

REGULAR SESSION MEETING MINUTES
January 23, 2006

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

CALL TO ORDER

Ms. Fearon called the meeting to order at 8:35 a.m.

1. Election of Board Officers for 2006

Secretary: Mr. Gossman nominated Dr. Cornwall for the position of Secretary.

Vice President: Dr. Cornwall nominated Ms. Kalis for the position of Vice President.

President: Ms. Kalis nominated Ms. Fearon for the position of President.

The slate of officers was approved by a unanimous vote.

2. Approval of Minutes:

The Board noted two corrections – a clarification on page 2 under the Informal Hearing for Complaint #05-08; Virginia Morgan, P.T. and a date correction on page 3 under the review of Mr. Lemuel McEachin’s failure to comply with the Board’s continuing competence requirements for licensure renewal. Ms. Fearon moved to accept the minutes as corrected. Ms. Kalis seconded the motion. The motion carried by a unanimous vote.

NOTE: The agenda was reordered as follows

SUBSTANTIVE REVIEWS OF APPLICATIONS FOR LICENSURE & CERTIFICATION
6. Substantive Review of and Possible Action on the Following Applications for Physical Therapist Licensure

Tamara L. Begler	Peter O. Bellew	Kristy R. Booth
Jennifer D. Chitty	Gary L. Cunningham	Nicole M. Czekaj
Aaron J. DeBord	Erin M. Dennihan	Denise M. Eldred
Laura M. Gleason	Larry A. Gruver	Heidi A. Hamilton
Jeffrey P. Hendra	Robert Hughes	Melanie J. Knipp
Crystal D. Lunsford	Lucas P. Martin	John F. McCrae
Monica M. Merry	Carly L. Mollineaux	Dave T. Ochsendorf
Jessica M. Rawls	Daniel R. Selby Jr.	Christopher D. Seufert
Stephanie R. Shafer	Julie L. Stone	Kasey I. Sudkamp
Sally M. Taylor	Puja D. Velangi	Lesa E. Wade
Andrew D. Wagner	Jerry B. Watson	Hilary L. Young
Susan DeForest		

Dr. Cornwall disclosed for the record that Ms. Rawls was his former student at Northern Arizona University, but that the student-teacher relationship no longer exists and that he is able to vote on her application for licensure without bias. The Board discussed the application of Ms. Begler and reviewed her disciplinary action in Colorado. Ms. Fearon recused herself from the discussion as she was involved in a portion of the investigation involving Ms. Begler. The Board discussed the fact that while the findings against Ms. Begler were serious, the infraction occurred 10 years ago and she has not been disciplined since. The Board also commented that the employment history for Mr. Watson was incomplete and directed Ms. Lopez to seek clarification from the applicant. Ms. Kalis moved licensure be granted to the listed applicants with the exception of Mr. Watson and Ms. DeForest. Ms. Fearon seconded the motion. The motion carried by a unanimous vote. The Board was advised by staff that clarification was being sought for the reinstatement requirements for Ms. DeForest as Board staff had conflicting notes concerning the Board's determination when the application was initially reviewed on December 20, 2005. Board staff noted that Ms. DeForest held a physical therapist license in Arizona until 1992 at which time she allowed it to lapse. Staff also reported that conversations with Ms. DeForest indicated that she is willing to complete a Supervised Clinical Practice Period (SCPP) and agrees that it is necessary for her to resume practicing under supervision in order to safely re-enter the practice. Additionally, Board staff reported that Ms. DeForest intends to complete the SCPP on a part-time basis – 20 hours per week for 180 days. The Board reviewed and discussed A.R.S. §32-2028(B), Reinstatement of license or certificate. The Board concurred that a minimum 8-hour continuing competence course in her intended area of practice should also be completed by the end of the SCPP, and that Ms. DeForest should be required to pass the Board's jurisprudence examination. Ms. Fearon moved Ms. DeForest complete a 180 day SCPP, complete a 8-hour minimum continuing education course in her area of practice interest, and that she take and pass the Board's jurisprudence examination. Mr. Gossman seconded the motion. The motion carried by a unanimous vote.

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

Mary Ellen Joseph	Nancy J. Kelly	Sherry L. Nance
Alicia M. Oberquell	Kristin L. Ward	

The Board requested and received assurance from Board staff that Ms. Ward has passed the National Physical Therapy Examination (NPTE) for physical therapist assistants. The Board also questioned whether Ms. Oberquell had submitted all of the required verifications of licensure or certification; Board staff confirmed that she had. The Board also discussed the fact that Ms. Joseph would not have verification of licensure or certification from the State of Colorado as that state does not regulate physical therapist assistants. Ms. Fearon moved certification be granted to the listed applicants. Mr. Gossman seconded the motion. The motion carried by a unanimous vote.

