

JANET NAPOLITANO
Governor



HEIDI HERBST PAAKKONEN
Executive Director

JONI KALIS, P.T.
President

ARIZONA STATE BOARD OF PHYSICAL THERAPY
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REGULAR SESSION MEETING MINUTES
November 19, 2007

MEMBERS PRESENT: Joni Kalis, P.T., President
Mark Cornwall, P.T., Ph.D., Vice President
Randy Robbins, Secretary
Merlin Gossman, Member
James Sieveke, P.T., O.C.S., Member
Lisa Akers, P.T., Member

MEMBERS ABSENT:

OTHERS PRESENT: Heidi Herbst Paakkonen, Executive Director
Peg Hiller, P.T., Investigator
Paula Brierley, Licensing Administrator
Keely Verstegen, Assistant Attorney General
Melissa Cornelius, Assistant Attorney General

CALL TO ORDER – 8:30 a.m.

1. Review and Approval of Draft Minutes:

October 23, 2007; Regular Session Meeting

The Board reviewed the draft minutes and identified three corrections. Ms. Kalis moved the minutes be approved as revised. Mr. Robbins seconded the motion. The motion carried by a unanimous vote.

October 23, 2007; Executive Session

The Board reviewed the draft minutes and noted that there were no corrections. Ms. Kalis moved the minutes be approved as drafted. Mr. Sieveke seconded the motion. The motion carried by a unanimous vote.

COMPLAINTS, INVESTIGATIONS and COMPLIANCE

2.a. Informal Hearing and Possible Summary Suspension

#06-20; William Sifling, P.T.

Ms. Kalis moved the Board meet in Executive Session. Dr. Cornwall seconded the motion. The motion carried by a unanimous vote. Upon resuming the meeting in public session Ms. Tanis Eastridge, Court Reporter, swore in Mr. Sifling. Ms. Kalis reviewed the Board's informal hearing procedures and possible outcomes of the hearing. Mr. Sifling was present for the informal hearing and did not offer an opening statement. The Board questioned the licensee as to whether he had received the consent agreements that were previously offered to him. Mr. Sifling indicated that he has been in a treatment facility for 120 days and that he experienced problems receiving his mail. He stated that he completed his treatment and left the facility yesterday. The Board questioned the licensee relative to his failure to disclose on his licensure renewal application for 2006-2008 that he had been using illegal drugs and that he had been the subject of a criminal investigation. He explained that when he was arrested on May 16, 2006 he

was advised by Maricopa County Court that his case was “scratched” and he provided a copy of a form letter stating as such. He stated that he followed up with the District Attorney’s Office about three months later just prior to his move to California; he was told that there was no file and it appears that no charges had been brought forward, nor had his case been assigned to anyone. Mr. Sifling stated that when he got to California he called the court to report his change of address and learned at that time that charges had been filed to which he pled guilty. He stated that he answered the question the way that he did because he was optimistic that the charges would not be filed. He stated that he answered the questions “no” purposely. Mr. Sifling stated that he understood that the Board is concerned with his ability to be truthful and honest which relates to his ability to practice safely as a physical therapist. Mr. Sifling then stated that he was of the understanding that a criminal investigation involves court proceedings and that is why he didn’t answer “yes” to the question. In closing Mr. Sifling stated that he answered the renewal application questions truthfully. The Board reviewed the possible jurisdiction for the complaint and discussed possible findings of fact. The Board noted that the investigative record indicates Mr. Sifling admitted to using “crystal meth”, driving while high the night of his arrest in May of 2006, and that he admitted to “wishful thinking” that the criminal charges would be dropped. The Board also noted that his criminal records also substantiate the fact that Mr. Sifling has been convicted of possession of drug paraphernalia and of DUI. Ms. Kalis moved to adopt the findings of fact 1 through 10 as noted in the consent agreement that had previously been offered to Mr. Sifling. Mr. Robbins seconded the motion. Ms. Kalis amended the motion to delete the finding of fact #4 and to replace it with a finding that Mr. Sifling failed to disclose on his application that he had used illegal drugs and that he had been the subject of a criminal investigation. Mr. Robbins seconded the motion. The motion carried by a unanimous vote. The Board review and discussed possible conclusions of law. Ms. Cornelius advised the Board that while Mr. Sifling’s felony conviction is currently “undesigned”, the Board may find that A.R.S. §32-2044(7) is still applicable in light of his charges and his plea. Ms. Kalis moved to adopt the conclusions of law as listed in the investigative report. Mr. Sieveke seconded the motion. The motion carried by a unanimous vote. The Board discussed its options for discipline and corrective action. Dr. Cornwall moved to issue a decree of censure to Mr. Sifling. Mr. Gossman seconded the motion. The motion carried by a unanimous roll call vote.

