

JANET NAPOLITANO  
Governor



HEIDI HERBST PAAKKONEN  
Executive Director

HELENE FEARON, P.T.  
President

## REGULAR SESSION MEETING MINUTES September 26, 2006

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

**MEMBERS ABSENT:**

**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

Ms. Fearon called the meeting to order at 8:30 a.m.

#### 1. Review and Approval of Draft Minutes:

##### **August 22, 2006; Regular Session Meeting**

Ms. Fearon introduced the agenda item and the Board reviewed the draft minutes. Ms. Fearon moved the minutes be approved as printed. Mr. Gossman seconded the motion. The motion carried by a unanimous vote.

##### **August 22, 2006; Executive Session Meeting**

Ms. Fearon introduced the agenda item and the Board noted that the header on the document should be changed to reflect the correct date. Ms. Fearon moved the minutes be approved with the change. Ms. Kalis seconded the motion. The motion carried by a unanimous vote.

##### **September 12, 2006; Special Session Meeting**

Ms. Fearon introduced the agenda item and the Board reviewed the draft minutes. Ms. Fearon moved the minutes be approved as printed. Ms. Kalis seconded the motion. The motion carried by a unanimous vote.

### COMPLAINTS AND INVESTIGATIONS

#### 2. Informal Hearing

##### **#05-18; Paul Hospenthal, P.T.**

Ms. Fearon moved the Board meet in Executive Session for purposes of obtaining legal advice from Board counsel. Ms. Kalis seconded the motion. The motion carried by a unanimous vote. Upon resuming the public session meeting Ms. Fearon introduced the agenda item and invited Mr. Hospenthal and his attorney, Mr. David Derickson, to appear for the informal hearing and to introduce themselves to the Board. The Board members and staff introduced themselves to the licensee and his counsel. Ms. Fearon reviewed the informal hearing procedures and the Board's options for resolution of the case. Ms. Denise Style, Court Reporter, swore in Mr. Hospenthal. Ms. A.K. who was connected to the meeting telephonically introduced herself as the complainant and witness, and was also sworn in by Ms. Style. Ms. Hiller reported that the Board held its initial review and discussion of this complaint during its regular session meeting on June 27,

2006. This complaint was opened on December 16, 2005 following receipt of a e-mail communication from A.K., a former patient at Desert Institute of Physical Therapy who alleged that when she was sixteen and a patient of Mr. Hospenthal's they engaged in a consensual sexual relationship for several months that continued sporadically over the next four years. In his response to the complaint Mr. Hospenthal acknowledged that he and A.K. "had a closer personal relationship" that didn't occur until almost a year after her last visit as a patient, and that there was no improper or sexual contact or conduct with A.K. while she was a patient. The additional complaint allegations relating to Mr. Hospenthal's failure to notify the Board of a change of residential address and relating to delays on the part of Mr. Hospenthal and his attorney in responding to the Board's subpoena for A.K.'s physical therapy records were dismissed by the Board. During the initial review of this complaint the Board voted to issue an Interim Order requiring Mr. Hospenthal to undergo a psycho-sexual evaluation pursuant to A.R.S. §32-2045(5) in addition to remanding this complaint to an informal hearing. The Board directed staff to A.K. and Dr. David Engstrom, a former employee at Desert Institute, to be interviewed during the hearing. However, Dr. Engstrom was not able to participate as he is out of the country. Mr. Hospenthal's invitation to this included the following possible violations(s):

- **A.R.S. § 32-2044 (1)** "Violating this chapter, board rules or a written board order."
- **A.R.S. § 32-2044 (10)** "Engaging in sexual misconduct. For the purposes of this paragraph, "sexual misconduct" includes: (a) Engaging in or soliciting sexual relationships, whether consensual or nonconsensual, while a provider-patient relationship exists."
- **A.R.S. § 32-2044 (12)** "Failing to adhere to the recognized standards of ethics of the physical therapy profession."
  - ***Code of Ethics Principle 1*** Physical therapists respect the rights and dignity of all individuals.
  - ***Guide for Professional Conduct 1.3. Patient Relations*** "Physical therapists shall not engage in any sexual relationship or activity, whether consensual or nonconsensual, with any patient while a physical therapist/patient relationship exists."

On September 14, 2006 Dr. Stephen Gray faxed his Psychophysiological Evaluation and Treatment Plan for Mr. Hospenthal, P.T. to the Board office. On September 14, 2006 an interview of A.K.'s sister was conducted concerning her knowledge of the alleged relationship. Mr. Derickson offered an opening statement to the Board indicating that these serious allegations have been made five years after the fact with no reporting of the allegations to law enforcement. He stated that while A.K. was a patient at the Desert Institute of Physical Therapy she was an emotionally unstable teenager who, while likeable, had suffered from family tragedies that shaped her behavior. Mr. Derickson noted that A.K. had not wanted to pursue the complaint initially, and it was actually the Board that elected to pursue the investigation. Mr. Derickson stated that the events alleged by A.K. are not corroborated by facts or evidence, and an investigator hired by him interviewed several witnesses associated with the Desert Institute of Physical Therapy and could only find one person, Ms. Bonnie Kurth, who saw A.K. at Mr. Hospenthal's home several years after A.K. was a patient and when A.K. was 19 or 20 years old. Counsel stated that this case can generically be described as a "he-said-she-said" case which gives the Board very little evidence with which to find a violation. It is Mr. Hospenthal's position that the case should be dismissed, and the lack of evidence supports this. Mr. Derickson advised the Board that Mr. Hospenthal's character and background warrants the Board protecting the licensee from having his successful practice destroyed. Mr. Derickson also asked the Board to consider the limitations of the report prepared by Dr. Stephen Gray given that polygraph examination results have limited admissibility in court proceedings. The Board then began asking questions of Mr. Hospenthal who stated that he never gave A.K. a ride home from her

