take a different medication that P.W.'s physician deemed inappropriate. The Board concluded the interview with P.W. Ms. Rebecca Wilson, P.T., Ms. Morgan's employer, requested and was granted permission to address the Board. Ms. Wilson stated that Ms. Morgan has worked for her for 10 years, has had no complaints, and noted that she has a successful track record of treating patients with chronic pain as she consistently has successful outcomes. In response to the Board's question, Ms. Wilson stated that she was not present for any of P.W.'s treatment sessions. Ms. Wilson also noted that she has had no contact with Mr. Wise or P.W. concerning this matter. The Board resumed the questioning of Ms. Morgan who stated that she had referred P.W. to a neurosurgeon, but not necessarily for surgery as other treatment options could have been provided. She also noted that chronic pain patients often have "ups and downs" so she was not surprised to observe that P.W. was experiencing increased pain. Ms. Morgan advised the Board that in her experience insurance companies typically will initially agree to cover the over-the-door traction unit which is why she prescribed it; after a trial with this unit, insurance will often then cover traction. Ms. Morgan stated that P.W. did not mention to her that this traction unit caused an increase in jaw pain and so she did not substitute traction for P.W. The licensee also described research that she had read that indicated that the anti-epileptic drugs have been helpful in treating symptoms such as P.W.'s so she merely suggested to P.W. that she discuss Neurotin with her physician. Ms. Morgan admitted that this conversation with P.W. was not documented or communicated to the physician, nor was a copy of the supporting literature provided to P.W. Ms. Morgan stated to the Board that she did not document her instructions to the patient for use of the over-the-door traction, although she did instruct P.W. how to use the unit. She explained to the Board how this type of unit has been found to help patients presenting with the same symptoms that P.W. did. The Board concluded the interview and reviewed the possible jurisdiction for the complaint. The Board first discussed A.R.S. §32-2044(13) and concurred that the documentation did minimally support what was billed. The Board then discussed A.R.S. §32-2044(20), failing to maintain adequate patient records. The Board discussed whether the evaluation contained enough information to support the plan of care established by Ms. Morgan – particularly the severity of P.W.'s condition. The Board members concurred that Ms. Morgan was able to testify to explain her clinical decisions, but that the necessary information was not apparent in her documentation. The Board discussed the fact that Ms. Morgan's documentation failed to substantiate the conclusion of radicular pain; the records don't describe how that conclusion was determined. Additionally, at times the treatment notes do not contain justification for why Ms. Morgan elected to use certain treatments (e.g. using mobilization when the patient demonstrates trunk instability). With respect to A.R.S. §32-2044(4), engaging in the performance of substandard care, the Board discussed how Ms. Morgan was unable to define radicular problems appropriately, yet she concluded that P.W. exhibited those symptoms. The Board noted that vertebral artery testing should have been performed with P.W., and that Ms. Morgan's rationale for not doing the test is a concern when the licensee elected not to employ traction with the patient. The Board questioned whether the over-the-door traction was appropriate given P.W.'s condition – especially for use at home when the patient would not be supervised by a physical therapist and therefore could be injured. The Board discussed the fact that P.W.'s recollection of the treatment session of October 1, 2004 was entirely different than that of Ms. Morgan's with respect to P.W.'s head position. The Board further discussed whether Ms. Morgan's treatments met the standard of care, and questioned whether the vertigo was actually caused by the treatment. The Board also noted that traction should have been a primary intervention for P.W., done under the supervision of the therapist in the clinic as opposed to part

