

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**  
**January 22, 2008**

**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  
Christopher Munns, Assistant Attorney General  
Elizabeth Campbell, Assistant Attorney General

**CALL TO ORDER – 8:30 a.m.**

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

**1. Election of Board Officers for 2008**

Ms. Kalis called for nominations for the position of President. Mr. Robbins nominated Ms. Kalis. Dr. Cornwall seconded the nomination. Ms. Kalis was voted in as President by a unanimous vote. Ms. Kalis called for nominations for the position of Vice President. Mr. Gossman nominated Dr. Cornwall. Ms. Kalis seconded the nomination. Dr. Cornwall was voted in as Vice President by a unanimous vote. Ms. Kalis called for nominations for the position of Secretary. Mr. Sieveke nominated Mr. Robbins. Dr. Cornwall seconded the nomination. Mr. Robbins was voted in as Secretary by a unanimous vote.

**2. Review and Approval of Draft Minutes**

**December 18, 2007; Regular Session Meeting**

The Board reviewed the draft and Ms. Kalis called for any revisions to the document. Hearing none Ms. Kalis moved to adopt the minutes as written. Mr. Robbins seconded the motion. The motion carried by a unanimous vote.

**December 18, 2007; Executive Session**

The Board reviewed the draft and Ms. Kalis called for any revisions to the document. Hearing none Ms. Kalis moved to adopt the minutes as written. Mr. Robbins seconded the motion. The motion carried by a unanimous vote.

**December 20, 2007; Special Session Meeting**

The Board reviewed the draft and Ms. Kalis called for any revisions to the document. Dr. Cornwall noted the misspelling of his name. Ms. Kalis moved to adopt the minutes as revised. Mr. Robbins seconded the motion. The motion carried by a unanimous vote.

**3. Review and Possible Action on Formal Hearing Recommendation**

**#07-17; Luke Holiday (Todd Lukasik), P.T.**

Ms. Kalis moved to meet in Executive Session for purposes of obtaining legal advice. Mr. Gossman seconded the motion. The motion carried by a unanimous vote. Upon resuming the meeting in public session Ms. Kalis announced that the Board will review and take action on the case following receipt of the recommendation of the Administrative Law Judge (ALJ) who presided over the formal hearing. Ms. Campbell, representing the State of Arizona, noted that the ALJ's recommendation found no violations on the part of the Respondent. She commented that the State respectfully disagrees with the finding that the Board waived the lateness of the payment of the civil penalty when it was submitted two months late. She asked the Board find Respondent in violation of A.R.S. §32-2044(1). Mr. Holiday stated to the Board that the ALJ had recommended the matter be dismissed entirely. He commented that he realized the payment was late and that he accepts responsibility for it and that it should not have happened. Following discussion of the ALJ's recommended findings of fact, Dr. Cornwall moved to accept the findings of fact as written. Ms. Kalis seconded the motion. The motion carried by a unanimous vote. The Board reviewed the conclusions of law as recommended by the ALJ. Ms. Kalis moved to modify the conclusion of law number 6 noting that the Board was compelled to accept the civil penalty even though it was submitted two months late by Mr. Holiday and therefore conclusions of law 7-9 should be deleted. Mr. Sieveke seconded the motion. Ms. Kalis moved to modify her motion to include the violation of A.R.S. §32-2044(1). Mr. Robbins seconded the motion. The Board noted that Mr. Holiday has continued to demonstrate a disregard for Board issued orders by completing the requirements late or not at all. The Board discussed the finding of fact that referenced the ethics course that Ms. Holiday audited noting that the "audit" designation on the transcript only indicates that the tuition was paid and does not indicate that the course was attended and completed as would an official transcript. The Board commented that Mr. Holiday was able to produce evidence much later that he did complete the ethics course, but he did not provide any evidence that he actually completed the course by the deadline established in the order. Mr. Munns advised the Board that Ms. Kalis' motion could be amended to reflect this possible action, or a new motion could be proposed. Ms. Kalis called for the question on the original amended motion to modify finding of fact number 6 and to delete 7-9. The motion carried by a unanimous vote. Dr. Cornwall then moved to eliminate the finding of fact number 6; Ms. Kalis seconded the motion. The Board discussed whether this finding should be connected to a conclusion of law and agreed by consensus that it would not be. The motion was approved by a unanimous vote. Mr. Munns advised the Board that the State's argument that Mr. Holiday is not "regulatable" can be an aggravating factor in its decision in this case. He further advised the Board consider rejecting most of conclusion of law number 4. Ms. Kalis moved to adopt the conclusions of law 1-3 and the first sentence of conclusion of law number 4. Dr. Cornwall seconded the motion. The motion carried by a unanimous vote. The Board noted that the ALJ recommended dismissal of the matter in the Order. The Board discussed the fact that this case has consumed a significant amount of time and resources on the part of the Board and that the Respondent has a history of not taking his compliance responsibilities seriously. Dr. Cornwall moved to reject the recommended order and to impose a suspension of his license for 6 months. Ms. Kalis seconded the motion. The Board discussed the challenges of ensuring that someone who is a contract physical therapist is complying with a suspension. The Board

