

JANET NAPOLITANO
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REGULAR SESSION MEETING MINUTES
March 27, 2007

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

MEMBERS ABSENT: Randy Robbins, Secretary

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

CALL TO ORDER – 8:30 a.m.

The meeting was called to order at 8:30 a.m.

1. Review and Approval of Draft Minutes:

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Ms. Kalis introduced the agenda item and asked the Board if the draft required correcting. The Board noted a few typographical errors and asked that the last clause of the last sentence on page 3 be deleted. Ms. Kalis moved to approve the draft as corrected. Ms. Fearon seconded the motion. The motion carried by a unanimous vote.

COMPLAINTS, INVESTIGATIONS and COMPLIANCE

2. **Initial Review of Complaint**

#06-14; Shaina Ettinger, P.T.

3. **Initial Review of Complaint**

#06-13; David Dorland, P.T.

4. **Initial Review of Complaint**

#06-15; Julie Vogt, P.T.

Ms. Kalis introduced the three complaints and stated that they would be reviewed concurrently as the cases are related. Ms. Hiller advised the Board that the complaints were opened in response to a complaint filed by a physical therapist assistant formerly employed at Dorland Physical Therapy. The complaints alleged that Ms. Shaina Ettinger and Ms. Julie Vogt allowed a student physical therapist (Ms. Laura Yee) to treat Medicare patients without proper supervision according to Medicare regulations and Medicare was billed for these services. The complaint also alleges that Ms. Ettinger and Ms. Vogt later re-wrote the treatment notes to remove the student's name. Finally, the complaint against Mr. David Dorland, owner of the physical therapy clinic had knowledge, and approved of, the alleged events. Ms. Hiller noted that Ms. Melody Kraai, Compliance Director of the parent company for Dorland Physical Therapy, submitted a

response to the complaint indicating that Ms. Yee at all times she worked under the direct supervision of a physical therapist. Ms. Kraai also stated that Ms. Yee mistakenly documented in several patient charts and this was discovered through pre-bill audit. Ms. Kraai explained that the clinic was instructed to destroy the student documentation because only a provider can document in the charts; she acknowledged that instead of destroying the student's documentation a line could have been placed through the entire section and "error" written and initialed by the student and the provider but this was not done. Finally, Ms. Kraai stated that the clinic has implemented corrective action to this practice. Ms. Hiller noted that both Ms. Ettinger and Mr. Dorland also submitted individual responses that essentially confirmed Ms. Kraai's statements and noted that Ms. Yee was to record her "practice" treatment notes on a separate piece of paper. Ms. Ettinger and Mr. Dorland also stated that the clinic's billing procedures are based on the treatment performed by the physical therapist and that the policy for Medicare patients abides by the HCFA/APTA rules such that only services performed by a therapist are billed, including for the dates in May 2006 identified in the complaint. Ms. Vogt submitted a separate response noting that she did not treat any of the patients named by the complainant, and she described her role in providing supervision to Ms. Yee as very limited and always as line-of-sight supervision. Ms. Hiller's investigative interviews indicate that the treating physical therapist, Ms. Ettinger, signed off on all the notes and that following the pre-bill audit Ms. Yee was instructed to re-write her notes. The Board noted that only one of the patients identified in the complaint, KM, was a Medicare patient. The Board discussed the fact that the question at hand is whether the supervision of the physical therapy student was appropriate, whether the involvement of the physical therapist and the student in the patients' care complied with the law, and whether the practice on the part of the physical therapist of re-writing notes and crossing out signatures is appropriate. The Board commented that while the clinic's policies and procedures state that students are not to sign notes, this was allowed to happen in the case of Ms. Yee. The Board noted that it is a common practice for students to prepare treatment documentation that is later reviewed by the supervising physical therapist. The Board discussed that the investigative report indicates that Ms. Ettinger provided appropriate supervision to Ms. Yee and noted that the patient billing appears to be reasonable and appropriate. Ms. Ettinger did inform Ms. Hiller that the clinic is very "manual therapy focused" and she was emphatic on the point that while Ms. Yee was involved in the patients' care, they were Ms. Ettinger's patients. The Board members concurred that there was no need to continue the investigations into the three complaints. The Board first deliberated on complaint #06-14; Shaina Ettinger, P.T. and reviewed the possible jurisdiction for the case, focusing on 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" as it relates to the altered patient records. The Board noted that a re-written note by Ms. Yee for the patient MS was unsigned and it is unclear as to whether Ms. Ettinger even saw and approved the treatment note. The note didn't change and the Board questioned why Ms. Ettinger didn't simply cross out Ms. Yee's signature. Ms. Fearon moved to dismiss the complaint #06-14 and to issue an advisory letter to Ms. Ettinger addressing the Board's concerns regarding her compliance with policies on signatures and notes that may obscure rather than clarify the record with respect to who provided services to the patient. The motion carried by a unanimous vote. The Board then discussed complaint #06-13; David Dorland, P.T. and reviewed the possible jurisdiction for this case. The Board discussed the fact that the record indicates Mr. Dorland's role is to oversee the clinic and he therefore approved the practice of Ms. Yee re-writing the treatment notes. The Board discussed the fact that there was no evidence in the record to suggest that Mr. Dorland's conduct amounted to a violation of the Board's statutes but commented that the same concerns existed as with the complaint against Ms. Ettinger. Dr. Cornwall moved to dismiss the complaint; Mr. Gossman seconded the motion. The motion carried by a unanimous vote. Mr. Gossman moved to issue an Advisory Letter to