physical therapy sessions, and that she was only in his home to clean it on maybe two occasions. He denied that A.K. ever gave him a ride home – including the night that he was at the Arizona Rib Company where A.K. was working. Mr. Hospenthal explained that he allowed A.K. to come to his home twice or perhaps three times to sample the water in his fish tank for a class project. He recalled only being home once when she was there for this purpose and speculated someone staying at his home let her in, maybe he showed her where his hidden key was, or possibly she knew where it was because she had cleaned his house. Mr. Hospenthal insisted that he never drank alcohol with A.K. The Board questioned whether he ever treated A.K. in a private room; he stated that he had not, but the Board noted that on May 12, 2000 a progress note in A.K.'s treatment records indicates that he performed extensive soft tissue work which included her gluteus which would be difficult to do in the open treatment area. Mr. Hospenthal denied having an intimate or sexual relationship with A.K. and denied she was ever in his home for social reasons while she was his patient. He explained that he never invited A.K. to stay in his guest house, but she had asked to stay there sometime in 2003 when she had returned home from college and following the fire to her parents' home. Mr. Hospenthal stated that it was a mistake to get involved with A.K., and that it was a mistake on her part as well. He noted that when she had returned home from college she had changed and he engaged in a "one thing led to another" type of situation. The Board questioned why A.K.'s sister would corroborate A.K.'s story? Mr. Hospenthal stated that he was not certain why but speculated that perhaps A.K. mentioned their relationship at a party. He also responded that he had no idea as to why the polygraph results indicated that he had provided deceptive answers concerning his relationship with A.K. and when it occurred and that it was very upsetting that the results did not come out favorably. Mr. Hospenthal insisted that he has never dated a patient, and the Board questioned whether taking a patient out to dinner or driving them home constitutes a boundary problem. Mr. Hospenthal admitted that he may have been seen out to dinner at times with former patients, mostly male, and mentioned that his former house guest was also a former patient who became a friend. He also commented that other individuals who are former, discharged patients have stayed at his home but never during their treatment. In response to the Board's questions Mr. Hospenthal estimated the proportion of young female patients he treats is perhaps 15%. The Board then questioned A.K. and asked whether she had intimate and sexual relations with Mr. Hospenthal. She replied yes – beginning in February 1999 and this initial contact ended in June of that year. A.K. indicated that while she did not keep a diary, she recorded the date she lost her virginity to Mr. Hospenthal and unfortunately this record was destroyed in the fire in her home. The Board questioned what prompted A.K. to contact the Board. A.K. responded that her knowledge of the relationship bothered her for a very long time, and noted that she had called into a radio relationship advisor who recommended she contact the authorities; she then contacted the Board and thought she was only making an inquiry and didn't expect it to become a complaint. Once she realized the Board would investigate it, she was upset but was encouraged by the people around her to participate. A.K. stated that she had elected to not contact criminal authorities to report the relationship because she did not want to be responsible for what actions might be taken against Mr. Hospenthal and because she does not want to see him have his license taken away. A.K. insisted that all of the statements that she had provided to the Board are true. She stated that she did not feel coerced into participating in the complaint, and stated that she is willing to participate in the proceedings today. A.K. acknowledged that she is seeing a therapist occasionally where she currently lives in Kansas. In response to the Board's question concerning why she initially contacted the Board via e-mail, she stated that she was only trying to get information about the complaint process. She had become reflective about the time that she spent with him, and became angry and upset about the relationship and what she went through. A.K. explained that it was a gradual realization that the fact the relationship happened

was bothering her. She responded to the Board's questions concerning whether she believed that Mr. Hospenthal is a danger to the public by stating "no". A.K. noted that she last saw Mr. Hospenthal in the winter a few years ago when they went out to dinner – perhaps in 2004 or 2005. A.K. stated that she was not a patient at the time that she was staying in Mr. Hospenthal's guest house following the fire in her home. She definitely recalls having one sexual encounter with Mr. Hospenthal in his clinic during her second episode of treatment for her ACL; this was after the initial encounters in his home. She mentioned that it occurred late in the day, but there were other patients in the clinic. The Board then asked Mr. Hospenthal whether he had asked his coworkers to write the letters of support submitted in conjunction with the investigation because the content of the letters is so similar. Mr. Hospenthal responded that he had asked them to do so on the advice of his attorney. Mr. Derickson explained that the co-workers were asked to address certain points in these letters while some volunteered to write the letters. In closing Mr. Derickson stated that a number of the statements made relative to this complaint are demonstrably wrong and again requested that the Board dismiss the complaint. The Board reviewed the possible jurisdiction for the complaint first discussing A.R.S. §32-2044(10) and whether A.K. version of the facts is believable. The Board noted that while the testimony is significant, there are some details that neither party remembers. Following discussion the Board determined that the evidence does support that the relationship did exist while A.K. was a patient and that she has consistently reiterated the facts that she does remember. Also, A.K. would not put herself in this uncomfortable situation unless it really did happen and that there is evidence of bad judgment on the part of both of the parties. Of note, Mr. Hospenthal inviting a patient to his home invites potential boundary violations and creates a perception problem on the part of A.K. The Board referred to the psycho-sexual evaluation report and commented that both it and A.K.'s statements do not present any evidence that he is a sexual predator or deviant. The Board also debated whether there is any evidence to indicate that Mr. Hospenthal is using his position as a physical therapist to prey on young female patients and determined that while he exercised very bad judgment with respect to engaging in a sexual relationship with A.K., if the situation presented itself today he would probably not make the same mistake. The Board reviewed A.R.S. §32-2045 and noted the options it provides relative to restricting Mr. Hospenthal's license, but concurred that restricting or monitoring the licensee are not warranted. The Board also reviewed and discussed the monitoring recommendations that Dr. Gray listed in his report. Ms. Fearon moved to find Mr. Hospenthal in violation of A.R.S. §32-2044(1) and 32-2044(10) and 32-2044(12). Mr. Gossman seconded the motion. The roll call vote was unanimous. Ms. Fearon moved to adopt the findings of fact as a sexual relationship did occur while A.K. was a physical therapy patient of Mr. Hospenthal from February through May of 2000 and June through August of 2001. Mr. Robbins seconded the motion. The roll call vote was unanimous. The Board discussed issuing a Decree of Censure and also require Mr. Hospenthal to complete a continuing education or training program that would address patient/provider boundaries and that would also require him to deliver that information through a staff in-service. Ms. Fearon moved to issue the Decree and to place him on probation during which Ms. Hospenthal would be required to submit evidence of having completed a Board approved course of up to 8 hours addressing patient/provider boundaries and of having delivered the information to his staff through an in-service. Ms. Kalis seconded the motion. The roll call vote was unanimous.

### 3. Initial Review of Complaint

#### #06-02; Nicholas Wegener, P.T.

Ms. Fearon introduced the agenda item and Ms. Hiller summarized the complaint filed by Z.K. against Mr. Wegener disputing the charges billed for date of service November 10, 2005. If true, these allegations may be a violation of :

- **A.R.S. §32-2044 (1)** “Violating this chapter, board rules or a written board order.”
- **A.R.S. §32-2044(13)** “Charging unreasonable or fraudulent fees for services performed or not performed.”
- **A.R.S. §32-2044(12)** “Failing to adhere to the recognized standards of ethics of the physical therapy profession.”
  - ***Code of Ethics Principle 5*** “Physical therapists seek remuneration for their services that is deserved and reasonable.”
  - ***Guide for Professional Conduct 5.1Fiscally Sound Remuneration A.*** “Physical therapists shall never place their own financial interest above the welfare of individuals under their care.”