discussed a shorter term of suspension and a period of probation to include reporting requirements. The Board questioned whether a term of probation would be successful in terms of monitoring Mr. Holiday because he has violated probation terms in the past. Dr. Cornwall offered a new motion suspending Mr. Holiday's license for 3 months. Ms. Kalis seconded the motion. The motion carried by a unanimous roll call vote.

#### **4. Informal Hearing and Possible Action on Complaint**

##### **#07-04; Paul Hospenthal, P.T.**

Ms. Kalis introduced the agenda item and the Board members and staff exchanged introduction with the licensee and his attorney, David Derickson. Nicola Bauman-Delgado, Court Reporter, swore in Mr. Hospenthal. Ms. Kalis reviewed the procedures and possible outcomes of an informal hearing. Ms. Herbst Paakkonen reported on the status of the complaint noting that the Board held its initial review and discussion of the case on October 23, 2007. She stated the complaint was opened following receipt of information from T.H. alleging that in 2000 Mr. Hospenthal seduced her while she was his physical therapy patient and that they had a consensual sexual relationship for four years during which time she periodically received physical therapy care from Mr. Hospenthal both in and out of his clinic. Ms. Herbst Paakkonen noted that following the initial review the Board voted to remand the case to an informal hearing. She indicated that at the Board's direction several witnesses were invited to the hearing including T.H.; Bonnie Kurth, P.T., an employee of Mr. Hospenthal at the Desert Institute of Physical Therapy; and David Engstrom, D.O., a former employee of Mr. Hospenthal. Ms. Herbst Paakkonen noted that Ms. Kurth and Dr. Engstrom are present for the hearing but that T.H. was unable to attend as she out of the country. Ms. Herbst Paakkonen commented that the possible violations identified for this complaint are listed in the Board's investigative report. In his opening statement Mr. Derickson advised the Board that T.H. and Mr. Hospenthal were in a committed relationship for three years beginning in late spring of 2003. He noted that T.H. was referred to Mr. Hospenthal's clinic in January of 2000 and at the time T.H. was a married woman. Mr. Derickson stated the last services that were provided by Mr. Hospenthal for T.H. were on February 28, 2000 and she was discharged shortly after and was no longer a patient at the Desert Institute of Physical Therapy. Mr. Derickson advised the Board that the relationship between T.H. and Mr. Hospenthal did not begin sooner than mid-March and there is no evidence to suggest that it began sooner than that. He asserted that Mr. Hospenthal did not pursue a romantic relationship until after he ended T.H.'s care. Mr. Derickson noted that a subsequent injury compelled T.H. to come back to the Institute for care which was provided by Bonnie Kurth (Clements), P.T. in May of 2000. He stated that during the interim Mr. Hospenthal did not provide T.H. with any physical therapy care. He noted that T.H. was given opportunity during the investigation to review the time line of her treatment and her care and could only make the statement that she received a Valentine's Day card from Mr. Hospenthal in February of 2000 – a claim that Mr. Hospenthal denies. Mr. Derickson asked that the Board dismiss the complaint. In closing he noted that while Mr. Hospenthal's signature appears as a subscript at the bottom of some notes signed by Ms. Kurth for May and June of 2000, it does not indicate that he is responsible for any of the treatment or content of the notes and it could be attributed to a clerical error. The Board asked Mr. Hospenthal to explain his signature at the bottom of the page in question. He stated that he was unsure how it got into the chart but that it may have been put into the chart prior to when T.H. came in for treatment. He indicated that the page may have been pre-signed. The Board asked Mr. Hospenthal to identify whether his handwriting appeared on any of the documents in the notes beginning in June; he denied that it was his. The Board asked why Mr. Hospenthal recorded the telephone conversation of which the Board was provided a transcript. He replied T.H. is a vindictive and dishonest person and that he was doing