2.b. Review, Discussion and Possible Action on Consent Agreement and Possible Summary Suspension

#06-20; William Sifling, P.T.

Ms. Herbst Paakkonen summarized the status of Mr. Sifling’s case as it relates to his substance abuse and chemical dependency history. She noted that Mr. Sifling currently has an unrestricted license to practice as a physical therapist in Arizona. Mr. Sifling advised the Board that he has been in AA and NA for 10 years. Previously his sobriety date was in June of 1998, but in recent years he met someone to whom he became engaged who was also an addict; she relapsed which prompted him to resumed using. He stated that he thought that moving to California would help him stay sober, but a neighbor offered him cocaine which he used whereby he relapsed. Mr. Sifling stated that after this event he then realized that he needed assistance and reported his relapse to the Physical Therapy Board of California. He also reported it to his probation officer and was advised that the only option available to him was inpatient treatment. Mr. Sifling advised the Board that he wants to stop using and he wants to practice as a physical therapist in Arizona with “a new start”. The Board asked Mr. Sifling whether he considered his treatment successful; he stated that he believed it to be. He stated that he contacted Maximus, the administrator of his monitoring and diversion program, to request he be un-enrolled from their program because he was leaving California and he owes that agency some money. The Board questioned what support system he has in Arizona, and Mr. Sifling stated that he became clean here previously which included working with a sponsor. He indicated that he intends to attend

90 AA/NA meetings in 90 days, obtain a sponsor and go to church. He stated that he could not find any of his documentation for his diversion program and that he would need to request the documents from Maximus. The Board noted that those documents had been requested of him a number of times prior to his inpatient treatment. Mr. Sifling responded that he was disorganized and could not find his paperwork. In response to the Board's questions he stated that the California Board is aware of his whereabouts. He stated that he hopes to find work in the Phoenix area, to live in Tempe near friends, and to be here for at least three years. The Board asked whether his inpatient treatment program helped him establish an aftercare program. He responded that the responsibility is with him to care for himself but that the program helped him better understand his addiction problem. Mr. Sifling commented that he has known for a long time of his addiction and he is just trying to control it. The Board questioned how Maximus monitored him. He stated he was drug tested by them until he was in the inpatient program and thereafter the testing was done by the program. Additionally he is going to report to a probation officer in Maricopa County and he will be tested through that agency as well. Mr. Sifling stated that he understands that he is to call a testing center daily to find out when he was to report for his drug screen. He confirmed that he is not being monitored by Maximus at this time. In response to the Board's questions he stated that he feels he would be successful if he was to be monitored in the same fashion as Maximus monitored him in California. He stated that he would like to assure the Board of his success but he can't be certain. Mr. Sifling acknowledged that he "botched" the consent agreement situation and that he isn't sure if he received it or not because his paperwork is disorganized. Ms. Kalis moved the Board meet in Executive Session. Dr. Cornwall seconded the motion. The motion carried by a unanimous vote. The Board resumed the meeting in regular session and discussed the fact that Mr. Sifling does not yet have an aftercare program but that one could be arranged that would closely emulate programs prescribed to other licensees which would include counseling, participating in AA/NA, drug testing and other requirements. The Board noted that a summary suspension was also an option. Ms. Kalis moved the Board offer Mr. Sifling a consent agreement including a stayed revocation with a 3-week suspension and a probation term with monitoring program similar to that of the other licensees currently monitored by the Board. Mr. Gossman seconded the motion. The Board members agreed by consensus that Mr. Sifling will have 7 days to sign the consent agreement. Mr. Sifling indicated that he is willing to sign the agreement. Ms. Kalis moved the original motion be amended to establish the length of the monitoring program as five years. Mr. Gossman seconded the motion. The motion carried by a unanimous vote.

3. Informal Hearing

#07-07-CC; Melody Pinkerton, P.T.

Ms. Kalis introduced the informal hearing and noted that Ms. Pinkerton was present. Ms. Eastridge swore in Ms. Pinkerton and the Board members introduced themselves to the licensee. Ms. Kalis reviewed the informal hearing procedures and possible outcomes. Ms. Herbst Paakkonen informed the Board that Ms. Pinkerton was selected for audit of her continuing competence following the reinstatement of her license. She noted that Ms. Pinkerton's submission was received within the 30-day deadline established by Board rule but that the initial audit documentation submission was determined by the Board to be deficient a total of four contact hours. Ms. Herbst Paakkonen stated that Ms. Pinkerton was granted six months with which to come into compliance and noted the licensee forwarded another submission which was again found out of compliance on May 22, 2007 based on the fact that a course certificate submitted for an analysis of gait course did not list any contact hours which resulted in her being deficient only one contact hour. Ms. Herbst Paakkonen advised the Board that Ms. Pinkerton submitted additional materials consisting of documentation showing that she completed eight contact hours of in-service but the Board determined that these materials were not eligible for continuing competence credit pursuant to A.A.C. R4-24-403 and adopted a motion offering Ms.