of a home program. The Board discussed A.R.S. §32-2044(12), failing to adhere to the recognized standards of ethics of the physical therapy profession with respect to Ms. Morgan and P.W.'s alleged conversation relating to the neurosurgical recommendation and the medication suggestion. The Board determined that there was no violation of the standard of ethics as Ms. Morgan had good intentions in communicating this information to P.W., even if that information was not received by the patient in that spirit. Ms. Fearon moved to find Ms. Morgan in violation of A.R.S. §32-2044(1), violating this chapter, Board rules or a written Board order, in violation of A.R.S. §32-2044(4), engaging in the performance of substandard care, and in violation of A.R.S. §32-2044(20), failing to maintain adequate patient records. Ms. Kalis seconded the motion. The motion carried by a unanimous roll call vote. Ms. Fearon moved the Board place Ms. Morgan on probation for a period of six months during which time she must complete a one-day minimum evidence-based continuing education course addressing management and treatment of the cervical spine (ideally with a chronic pain component); she must complete a patient care documentation course; she must submit to a review of 3 patient records including at least one cervical spine patient focusing on the evaluation and treatment notes within 3 months of completion of the course. Ms. Kalis seconded the motion. The motion carried by a unanimous vote.

3. Informal Hearing:

#04-04-CC; Lemuel McEachin

Ms. Fearon introduced the agenda item and Ms. Herbst Paakkonen summarized the status of the case. She reported that Mr. McEachin renewed his physical therapist license for the 2004-2006 licensure compliance period in accordance with A.R.S. §32-2027 and A.A.C. R4-24-205. As a requirement of licensure renewal, he signed a statement affirming that he had completed the continuing competence requirements of R4-24-401 through R4-24-403. He was selected at random for an audit of his continuing competence activities from the pool of licensees who renewed their licenses prior to the renewal deadline, and his documentation submission was reviewed by the Continuing Competence Audit Committee on December 2, 2004. As a result of its review, the Committee recommended the Board find Mr. McEachin out of compliance with the continuing competence requirements as he was 2 hours deficient according to materials submitted. On December 21, 2004 the Board voted to find him out of compliance and, in accordance with R4-24-401(J), granted him 6 months (from certified mail notice by the Board) with which to come into compliance with the requirement. The 6 month period elapsed on July 20, 2005. The Board reviewed this case on August 23, 2005 and voted to extend to Mr. McEachin the opportunity to settle the case by signing a Consent Agreement that stipulated a 5-day suspension of his Arizona physical therapist license, a \$500 civil penalty, and completion of 20 hours of continuing competence within a period of 60 days; failure to sign the Agreement would result in the case being remanded to an informal hearing. Mr. McEachin did not sign the Agreement within the 15-day deadline; he received the Agreement on September 12, 2005 rendering his 15-day deadline as September 27, 2005. On October 25, 2005 he was sent a Notice of Informal Hearing scheduled for December 20, 2005 (which was delivered to his address of record on November 8, 2005 although recent correspondence indicates that he has relocated to Georgia without notifying this Board of that fact in writing). In response to the Notice of Informal Hearing, on November 18, 2005 the Board office received a letter from Mr. McEachin in which he attempts to explain the circumstances surrounding his failure to submit evidence that he had completed his continuing competence requirement before the established deadline. Mr. McEachin did not return a phone call from Ms. Herbst Paakkonen requesting clarification for some of the statement he made in his letter. Mr. McEachin also submitted a letter dated February 1, 2005 and signed by two staff members of Mesa General Hospital stating that he was "actively involved in the new orientation and training of new Certified Nursing Assistance [sic]/Nurses on the Acute Rehab Unit at Mesa General Hospital for a total of 20 hours per year from 2002 to 2005; this information was affirmed by Ms. Herbst Paakkonen. However, R4-24-403(4) states that a licensee shall not receive continuing competence credit for "routine teaching of personnel, students, or staff as part of a job requirement" calling into question whether Mr. McEachin has yet demonstrated that he has

complied with the Board's continuing competence requirements. Ms. Herbst Paakkonen reported that she has learned from his former supervisor at Mesa General Hospital that Mr. McEachin's Family Medical Leave Act (FMLA) leave of absence from his position at Mesa General involved a family member and was not for his own medical care. Mr. McEachin's former supervisor last knew that Mr. McEachin had returned to live near family in Georgia. The Board office has no record of Mr. McEachin having requested verification of his Arizona physical therapist license to be sent to the Georgia Board of Physical Therapy which is a requirement for physical therapist licensure in that state. The Board noted that Mr. McEachin – as he implied in his letter – had elected to not attend the informal hearing. The options for the case were reviewed and discussed with Ms. Cornelius. Ms. Fearon moved the Board remand the case to a formal hearing, and advise Mr. McEachin of his option to voluntarily surrender his license if he signs a Consent Agreement to that effect within 3 weeks of its receipt. Mr. Robbins seconded the motion. The motion carried by a unanimous vote.