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

Selene A. Veloz

Ms. Lopez summarized the application time frame for Ms. Veloz, and Dr. Cornwall stated that while Ms. Veloz was a student at Northern Arizona University she did not formally receive an accommodation of extra time with which to complete her examinations, but some professors did informally allow her additional testing time in certain situations. The Board questioned whether Ms. Veloz had a comprehensive psychological evaluation for the disability. The Board also noted that the documentation submitted does not meet the standard of an official diagnosis. Ms. Cornelius stated that her physician probably does have the credentials to determine her diagnosis, but he did not provide enough information to assure the Board that she has been diagnosed. Dr. Cornwall moved the applicant provide more detailed information concerning her evaluation, diagnosis, previous accommodations and treatment plan as it relates to her perceived need for additional time and separate room. Ms. Kalis seconded the motion. The motion carried by a unanimous vote.

COMPLAINTS AND INVESTIGATIONS

3. Initial Review of Complaint:

#05-16; Zane Larson, P.T.

Ms. Fearon introduced the complaint and Ms. Hiller summarized the allegations as filed by Dr. Douglas Shepard concerning services Mr. Larson provided to patient Jayne Swenson (J.S.) on January 18, 2005. The complaint alleges that the electrophysiologic studies [Electromyography (EMG) and Nerve Conduction Velocity (NCV)] performed by Mr. Larson were overdone and inappropriate. The complaint further alleges that the charge of \$1,600 for these studies was excessive. In the complaint Dr. Shepard questioned whether “non-MD/non-supervised physiotherapists are allowed to perform these elaborate tests.” If true, these allegations may be a violation of:

- **A.R.S. §32-2044(1)** “Violating this statute, board rules or a written board order
- **A.R.S. §32-2044(2)** “Practicing or offering to practice beyond the scope of the practice of physical therapy.”
- **A.R.S. §32-2044(4)** “Engaging in the performance of substandard care by a physical therapist due to a deliberate or negligent act or failure to act regardless of whether actual injury to the patient is established.”

- **A.R.S. §32-2044(13)** “Charging unreasonable or fraudulent fees for services performed or not performed.

In response to the notification of complaint, Mr. Larson submitted a summary of his professional credentials including his Doctor of Physical Therapy at Creighton University where, as part of the physical therapy program curriculum, he completed an EMG/NCV course that included electrodiagnostic testing on fellow classmates. Mr. Larson also noted that he continued his training in EMG/NCV at a facility in Georgia where he worked under the supervision of two board of American Board of Physical Therapy Specialists (“ABPTS”) certified PT electromyographers. He stated that he passed the ABPTS examination and obtained board certification in clinical electrophysiology in May 2002. Additionally Mr. Larson noted that he has documented at least 2000 hours in this specialty area involving 100 cases while preparing for certification; since receiving certification he has performed over 1000 cases as well as participated in continuing education in this specialty area. Ms. Hiller summarized a detailed report of the tests Mr. Larson performed on the patient J.S., and defending his charges by noting his fees have been in place for 3 years. Additionally, Mr. Larson advised the Board that the tests he performed were very comprehensive which resulted in the fees totaling \$1568.50. Ms. Hiller also summarized the e-mail communications that occurred between Mr. Larson and the Board concerning the question Mr. Larson posed as to whether needle EMG is within the scope of practice of a physical therapist in Arizona. Finally, Ms. Hiller summarized the expert opinion provided by Mr. Michael LaPlante, P.T., D.Sc., E.C.S. a California licensed physical therapist with considerable expertise in this area of physical therapy practice. The Board questioned what was meant by Mr. Larson’s statement that \$1600 is an above average payment for these diagnostic services; the Board concluded that it could be inferred that Mr. Larson meant to say that the patient required unusually extensive and lengthy testing resulting in fees that totaled more than \$1500. The Board reviewed the possible jurisdiction for the complaint and Dr. Cornwall moved to dismiss the allegations of A.R.S. §32-2044(2), practicing or offering to practice beyond the scope of the practice of physical therapy, and the allegation of A.R.S. §32-2044(4), engaging in the performance of substandard care by a physical therapist Ms. Fearon seconded the motion. The motion carried by a unanimous vote. The Board then discussed whether Mr. Larson had violated A.R.S. §32-2044(13), charging unreasonable or fraudulent fees for services performed or not performed, and also reviewed Mr. Larson’s list of charges against the CPT codes. The Board discussed the fact that some allowance needs to be granted for variance in how physical therapists may charge for services, and noted that the CPT fee schedule submitted by Mr. Larson is actually several years old and reflects lower fees than does the current schedule. The Board identified the main difference between the costs of the tests performed by Mr. Larson and Dr. Sheppard; the records reflect the fact that Mr. Larson tested more than one extremity for the patient J.S. whereas Dr. Sheppard only tested one. The Board commented that the testing itself could easily require 2 hours – perhaps more if the patient was experiencing some pain during that process. Also, the Board noted that Mr. Larson and Dr. Sheppard’s findings were the same with respect to J.S.’s condition. Ms. Kalis moved to dismiss the charge of A.R.S. §32-2044(13) along with the entire complaint. Ms. Fearon seconded the motion. The motion carried by a unanimous vote.