it illustrate the type of person that she is. He stated that the conversation took place in January of 2003. The Board asked Mr. Hospenthal to expound on T.H.'s recollection of her episodes of care following the initial one that the records indicate he provided. Mr. Hospenthal stated that the treatment records do not support her recollection and is consistent with the incorrect information that she has provided. The Board asked why T.H. would recall having received treatment from Mr. Hospenthal outside of the clinic during the relationship. He stated he did not know why she would assert that because it is not accurate. In response to the Board's questions he commented that he did not document the transfer of care to another physical therapist because when she returned he wasn't certain about the future of any possible relationship; he indicated that the relationship did begin later in the summer. Mr. Hospenthal characterized the conversation about T.H.'s California trip as consisting of recommendations for places to go and not an opportunity to join or meet her there. The Board questioned why there is so much consistency in the language used in T.H.'s treatment notes between him and other providers in the office. Mr. Hospenthal stated that he isn't sure but that perhaps it is because they have worked together for so long. He denied that he was flirtatious with T.H. and that he was no more positive with her than he was with any other patient noting that when she came to him for care she was a married woman. The Board asked whether any discussions they had involved emotional closeness. He said that he had no insight into T.H.'s personal life noting that she was having difficulty turning 30 and she was negative about her husband. Mr. Hospenthal recalled that she may have been training for a marathon and that she made some inquiries into his religion. He admitted to traveling with T.H. and other friends in early June but stated that the physical relationship did not begin then. He also admitted to calling T.H. in February to discuss some recommendations for her California trip but that he does not remember any specifics of the call. The Board asked why T.H. would recall that she was still in therapy when her husband moved out of their home in March of 2000. Mr. Hospenthal stated that T.H.'s memory is distorted. The Board asked why his discharge summary indicates the possibility that T.H. will return for care. He indicated that he could not comment as he didn't recall what he meant by that statement except that she was given a home exercise program. The Board asked whether he considered T.H. to be an on-going patient given that she was treated for different body parts. Mr. Hospenthal stated that he could not comment on T.H.'s notes recorded by other therapists. The Board requested Ms. Kurth come forward for questions; she was sworn in by Ms. Bauman-Delgado. Ms. Kurth stated that she has worked for Mr. Hospenthal at the Desert Institute of Physical Therapy for 14 years and that she was the treating therapist of record for T.H. from May 19, 2000 forward. She stated that there are many inconsistencies in T.H.'s recollections relative to her memory of events. Ms. Kurth stated that T.H.'s memories are incorrect and are personally motivated. Ms. Kurth commented that she recalled in May of 2000 she discussed with Mr. Hospenthal that she was to assume T.H.'s care as Mr. Hospenthal was interested in pursuing a possible relationship with T.H. and that he felt it was unethical for him to be her therapist. She stated that she recalled a break in time between T.H.'s first episode of care and her second episode. Ms. Kurth denied that T.H. was treated any differently than any other patient as a result of her personal relationship with Mr. Hospenthal. She clarified that she recalled there was a friendship developing prior to June of 2000 and a potential for a closer relationship and that is why Mr. Hospenthal asked her to assume T.H.'s care in May of 2000. Ms. Kurth denied having seen any signs of a romantic relationship prior to June of 2000. In response to Mr. Derickson's question Ms. Kurth stated that after February of 2000 she is certain that Mr. Hospenthal did not treat T.H. She admitted that a formalized evaluation was not documented of T.H. when she assumed her care in May of 2000 and that she used more extended SOAP notes to address that. In response to Mr. Derickson's question Ms. Kurth stated that her recollection is that T.H. was unhappy with the breakup of her relationship with Mr. Hospenthal and that it occurred during the