Pinkerton a consent agreement with findings of fact that she failed to comply with the Board's continuing competence requirements and with conclusions of law that she violated A.R.S. §32-2044(1), violating Board rules [A.A.C. R4-24-401 through R4-24-403]. Ms. Herbst Paakkonen reported that Ms. Pinkerton requested an informal hearing and declined the offer of the consent agreement, and she submitted a letter dated October 23, 2007 stating that that the gait analysis course was a four-hour course. In response to the Board's questions Ms. Pinkerton stated that the gait course was rejected due to the fact that the certificate did not contain the number of contact hours. She noted that she recently obtained documentation in the form of the October 23, 2007 letter issued by Northwest Hospital establishing the contact hours for that course. Ms. Pinkerton also stated that she believes that the eight contact hour course that the Board rejected as a routine educational offering through her employment actually qualifies as in-service activities under A.A.C. R4-24-402, or possibly under Category C as practice management. The Board questioned why this documentation was submitted so late within the six month time frame she was granted to come into compliance. Ms. Pinkerton stated that she spent the entire period of time trying to extract the information from Northwest Hospital and that she contacted them multiple times a day in an effort to obtain this information. She indicated that when she initially completed her audit reporting form she stopped listing her activities when she had reached 20 hours, but she has documentation to show that she completed more than 20 hours within the licensure period. Ms. Pinkerton stated that she now regrets not having submitted what she believed at the time to have been extraneous information. The Board discussed the fact that had Ms. Pinkerton submitted all of her documentation in accordance with the deadlines the Board likely would have found her in compliance with the continuing competence requirements. The Board reviewed the consent agreement that was offered to Ms. Pinkerton which she declined to sign. Ms. Kalis moved to adopt the findings of fact as listed in the consent agreement. Mr. Gossman seconded the motion. The motion carried by a unanimous vote. Ms. Kalis moved to adopt the conclusions of law as listed in the consent agreement. Mr. Gossman seconded the motion. The motion carried by a unanimous vote. The Board discussed the precedent that has been set with enforcing the continuing competence requirements and deadlines. Mr. Sieveke moved the Board issue a Decree of Censure to Ms. Pinkerton. Dr. Cornwall seconded the motion. The motion called by a unanimous roll call vote.

4. Initial Review and Possible Action on Complaint

#07-05; James Sieveke, P.T.

Ms. Kalis introduced the agenda item and Mr. Sieveke announced that he would recuse himself from the review and possible action on this agenda item. Ms. Kalis moved to meet in Executive Session in order to request legal advice from Board counsel. Mr. Robbins seconded the motion. The motion carried by a unanimous vote. The Board reviewed its meeting in public session and Ms. Hiller summarized the case noting that the complainant M.M. filed this complaint with the Arizona Medical Board, Tucson Medical Center (TMC) and the Pima County Medical Society concerning her experiences in therapy as well as with her surgeon, Dr. Russell Cohen. She noted that the Medical Board referred the complaint to the Arizona Board of Physical Therapy in February 2007. Ms. Hiller explained that M.M. was treated at TMC outpatient physical therapy in November and December 2005 following a right total knee arthroplasty performed by Dr. Cohen. She reported that M.M.'s main complaints relating to her physical therapy treatments are that she received substandard care for a total knee replacement in that at her second aquatic physical therapy session she was given improper instructions resulting in severe pain and requiring her surgery to be redone. Ms. Hiller noted that in his written response to the complaint Mr. Sieveke stated that he was not the physical therapist supervising M.M.'s care that day and that he was aware of the instructions that she was given for the pool therapy. She called to the Board's attention Mr. Sieveke's description of his discussion with M.M. in the days following her reporting of the alleged incident and noted that he provided his treatment records and