4. Informal Hearing:

#04-05-CC; Julie Parish

Ms. Fearon introduced the agenda item, and Ms. Herbst Paakkonen reported that the facts of this case were virtually identical to that of the previous case, except that her continuing competence deficiency represented a total of 18 contact hours. In response to the Notice of Informal Hearing sent to Ms. Parish, the Board office received a letter from the licensee in which she stated that she will not attend the Informal Hearing scheduled for December 20, 2005. She also enclosed documentation (a copy of an unofficial transcript) to show that she has completed several courses in the transitional DPT program at the Arizona School of Health Sciences. Ms. Herbst Paakkonen advised the Board that had this information been received in the office on or before July 20, 2005, it is very likely that a determination would have been made that Ms. Parish had come into compliance with the continuing competence requirements and the case against her would not have been initiated. The Board discussed the time line of events concerning this case, and debated whether the documentation Ms. Parish submitted supports her claim that she has met the continuing competence requirements for renewal of her Arizona physical therapist license. The Board determined that Ms. Parish must arrange with the Arizona School of Health Sciences to submit to the Board office on her behalf an official transcript indicating that she has completed a minimum of 2 semester credit hours in the tDPT program within 15 days of notification. The Board discussed offering Ms. Parish a Consent Agreement that would stipulate a civil penalty of \$500 if she is able to submit this evidence that she has completed the hours; the penalty relates to her failure to meet the submission deadline. Failure to do these will result in formal hearing. Ms. Fearon moved and Mr. Robbins seconded the motion. The motion carried by a unanimous vote.

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

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

Ms. Fearon introduced the agenda item and Ms. Hiller summarized the status of the case. Ms. Rohrbough filed a request seeking termination of her probation as stipulated by the Consent Agreement and Order issued pursuant to the complaint. Ms. Rohrbough was placed on probation by the Board for six months effective June 29, 2005 violation of A.R.S. § 32-2044(1) violating statute or Board rules at A.A.C. R4-24-401 (G)(2) relating to continuing competence requirements for renewal of license, and A.R.S. § 32-2044(3) obtaining a license by misrepresentation. This conclusion of law was based on findings that, although Ms. Rohrbough affirmed on her renewal application for 2004–2006 that she had completed the required contact hours of continuing competence, Ms. Rohrbough admitted that she had misunderstood the requirements when she reported a course taken in 2003 to fulfill requirements for renewal in both 2002 and 2004. Ms. Hiller reported that Ms. Rohrbough has complied with the terms of her Consent Agreement and noted that Ms. Rohrbough had submitted all of the requirements of her probation within the established time frames. The Board discussed Ms. Rohrbough's interpretive essay

and commented that she only discussed a few statutes and rules in the essay. Ms. Fearon moved to terminate Ms. Rohrbough's probation. Dr. Cornwall seconded the motion. The motion passed on a vote of 3-1.

#03-19; Anthony Granger, P.T.

Ms. Fearon introduced the agenda item and Ms. Hiller reported that Mr. Granger, is currently on probation for violations of A.R.S. §32-2044(4) substandard care and A.R.S. §32-2044(20), failing to maintain adequate patient records. This conclusion of law was based on findings that Mr. Granger's documentation for patient P.H. was inadequate in that it was illegible, it did not contain documentation to support his choice of treatment or to reflect patient response to treatment, and there was no documentation of Mr. Granger's communication with the patients referring physician. Mr. Granger was placed on 6 months probation effective June 25, 2004, but difficulties in identifying an appropriate documentation course as required by his Order resulted in two requests by Mr. Granger, granted by the Board, for an extension of the time frame to complete his documentation course work. Mr. Granger was granted until November 18, 2005 to complete a patient care documentation course, following which a single record was reviewed to ascertain compliance with statute and rules concerning adequate documentation. Ms. Hiller reported that Mr. Granger had completed all probation terms and had complied with the Order issued by the Board relative to complaint #03-19, and was therefore requesting termination of probation as stipulated by Order of Probation. Ms. Kalis moved Mr. Granger's probation be terminated. Mr. Robbins seconded the motion. The motion carried by a unanimous vote.