Z.K.’s complaint provided a description of her treatment visit on November 10, 2005 at 360° Physical Therapy & Aquatic Center. On that date Mr. Wegener informed Z.K. that due to a scheduling error he was overbooked and she should proceed with her routine on the “arm bike” and then perform her stretching routine as previously instructed. Z.K. completed these activities and Mr. Wegener reviewed her treatment with Tana Gocken, P.T. who then worked with Z.K. on assisted stretches. When Z.K. failed to respond as instructed during a shoulder stretching activity Ms. Gocken allegedly struck the back of her hand. Z.K. subsequently spoke with Mr. Wegener about crediting her account for the November 10, 2005 treatment since she was left unattended and she was “abused” by Tana. Despite Mr. Wegener’s assurance that he would take care of it, the charges were not initially deleted prompting Z.K. to file the complaint. In his response to the complaint Mr. Wegener stated that Z.K. attended therapy, was rendered professional services, and was appropriately billed on November 10, 2005. He indicated that he had her initiate exercises on the upper body ergometer, and then informed her that a scheduling error had occurred and when his other patient arrived Z.K. would be seen by Ms. Gocken. Z.K. completed her exercises and stretching under Mr. Wegener’s supervision and was introduced her to Ms. Gocken who conducted the remainder of Z.K.’s therapeutic exercises and manual therapy. Subsequent to Z.K.’s grievance the management at 360° PT remitted the charges for this visit as a gesture of goodwill. Ms. Hiller advised the Board that the treatment record for November 10, 2005 documents that Z.K. was present at 360° PT for one hour performing progressive exercises previously documented at other visits and receiving passive range of motion and manual stretching and that in his response Mr. Wegener affirmed “supervised therapy by a licensed physical therapist” is billed as skilled care, and that Z.K. was billed for skilled treatment on November 10, 2005. However, there is nothing in the records that indicate whether the 45 minutes of exercise performed by Z.K. involved direct one-on-one interaction with a physical therapist or rather was ‘supervised’ by a physical therapist tending to other patients at the same time. Ms. Hiller also noted that an investigation into Ms. Gocken has not been initiated at this time. Mr. Wegener was present and was granted permission to address the Board. He reiterated that the billing was appropriate relative to the treatment that she received on November 10, 2005. In response to the Board’s questions, he admitted to documenting all of the treatment provided to Z.K. on that date. The Board determined to consider only the allegation that Z.K. was billed for services that were not performed. Mr. Wegener explained that in the initial 15 minutes of the treatment session, which was while he was supervising her treatment, he had Z.K. working on the upper body ergometer and performing stretching and he was collecting subjective information and discussing modifying home activities which he considers as functional training.

He explained that Ms. Gocken then assumed supervision of Z.K. and was with her for 45 minutes completing the rest of the flow sheet of exercise and the manual therapy. He stated to the Board that he did not do any manual therapy during the 15 minutes. Mr. Wegener noted that he filled out the charge slips with Ms. Gocken and discussed them with her. He also commented that Ms. Gocken would have had only one other patient at that same time. In response to the Board's questions he indicated that Z.K. was open to working with Ms. Gocken and that she volunteered that she was satisfied with her care, but became upset following the alleged hand slapping incident. Mr. Wegener did discuss the complaint of the hand slap with Ms. Gocken, and it was also discussed during a staff meeting. An incident report was written after Z.K. filed the complaint, and he wrote a portion of it. He had indicated to Z.K. that he would discuss her bill with the facility but that he could not promise to have the charged removed. Mr. Wegener was assured by Ms. Gocken that that hand slap was inadvertent, but he cannot speak to it because he did not witness it. The Board commented that the lack of time notations in the record would have helped corroborate Mr. Wegener's version of the facts. Mr. Wegener explained that management ultimately did decide to waive the fees for that day as maintaining good relations with the patient was the priority, and he noted that the patient's insurance had changed which may have exacerbated the confusion on the part of Z.K. He mentioned that the patient never requested that Ms. Gocken never treat her again. Ms. Kalis moved to dismiss the complaint. Mr. Robbins seconded the motion. The motion carried by a unanimous vote. The Board again advised Mr. Wegener that time notations would have been helpful in the treatment note, and he responded that the clinic has incorporated this change into their procedures. Ms. Fearon moved the Board open a complaint against Ms. Gocken for the purpose of investigating the 45 minutes of treatment that she provided to Z.K. and the appropriateness of the billing, the fact that her signature fails to appear on the treatment note, and the alleged hand slapping incident. Ms. Kalis seconded the motion. The motion carried by a unanimous vote.

#### **4. Review of and Possible Action Concerning Proposed Consent Agreement #04-23; Jenelle Lauchman, P.T.**

Ms. Fearon introduced the agenda item and Ms. Cornelius announced that she and Ms. Lauchman's attorney had reached an agreement to resolve the case as described in the consent agreement presented to the Board for review. She noted that Arizona Superior Court has not yet returned jurisdiction back to the Board, but that the Board can approve the agreement to become effective when that occurs. The Board discussed the fact that a violation of A.R.S. §32-2044(13), charging unreasonable or fraudulent fees is not included in this proposed agreement, and recalled that Conclusion of Law has been a point of dispute between the parties all along. The Board reviewed and discussed the Findings of Fact and deemed them accurate. Dr. Cornwall moved the Board approve the presented consent agreement with the provision that it is be in effect once the Court returns jurisdiction of the case back to the Board. Mr. Gossman seconded the motion. The roll call vote was unanimous.

#### **5. Initial Review of Complaint #06-04; Lawrence Hurst, P.T.**

Ms. Fearon introduced the complaint and Ms. Herbst Paakkonen summarized the investigation concerning Mr. Hurst. She reported that the complaint was opened based on receipt of information that on April 3, 2006 Mr. Hurst, P.T. was placed on probation for 5 years by the Physical Therapy Board of California ("California Board") for violations of that state's Business and Professions Code and the California Code of Regulations for the commission of verbal abuse or sexual harassment. The Conclusions of Law for this case included a violation of the State of California Business and Professions Code section 2660, subdivision (n) and a violation of the

California Code of Regulations, Title 16, section 1399.20, subsection (a). 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...by the proper authorities of another state, territory or country.”

On January 3, 2006 the Board received an electronic mail communication from Ms. Amy Fan, Deputy Attorney General in the office of the California Attorney General informing that an accusation concerning Mr. Hurst had been filed with her office by the California Board and that the case had been scheduled for hearing in February of 2006. Additionally, Ms. Fan advised that the California Board had disciplined Mr. Hurst previously as a result of discipline issued by the Arizona Board of Physical Therapy (under Complaint #97-27; Lawrence Hurst, P.T. in June of 1998). The Board later learned that the California Board had conducted an investigation into allegations that while employed in a managerial position of the physical therapy department of Palo Verde Hospital in Blythe, California Mr. Hurst made inappropriate and sexually charged comments and gestures about and to certain individuals between March and April of 2003. The California Board’s investigation revealed that during interviews conducted by hospital administration in April of 2003, Mr. Hurst admitted to stating “screw you” to L.W. on March 31, 2003. Mr. Hurst further admitted that on a previous occasion he had pulled on the belt loop of the pants of E.R. when she had bent over and exposed her posterior. Mr. Hurst was terminated from the hospital effective in April of 2003 for violating the company’s policy of engaging in prohibited harassment. On March 3, 2006 The California Board and Ms. Hurst entered into a Stipulated Settlement and Order as a final resolution of the case before that Board, the terms of which became effective on April 3, 2006. The Culpability adopted through this Settlement Order included violations of the State of California Business and Professions Code section 2660, subdivision (n) and of the California Code of Regulations, Title 16, section 1399.20, subdivision (a) and states that Mr. Hurst committed or engaged in verbal abuse by stating to an employee “screw you.” The terms of the Stipulated Order included a stayed revocation of the physical therapist license, a 30 day period of suspension of the physical therapist license, 5 years probation, completion of a course on the subject of sexual harassment in the workplace, and practice restrictions consisting of no practice in a home setting, monitoring by a Board approved professional practice monitor, and having an unrelated third party present while treating female patients. No written response to the complaint has been received from Mr. Hurst, although in April of 2006 he mailed to the Board a letter informing of the California Board action and a copy of the Settlement Order. Ms. Herbst Paakkonen advised the Board that its purpose in reviewing this complaint is not to revisit the California Board’s investigation or resultant disciplinary action but rather to determine appropriate action by this Board of Physical Therapy in light of Mr. Hurst’s alleged violation of A.R.S. § 32-2044(9). The Board discussed that in cases where a licensee has been disciplined by a Board in another jurisdiction, it has offered a consent agreement to that licensee in lieu of conducting an informal hearing. The Board noted that the case appears to have been thoroughly investigated by the California Board. Ms. Cornelius advised the Board that it could not consider Mr. Hurst’s previous disciplinary history for purposes of determining guilt, but it could be used when adopting findings of fact and determination of the appropriate disciplinary action. Ms. Fearon moved to find Mr. Hurst in violation of A.R.S. §32-2044(1) and of A.R.S. §32-2044(9). Ms. Kalis seconded the motion. The motion carried by a unanimous vote. Ms. Fearon moved to offer Mr. Hurst a consent agreement containing the same terms and restrictions as the Settlement Order issued by the California Board with the exception of the licensure suspension term, and that it stipulate that he provide the Board in writing with all of his practice addresses and that he must come before the Board upon request to discuss his probation status and compliance; failure to sign the consent

agreement within 10 days of its receipt would result in the case being scheduled for an informal hearing. Mr. Robbins seconded the motion. The motion carried by a unanimous vote.