discharge summary. Additionally she indicated that the investigative report contains M.M.'s medical records relative to this matter. The Board granted permission to M.M. to address the Board. She stated that during her second treatment session she was in the pool when a "male attendant" advised her to place her knee down on the step and when she did so she screamed in pain. She recalled being advised to do it again but could barely get out of the pool as she was in severe pain. M.M. commented that she couldn't recall speaking with Mr. Sieveke that day, but she stated that she mentioned her pain to him every day. M.M. also stated that she was advised later by another physical therapist that she never should have been advised to kneel in the pool. She questioned why Mr. Sieveke didn't do anything to help her. M.M. also reported that she was advised by another physician that she would need another surgery on her knee which has been done and her knee is very much improved today. M.M. stated that she did not improve while in the care of Mr. Sieveke. She agreed to answer the Board's questions and at the request of the Board demonstrated the position of her knee that she was directed to do in the pool by the aide. She stated that she was only given verbal direction and not shown a picture. The Board asked why she didn't file her complaint against the physical therapist who was supervising her physical therapy care in the pool. She stated that she was referred to the Arizona Medical Board who in turn sent the complaint to the Arizona Board of Physical Therapy. M.M. commented that her complaint is not with Mr. Sieveke since he didn't do anything to her; however, she thought about the situation and later decided that something should have been done. M.M. stated that she wished she had been told that her complaints were credible and should be addressed, and she believes that she was due some respect. She affirmed that it is her belief that the aide was the person who caused the injury to her knee on the treatment visit in question, and she stated that a patient is due more attention than she was given on that day. M.M.'s husband was allowed to speak and stated to the Board that M.M.'s physician was concerned that his conduct was under scrutiny and after a series of events her subsequent physician diagnosed her problem which was addressed with a relatively simple surgery. He stated that the experience was very trying for M.M. and that she had to rely on a great deal of pain medication. Mr. Sieveke was offered an opportunity to make a statement and he agreed to answer the Board's questions. The Board asked why he did not perform a re-evaluation of M.M. and noted where in the record his notes acknowledge that something may have occurred while M.M. was in pool therapy. Mr. Sieveke stated that every time he saw the patient he addressed her comments on her knee; he also followed up with Ms. Irwin and the aide who was with her in the pool. He commented that while he didn't document his discussions with Ms. Irwin and the aide, the documentation indicates that she was making some improvement with her therapy. He further stated that if he felt that M.M.'s pain was actually hindering her progress, he would have changed her treatment plan. Mr. Sieveke advised the Board that he discussed M.M.'s progress and subjective reports with the physician's assistant in M.M.'s physician's office. He also mentioned that M.M. was making slow progress which was expected. The Board asked Mr. Sieveke to elaborate on his treatment note of November 14, 2005. He stated that M.M. was able to tolerate her treatment program. Mr. Sieveke admitted that his follow-up discussions with Ms. Irwin and the aide should have been documented, but he stated that it is not the normal protocol to advise any knee surgery patient to kneel in the pool. Mr. Sieveke stated that in his follow-up efforts he found that there were no notations in her surgical records that caused him concern. He reiterated that he discussed her progress, noted she had co-morbidities which affected her rehabilitation and that her other knee required surgery, and informed the Board that M.M. was within normal functional range following her surgery. Mr. Sieveke affirmed that Ms. Irwin covers only the treatment provided to patients in the swimming pool and that there is always a physical therapist in the water with the patient. He affirmed that Ms. Irwin did not come to him on the date in question to report anything with respect to M.M.'s treatment session. M.M. again addressed the Board and stated that Mr. Sieveke never followed up with the pool staff on her complaints. She also stated

that she never told him that she was going to receive therapy in another pool, and that she never told him she was better. M.M. stated that she always came to her treatment with a walker and a cane. She reiterated that she was in terrible pain and that she did report it to Mr. Sieveke. The Board discussed the investigative record and noted that if M.M. was injured in the pool, Mr. Sieveke would not be responsible according to the law. The Board noted that the issue of whether Mr. Sieveke's documentation complies with the requirements of the law is a separate consideration. Dr. Cornwall moved to dismiss the allegations of A.R.S. §32-2044(4), performing substandard care and A.R.S. §32-2044(6), failing to supervise assistive personnel. Ms. Kalis seconded the motion. The motion carried by a unanimous vote. The Board noted that in the absence of having a re-evaluation of M.M. nowhere in the record is there an indication of any complaints of pain in spite of M.M.'s statements that she mentioned them to everyone in the facility. The Board discussed the fact that it is possible that M.M. was making progress in her rehabilitation while she was still in pain. The Board discussed the fact that according to the physician's re-evaluation at the end of November everything was fine with M.M.'s knee and there was no mention of the pain that she insists she reported. The Board discussed the fact that there is no x-ray following the November 14 pool therapy session. The Board noted that it would have been helpful if Mr. Sieveke had documented his follow up with the P.A. in her surgeon's office and with Ms. Irwin. Dr. Cornwall moved to issue Mr. Sieveke an advisory letter addressing that his documentation should capture patients concerns and complaints, conversations with other health care providers, and educating patients about the prognosis of their condition. The Board discussed whether Mr. Sieveke's documentation complies with A.R.S. §32-2044(20). The Board discussed the new statute A.R.S. §32-2045(B)(3) which is a non-disciplinary remediation option for the Board to resolve a case effective September 19, 2007. The Board discussed the educational options that might be available. Dr. Cornwall moved to amend his motion to issue a non-disciplinary order requiring Mr. Sieveke to complete a patient care documentation continuing education course focusing on initial evaluations, documentation of patient reports and documenting communication with other health care providers. Mr. Robbins seconded the motion. The motion carried by a unanimous vote. The Board discussed whether an investigation could be conducted concerning the physical therapist who treated her in the pool but determined that no additional information would be forthcoming.