4. Initial Review of Complaint:

#05-17; R. Lauren Green, P.T.

Ms. Fearon introduced the complaint and Ms. Hiller advised the Board that this complaint was opened at the direction of the Board following deliberations of Complaints #05-01; Curtis Becker, P.T. and #05-02; Joanne Honkonen, P.T.A. during the Regular Session Meeting of June 28, 2005. The complaint allegations involve an incident that occurred at El Dorado Hospital on Sunday, August 29, 2004. On that date Ms. Joanne Honkonen, P.T.A. provided treatment to patients on the in-patient rehabilitation unit at El Dorado hospital without the on-site supervision of a physical therapist. El Dorado staffing records identified Lauren Green as the physical therapist who was scheduled to work on August 29, 2004 but she failed to report to work that day. If true, the 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.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.”
- **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.”

In her response to the complaint, Ms. Green acknowledges that on April 29, 2004 she did not realize that she was scheduled to work that day. She stated that she left her home for part of the day and returned around 5:00 p.m. to a voicemail message from an OT working at the hospital stating that Ms. Green was on the schedule that day and she probably forgot. Ms. Green affirmed that she did not write that date on my work calendar and her failure to report to work was an oversight. The Board discussed the fact that the communication system at the hospital at the time of the incident was flawed, but the Board has since received assurance that the system has been improved to the extent that similar infractions would not occur in the future. The Board’s discussion also noted that failure to report to work could be construed as an employment issue. The Board also discussed whether it was appropriate to discipline the PTA who failed to confirm that her supervising PT was present, but to refrain from disciplining the supervising PT. Ms. Kalis moved to dismiss the complaint. Ms. Fearon seconded the motion. The motion passed on a vote of 4-1.

5. Initial Review of Licensees Failing to Come Into Compliance with Continuing Competence Requirements After Six Months Allowance

Peter Philip, P.T.

Ms. Fearon introduced the agenda item and the Board reviewed and discussed the memorandum prepared by Board staff summarizing Mr. Philip’s continuing competence time-line and his failure to come into compliance with the requirements even after being granted six months with which to come into compliance. After discussion Dr. Cornwall moved to offer Mr. Philip a

consent agreement for voluntary surrender of license; failure to sign the document within 30 days would result in the case being remanded to formal hearing. Ms. Fearon seconded the motion. The motion carried by a unanimous vote.

SUBSTANTIVE REVIEWS OF APPLICATIONS FOR LICENSURE & CERTIFICATION

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

a. Review for Determination of Substantially Equivalent Education and Review of Request to Find Applicant

Uri Zeevi

Ms. Fearon introduced the agenda item and Ms. Lopez advised the Board that the applicant's file is administratively complete. According to his credential evaluation report Mr. Zeevi has only earned 44.25 semester credit hours in general education; he could complete the requirement by taking 3 College Level Examination Program (CLEP) courses. The Board also discussed the fact that the applicant has already tested for 21 semester credit hours through CLEP. Ms. Kalis moved the Board find that the applicant's education is not substantially equivalent to that of a graduate of a U.S. accredited program. Dr. Cornwall moved he be allowed to CLEP no more than 8 hours and that the Board find he has already met the requirement of the supervised clinical practice period (SCCP). Mr. Robbins seconded the motion. The motion carried by a unanimous vote.