## **6. Review of and Possible Action Concerning Probation Compliance Report**

### **#05-11; Bryan Hannley, P.T.**

Ms. Fearon introduced the agenda item and Ms. Kalis announced that she would recuse herself from the proceeding. Ms. Hiller reported that Mr. Hannley was placed on probation by the Board for 12 months commencing on December 7, 2005 for violations of A.R.S. §32-2044(4), engaging in the performance of substandard care by a physical therapist, A.R.S. §32-2044(12), failing to adhere to the recognized standards of ethics of the physical therapy profession, and A.R.S. §32-2044(20), failing to maintain adequate patient records. These conclusions of law were based on findings that Mr. Hannley performed an initial evaluation for patient R.B. that lacked a subjective history, objective tests or measurements, neurological evaluation, posture, gait or functional assessments, all of which would have been warranted given the patient's diagnosis and symptoms. Despite the patient reporting a fall with worsening of symptoms prior to the second scheduled treatment visit, Mr. Hannley did not observe or treat R.B. at the following two visits but delegated treatment to assistive personnel. At the fourth and final treatment visit Mr. Hannley reassessed and treated R.B. and referred him back to his referring neurologist but failed to document subsequent conversations with the neurologist's assistant. Ms. Hiller indicated that Mr. Hannley has fulfilled all of the requirements of his Order with respect to documentation coursework, revision of policies & procedures (including delegation to assistive personnel), review of physical therapy literature relating to ethical principles of supervision and delegation, and in-service presentations concerning his literature review and documentation coursework. She advised the Board that in June 2006 she visited NovaCare Rehabilitation to select and copy three of Mr. Hannley's patient records to review for compliance with statutes, rules, and the deficiencies noted in Order #05-11. While the initial patient evaluations reflect marked improvements in the areas of deficiency noted in the Board's Order, including subjective history, objective tests and measures appropriate for patient diagnoses, physician communication, and expanded treatment details. the records for patient K.A. raised concerns based upon the documentation for treatment date May 11, 2006 during which Cheryl Garcia, P.T.A., performed a "re-assessment" and wrote a "status report" to the patient's referring physician justifying continued skilled treatment. Ms. Hiller noted that this finding is presented to the Board to determine whether the "re-assessment" and "status report" performed and documented by Cheryl Garcia, P.T.A., would be considered re-evaluations reserved exclusively to be done by physical therapists and potentially a violation of A.R.S. §§ 32-2043 A, F(2), and H. Ms. Hannley was present and was granted permission to address the Board, and he agreed to address the Board's questions. The Board expressed to Mr. Hannley concerns that the treatment record for the patient K.A. indicates that he allowed a P.T.A. to reassess the patient and that the P.T.A. recorded the progress note sent to the referring physician. Mr. Hannley explained that the K.A. did not show for her reevaluation appointment with him, and the next appointment happened to fall on the P.T.A.'s (Ms. Garcia's) schedule at which time a progress report was due to the K.A.'s physician so the P.T.A. decided to help by writing the re-assessment. He stated that typically those reports are done by a physical therapist. Mr. Hannley stated that after reviewing the note, he determined that it did not constitute a re-evaluation. In response to the Board's questions concerning the patient's discharge summary, he explained that he only had that information recorded by Ms. Garcia to prepare the discharge summary. Mr. Hannley commented that he concurs with the Board in that the word choice of "re-assessment" was inappropriate and that Ms. Garcia should more accurately have used "re-measurement". He explained that the discharge form was pre-printed with Ms. Garcia's name and that is why her signature appears on it, and advised that they were attempting to transmit the report to the physician in a timely



fashion as K.A. was scheduled to see her doctor the same day that she was seen by Ms. Garcia. Mr. Hannley explained that this is a situation of a P.T.A. just trying to do the right thing by getting information to the patient's doctor and communicating with the referral source, but that he doesn't understand why she took it upon herself to record the documentation that she did. The Board also noted that the resources Mr. Hannley used for his research for his literature review were very dated as some of the publications were issued in the 1960's through the early 1990's. The Board determined that the record reflects that the P.T.A. was allowed by Mr. Hannley to make clinical judgments that are outside of a P.T.A.'s scope to make. Ms. Fearon moved to offer a consent agreement to Mr. Hannley modifying his Board Order such that it would contain an additional probation term consisting of a Board approved mentor to review his supervision of assistive personnel and his documentation for the remainder of his term of probation with monthly reports to be issued to the Board by his mentor. Dr. Cornwall seconded the motion. The roll call vote was unanimous.

## **7. Review of and Possible Action Concerning Application for Reinstatement**

### **Todd Lukasik, P.T.**

Ms. Fearon introduced the agenda item and Ms. Herbst Paakkonen reported the status of Mr. Lukasik's application indicating that on Tuesday, September 5, 2006 Mr. Lukasik visited the office of the Arizona Board of Physical Therapy and reported that he had failed to renew his physical therapist license on or before August 31, 2006. He was provided with a Reinstatement and Renewal of Physical Therapist License application on which he stated that he had not practiced as a physical therapist since August 31, 2006. Mr. Lukasik also mentioned that he is a naturopathic medical student. He also indicated that he is self-employed as a private contractor and currently not working. Approximately 2 hours later, Ms. Herbst Paakkonen was contacted by telephone by Ms. Janet Karasz, P.T., Director of Rehabilitation at Friendship Village of Tempe, a skilled nursing facility who informed her that Mr. Lukasik had in fact worked as a contract physical therapist at this facility since August 31, 2006. She faxed copies of Mr. Lukasik's time sheets for September 1, 2006 (indicates 11.5 hours worked) and for September 4, 2006 (indicates 8 hours worked). The Board may consider whether Mr. Lukasik has violated the following statutes:

- A.R.S. §32-2044(1), Grounds for disciplinary action: "violating this chapter, Board rules, or a written order of the Board."
- A.R.S. §32-2044(3), Grounds for disciplinary action: "Obtaining or attempting to obtain a license by fraud or misrepresentation."
- A.R.S. §32-2044(12), Grounds for disciplinary action: "Failing to adhere to the recognized standards of ethics of the physical therapy profession" [Code of Ethics Principle 2: Physical therapists comply with the laws and regulations governing the practice of physical therapy].
- A.R.S. §32-2044(14), Grounds for disciplinary action: "Making misleading, deceptive, untrue or fraudulent representations in violation of this chapter or in the practice of the profession."
- A.R.S. §32-2048(A), "it is unlawful for any person to practice or in any manner claim to practice physical therapy or for a person to claim the designation of a physical therapist unless that person is licensed pursuant to this chapter. A person who engages in an activity requiring a license pursuant to this chapter to who uses any word, title or representation in violation of section 32-2042 that implies that the person is licensed to engage in the practice of physical therapy is guilty of a class 1 misdemeanor."