5. Initial Review and Possible Action on Complaint

#07-06; David Fairbourn, P.T.

Ms. Herbst Paakkonen summarized the complaint noting that the investigation found that Mr. Fairbourn, P.T. was terminated from employment as a contract physical therapist with Select Specialty Hospital on February 8, 2007 for gross misconduct involving sexual harassment of another employee, a physical therapy aide (S.H.) whom he was supervising. Ms. Herbst Paakkonen commented that the personnel records for Mr. Fairbourn contain a description of the alleged event as told to the Human Resources Coordinator on February 7, 2007, and related that Mr. Fairbourn admits to having a conversation with S.H. in January that was very personal in nature, but his response to the complaint contains a recollection of the discussion that is different than the version told by S.H. Ms. Herbst Paakkonen indicated the possible jurisdiction for the complaint as listed in the investigative report and called to the Board's attention Mr. Fairbourn's personnel records related to this event. The Board inquired about a previous similar incident cited in the personnel records and questioned whether that event also involved a supervisory relationship. The Board also questioned why upper management elected to address the alleged incident of sexual harassment and did not involve the person Mr. Fairbourn named as his direct supervisor in his response. Ms. Kalis moved to remand the case to an informal hearing. Dr. Cornwall seconded the motion. The motion carried by a unanimous vote. The Board directed staff to invite S.H. and Carolyn Forbes, Mr. Fairbourn's supervisor, as investigative witnesses to the informal hearing.

6. Review and Possible Action on Non-Compliance with Board Order

#06-06; Tonya Bunner, P.T.

Ms. Hiller summarized the history of this complaint relative the Board's finding that Ms. Bunner's documentation was inadequate and required that she be placed on probation with Ms. Hiller to perform a random review of selected patient charts to assess Ms. Bunner's compliance with A.R.S. §32-2044(20) and to determine improvements in the deficiencies noted in the Board's findings. Ms. Hiller reviewed for the Board a comparison of Ms. Bunner's previous records as compared with the more recent records to illustrate the improvements she has made with respect to legibility, more complete objective findings, timed procedures noted and complete discharge summaries. Ms. Hiller advised the Board that Ms. Bunner is not currently signing her daily notes or the informed consent forms. Ms. Hiller stated that this probation status report was scheduled for review should the Board determine that Ms. Bunner is required to undergo a second round of chart reviews as noted in the order issued to her. The Board asked Ms. Hiller whether Ms. Bunner completed the documentation course she voluntarily elected to take following the action taken with this case. Ms. Hiller indicated that she believes Ms. Bunner did complete a course prior to when the charts were reviewed. The Board discussed Ms. Bunner's billing of manual cervical traction as manual therapy and noted a physical therapist assistant provided one of the treatments for one of the patients. The Board noted that for the patient C.C. one of the goals does not appear to have been completely addressed or met at the time of discharge. The Board concurred that the signing of the daily notes is important and is required by Board rule. The Board discussed that while there is improvement, deficiencies in Ms. Bunner's documentation still exist. Dr. Cornwall moved the Board conduct another review of three randomly selected files and charge Board staff to evaluate the course taken by Ms. Bunner and determine whether she needs to take an appropriate course in accordance with the order issued to the licensee. Ms. Kalis seconded the motion. The motion carried by a unanimous vote.

7. Review and Possible Action on Scheduled Compliance Interview and Request for Modification of Consent Agreement

Trent Tripp, P.T.

