

**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**  
**May 22, 2008**

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

**MEMBERS ABSENT:**

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

**CALL TO ORDER – 8:30 a.m.**

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

The Board reviewed the draft and noted a correction concerning Mr. Robbins' title and that the vote on the application of the applicant Luis Tisselli should indicate that Ms. Ohlendorf abstained from the vote. Ms. Kalis moved to approve the minutes as corrected. Mr. Robbins seconded the motion. The motion carried by a unanimous vote.

**COMPLAINTS, INVESTIGATIONS and COMPLIANCE**

**2. Informal Hearing and Possible Action on Complaint**  
**#08-02-CC; Darcy Norman, P.T.**

Ms. Herbst Paakkonen advised the Board that this case was scheduled for an informal hearing but as of May 21, 2008 Ms. Norman had failed to claim the certified mail containing the invitation to the informal hearing and accordingly is likely unaware of this proceeding. She noted that the Board had previously voted to remand this case to an informal hearing in order to address the allegations that Ms. Norman had failed to respond to her notice of continuing competence audit and was therefore out of compliance with the requirement. For the record Ms. Kalis reviewed the informal hearing procedure and possible outcomes. Following discussion Dr. Cornwall moved to remand this case to a formal hearing. Ms. Akers seconded the motion. The Board advised Ms. Versteegen and Ms. Herbst Paakkonen to request a recommendation from the Office of Administrative Hearings that Ms. Norman's license be revoked. The motion carried by a unanimous vote.

**3. Initial Review and Possible Action on Complaint  
#07-18; William Perry, P.T.**

Ms. Kalis introduced the complaint and Ms. Hiller advised the Board that Mr. Perry was present for the initial review and discussion of the case. She noted that the investigation was opened in response to a complaint filed by C.S., a former patient and employee of Agility Physical Therapy who alleged that she was allowed by Mr. Perry to be treated and evaluated by Tammy Groenwald who at the time was a physical therapy aide and is now a licensed physical therapist. The complaint also alleged that Mr. Perry allowed Ms. Groenwald to treat patients unsupervised at the other Agility Physical Therapy location while he was on vacation. Mr. Perry stated in his response to the complaint that he never allowed Ms. Groenwald to work as anything other than an aide prior to her becoming licensed and that patients were rescheduled to be treated by another physical therapist, Jared Kitamura, P.T., when Mr. Perry was on vacation as he was aware Ms. Groenwald could not perform any treatments without the onsite supervision of a physical therapist. Ms. Hiller commented that Ms. Groenwald was interviewed for this case, and that she had reviewed the patient schedules and patient records as part of the complaint investigation. Ms. Hiller noted that in the course of her investigation she found that there were missing records from the patients' charts and that Mr. Perry was unable to provide an explanation for this. The Board discussed Mr. Perry's statements that he was with Ms. Groenwald at all times providing guidance, but elsewhere the investigative record indicates that he would come in and out of the area where C.S. was being treated by Ms. Groenwald at least every 15 minutes. The Board noted that the law allows a physical therapist to delegate some treatment tasks to aides depending on an aide's knowledge and skills. The Board discussed the fact that other statements suggested that Ms. Groenwald perceived herself to be a student who was not yet licensed and that Ms. Groenwald may have assumed more responsibility for the C.S.'s care than was appropriate. The Board reviewed the treatment flow sheet and discussed that on some days Ms. Groenwald was not involved in C.S.'s care and that she was instead treated by Mr. Kitamura. The Board noted that on at least one of the dates of service the timed treatments don't appear to correlate with the charges that were billed. Ms. Kalis moved to remand the case to an informal hearing and to add possible violations of A.R.S. §32-2044(13), fraudulent billing and of A.R.S. §32-2044(20), failing to maintain adequate patient records. Mr. Robbins seconded the motion. The Board requested Ms. Hiller obtain the schedules for the clinical staff for the dates of service that are under review and an explanation of the patient scheduling and "flow" process of the clinic. The Board noted it would need the billing records for all of the patient records that were reviewed in the investigation. The motion carried by a unanimous vote.