Mr. Dorland with the same content as that issued to Ms. Ettinger. Ms. Kalis seconded the motion. The motion carried by a unanimous vote. Ms. Kalis moved to dismiss complaint #06-15; Julie Vogt, P.T. as she had no involvement in the care provided to the patients and dates identified in the complaint. Mr. Gossman seconded the motion. The motion carried by a unanimous vote.

5. Request for Modification to Consent Agreement

#06-12-UPI; Michael Webster, P.T.

Ms. Kalis introduced the agenda item and Ms. Herbst Paakkonen reported that at the request of Mr. Webster, his request for modification of his consent agreement with the Board has been withdrawn. Mr. Webster communicated with Ms. Herbst Paakkonen via e-mail and telephone just prior to the Board meeting to report that since filing the request he and his former employer have reached a compromise that ensure that he will be able to comply with the terms of his consent agreement. The Board member concurred there is no further action required at this time.

SUBSTANTIVE REVIEWS OF APPLICATIONS FOR LICENSURE & CERTIFICATION

6. Substantive Review and Possible Action on Applications for Physical Therapist Licensure

Nash J. Butrimas	Rachel R. Chelstowski	Eliza Cho *
Rudy J. Habertzettl	Kathleen N. Hair	Ann M. Knobloch
Karen S. Meyer	Robert S. Pilarcek	Jamie L. Rodenburg
Jo Anna Tahyi	Carol Tarquinio	Kelly A. Tyler
Jessica L. Voorhies		

** Application interview scheduled – 9:15 a.m.*

Ms. Kalis introduced the agenda item and announced that the application for Ms. Cho would be reviewed first and she noted that the applicant was connected to the meeting from her home in California via telephone. Ms. Loroña advised the Board that Ms. Cho previously held a license in Arizona but the license lapsed in 1996. Ms. Cho also previously held a California license which has also lapsed. Ms. Cho has not practiced physical therapy since 1995 and provided information indicating that she has not worked as a physical therapist since her licenses lapsed. Ms. Kalis asked the Board to review R4-24-203(C) which grants the Board authority to require an applicant with a lapsed license of more than three years to demonstrate competency through passing an examination, completing a supervised clinical practice period or completing coursework or continuing competence requirements. In response to the Board's questions Ms. Cho indicated that she most recently practiced physical therapy in the area of home health, but prior to that she worked in hospitals. Ms. Cho explained that she has lived in California for 11 years and has spent that time raising children, but now she would like to return to practice as a physical therapist. She indicated that she had hoped to volunteer in a rehabilitation setting or to work as an aide in order to bring her skills and knowledge current, but no appropriate opportunities have materialized. She understands that equipment, documentation systems have changed and that in recent years physical therapists have become more involved and experienced in wound care. However, a physical therapist friend has offered to allow Ms. Cho to shadow her as a volunteer beginning in early April. The Board asked Ms. Cho whether this "shadowing" opportunity could be formalized into a supervised clinical practice period. Ms. Cho expressed interest in researching whether this would be possible. She responded that while she would like to return to hospital care, home health may be more ideal in terms of its flexibility. Ms. Cho stated that she is very comfortable working independently, and she believes that her patience and maturity will be an asset to her patients. She indicated that she is also happy to do any independent study to bring her knowledge and skills current. The Board asked Ms. Cho whether she would be willing to do a supervised clinical practice period. Ms. Cho clarified that she is living in California and hopes to resume practicing physical therapy there; she is unable to come to Arizona to complete a supervised clinical practice period. The Board discussed the fact that