spring or early summer of 2003. She also commented that she found inconsistencies with T.H.'s statements in terms of when she recalled certain events to have occurred. David Engstrom, D.O. was present for the Board's questioning and was sworn in by Ms. Bauman-Delgado. Dr. Engstrom noted that in 1999 and 2000 he was a physical therapy technician for Mr. Hospenthal. He stated that he worked with Mr. Hospenthal primarily and that he was familiar with T.H. as a patient. He recalls T.H.'s episode of care with Ms. Kurth and has no recollection of T.H. being treated by Mr. Hospenthal after February of 2000. He explained that the error with Mr. Hospenthal's signature erroneously being placed in the chart with the May and June 2000 notes could have realistically occurred. Dr. Engstrom stated that he wanted to corroborate the statements made by Mr. Hospenthal and Ms. Kurth. Ms. Campbell advised the Board that if it wanted to hear from additional witnesses including T.H. it may consider continuing this hearing. Following discussion Dr. Cornwall moved to dismiss the case. Mr. Gossman seconded the motion. The Board debated whether T.H. might provide some additional information other than the verbal statements she has already provided. The motion carried by a unanimous vote.

## **5. Informal Hearing and Possible Action on Complaint**

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

Ms. Kalis introduced the hearing and Mr. Fairbourn was sworn in by Ms. Bauman-Delgado, Court Reporter. The respondent exchanged introductions with the members of the Board and staff. Ms. Kalis reviewed the informal hearing procedures and possible outcomes. Ms. Herbst Paakkonen summarized the status of the case noting that the Board held its initial review and discussion of the complaint during the November 19, 2007 meeting. She stated the complaint was opened following receipt of information from Select Specialty Hospital indicating that Mr. Fairbourn was terminated from employment with the facility on February 8, 2007 for gross misconduct involving sexual harassment of a physical therapy aide, S.H., whom he was supervising. She noted the outcome of the initial review of this case resulted in the Board inviting Mr. Fairbourn to an informal hearing. Ms. Herbst Paakkonen advised the Board that S.H. and Mr. Fairbourn's former supervisor at Select Specialty Hospital, Carolyn Forbes, had agreed to participate in the informal hearing as investigational witnesses. Ms. Herbst Paakkonen commented that the possible violations identified for this complaint are listed in the Board's investigative report. In his opening statement Mr. Fairbourn noted that he has been licensed and practicing as a physical therapist for 27 years and has never been the subject of a complaint. He stated that one of the Board's witnesses will indicate that he was hastily terminated. In response to the Board's questions Mr. Fairbourn stated that he worked with S.H. and she assisted him with his long-term acute care rehab patients two full days per week. In response to the Board's questions Mr. Fairbourn stated that he and S.H. were talking in a room together after patient care had been provided. He recalled that S.H. asked him if he had special feelings for her. He advised the Board that he replied that he had fantasized having intimacy with her. He remembered that S.H. seemed flattered that he made those statements to her. Mr. Fairbourn commented that he reported to work a couple of weeks later and was advised that he was to see the CEO of the hospital. He indicated that he was informed at that time of S.H.'s complaint, was forced to sign a document that he didn't read due to shock, and he was terminated and escorted from the facility. Mr. Fairbourn indicated that he was not allowed to make a statement relative to the allegation nor was his supervisor consulted. He stated that he was so shocked and dismayed that he didn't know what to do. He commented that he had not engaged in any other conversations of that nature. Mr. Fairbourn admitted that he was provided with sexual harassment training upon his employment with Select Specialty Hospital. He noted that he was advised that S.H. was ill and was unavailable to work with him in the weeks leading up to his termination. Mr. Fairbourn provided some examples of inappropriate comments that were made