Ms. Herbst Paakkonen advised the Board that since November of 2006 Mr. Tripp has been participating in a substance abuse recovery and monitoring program established by a consent agreement; one of the terms of the monitoring program is that he be interviewed periodically by the Board. She noted that his first interview was conducted on May 22, 2007 and he is now scheduled for his second. Ms. Herbst Paakkonen noted that Mr. Tripp has complied with all requirements of his monitoring program to date. She further advised that Michel Sucher, M.D. coordinates the Healthcare Professionals Recovery Group in which Mr. Tripp participates weekly and that Dr. Sucher is recommending the Board approve a reduction of the meeting frequency to every other week. Mr. Tripp advised the Board that everything in his life and recovery is going the same as the last time he was before the Board. He affirmed that he is at the same job, continues his counseling with the Shanti organization and noted that his social life revolves around the program with his friends constituting his support system. The Board noted that Dr. Sucher's recent re-evaluation of Mr. Tripp is very positive. In response to the Board's questions Mr. Tripp explained that he is currently working on Step 4 of the Alcoholics Anonymous program which means taking a fearless inventory in the form of examining his previous behaviors and determining what situations caused him problems in the past. Dr. Cornwall moved the Board offer Mr. Tripp a consent agreement that would decrease the frequency of his health care recovery group meetings from every week to every other week. Mr. Gossman seconded the motion. The motion carried by a unanimous vote.

8. Review and Possible Action Concerning Audited Licensees' Compliance with Continuing Competence Requirements for 2004-2006 Licensure Period

Ms. Herbst Paakkonen summarized the Audit Committee's most recent recommendations and noted that ten licensees were found in compliance with the continuing competence requirements. Additionally, two licensees submitted documentation consisting of at least 20 contact hours, but some of the hours did not meet the requirements established by Board rule. Ms. Kalis moved the Board find in compliance the ten licensees listed in the report. Mr. Gossman seconded the motion. The motion carried by a unanimous vote. Ms. Kalis moved to find the two licensees who were deficient in their contact hours as out of compliance and that they be granted six months with which to come into compliance. Ms. Akers seconded the motion. The motion carried by a unanimous vote. Ms. Herbst Paakkonen then summarized the audit submission of Jean Kelleher and noted that six of the 21 hours reported were awarded after her licensure reinstatement date. She advised that in the past the Board has determined that making a false statement on the licensure reinstatement form relative to compliance with the continuing competence requirements constitutes several violations of law in addition to the violation for failure to meet the established continuing competence requirements. Ms. Herbst Paakkonen called to the Board's attention a copy of a consent agreement containing findings of fact, conclusions of law and disciplinary action for licensees who have similarly affirmed compliance with the requirements but upon audit were found to have failed to complete at least 20 contact hours. The Board questioned the statements made by Ms. Kelleher in her letter that accompanied her audit submission, but Ms. Herbst Paakkonen commented that Ms. Kelleher did not provide any additional information or documentation that might clarify her statements. Ms. Kalis moved to offer Ms. Kelleher a consent agreement consistent with those that have been offered in the past with respect to findings of fact and conclusions of law for similar violations, but that the order consist of a civil penalty of \$250. Mr. Gossman seconded the motion. The motion carried by a unanimous vote. The Board directed staff to allow Ms. Kelleher 20 days for the signing of the agreement; failure on the part of the licensee to sign the agreement will result in the case being scheduled for an informal hearing.

APPLICATIONS FOR LICENSURE & CERTIFICATION

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

Beran, Brandee	Browning, Richard	Day, Michelle
Emerson, Douglas	Dela Cruz, Liannne	Grabenstetter, Pete
Jada, Christopher	Jada, Lindsay	LaMere, Tina
Lopez, Richard	McCord, Kristin	Mickowski, Alexis
Morgan, Pamela	Newbury, Randall	Scherr, Tisha
Scherzer, Stacey	Schneider, Crystal	Sharp, Christina
West, Sara	Thornburg, Tamara	Lindsey, Marsha *
McGuigan, Ryan**		

**Applicant disclosure on "Personal Information" section of application*

***Graduate of CAPTE Accredited Program*

Dr. Cornwall stated for the record that Mr. Grabenstetter was formerly his student but that he can vote on his application without bias. Mr. Newbury was present for the Board's discussion of his application concerning the fact that he has not practiced in the United States for several years. He explained that he was in Vietnam primarily for teaching physical therapy and performing rehabilitation consulting. Mr. Newbury stated that he completed some continuing education in 2005. He stated that he learned a lot while in Vietnam and that he spent considerable time in an acute care hospital and in outpatient rehabilitation facilities. Mr. Newbury assured the Board he is ready to return to practice in a U.S. clinical setting. The Board discussed the application of Ms. LaMere and noted that she did not indicate where her previous employment was located. The Board also commented that Ms. Morgan indicated on her application an employment