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

Sarah Kovach, P.T.

Ms. Fearon introduced the agenda item and Ms. Herbst Paakkonen reported that on December 16, 2005 Ms. Kovach had signed the Consent Agreement stipulating she was voluntarily surrendering her Arizona physical therapist license. The Consent Agreement contained findings of fact that Ms. Kovach had failed to demonstrate that she met the Board's continuing competence requirements for licensure renewal for the 2002-2004 licensure period in violation of A.R.S. §32-2044(1), and that she had attempted to obtain a license by fraud or misrepresentation in violation of A.R.S. §32-2044(3). Ms. Fearon moved to accept the voluntary surrender through the Consent Agreement. Ms. Kalis seconded the motion. The motion carried by a unanimous vote. The Board directed staff in the future to include in the Consent Agreement recitals section a statement to the effect that Board actions are reported to the Health Integrity Practitioners Data Base (HIPDB).

7. Review and Possible Action Concerning Revised Consent Agreement:

#05-13; Timothy Borden, P.T.

Ms. Fearon introduced the agenda item and Ms. Kalis announced that she would recuse herself from deliberation of this agenda item. Ms. Herbst Paakkonen reviewed the history of this case dating back to May 10, 2005 at which time Mr. Borden submitted a letter to the Board in which he acknowledged that on April 4, 2005 he was notified by the Tucson Police Department that he had been accused of theft and was going to be charged; and that he was addicted to prescription pain killers. The Board conducted an initial review of this case on July 26, 2005 which was continued to August 23, 2005 at which time Mr. Borden voluntarily addressed questions posed by the Board concerning the case. The Board voted on August 23, 2005 to offer Mr. Borden a Consent Agreement placing him on probation for the purpose of monitoring his substance abuse recovery efforts. The Board's former Assistant Attorney General, Dawn Walton Lee, received a letter from Mr. Borden's attorney requesting some modifications to the Consent Agreement – specifically removal of the conclusion of law that Mr. Borden violated A.R.S. §32-2044(7), commission of a felony for his admission that he had taken medications from former patients, and removal of the requirement that Mr. Borden remain in counseling for the entire year of probation as the counseling program where he is currently receiving services will not allow him to continue after

April 6 of 2006 due to insurance-related considerations. The Board's new Assistant Attorney General, Ms. Cornelius proposed a modified Consent Agreement to Mr. Borden that contained some additional compliance requirements but retained the violation of A.R.S. §32-2044(7). Mr. Borden signed the revised Agreement on December 13, 2005. Because there was some variance from the original Agreement offered to Mr. Borden, approval of the Consent Agreement is before the Board for discussion and possible action. Ms. Cornelius advised the Board that for other health practitioners with whom she has worked, a longer term of probation is more appropriate (according to addiction experts); she further explained that a longer term of probation for a physical therapist may not be necessary if that type of practitioner would experience more difficulty with respect to having access to medications. Ms. Fearon moved to accept the Consent Agreement. Mr. Robbins 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:

Tomas E. Abraha	Jeremy S. Abramson	Brittney A. Anderson
Scott A. Baadte	Kristen J. Barbour	Christina K. Beam
Trista L. Bratlee	Robin L. Callahan	Kimberly C. Dearth
Susan M. DeForest	James R. Deston	Jennifer W. Deston
Michelle L. Dingus	Mary L. Engroff	Rina M. Iarusso
Echo L. Ingham	Jayne L. Kral	Karen L. Latham
Amy V. McVickers	Sarah K. Minkel	Paulette J. Olson
Janelle D. Painter	Susan Y. Peck	Christine M. Phillips