merely completing continuing education will not be sufficient for her to demonstrate her competency. The Board reviewed A.R.S. §§32-2025 and §32-2001(4) and determined that these statutes would require her to complete a supervised clinical practice period in Arizona and that the Board could not approve an arrangement in California even if the supervisor held an Arizona physical therapist license. The Board also discussed that Ms. Cho should also be required to complete 30-40 contact hours of continuing education courses addressing patient evaluations and evidence based practice among other topics in order to facilitate her reentry to the practice. The Board discussed with Ms. Cho that if she elects to participate in a supervised clinical practice period in Arizona, she will need to submit the name and resume of the proposed supervisor and the facility for approval. Ms. Loroña advised Ms. Cho that her licensure application will be open at least until February 16, 2008 and can it be extended an additional 90 days beyond that date. The Board reiterated to Ms. Cho that the proposed supervised clinical practice period must be for 90 days at 40 hours per week, or 180 days at 20 hours a week. The Board also suggested that she request pre-approval of any continuing education courses she completes through the Board staff. The Board concluded the application interview and Ms. Kalis asked the Board for questions or comments concerning any of the remaining listed applicants. The Board noted that Mr. Butrimas disclosed a reckless driving conviction but the court records indicated that he has completed all terms of his court ordered probation. Ms. Kalis moved to grant licensure to the listed applicants with the exception of Ms. Cho. Mr. Gossman seconded the motion. The motion carried by a unanimous vote.

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

Tabitha A. Arotin	Claudia Garcia-Peguero	Erik A Gutierrez
Kristine M. Grassman	Jane M. Hamilton	Jeffrey R. Meyer
Jaime S. Molenkamp	Stephanie Montoya	Aileen M. Rios
Tina J. Serbin	Alicia D. Smith	Lori A. Sneeringer
Elizabeth M. Taylor		

Ms. Kalis introduced the agenda item and noted that Ms. Sneeringer’s examination score report indicates that she was once licensed in Maryland, but that the applicant did not list this license on her application. Ms. Loroña advised the Board that according to the Maryland Board’s web-site Ms. Sneeringer’s license has lapsed for more than 10 years. Ms. Kalis moved to certify all of the listed applicants with the exception of Ms. Sneeringer, but to grant certification to her once the Maryland licensure verification has been received. Mr. Gossman seconded the motion. The motion carried by a unanimous vote.

8. Substantive Review and Possible Action on the Following Application for Physical Therapist Licensure – Foreign Educated Graduate of Program Accredited by CAPTE

David E. Percy

Ms. Kalis read the name of the applicant and noted that he is a U.S. citizen who graduated from a physical therapy educational program in the Netherlands that was accredited by CAPTE the year Mr. Percy graduated. The Board noted that the file for Mr. Percy was administratively complete. Ms. Kalis moved to grant licensure to Mr. Percy; Ms. Fearon seconded the motion. The motion carried by a unanimous vote.

9. Substantive Review of and Possible Action on the Following Applications for Physical Therapist Licensure – Foreign Educated Graduates of Programs Not U.S. Accredited

**a. Review of Supervised Clinical Practice Period Proposal- Additional Supervisor
Louella L. Bellon**

Ms. Loroña reminded the Board that Ms. Bellon's supervised clinical practice period (SCPP) and supervisor were previously approved by the Board and that she is simply requesting a secondary or back-up supervisor, Mr. Chris DePrestis, P.T., in the event her primary supervisor is ill or on vacation. Ms. Kalis moved to approve Mr. DePrestis as Ms. Bellon's secondary supervisor for her (SCPP). Dr. Cornwall seconded the motion. The motion carried by a unanimous vote.

Thelma C. Caisip

Ms. Loroña reported that Ms. Caisip's previous supervisor for her SCPP resigned from the facility which forced Ms. Caisip to suspend her SCPP after only one month. Ms. Caisip then submitted a request for Ms. Christine Miller, P.T. to be approved as her new SCPP supervisor. The Board questioned whether Ms. Caisip would encounter any difficulties with completing her SCPP within the 6 month time frame of the Interim Permit. Ms. Herbst Paakkonen advised the Board that she and Ms. Loroña had discussed the fact that the Board's statutes and rules do not seem to preclude dating the effective date of the Interim Permit to coincide with the beginning of the SCPP; given that it can take several weeks for an applicant to complete the immigration process it seems appropriate to designate the same beginning date to allow for contingencies such as the one experienced by Ms. Caisip. Ms. Kalis offered a motion approving Ms. Miller to serve as Ms. Caisip's supervisor for her SCPP. Ms. Fearon seconded the motion. The motion carried by a unanimous vote.

**b. Review of Supervised Clinical Practice Evaluation Form and Determination to Grant or Deny Licensure
Kiren Jaswal**

Ms. Kalis read the name of the applicant and the Board discussed the fact that her Clinical Performance Instrument (CPI) evaluation indicated her skills are good and it contained no red flags. Dr. Cornwall moved to grant licensure to Ms. Jaswal. Mr. Gossman seconded the motion. The motion carried by a unanimous vote.