address in Utah but she is not licensed in that state. Ms. Kalis moved to grant licensure to all the listed applicants with the exception of Ms. LaMere and Ms. Morgan and to delegate to the staff the responsibility of obtaining the missing information from Ms. LaMere and Ms. Morgan to determine whether licensure can be released or the information comes back to the Board. Mr. Sieveke seconded the motion. The motion carried by a unanimous vote. The Board reviewed the application of Ms. Lindsey and discussed the options that exist relative to restricting a license. Ms. Herbst Paakkonen advised the Board that in the past it has offered consent agreements to applicants that prescribe the restrictions. The Board debated whether additional information in the form of interviewing Ms. Lindsey would be necessary. Dr. Cornwall moved to grant Ms. Lindsey a consent agreement stipulating a restricted license limited to hippotherapy contingent upon her passing the jurisprudence examination. Mr. Gossman seconded the motion. The motion carried by a vote of 5-1. The Board discussed the application of Mr. McGuigan and noted that he is a graduate of a CAPTE (Commission on Accreditation of Physical Therapy Education) accredited program in Canada. The Board discussed the fact that he will not require a supervised clinical practice period and his visa will be provided to the Board once it is issued. Kalis moved to grant licensure to Mr. McGuigan. Mr. Robbins seconded the motion. The motion carried by a unanimous vote.

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

Chandler, Patricia	Frisch, Daniel	Hay, Dorene
Manzano, Kathleen	Matuszewski, Fabiola	Montez, Anthony
Pennington, Russell	Rangel, Shanna	Rivera, Geno
Stapel, Mark	Worrell, Lester	

** Applicant disclosure on "Personal Information" section of application*

The Board members noted that the application files were administratively complete. Ms. Kalis moved to grant certification to the listed applicants. Mr. Gossman seconded the motion. The motion carried by a unanimous vote.

11. 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 for Substantially Equivalent Education, Approval to Take the National Physical Therapy Examination and Determination of Supervised Clinical Practice Period
Agatha Ramirez (Militante)**

The Board reviewed the application of Ms. Ramirez and noted that she has not yet have been issued a visa as she is awaiting approval to take the NPTE. The Board reviewed and discussed her work history as involving employment not in the field of physical therapy, but concurred that the applicant would be required to complete a supervised clinical practice period in Arizona prior to being issued a license to practice physical therapy. Dr. Cornwall moved to find Ms. Ramirez’s education substantially equivalent to that of a graduate of a U.S. accredited program and to grant her approval to take the NPTE. Ms. Kalis seconded the motion. The motion carried by a unanimous vote.

**12. Request for Approval to Take National Physical Therapist Examination; Review of Documentation Related to Disclosure on "Personal Information" Section of Application
Heidi Haptonstal – Applicant for Physical Therapist Assistant Certification**

Ms. Kalis moved to grant Ms. Haptonstal approval to take the NPTE and that she be granted certification upon receipt of a passing score. Mr. Sieveke seconded the motion. The motion carried by a unanimous vote.

Amber Rusk – Applicant for Physical Therapist Assistant Certification

The Board noted Ms. Rusk pled guilty to charges of underage drinking and commented that she completed all court ordered requirements. Ms. Kalis moved to grant Ms. Rusk approval to take the NPTE and that she be granted certification upon receipt of passing scores on both the NPTE and the jurisprudence examination. Mr. Sieveke seconded the motion. The motion carried by a unanimous vote.

Joy Wilson – Applicant for Physical Therapist Assistant Certification

Ms. Wilson was present for the Board's review and discussion of her request. She explained that her arrest was many years ago and doesn't reflect her current character. Ms. Wilson advised the Board that her father collected what court records were available in the Commonwealth of Massachusetts which she has provided to the Board. The Board asked why she didn't report her criminal history to the Arizona Board of Nursing when she applied for her Certified Nursing Assistant license. She stated that the question on her application was worded differently than this Board's and that she did not purposely intend to deceive that Board. Ms. Wilson noted that her failure to disclose her criminal history was discovered through a background check by the Nursing Board. She assured the Board that she does not associate with the individuals who were involved in the matter she disclosed on her application. Dr. Cornwall moved to grant Ms. Wilson approval to take the NPTE and that she be granted certification upon receipt of passing scores on both the NPTE and the jurisprudence examination. Mr. Sieveke seconded the motion. The motion carried by a unanimous vote.