to him by his female co-workers at the facility that he ignored. The Board asked whether he has since communicated with Select Specialty Hospital relative to his termination; he stated that he had not. S.H. was available for questioning telephonically and was sworn in by Ms. Bauman-Delgado, Court Reporter. She stated to the Board that the conversation that occurred that day was not initiated by her and that it was started by Mr. Fairbourn. S.H. recalled that Mr. Fairbourn said he had feelings for her and that if he was not married the sexual connection that they would have would be incredible. S.H. advised the Board that she became increasingly uncomfortable in the days following this conversation and accordingly arranged to be off of work. S.H. stated that she followed the chain of command in terms of reporting the conversation and that she learned soon thereafter from the CEO that the matter had been taken care of and that Mr. Fairbourn would no longer be working at the facility. S.H. confirmed that she reported the conversation two days later to the charge nurse. She affirmed that she had no contact with Mr. Fairbourn following the conversation. S.H. told the Board that she was advised by the charge nurse that she should confront Mr. Fairbourn and tell him that she was made uncomfortable. However, as she thought about the situation she became increasingly uncomfortable and even sick to her stomach; she came to the realization that she shouldn't have to talk with Mr. Fairbourn again and that she needed to get away from the situation. S.H. stated that she did not recall any inappropriate conversations leading up to the conversation. She indicated that she felt she should not have to hear those comments from a co-worker who was an older man and married. S.H. indicated that she was surprised that Mr. Fairbourn was terminated, but she had stated to human resources that she no longer felt comfortable working with him. She affirmed that she is still employed at Select Specialty Hospital. S.H. indicated that while she was offered assistance from the hospital relative to the situation but that she elected to not accept any such assistance. Carolyn Forbes was present and indicated she was available to address the Board's questions. She affirmed that she was previously Mr. Fairbourn's supervisor and noted that he had transferred from the Select Specialty Hospital in Mississippi. Ms. Forbes described the staffing under her and commented that after Mr. Fairbourn resigned from full-time employment with the facility, arrangements were made for him to work PRN full days on Tuesdays and Thursdays. She stated that she was informed of the plan to terminate Mr. Fairbourn on a Wednesday which was the day before he was actually terminated. Ms. Forbes commented that she was not part of the investigation involving Mr. Fairbourn or the decision to terminate him; she also stated that she did not ask the reason why he was to be terminated because she was so shocked. Ms. Forbes mentioned that she had at times served as an aide to Mr. Fairbourn in order to assist him with patient care. She further indicated that she was not aware of the circumstances of Mr. Fairbourn's termination until several months later and only today does she have any insight into the reason for the termination. Ms. Forbes stated that she would hire Mr. Fairbourn again. The Board reviewed the time-line of events as described in S.H.'s written statement and discussed the fact that while neither S.H. nor Mr. Fairbourn deny the conversation took place, the specifics of the conversation are in dispute. The Board noted that Mr. Fairbourn's response to the complaint contains some statements that are inconsistent with those made by S.H. The Board commented that if the conversation took an inappropriate turn it was Mr. Fairbourn's role as the supervisor of S.H. to curb or redirect it. Mr. Robbins moved to issue an advisory letter to Mr. Fairbourn. Mr. Sieveke seconded the motion. The Board debated who should be believed relative to the version of the events. The motion carried by a vote of 5-1. Dr. Cornwall offered a friendly amendment for the advisory letter to state concerns that sexually oriented comments made by Mr. Fairbourn in a supervisory capacity may have been inappropriate. Mr. Sieveke seconded the motion. The motion carried by a unanimous vote.

**6. Informal Hearing and Possible Action on Continuing Competence Case  
#07-06-CC; Judith Bates, P.T.**

The Board noted that Ms. Bates was not present for the informal hearing. Ms. Campbell advised that the Board can either dismiss the case or issue an advisory letter; disciplinary action cannot be imposed even if Ms. Bates fails to appear for the hearing because she has the option to decline the invitation. Dr. Cornwall moved to offer Ms. Bates a consent agreement consisting of a voluntary surrender of her physical therapist license and that if Ms. Bates does not sign the document within 20 days the case will be remanded to a formal hearing. Ms. Kalis seconded the motion. The motion carried by a unanimous vote. The Board discussed the formal hearing possible time frames, options for discipline, and recommended Ms. Herbst Paakkonen and legal counsel request a civil penalty and suspension of Ms. Bates' license at the formal hearing if one is held.