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

Ionel Cornea

Ms. Fearon read the name of the application and Board staff noted that the applicant's credential evaluation report indicates a deficiency of 10 semester credit hours of general education. The Board noted that the report, prepared by International Consultants of Delaware commented that Mr. Cornea completed $\frac{3}{4}$ of a professional program. The Board questioned how the ICD evaluator could make that statement when later in the report, the evaluator recommends that his education be found equivalent to that of a graduate of a U.S. accredited program. Ms. Kalis moved the Board find that the applicant's education is not substantially equivalent to that of a graduate of a U.S. accredited program and that he be allowed to CLEP the deficient general education semester credit hours. Mr. Gossman seconded the motion. The motion carried by a unanimous vote.

Pamela G. Guevarra

Ms. Fearon read the name of the applicant for the record and the Board reviewed the information recorded on the application under "Work History" and discussed the fact that Filipino physical therapists often volunteer their professional services while in country. Ms. Kalis moved to find her education substantially equivalent to that of a graduate of a U.S. accredited program and to allow Ms. Guevarra to take the NPTE. Mr. Gossman seconded the motion. The motion carried by a unanimous vote. The Board directed staff to advise the applicant that upon achieving a passing score on the exam she will need to submit a proposal for review and approval of a SCCP.

Romel A. Montero

Ms. Fearon read the name of the applicant for the record, and Ms. Lopez advised the Board that because the applicant had failed the Test of Spoken English (TSE), he will need to retake it until he achieves a passing score. Board staff advised the Board that the TSE is currently being phased out, but that the examination is still available in certain countries including in

southeastern Asia. Ms. Kalis moved to find Mr. Montero's education substantially equivalent to that of a U.S. graduate and to approve him to take the NPTE. Mr. Gossman seconded the motion. The motion carried by a unanimous vote.

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

Lynette Montgomery

Ms. Fearon read the name of the applicant for the record and reviewed the SCPP documentation submitted by Ms. Montgomery's supervisor, Ms. Marsha Bennett, P.T. The Board noted that when completing the Interim Period Evaluation Form, Ms. Bennett included the dates Ms. Montgomery was observed and evaluated. Ms. Fearon moved to accept the completion of the SCPP and to grant unrestricted licensure to Ms. Montgomery. Ms. Kalis seconded the motion. The motion carried by a unanimous vote.

BOARD BUSINESS AND REPORTS

11. Executive Director's Report:

a. Financial Report: No additional information to report.

b. Board Staff Activities: Ms. Herbst Paakkonen responded to the Board's questions concerning complaint trends in recent years. The Board was advised that between 2001 and 2002 the number of complaints increased significantly, but that the number of complaints since that time has hovered around 25. However, staff noted that the complexity of the complaints have increased. The Board also discussed the fact that the number of applications filed is increasing dramatically year after year. The Board was informed that the staff had published a newsletter issue within one week's time and that this newsletter would be mailed to all licensees and certificate holders in early February. The impetus for the newsletter was to inform all regulated persons of HB 2643; Physical therapist assistants.

c. FSBPT Initiatives and News: Ms. Herbst Paakkonen shared information with the Board members concerning a New Board Member training program offered by the Federation in Alexandria, Virginia March 10-12, 2006. FSBPT is accepting 10 jurisdiction Board members on a first-come-first-served basis.

d. Rules Revision Update: No additional information to report.

e. Legislative Update: The Board reviewed and discussed HB 2643; Physical therapist assistants. The Board noted the drafting error as it related to physical therapist assistants having 2000 hours of experience. The Board also reviewed and discussed the projected costs to the Board associated with the passage of the bill and noted some adjustments in the form of increases should be made to the projection.

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

Ms. Fearon introduced the agenda item, and Ms. Herbst Paakkonen reported that Ms. Kathleen Phillips, the Board's contract rule writer, had made the final three substantive changes to the proposed rules that were identified in the memorandum to the Board accompanying the draft under review. The Board noted a few typographical errors that require correction. Ms. Herbst Paakkonen advised the Board that once the final changes are made, she will inform the members of the filing date of the proposed rules, and will obtain from Ms. Phillips a general time-line with respect to the oral proceeding that will be held in conjunction with the rulemaking.

CALL TO THE PUBLIC

None.

ADJOURNMENT

The meeting adjourned at 10:50 a.m.

Prepared by,

Heidi Herbst Paakkonen

Approved by,

Mark Cornwall, P.T., Ph.D.
Secretary