The Board also added A.R.S. §32-2027 License or certificate renewal: "A licensee or certificate holder shall renew the license or certificate pursuant to board rules. A licensee or certificate

holder who fails to renew the license or certificate on or before its expiration date shall not practice as a physical therapist or work as a physical therapist assistant in this state". Mr. Lukasik appeared before the Board to address questions explaining that he was not aware that his license had lapsed. He had mailed the application form from Tucson, but he admitted that he has no proof of having done so. He explained that he had previously worked for Friendship Village and had been asked to fill in for someone who was on vacation over the Labor Day weekend. He had not been checking his mail regularly, and when he realized that he didn't have his renewal card, he thought there may be a problem and that is why he came to the office. The Board questioned why he indicated on the form that he was not working as a physical therapist. Mr. Lukasik stated that he thought he could get the matter of his license resolved before the question of his licensure status came to the attention of the facility where he was working. The Board also asked why he didn't make reference to his previous unlawful practice case on the application form. Mr. Lukasik responded that perhaps he didn't understand the question – he wasn't trying to deceive the Board and he knew the Board was aware of this case. Ms. Kalis moved to deny reinstating the license of Mr. Lukasik on the basis of his dishonest statements made to the Board and lack of good moral character. The motion did not receive a second. The Board noted that Mr. Lukasik had not signed the affirmation statement on the application concerning completion of the required 20 contact hours of continuing competence. Ms. Herbst Paakkonen advised the Board that licensees filing renewal applications who had not signed the affirmation statement were informed that they were ineligible to renew the license as completion of the 20 hours is a requirement of renewal. Ms. Fearon moved the Board renew Mr. Lukasik's license only after he submits evidence to the Board of having completed 20 contact hours of continuing competence. Dr. Cornwall seconded the motion. The motion carried by a unanimous vote. Ms. Fearon moved that upon renewal of Mr. Lukasik's license the Board offer him a consent agreement that would place him on probation for 6 months during which time he will be required to take a professional ethics course of at least 8 hours in length, that he pay a civil penalty of \$200, and that he take and pass the jurisprudence examination within the initial 30 days of the probation term; Mr. Lukasik will have 10 days to sign the agreement and failure to do so will result in an informal hearing being scheduled. Dr. Cornwall seconded the motion. The motion carried by a vote of 4-1.

## **8. Initial Review of Unlawful Practice Case Investigation**

### **#06-01-UPI; Lisa Traynor, P.T.**

Ms. Fearon introduced the case and Ms. Herbst Paakkonen summarized the matter indicating that on Tuesday, September 5, 2006 Ms. Traynor contacted the office of the Arizona Board of Physical Therapy and reported to Ms. Carol Lopez that she realized she had failed to renew her physical therapist license on or before August 31, 2006. Ms. Traynor acknowledged to Ms. Lopez that she had practiced without a license for one day – Friday, September 1, 2006. Ms. Traynor filed her renewal and reinstatement application in the Board office on Tuesday, September 5, 2006 prior to reporting for work a second day without a license; Ms. Lopez reinstated her license at that time and Ms. Traynor was advised she could return to practice. Ms. Traynor indicated on the Reinstatement and Renewal Affirmation of Employment Status form that accompanies the reinstatement application that she continued to practice as a physical therapist since her license lapsed on September 1, 2006. The possible jurisdiction for this case includes:

- A.R.S. §32-2044(1), Grounds for disciplinary action: "violating this chapter, Board rules, or a written order of the Board."
- A.R.S. §32-2048(A), "it is unlawful for any person to practice or in any manner claim to practice physical therapy or for a person to claim the designation of a physical therapist

unless that person is licensed pursuant to this chapter. A person who engages in an activity requiring a license pursuant to this chapter to who uses any word, title or representation in violation of section 32-2042 that implies that the person is licensed to engage in the practice of physical therapy is guilty of a class 1 misdemeanor.”

The Board noted that Ms. Traynor could also be charged with A.R.S. §32-2027 License or certificate renewal: “A licensee or certificate holder shall renew the license or certificate pursuant to board rules. A licensee or certificate holder who fails to renew the license or certificate on or before its expiration date shall not practice as a physical therapist or work as a physical therapist assistant in this state”. Ms. Herbst Paakkonen presented the Board with a report listing the levels of disciplinary action that have been imposed in the past for unlawful practice cases depending on the duration of the unlawful practice period. Ms. Fearon moved to find Ms. Traynor in violation of A.R.S. §§32-2044(1), 32-2048(A) and 32-2027. Mr. Gossman seconded the motion. The motion carried by a unanimous vote. Ms. Fearon moved to offer Ms. Traynor a consent agreement that would place her on probation for 30 days during which time she must pay a civil penalty of \$100 civil penalty; failure to sign the consent agreement within 10 days will result in the case being scheduled for an informal hearing. Ms. Kalis seconded the motion. The motion carried by a unanimous vote.

**#06-02-UPI ; Brad Kempton, P.T.**

Ms. Fearon introduced the case and Ms. Herbst Paakkonen summarized the matter noting that on Tuesday, September 5, 2006 the office of the Arizona Board of Physical Therapy received the certification renewal application of Mr. Kempton, however, the envelope was postmarked on September 1, 2006 rendering Mr. Kempton ineligible to renew his license. Ms. Carol Lopez contacted the applicant by telephone on September 6, 2006 and informed him that he must submit a renewal and reinstatement application which requires an additional fee of \$100 (above the \$160 renewal fee), and also requires completion of an affidavit of work or practice post-August 31, 2006. During this conversation, Mr. Kempton acknowledged to Ms. Lopez that he had practiced at Kempton and Kempton Physical Therapy on Friday, September 1, 2006, on Tuesday, September 5, 2006 and on Wednesday, September 6, 2006 up until the point of the telephone call. Mr. Kempton filed his renewal and reinstatement application in the Board office later that same morning and his license was reinstated. Mr. Kempton indicated on the Reinstatement and Renewal Affirmation of Employment Status form that accompanies the reinstatement application that he continued to work as a physical therapist from September 1, 2006 to September 6, 2006 – consistent with the statements that he made to Ms. Lopez during their telephone conversation. After submitting his application Mr. Kempton stated to Ms. Herbst Paakkonen that he had given his completed application to the office manager of his practice and had directed her to mail it on August 30, 2006. He submitted a letter stating the same information with his renewal and reinstatement application. On September 11, the Board office received a faxed letter from Ms. Tho Carrigan, office manager for Kempton and Kempton Physical Therapy, in which she states that she delivered Mr. Kempton’s licensure renewal application to a UPS store on August 31, 2006 prior to the 4:00 p.m. pickup by the U.S. postal carrier. She attached a receipt that indicates postage for three first-class letters was purchased on the Kempton and Kempton Physical Therapy account at 2:13 p.m. on August 31, 2006. The possible jurisdiction for this case includes:

- A.R.S. §32-2044(1), Grounds for disciplinary action: “violating this chapter, Board rules, or a written order of the Board.”
- A.R.S. §32-2048(A), “it is unlawful for any person to practice or in any manner claim to practice physical therapy or for a person to claim the designation of a physical therapist unless that person is licensed pursuant to this chapter. A person who engages in an activity requiring a license pursuant to this chapter to who uses any word, title or

representation in violation of section 32-2042 that implies that the person is licensed to engage in the practice of physical therapy is guilty of a class 1 misdemeanor.”