**7. Initial Review and Possible Action in Complaint  
#07-09; Alicia Peavey, P.T.**

Ms. Kalis introduced the agenda item and Ms. Hiller summarized the allegation of the complaint received from S.B., a former patient at Agility Physical Therapy, alleging that the charges for her therapy treatments in December 2006 and January 2007 were excessive. Ms. Hiller explained that Ms. Peavey provided the majority of the treatments for S.B.'s episode of care. She noted that S.B. stated that while she was happy with the care she received she felt that the charges were excessive in that she was charged for \$140 for therapeutic exercise but that she performed these exercises mostly alone. Ms. Hiller advised the Board that in her response to the complaint Ms. Peavey described the treatments she provided to S.B. and the correlating charges. She indicated that in the response Ms. Peavey affirms the exercise flow sheets and her treatment notes document that S.B. was always supervised by a licensed physical therapist and was discharged with most goals met and a good prognosis for return to work. The Board staff clarified that the physical therapist assistant identified in the complaint uses a different name than the one used by Ms. Peavey in her response to the complaint. Ms. Peavey noted that she always works in a large open gym and there are times when she may have been supervising an aide working with another patient while S.B. was performing her exercises. The Board comments that there are some questions relative to the number of units that were charged as compared with the amount of time documented with the patient. Ms. Kalis moved to remand the case to an informal hearing. Mr. Sieveke seconded the motion. The Board reviewed the charge sheets and discussed concerns relative to the actual length of time that was spent on certain treatment or modalities. The motion carried by a unanimous vote. The Board directed Ms. Hiller to obtain a definition for the use of the code S8948 in advance of the hearing.

**8. Initial Review and Possible Action in Complaint  
#07-11; Mark D'Aloiso, P.T.**

This item was not addressed and was removed from the agenda.

**9. Review and Possible Action on Request for Modification of Board Order or on Non-Compliance with a Board Order.  
#06-17-UPI; Jillian Andersen, P.T.**

Ms. Herbst Paakkonen summarized the status of Ms. Andersen's compliance with the Board order issued to her in April of 2007. Ms. Herbst Paakkonen advised the Board that on December 19, 2007 Ms. Hiller e-mailed Ms. Andersen to inform her that a review of her compliance file for the above cited case indicated that she was out of compliance with her Order of Probation in that by October 27, 2007 she was to perform 20 hours of volunteer or community service and to

submit evidence to the Board of having provided written notification to her patients and third-party payers of the period of time that she had practiced as a physical therapist without an active license. Ms. Herbst Paakkonen noted that Ms. Andersen e-mailed Ms. Hiller to explain her relocation to Chicago and to request an additional 30-60 days with which to comply with her community service requirements. Board staff confirmed Ms. Andersen has met the requirement of the Order that she take and achieve a passing score on the Board's jurisprudence examination. The Board reviewed the time frame of the Order requirements and discussed the fact that she didn't report her relocation to the Board. The Board also commented that Ms. Andersen indicates she has requested her former employer provide the notification of her unlicensed practice to her former patients and the affected insurance providers. Dr. Cornwall moved to offer Ms. Andersen an additional 60 days to comply with the remaining requirements. Mr. Gossman seconded the motion. The motion carried by a vote of 5-1. Board directed staff to advise Ms. Andersen that she must submit her community service proposal for the Board's approval on the February 26, 2008 meeting agenda in order for her to comply within the 60 days granted.

#### **17. 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:** No additional information to report.
- e. Legislative Update:** Ms. Herbst Paakkonen stated that she has provided the Board members with electronic mail updates on the Governor's plan to consolidate the Arizona Board of Physical Therapy with a number of small health regulatory boards. She noted that there is no legislation yet and that she and Stuart Goodman, the Board's legislative liaison, are monitoring all bills filed for consideration by the legislature. The Board members concurred that in order to protect the public the Board must remain autonomous as possible and that reducing the size of the Board would have negative consequences. The Board members discussed the fact that the same amount of work would still needs to be performed and therefore staffing levels cannot be reduced without creating inefficiencies and public harm. The Board members expressed concerns that funds collected from physical therapists and physical therapist assistants could be reallocated. The Board discussed the necessity for the Board to maintain dedicated staff with expertise in the statutes and rules governing the practice of physical therapy to serve both the board and the public. The Board members agreed by consensus that the Board does not support a plan to consolidate the regulatory and enforcement functions of the agency into a larger Board at this time, and based on the limited information that is available concerning the consolidation plan.

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

**Susan Hillman, P.T.**

**Darcy Norman, P.T.**

Ms. Herbst Paakkonen advised the Board that this agenda item was rescheduled for this month's meeting as the December 18, 2007 agenda failed to list the names of the licensees. Board counsel had advised that in order to avoid any possible violation of the Arizona Open Meeting Law the Board should re-address the agenda item. Ms. Kalis moved to open complaints against Ms. Hillman and Ms. Norman and to offer them consent agreements containing conclusions of law and disciplinary terms recommended by Board staff for the licensees' failure to respond to



their notices of continuing competence audit within 30 days. Dr. Cornwall seconded the motion. The motion carried by a unanimous vote.