Lourlyn Munez

Ms. Kalis read the name of the applicant and noted that her credential evaluation report indicated that her education is substantially equivalent to that of a graduate of a U.S. accredited program. The Board commented that Ms. Munez passed all sections of the English proficiency examinations. Ms. Loroña advised the Board that Ms. Munez is licensed and currently practicing in California and prior to the administrative rule changes in August of 2006 she had submitted a completed Interim Period Evaluation form. Ms. Kalis moved to grant licensure to Ms. Munez. Ms. Fearon seconded the motion. The motion carried by a unanimous vote.

Jennifer V. Baluyut

Ms. Loroña reminded the Board that the members had initially reviewed Ms. Baluyut's education during the October 24, 2006 meeting and determined that her professional education was deficient in Community Health. She has since had her evaluation re-reviewed using the long-version (more detailed version) of the syllabi for her courses. The result of the re-review is that her credential evaluation report now indicates that her education is substantially equivalent to that of a graduate of a U.S. accredited program. The Board discussed the fact that while the credential evaluation report indicates that she has passed the TOEFL, TWE and TSE, there are no current score reports in her file which suggests that she will need to take and pass the iBT. The Board reviewed and discussed Ms. Baluyut's professional experience and the members concurred that based on that information she will not need to do a SCPP. Ms. Kalis moved to grant licensure to Ms. Baluyut upon receipt of her passing scores on the iBT. Mr. Gossman seconded the motion. The motion carried by a unanimous vote.

BOARD BUSINESS AND REPORTS

10. Executive Director's Report

a. Financial Report: No additional information to report.

b. Board Staff Activities: Ms. Herbst Paakkonen reported that a real estate broker with the Staubach Group has contacted her and is performing a search of rental properties that would meet the needs of the agency. She hopes to have a list of potential spaces to tour in the near future, and she will keep the Board informed of any developments with respect to the office relocation.

c. FSBPT Initiatives and News: No additional information to report.

d. Rules Revision Update: The Board asked whether any new information has transpired with respect to the April 3, 2007 scheduled review of the proposed changes to R4-24-303 by the Governor's Regulatory Review Council. Ms. Herbst Paakkonen replied that she has not received any inquiries from any stakeholders but that the possibility does exist that any person may address concerns with the proposed language to the Council during its review. She indicated that she is prepared to address any questions that the Council may have for her, but the Board's contract rule writer, Ms. Jeanne Hann, has assured her that only in very rare occasions does GRRC advise an agency to go back and do further work on a rule. Ms. Herbst Paakkonen also noted that Ms. Hann has indicated she will soon begin working on revisions to Article 3 and that the staff will soon convene the work group that has been assigned to working on proposed patient documentation standards language. Ms. Herbst Paakkonen anticipates that she will herself work on the rule language corrections that have been identified for Article 2 in order to get them accomplished soon.

e. Legislative Update: No additional information to report.

11. Review and Possible Action on Proposed Revision to Employee Performance Pay Plan

Ms. Kalis introduced the agenda item and Ms. Herbst Paakkonen reminded the Board that the agency Employee Performance Pay Plan (EPPP) was approved on July 25, 2006. Board staff recently reviewed the performance measures of the EPPP and realized that performance measure #12 cannot be met because current Board rule does not establish any time frames for renewal of licensure or certification. Ms. Herbst Paakkonen requested that the Board approve by a vote the proposed revised EPPP that strikes performance measure #12 and renumbers the remaining performance measures on the list. Mr. Gossman moved to strike performance measure #12 and to renumber the subsequent performance measures. Dr. Cornwall seconded the motion. The motion carried by a unanimous vote.

12. Discussion and Possible Action on Special Meeting of the Delegate Assembly of the Federation of State Boards of Physical Therapy (FSBPT)

Ms. Herbst Paakkonen advised the Board that the Nominating Committee of the Federation of State Boards of Physical Therapy has requested that the Board of Directors call a Special Meeting of the Delegate Assembly to vote via mail on whether to approve one motion that would amend the organization's by-laws to strike the language "and shall not serve more than 10 consecutive years" from the section that pertains to the terms of Officers and members of the Board of Directors. The Nominating Committee proposes the by-laws be amended to read that "Officers shall not serve more than two consecutive full terms in the same office on the Board of Directors" and that "Elected Directors shall not serve more than two consecutive full terms in the same office on the Board of Directors." Ms. Herbst Paakkonen noted that Dr. Cornwall is current credentialed as the Arizona delegate. The Board discussed the intent of the motion and the fact that a similar motion failed to garner enough votes to be introduced from the floor during the 2006 Delegate Assembly. The Board discussed the fact that a 10 year limit for service as an Officer on the Board of Directors is appropriate given the importance of new leadership serving

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the organization and the membership. The Board agreed by consensus to vote against the motion.

CALL TO THE PUBLIC

None

ADJOURNMENT

The meeting adjourned at 10:05 a.m.

Prepared by,

Heidi Herbst Paakkonen
Executive Director

Approved by,

Randy Robbins
Secretary