The Board also added A.R.S. §32-2027 License or certificate renewal: “A licensee or certificate holder shall renew the license or certificate pursuant to board rules. A licensee or certificate holder who fails to renew the license or certificate on or before its expiration date shall not practice as a physical therapist or work as a physical therapist assistant in this state”. The Board then discussed the fact that Mr. Kempton had the options of placing his application in the mail earlier than August 31, 2006, sending it via registered mail, and using the on-line application. Ms. Fearon moved to find Mr. Kempton in violation of A.R.S. §§32-2044(1), 32-2048(A) and 32-2027. Mr. Gossman seconded the motion. The motion carried by a unanimous vote. Mr. Gossman moved to offer Mr. Kempton a consent agreement that would place him on probation for 30 days during which time he must pay a civil penalty of \$100 civil penalty; failure to sign the consent agreement within 10 days will result in the case being scheduled for an informal hearing. Ms. Kalis seconded the motion. The motion carried by a unanimous vote.

**#06-03-UPI; Nancy Riedmann-McVeigh, P.T.A.**

Ms. Fearon introduced the case and Ms. Herbst Paakkonen summarized the matter by reporting that on Tuesday, September 5, 2006 the office of the Arizona Board of Physical Therapy received the certification renewal application of Ms. Nancy Riedmann (now Nancy Riedmann-McVeigh). Ms. Riedmann-McVeigh’s application was postmarked on September 4, 2006 rendering Ms. Riedmann-McVeigh ineligible to renew her certificate. Ms. Carol Lopez contacted the applicant by telephone on September 6, 2006 and informed her that she must submit a renewal and reinstatement application which requires an additional fee of \$50 (above the \$55 renewal fee), and also requires completing an affidavit of work or practice post-August 31, 2006. During this conversation, Ms. Riedmann-McVeigh acknowledged to Ms. Lopez that she had worked as a physical therapist assistant without a certificate on Friday, September 1, 2006 and on Tuesday, September 5, 2006. Ms. Riedmann-McVeigh filed her renewal and reinstatement application in the Board office on Thursday, September 7, 2006 prior to reporting for work a third day without a certificate; Ms. Lopez reinstated her license at that time and Ms. Riedmann-McVeigh was advised she could return to work. Ms. Riedmann-McVeigh indicated on the Reinstatement and Renewal Affirmation of Employment Status form that accompanies the reinstatement application that she continued to work as a physical therapist assistant since her certificate lapsed on September 1, 2006 – consistent with the statements that she made to Ms. Lopez during their September 6 telephone conversation. The possible jurisdiction for this case includes:

- A.R.S. §32-2044(1), Grounds for disciplinary action: “violating this chapter, Board rules, or a written order of the Board.”
- A.R.S. §32-2048(A), “it is unlawful for any person to practice or in any manner claim to practice physical therapy or for a person to claim the designation of a physical therapist unless that person is licensed pursuant to this chapter. A person who engages in an activity requiring a license pursuant to this chapter to who uses any word, title or representation in violation of section 32-2042 that implies that the person is licensed to engage in the practice of physical therapy is guilty of a class 1 misdemeanor.”

The Board also added A.R.S. §32-2027 License or certificate renewal: “A licensee or certificate holder shall renew the license or certificate pursuant to board rules. A licensee or certificate holder who fails to renew the license or certificate on or before its expiration date shall not practice as a physical therapist or work as a physical therapist assistant in this state”. Ms. Fearon moved to find Ms. Riedmann-McVeigh in violation of A.R.S. §§32-2044(1), 32-2048(A) and 32-2027. Mr. Gossman seconded the motion. The motion carried by a unanimous vote. Ms. Fearon moved to offer Ms. Riedmann-McVeigh a consent agreement that would place her on

probation for 30 days during which time she must pay a civil penalty of \$100 civil penalty; failure to sign the consent agreement within 10 days will result in the case being scheduled for an informal hearing. Ms. Kalis seconded the motion. The motion carried by a unanimous vote.

**#06-04-UPI; Susan Jaffe, P.T.**

Ms. Fearon introduced the case and Ms. Herbst Paakkonen summarized the matter indicating that on Tuesday, September 12, 2006 Ms. Susan Jaffe contacted the office of the Arizona Board of Physical Therapy and reported to Ms. Carol Lopez that she realized she had failed to renew her physical therapist license on or before August 31, 2006. Ms. Jaffe acknowledged to Ms. Lopez that she had practiced without a license for one day – Friday, September 1, 2006. She did not work the week of September 4 as she was out of town. Ms. Jaffe filed her renewal and reinstatement application in the Board office on Tuesday, September 12, 2006 prior to reporting again to work without a license; Ms. Herbst Paakkonen reinstated her license at that time and advised Ms. Jaffe that she could return to practice. Ms. Jaffe indicated on the Reinstatement and Renewal Affirmation of Employment Status form that accompanies the reinstatement application that she practiced as a physical therapist with a lapsed license on September 1, 2006 which is consistent with the statement that she provided to Ms. Lopez during their telephone conversation earlier that day. The possible jurisdiction for this case includes:

- A.R.S. §32-2044(1), Grounds for disciplinary action: “violating this chapter, Board rules, or a written order of the Board.”
- A.R.S. §32-2048(A), “it is unlawful for any person to practice or in any manner claim to practice physical therapy or for a person to claim the designation of a physical therapist unless that person is licensed pursuant to this chapter. A person who engages in an activity requiring a license pursuant to this chapter to who uses any word, title or representation in violation of section 32-2042 that implies that the person is licensed to engage in the practice of physical therapy is guilty of a class 1 misdemeanor.”

The Board also added A.R.S. §32-2027 License or certificate renewal: “A licensee or certificate holder shall renew the license or certificate pursuant to board rules. A licensee or certificate holder who fails to renew the license or certificate on or before its expiration date shall not practice as a physical therapist or work as a physical therapist assistant in this state”. Ms. Fearon moved to find Ms. Jaffe in violation of A.R.S. §§32-2044(1), 32-2048(A) and 32-2027. Ms. Kalis seconded the motion. The motion carried by a unanimous vote. Ms. Fearon moved to offer Ms. Jaffe a consent agreement that would place her on probation for 30 days during which time she must pay a civil penalty of \$100 civil penalty; failure to sign the consent agreement within 10 days will result in the case being scheduled for an informal hearing. Mr. Gossman seconded the motion. The motion carried by a unanimous vote.