**11. Review and Possible Action Concerning Audited Licensees' Compliance with Continuing Competence Requirements for 2004-2006 Licensure Period**  
**Melani Byrnes, P.T.**  
**Roberta Friedman, P.T.**

Ms. Herbst Paakkonen advised the Board that the listed licensees were previously found out of compliance with their continuing competence requirements for the 2004-2006 licensure period and were granted 6 months with which to come into compliance. She noted that a sub-committee of the Continuing Competence Audit Committee had reviewed the re-submissions of these licensees and were recommending the Board find them in compliance. Mr. Sieveke moved to find the listed licensees in compliance with the continuing competence requirements for the 2004-2006 licensure period. Dr. Cornwall seconded the motion. The motion carried by a unanimous vote.

**12. Review and Possible Action on Request for Termination of Probation**  
**#06-16; Dana Kernan, P.T.**

Ms. Kalis introduced the agenda item and Ms. Hiller advised the Board that Ms. Kernan had requested termination of her probation established by Board Order commencing on June 29, 2007 for violations of A.R.S. §32-2044(1), violating statute, 32-2044(12), failing to adhere to the recognized standards of ethics of the physical therapy profession, and 32-2044(20), failing to maintain adequate patient records. Ms. Hiller noted the Board had determined that for her patient Z.M. Ms. Kernan failed to document communications with his referring physician, re-evaluations, progress towards goals, sufficient objective findings, home instructions, clinical rationale for treatment, or coordination of Z.M.'s treatment with other health care providers. Ms. Hiller advised the Board that Ms. Kernan has successfully completed the terms of her Order providing the Board accepts her findings with respect to her review of the licensee's records; if the Board determines that her records are acceptable it may vote to find that she complied with the order and terminate her probation but if the documentation is deficient Ms. Kernan must submit to an additional round of records review. The Board queried Ms. Hiller on the records that were inadvertently omitted from the report and Ms. Hiller provided assurance that the records indicated Ms. Kernan has made dramatic improvements in her record keeping and has demonstrated compliance with the Board's statutes and rules. Ms. Kalis moved to grant termination of probation to Ms. Kernan. Mr. Gossman seconded the motion. The motion carried by a unanimous vote.

**APPLICATIONS FOR LICENSURE & CERTIFICATION**

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

<b>Alvares, Kevin</b>	<b>Askins, Jeanne</b>	<b>Ball, Jason</b>
<b>Bird, Jennifer</b>	<b>Castrogiovanni, Lucy</b>	<b>Camino, Rachael</b>
<b>Castillo, Samantha</b>	<b>Ciganovic, Linda</b>	<b>Deacon, Adella</b>
<b>Ernst, Cheryl</b>	<b>Espy, Melissa</b>	<b>Eikenberry, Megan</b>
<b>Frazier, Aaron</b>	<b>Gillispie, Marisa</b>	<b>Hilton, Raymond</b>
<b>Howard, Katharyn</b>	<b>Huber, Lauren</b>	<b>Kubrynski, Gregory</b>
<b>McAllister, Rebecca</b>	<b>McCauley, Deborah</b>	<b>Mullen, Diane</b>
<b>O'Neal, Suzanne</b>	<b>Rupert, Elizabeth</b>	<b>Sacks, Sarah</b>
<b>Senn, Katiann</b>	<b>Thompson, Jane</b>	<b>Werling, James</b>

*\*Applicant disclosure on "Personal Information" section of application*  
*\*\* Applicant from a CAPTE Approved Foreign Program*

Ms. Kalis called for questions on the files of the licensed applicants. Hearing none Ms. Kalis moved to grant licensure to the applicants. Mr. Gossman seconded the motion. The motion carried by a unanimous vote.

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

<b>Cody, Shanae</b>	<b>Gastellum, Celine</b>	<b>Kathleen Minnella</b>
<b>Sanders, Holly</b>	<b>Wilhelm, Jason</b>	

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

Ms. Kalis disclosed for the record that she knows Ms. Minnella but that she can vote on her application without bias. Ms. Kalis called for questions on the files of the licensed applicants. Hearing none Ms. Kalis moved to certify the listed applicants. Mr. Gossman seconded the motion. The motion carried by a unanimous vote.