Ms. Fearon introduced the agenda item and noted that the files were administratively complete. The Board discussed the application for Ms. Kral who was licensed in 2003 but lists that she was a staff physical therapist beginning in 2001. The Board also discussed Ms. DeForest who has not worked since 1992. The applicant had advised Ms. Lopez that she had home-schooled her children since that time and now desires to return to the practice of physical therapy with the expectation that the Board will impose some requirements in order for her to ultimately be granted an unrestricted physical therapist license. Ms. Fearon moved to license all applicants with the exception of Ms. Kral and Ms. DeForest. Ms. Kalis seconded the motion. The motion carried by a unanimous vote. The Board reviewed A.R.S. §32-2028(B) which requires an applicant to complete one or more requirements in order to demonstrate his or her competency to practice physical therapy if the applicant's license has lapsed for more than three consecutive years. These requirements include practicing for a specified time under an interim permit, completing remedial courses, completing continuing competence requirements and passing an examination. The Board discussed the option of issuing an interim permit to the applicant that would require her to practice under supervision in accordance with A.R.S. §32-2025 and Board rule. The Board directed staff to advise Ms. DeForest to identify a facility and supervisor for the purpose of completing a supervised clinical practice period, and to advise the applicant to submit for approval some proposed continuing competence courses in her intended area of practice. The Board also discussed requiring Ms. DeForest to take and pass the jurisprudence examination in order to demonstrate that she understands current law regulating the practice of physical therapy in Arizona. Ms. Lopez advised the Board that Ms. DeForest will likely wish to exercise the option of completing her supervised clinical practice period within a 180 days time frame while practicing 20 hours per week. The Board also directed staff to invite Ms. DeForest to appear for an application interview at the time she presents her supervised clinical practice period proposal for review and possible approval.

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

Lynn R. Curtis	Brooke D. Marcoccia	Jessica L. Thompson
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Ms. Fearon introduced the agenda item, and received assurance from Board staff that the files for the listed applicants were administratively complete. Ms. Kalis moved certification be granted to the listed applicants; Ms. Fearon seconded the motion. The motion carried by a unanimous vote.

10. 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 Possible Action on Approval to Take National Physical Therapist Examination

Sharon Irsaely

Ms. Fearon read the name of the applicant and reviewed the educational credentials evaluation report prepared on Ms. Sharon's behalf by the Foreign Credentialing Commission on Physical Therapy (FCCPT). Board staff clarified that his education is deficient by 35.5 semester credit hours. The Board discussed the fact that Mr. Sharon's clinical experience in a private outpatient clinic in Tucson seems to not be formally recognized by his University as it is not reflected in the credential evaluation report prepared by FCCPT. Ms. Fearon moved the Board deny approval for the applicant to take the National Physical Therapy Examination as his education is not substantially equivalent to that of a graduate of a U.S. accredited program; Dr. Cornwall seconded the motion. The motion carried by a unanimous vote. The Board directed Ms. Lopez to advise the applicant in writing of his application deficiencies and to inform him that he can take College Level Examination Program (CLEP) examinations to complete his general education deficiencies.

Haramritpal S. Kahlon

Ms. Fearon read the name of the applicant and noted that his credentials evaluation report prepared by Foreign Credentialing Commission on Physical Therapy (FCCPT) indicates that his education is deficient by 38 semester credit hours of general education. The Board also noted that his application does not indicate whether he is currently practicing physical therapy (physiotherapy) in Canada as he only lists employment through 2003 and has been residing there since that time. Ms. Kalis moved the Board deny approval for the applicant to take the National Physical Therapy Examination as his education is not substantially equivalent to that of a graduate of a U.S. accredited program. Ms. Fearon seconded the motion. The motion carried by a unanimous vote. Ms. Lopez will advise the applicant in writing of his application deficiencies and will inform him that he can take CLEP examinations to complete the general education deficiencies.