**#06-05-UPI; Patrick Zerr, P.T.**

Ms. Fearon introduced the agenda item and Ms. Herbst Paakkonen advised the Board that on Wednesday, September 13, 2006 Ms. Tammy Zerr contacted the office of the Arizona Board of Physical Therapy and reported to Ms. Carol Lopez that she realized her husband, Mr. Patrick Zerr, may have neglected to file his renewal application for his physical therapist license on or before August 31, 2006. Ms. Zerr works as her husband’s office manager for his physical therapy clinic, Summit Physical Therapy. When I advised Ms. Zerr that Patrick Zerr’s license had lapsed as of August 31, 2006, she indicated she would speak with her husband and that he would come to the Board office to file a reinstatement application. Mr. Zerr filed his renewal and reinstatement application in the Board office later the afternoon of September 13 and his license was reinstated. Mr. Zerr indicated on the Reinstatement and Renewal Affirmation of Employment Status form that accompanies the reinstatement application that he practiced as a physical therapist with a lapsed license on September 1, 4-8, and 11-13. Mr. Zerr informed me that he had moved since the last renewal period and that he seemed to recall filing a change of



address form, but none was found in his licensing file. The possible jurisdiction for this case includes:

- A.R.S. §32-2044(1), Grounds for disciplinary action: “violating this chapter, Board rules, or a written order of the Board.”
- A.R.S. §32-2048(A), “it is unlawful for any person to practice or in any manner claim to practice physical therapy or for a person to claim the designation of a physical therapist unless that person is licensed pursuant to this chapter. A person who engages in an activity requiring a license pursuant to this chapter to who uses any word, title or representation in violation of section 32-2042 that implies that the person is licensed to engage in the practice of physical therapy is guilty of a class 1 misdemeanor.”

The Board also added A.R.S. §32-2027 License or certificate renewal: “A licensee or certificate holder shall renew the license or certificate pursuant to board rules. A licensee or certificate holder who fails to renew the license or certificate on or before its expiration date shall not practice as a physical therapist or work as a physical therapist assistant in this state”. The Board noted that the unlawful practice period comprised a total of nine days. Ms. Fearon moved to find Mr. Zerr in violation of A.R.S. §§32-2044(1), 32-2048(A) and 32-2027. Ms. Kalis seconded the motion. The motion carried by a unanimous vote. Ms. Fearon moved to offer Mr. Zerr a consent agreement that would place him on probation for a period of 6 months during which time he must pay a civil penalty of \$250, complete 20 hours of community service pre-approved by the Board, and take and pass the Board’s jurisprudence examination; if Mr. Zerr completes the requirements early he can be granted early termination of his probation. Ms. Kalis seconded the motion. The roll call vote was unanimous.

## **9. Review and Possible Action on Disclosure on Licensure or Certification Renewal Application Ellen Landowski, P.T.**

Ms. Fearon introduced the agenda item and Ms. Herbst Paakkonen reported that on her licensure renewal application form Ms. Landowski answered “yes” to the question “Since your last renewal, have you been found guilty of or do you have a complaint, allegation, or charge currently pending for any action by a professional licensing board in any jurisdiction of the United States or foreign country?” Ms. Landowski had previously faxed a letter to the Board office (on December 13, 2005) announcing that she was submitting initial notification of a disciplinary action taken against her by the Louisiana Board of Physical Therapy for allowing a temporary permit holder with a lapsed permit to continue working under her supervision. Although Ms. Landowski’s letter stated that the Board action was taken on December 7, 2005, Ms. Cheryl Gaudin, Executive Director of the Louisiana State Board of Physical Therapy Examiners advised Ms. Herbst Paakkonen in an e-mail communication that the Consent Order was not forwarded to her by that Board’s attorney until July 12, 2006. Ms. Landowski had included a copy of the Consent Order with her application, and the Board reviewed and discussed that document. The Board noted that if Ms. Landowski was practicing in Arizona, she could not commit the same violation in Arizona as the Board does not grant temporary licenses or permits. Ms. Fearon moved to renew the license of Ms. Landowski and to issue an advisory letter to her that addresses the Board’s concerns with respect to abiding by the law relative to supervision of assistive personnel, students and interim permit holders. Mr. Robbins seconded the motion. The motion carried by a unanimous vote.

### **Kimberly Short, P.T.**

Ms. Fearon introduced the agenda item and Ms. Herbst Paakkonen reported that on her licensure renewal application form Ms. Short answered “yes” to the question “Since your last renewal, have you been found guilty of or do you have a complaint, allegation or charge currently pending for any action by a professional licensing board in any jurisdiction of the United States or foreign country?” Ms. Short attached a document issued by an unidentified source which indicated Ms. Short failed to timely notify the Board of a change in professional address, and which noted that she was issued a

Consent Decree with a \$300 fine. Ms. Herbst Paakkonen determined that the applicable jurisdiction was the Nevada Board of Physical Therapy Examiners, she verified that Ms. Short had complied with the terms of the Consent Decree. Ms. Kalis moved to renew the license of Ms. Short. Ms. Fearon seconded the motion. The motion carried by a unanimous vote.

**10. Review and Possible Action on Request for Termination of Probation  
#05-08; Virginia Morgan, P.T.**

Ms. Fearon introduced the agenda item and Ms. Hiller reported that Ms. Morgan is seeking termination of probation as stipulated by her Order of Probation issued for complaint #05-08. She was placed on probation by the Board for six months commencing on January 20, 2006 for violations of A.R.S. § 32-2044(1), violating statute or rules, A.R.S. §32-2044(4), engaging in the performance of substandard care, and A.R.S. §32-2044(20), failing to maintain adequate patient records. This conclusions of law were based on findings that Ms. Morgan failed to meet the standard of care in treating patient P.W. when she failed to perform a vertebral artery test or a neurological examination of P.W. at the initial evaluation, she failed to establish a differential diagnosis to justify her plan of care, she failed to utilize mechanical traction as a primary treatment intervention, and she provided P.W. with over-the-door home traction which was inappropriate for the patient’s condition. Ms. Hiller indicated that Ms. Morgan has complied with the terms of her Order of Probation and directed the Board to refer to her report detailing that compliance. Ms. Kalis moved to grant termination of probation to Ms. Morgan. Ms. Fearon seconded the motion. The motion carried by a unanimous vote.

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

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

Melissa A. Banfill	Jessica M. Bento	Jeffrey J. Beran
James E. Boyer	Craig F. Brechler	Laurie A. Carnal
David E. Castillo	Kristen L. Cernuda	Christie C. Chepren
Angela M. Ciminiello	Mariah D. Craycroft	Garth W. Danielson
Ashley A. DiPuma	Christopher R. Ellis	Stephanie M. Garrison
Sanford A. Goldstein	Cassidy N. Guinn	Patrick M. Hand
Emily Hansen	April T. Hoff	Shari L. Larsen
Tyler V. Majors	Laura L. Mattis	Noel F. McCluney
Jason L. Moody	Christopher R. Mueller	Therese’ M. Mullee
Marcus R. Neal	Sarah M. Nemec	Andy T. Nguyen
Jennifer L. Otanicar	Jaimie L. Perkunas	Tara E. Pettengill
Clarisa A. Reynolds	Patrick J. Septon	Brianne R. Showman
Dean Skurka	Stefany D. Spears	Ben D. Stern
Michael C. Waits	Sarah E. Ward	Ann M. Webster
Jacqueline M. Wiersma	Stephanie Williams	Casey Woodford
Widd W. Workman	Laura A. Yee	

Ms. Fearon introduced the agenda item and announced the Board would review the files of the listed applicants. Dr. Cornwall disclosed that he had a prior teacher-student relationship with Mr. Neal and Ms. Garrison, but that the relationship no longer exists and he is able to vote on their applications without bias. The Board discussed the fact that Ms. Nemec and Ms. Perkunas indicated on their applications that they worked as physical therapists prior to having been granted initial licensure in their respective states. Ms. Fearon moved to license the listed applicants with licensure to be granted to Ms. Nemec and Ms. Perkunas only after receiving clarifying or correcting information relative to their initial licensure and work history. Ms. Kalis seconded the motion. The motion carried by a unanimous vote.