BOARD BUSINESS AND REPORTS

13. Executive Director's Report – Discussion and Possible Action

- a. **Financial Report:** No additional information to report.
- b. **Board Staff Activities:** No additional information to report.
- c. **FSBPT Initiatives and News:** No additional information to report.
- d. **Rule Writing Update:** Ms. Herbst Paakkonen reported that the rule package consisting of the Notice of Final Rulemaking containing the revisions to Article 2 and the required economic impact statement associated with the rule revisions has been submitted to the Governor's Regulatory Review Council for inclusion on the January 8, 2008 agenda. She reported that there were no comments from the public submitted in association with the revisions, and noted that the effective date of the revisions will be in early March which is well in advance of the target date of July 1, 2008.

e. **Legislative Update:** Ms. Herbst Paakkonen reported that on November 14, 1007 she had a positive and productive meeting with Stuart Goodman and Brandy Petrone of Goodman Schwartz Public Affairs, the contract lobbying firm for the Board. The purpose of the meeting was to discuss the Board's preferences relative to the bill summary and progress reports that will be prepared for the Board. Ms. Herbst Paakkonen noted that she also discussed with Mr. Goodman and Ms. Petrone some possible issues regulatory issues that may emerge during the upcoming legislative session. Additionally she reported that some of the members of the Health Committee of Reference expressed concerns that the Arizona Board of Behavioral Health Examiners had established educational requirements that are higher than that of other states which has resulted in individuals licensed as behavioral health counselors in other states from qualifying for licensure in Arizona. She advised the Board that she will continue to follow this issue.

14. Review and Possible Action on Proposed Substantive Policy Statement: Interim Permit and Supervised Clinical Practice Period Requirements

The Board reviewed the draft Substantive Policy Statement (SPS) and affirmed the edits were incorporated from the review and discussion of the draft during the October 23, 2007 meeting.

Ms. Kalis moved to adopt the SPS as presented. Mr. Robbins seconded the motion. The motion carried by a unanimous vote.

15. Discussion and Possible Action On Recognizing the Practice Review Tool as Category A Continuing Competence Activity Pursuant to A.A.C. R4-24-402

Ms. Herbst Paakkonen explained the rationale for the consideration of the Board adopting a motion finding that the Practice Review Tool (PRT) be rendered a Category A course by virtue of the fact that it is a tool of the Federation of State Boards of Physical Therapy. Dr. Cornwall and Ms. Herbst Paakkonen noted that beginning in February Arizona licensed physical therapists will be allowed to take the PRT for no fee as the pilot of the tool in seven states; FSBPT will market this opportunity to licensees and licensees would be encouraged to do so if they were aware they could use claim the activity as part of their continuing competence requirements for the 2006-2008 licensure period. The Board reviewed the rule R4-24-402 and discussed whether FSBPT could be considered a Category A approval entity as it could be considered a physical therapy specialty society. The Board discussed for how many contact hours the PRT should be approved. Mr. Gossman moved the Board recognize the PRT as a Category A activity for 10 contact hours pursuant to Board rule. Mr. Robbins seconded the motion. The motion carried by a unanimous vote.

16. Discussion and Possible Action on Laws 2007 Chapter 246, 48th Arizona State Legislature

Ms. Herbst Paakkonen briefly summarized the legislation that has established a streamlined process for the suspension of professional and occupational licenses when the Arizona Department of Economic Security determines that an individual is in arrears with his or her child support requirements. She explained that the Office of the Arizona Attorney General has advised the licensing boards to adopt motions delegating to the Executive Directors the authority to execute the required orders after they are issued by the Arizona Office of Administrative Hearings. Ms. Kalis moved to adopt a motion that if and when the Board receives an administrative order of noncompliance and order of suspension, the Executive Director is delegated the responsibility of placing the license or certificate on suspension by notification of a letter that the Board is implementing the order and also has the authority to lift the suspension upon receipt of a certificate of compliance. Dr. Cornwall seconded the motion. The motion carried by a unanimous vote.

17. Review and Possible Action on Recommendations of the Documentation Rule Writing Task Force

The Board reviewed the draft recommendations and complimented the work of the Task Force noting that the proposed language is a vast improvement over the current status. Ms. Hiller advised the Board that the language has not been reviewed by anyone other than those individuals who served on the Task Force, but in the past the Board has discussed the need to obtain some feedback and input from licensees and certificate holders. The Board and staff discussed some options for soliciting feedback. Following this discussion the Board directed staff to create an on-line survey for the purpose of soliciting input and feedback to the proposed language and that an electronic mail survey solicitation be issued to all licensees and certificate holders in the database. Ms. Herbst Paakkonen informed the Board that she will create a report from the survey responses and provide it to the Board in advance of the December 18, 2007 regular session meeting.

CALL TO THE PUBLIC

Ms. Rothea Kornelius addressed the Board relative to her pending application for a physical therapist license and noted that she has general education deficiencies that she is currently trying

to complete. She asked that the Board consider changing the statutes to allow consideration for previous work experience and education earned at the high school level to substitute for general education deficiencies.

ADJOURNMENT

The meeting adjourned at 2:30 p.m.

Prepared by,

Heidi Herbst Paakkonen
Executive Director

Approved by,

Randy Robbins
Secretary