**15. 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 Proposals**

**Zsa Zsa Punay – additional secondary supervisor**

The Board requested staff review the timeline of the application file and Board staff noted Ms. Punay's SCPP was postponed several times due to delays in the issuance of her visa. The Board commented that the proposed additional secondary supervisor intends to replace a physical therapist who recently left the facility. Ms. Kalis moved to approve the additional secondary supervisor for Ms. Punay. Mr. Gossman seconded the motion. The motion carried by a unanimous vote.

**b. Review of Education, Determination of Supervised Clinical Practice Period Requirement and Possible Action on Determination of Licensure**

**Allan Baguingan**

The Board reviewed the credential evaluation report for Mr. Baguingan and noted that it indicates his education is substantially equivalent to that of a graduate of a U.S. accredited program. The Board discussed the fact that the applicant will need to complete an SCPP as he has not taken and passed the National Physical Therapy Examination (NPTE) and has no U.S. clinical practice experience. Ms. Kalis moved to grant Mr. Baguingan permission to take the NPTE. Mr. Sieveke seconded the motion. The motion carried by a unanimous vote.

**Marland Mariano**

The Board reviewed the application file and noted that Ms. Marland's Illinois license was issued for only 3 months. The Board discussed the fact that she passed the NPTE in 2006 and the Board's jurisprudence examination in 2007. The Board also commented that Ms. Mariano has no U.S. clinical history. Ms. Kalis moved to find her file administratively complete, her education substantially equivalent to that of a graduate of a U.S. accredited program, and that she be required to complete a SCPP. Mr. Gossman seconded the motion. The motion carried by a unanimous vote.

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

**Frances Vasquez – applicant for physical therapist assistant certification**

Ms. Campbell advised the Board that in spite of a written request for additional information from Ms. Wright the Board’s own preliminary investigation indicates that there are at least one and perhaps two criminal cases that the applicant appears to have not disclosed and provided documentation for the Board’s review. Ms. Campbell further advised that because she has not responded thoroughly to the Board’s request for information concerning all her criminal history, Ms. Wright needs to provide documentation for the most recent 2007 criminal conviction as well as for the criminal conviction in 1995 involving interfering with judicial proceedings. The Board questioned whether it couldn’t make the decision now relative to Ms. Wright’s good moral character based on the information she did submit and the Board’s previous investigations that she has attempted to present herself as a physical therapist and a physical therapist assistant. Ms. Campbell indicated that the best course of action for the Board is to have a complete and comprehensive application file in order to best determine what action should be taken. Ms. Herbst Paakkonen indicated a follow-up letter will be sent to the applicant and when she submits the requested information the file will again be presented to the Board for possible action on the request to take the NPTE and whether to ultimately grant certification to Ms. Wright.

**18. Review and Possible Action on Review and Possible Action on Proposed Revisions to the Following Sections of the Arizona Administrative Code:**

**R4-24-201. Application for a Physical Therapist License**

**R4-24-207. Application for a Physical Therapist Assistant Certificate**

**R4-24-208. License or Certificate Renewal; Address Change**

**Article 3. Regulation of Physical Therapy**

Ms. Herbst Paakkonen advised the Board that this draft of suggested rule revisions was prepared by Jeanne Hann, the Board’s contract rule writer, with input from the Board staff and from the Documentation Rule Revision Task Force. Ms. Herbst Paakkonen noted that the draft contains many revisions – including some additions to R4-24-201, R4-24-207 and R4-24-208 that address the citizenship or alien status verification requirements recently established by A.R.S. §1-501. She advised the Board that the given the magnitude of the revisions the members may wish to schedule another review on the February regular session meeting agenda. The Board directed Ms. Herbst Paakkonen to request Ms. Hann draft a revision to R4-24-203 that would require iBT scores to be no more than 18 months old at the time the application is administratively complete and presented to the Board. Ms. Herbst Paakkonen indicated that Ms. Hann will likely be able to make that addition relatively quickly and that the Board should expect to next see this draft on February 26, 2008.

**CALL TO THE PUBLIC**

None

**ADJOURNMENT**

The meeting adjourned at 2:25 p.m.

Prepared by,

Heidi Herbst Paakkonen  
Executive Director

Approved by,

Randy Robbins  
Secretary