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

<b>Kelly L. Binienda</b>	<b>Tamara L. Donovan</b>	<b>Amber S. Hunsicker</b>
<b>Anna C. Mercado</b>	<b>Amanda K. Wakershauser</b>	

Ms. Fearon introduced the agenda item and announced the Board would review the files of the listed applicants. The Board noted that the application for Ms. Mercado is incomplete because she did not provide any documentation to support the “yes” answer on her application. Ms. Fearon moved to grant certification to the listed applicants with the exception of Ms. Mercado as she will be required to submit the missing information concerning the disclosure. Ms. Kalis seconded the motion. The motion carried by a unanimous vote.

**13. 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 Determination of Need for Supervised Clinical Practice Period (SCCP)**

**Maria Villamarzo**

Ms. Fearon read the name of the applicant and the Board questioned whether her education was evaluated using the correct version of the Coursework Evaluation Tool. The Board also noted that the applicant lacks a passing score on the TSE (Test of Spoken English). The Board determined that the applicant must pursue the question of whether International Consultants of Delaware, the agency who performed the evaluation, completed it using the 4<sup>th</sup> Edition of the Coursework Evaluation Tool and she must request the submission of a revised report. Ms. Kalis motioned to request this additional information during the substantive review time frame and Mr. Gossman seconded the motion. The motion carried by a unanimous vote.

**b. Review for Determination of Substantially Equivalent Education and Determination of Waiver/Completion of Supervised Clinical Practice Period (SCCP)**

**Allan Millier**

Ms. Fearon read the name of the applicant and the Board reviewed his credential evaluation report and noted several educational deficiencies. The Board also requested an updated work history for his file. Ms. Kalis moved to find his education not substantially equivalent to that of a graduate of a U.S. accredited program and directed staff to advise him that he must complete the deficiencies identified in the report. Mr. Robbins seconded the motion. The motion carried by a unanimous vote.

**Louryn Munez**

The Board reviewed the application file and was advised by Ms. Lopez that Tagalog is the applicant’s native language, but she scored a 103 on the iBT (internet based TOEFL). The Board also noted that the credential evaluation report prepared by International Consultants of Delaware may not be accurate. The applicant is to pursue the question of whether International Consultants of Delaware, the agency who performed the evaluation, completed it using the 4<sup>th</sup> Edition of the Coursework Evaluation Tool and she must request a revised report be submitted to the Board. Ms. Fearon motioned to request this additional information during the substantive review time frame. The motion was seconded by Ms. Kalis. The motion carried by a unanimous vote.

**c. Review of Completion of Comprehensive Requests and Determination to Grant or Deny License**

**Kiren Jaswal**

The Board reviewed the application and noted that when her education was reviewed previously, the Board determined that she would need to re-take the Gross Anatomy course as she had



earned a D grade in her physical therapy education program. Ms. Jaswal has since completed this course through A.T. Still University. Ms. Kalis moved to find her education substantially equivalent to that of a graduate of a U.S. accredited program. Ms. Fearon seconded the motion. The motion carried by a unanimous vote. Ms. Kalis motioned to request the applicant to submit a proposal for a supervised clinical practice period; the motion was seconded by Ms. Fearon. The motion passed on a 4-1 vote.

**Hannah Parry**

The Board reviewed the application file and was advised by Ms. Lopez that her native language is English. Ms. Lopez also advised the Board that Ms. Parry's file is administratively complete and that she is currently licensed and practicing in North Carolina. Ms. Fearon moved to grant licensure to Ms. Parry. Ms. Kalis seconded the motion. The motion carried by a unanimous vote.

**d. Review of Completion of Supervised Clinical Practice Period and Determination to Grant or Deny License**

**Amanda McNally**

The Board reviewed the interim evaluation form submitted by the supervisors, Ms. Judy Beal, P.T. and Mr. Craig Taber, P.T. and noted that Ms. McNally completed all skill areas on the checklist. Ms. Fearon motioned to grant licensure to Ms. McNally. Ms. Kalis seconded the motion. The motion carried by a unanimous vote.

**Ruthelyn Jimenez**

The Board reviewed the interim evaluation form submitted by the supervisor, Mr. Roger Johnson and noted that Ms. Jimenez completed all skill areas on the checklist. Ms. Kalis motioned to grant licensure. Ms. Fearon seconded the motion. The motion carried by a unanimous vote.

**BOARD BUSINESS AND REPORTS**

**14. 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:** The Board and staff members who participated in the annual meeting of the FSBPT provided some brief reports on the education sessions that they attended, and Dr. Cornwall and Ms. Kalis reported on the outcome of the motions that were filed for consideration by the Delegate Assembly. Dr. Cornwall and Ms. Kalis both attended the pre-conference session on reviewing requests for examination accommodations under the Americans with Disabilities Act (ADA), and that they came away with the impression that the Board has been granting some requests inaccurately in that what must be considered is whether the accommodation must be granted in order to provide the candidate with equal access to the examination to ensure the candidate has an equal chance to pass or to fail it. Ms. Kalis and Dr. Cornwall also noted that when an applicant utilizes an evaluator to advise the Board on the need for the examination, the evaluator may not be completely without bias and that the Board may consider requiring the applicant to see an independent evaluator. Finally, they commented that granting additional time with which to take the examination for someone with a learning disability is counter-intuitive. The Board directed Ms. Herbst Paakkonen to contact the session presenter for purposes of requesting a bid to review and make editing suggestions to the Board's substantive policy statement on reviewing requests for ADA accommodations.

**d. Rules Revision Update:** Ms. Herbst Paakkonen noted that she has not received a progress report from Ms. Jeanne Hann, the Board's contract rule writer, but that she anticipates Ms. Hann will have a draft of proposed revisions to R4-24-303, Patient care management for the Board to review during its regular session meeting on October 24, 2006.

**15. Discussion and Possible Action Concerning Association for Play Therapy Conferring RPT and RPT-S Credentials**

The Board reviewed the June 29, 2006 letter issued to Mr. Bill Burns, Executive Director of the Association for Play Therapy, in which he is advised that “RPT” is a protected term under the Arizona Physical Therapy Practice Act and therefore by virtue of the fact that the Association for Play Therapy confers this credential to certain individuals in Arizona, these individuals are violating the law. The Board discussed the fact that Mr. Burns’ e-mail response to this letter indicates that Registered Play Therapists are not using the term “RPT” to indicate that they are providing physical therapy services. The Board discussed the fact that the “RPT” and RPT-S” certification is granted by a private entity, but that the term “registry” suggests to the public that a public regulatory entity granted the certification. The Board directed Ms. Herbst Paakkonen to send a follow-up letter to Mr. Burns stating that “RPT” remains a protected term in Arizona.

**CALL TO THE PUBLIC**

None

**ADJOURNMENT**

The meeting adjourned at 2:20 p.m.

Prepared by,

Heidi Herbst Paakkonen  
Executive Director

Approved by,

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