Mary Gloan Macaraeg

Ms. Fearon read the name of the applicant and received assurance from Board staff that the file is administratively complete, including the fact that Ms. Macaraeg has been granted licensure in the Philippines. Ms. Kalis moved to find the applicant's education substantially equivalent to that of a graduate of a U.S. accredited program, and to grant approval to the applicants to take the NPTE; upon achieving a passing score on the NPTE, Ms. Macaraeg may present to the Board a proposal for a supervised clinical practice period. Ms. Fearon seconded the motion. The motion carried by a unanimous vote.

Jheffrey A. Pancho

Ms. Fearon read the name of the applicant and Board staff commented that Mr. Pancho's credential evaluation report confirms that the applicant has earned the equivalent of 91.5 semester credit hours of professional education as well as 63 semester credit hours of general education. Ms. Kalis moved to find Mr. Pancho's education substantially equivalent to that of a graduate of a U.S. accredited program and that he be granted approval to take the NPTE; upon passing the NPTE Mr. Pancho may present a proposal for a supervised clinical practice period to the Board for review. Mr. Robbins seconded the motion. The motion carried by a unanimous vote.

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

Michela Bagnariol

Ms. Fearon introduced the agenda item and the Board reviewed and discussed the documentation submitted by Mr. Russell Jaffe, P.T., Ms. Bagnariol's supervisor describing his observations concerning the interim permit holder's supervised clinical practice period. The Board discussed the Interim Period Evaluation form completed by Mr. Jaffe, as well as the letter he submitted describing his assessment of Ms. Bagnariol's skills and abilities. The Board noted that the interim permit holder was present to address any questions posed by the Board. Ms. Kalis moved to accept the completed supervised clinical practice period of Ms. Bagnariol and to grant her license. Ms. Fearon seconded the motion. The motion carried by a unanimous vote.

Mary M. Strike

Ms. Fearon introduced the agenda item and the Board reviewed and discussed the information submitted by Mr. Paul Ward, P.T., Ms. Strike's supervisor describing his observations concerning the interim permit holder's supervised clinical practice period. The Board discussed the Interim Period Evaluation form completed by Mr. Ward, as well as the documentation to show that she had completed a continuing education course in wound care as she was unable to demonstrate her clinical skills in this area during the supervision period. Ms. Kalis moved to accept the completed supervised clinical practice period of Ms. Strike and to grant her license. Dr. Cornwall seconded the motion. The motion carried by a unanimous vote.

BOARD BUSINESS AND REPORTS

12. Executive Director's Report:

- a. Financial Report:** No additional information to report.
- b. Board Staff Activities:** Ms. Herbst Paakkonen reported that in January she and the staff will begin the process of publishing another newsletter issue. The Board discussed including in the newsletter a briefing on the anticipated bill that would modify the Board's statutes with respect to supervision of physical therapist assistants.
- c. FSBPT Initiatives and News:** No additional information to report.
- d. Rules Revision Update:** Ms. Herbst Paakkonen advised the Board that with the effective date of the fee increase rules as February 5, 2006, Ms. Kathleen Phillips, the Board's contract rule writer, can file the proposed rulemaking with the Governor's Regulatory Review Council the following day. Ms. Phillips is in the process of working on the Economic Impact Statement that must accompany the rule package, and she will have hopefully the final draft for the Board to review during its January 2006 meeting.
- e. Legislative Update:** Ms. Herbst Paakkonen reported that she has not received any notification from Mr. John Mills of a scheduled stakeholder meeting concerning proposed legislation that would allow physical therapist assistants to work under the general supervision of physical therapists. Ms. Fearon reported that the Arizona Physical Therapy Association (AzPTA) Board approved a motion to take leadership role in proposing legislation concerning PTA supervision. The Board discussed the lack of specific information, and the challenges associated with communicating bill information quickly to licensees if a bill is to be filed.

CALL TO THE PUBLIC

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

ADJOURNMENT

Prepared by,

Heidi Herbst Paakkonen
Executive Director

Approved by,

Merle Gossman
Secretary