**4. Initial Review and Possible Action on Complaint  
#07-19; Shane Hernandez, P.T.**

Ms. Kalis introduced the complaint and Ms. Hiller stated that the case was opened following the Board's dismissal of complaint #07-03; Anthony Heywood in order to determine whether Mr. Hernandez had any culpability for the burn that the complainant D.L. allegedly incurred during an electronic stimulation treatment. She noted that during the review of complaint #07-03 the Board had discussed the fact that the treating physical therapist on the day that the alleged injury occurred was actually Mr. Hernandez and therefore directed staff to open this complaint. In his response to the complaint Mr. Hernandez stated that D.L. did not mention the burn he alludes to in his complaint during his manual therapy session which is substantiated by the fact that there is no mention of it in the daily note. Ms. Hiller summarized Mr. Hernandez's statements including

his recollection that D.L.'s subsequent visit when the patient complained of the burn to Mr. Heywood and that Mr. Hernandez observed no 3<sup>rd</sup> degree burn. Ms. Hiller stated that Mr. Hernandez affirms that he did not violate the standard of care as there was no deliberate, negligent or failure to act since the alleged incident was not reported by D.L. and the patient received electric stimulation on two separate occasions after the alleged incident. The Board noted that Mr. Hernandez was not present for the discussion of the complaint and therefore could not address some questions. Dr. Cornwall moved to remand the case to an informal hearing. Mr. Robbins seconded the motion. The Board discussed some questions that could be posed to Mr. Hernandez and commented that it would be very difficult to burn someone with electrical stimulation. The Board discussed the fact that D.L. continued the course of treatment after the alleged burn occurred and questioned the patient's statements and accusations. The Board examined the photograph submitted by the patient and noted that burned tissue would not immediately be charred and black as the complainant reported. The Board recalled that in complaint #07-03 the patient's physician records did not substantiate that a burn was caused by physical therapy treatment. The motion carried by a vote of 4-2. The Board recessed to review D.L.'s physician records which were obtained by subpoena for complaint #07-03. Upon resuming the meeting the Board discussed D.L.'s physician's notations, but questioned whether the licensee provided adequate supervision of the physical therapy aide who would have set up D.L. on the electrical stimulation apparatus. Ms. Kalis moved to rescind the motion remanding the case to informal hearing. Dr. Cornwall seconded the motion. The motion carried by a unanimous vote. The Board discussed the fact that the patient's brace could have caused a sore on D.L.'s ankle. Dr. Cornwall moved to issue an advisory letter to Mr. Hernandez stating that he should have more closely monitored the assistive personnel's proper use of, and that appropriate observations were made, following the electrical stimulation treatment for D.L., and that Mr. Hernandez could have inspected D.L.'s skin to determine whether the patient had any adverse reaction to the electrical stimulation treatment. Mr. Sieveke seconded the motion. The motion carried by a unanimous vote.

**5. Initial Review and Possible Action on Complaint  
#07-21; Jessica Sorensen, P.T.**

Ms. Akers announced that she would recuse herself from the discussion and possible action on this case as she has treated the patient/complainant. Ms. Hiller summarized the complaint which was filed by P.R., a former patient at VibrantCare Rehabilitation, that alleges he was billed different charges for each date when the only variation was the time he had to wait for the therapist at each visit. P.R. also alleged that he was not informed about the varying charges. In her response to the complaint Ms. Sorensen noted that the billing varied for each visit depending on the services that were provided and that she explained this to P.R. She also noted that prior to P.R. initiating treatment he signed paperwork concerning VibrantCare's payment policy and billing procedures and she described his responsibility for the deductible. The Board noted that Ms. Sorensen was present for the initial review of this case and the licensee indicated that she could address questions. She clarified for the Board the flow sheet for P.R.'s care and stated that the company has worked hard to ensure that they comply with Medicare rules. The Board discussed that the original allegation does not seem to be supported by the investigative record. However, the Board noted that there was no neurological examination documented and other testing appeared to be limited. The Board also questioned whether some of the billing connects to the information on the flow sheets. Ms. Sorensen explained that when documenting her findings from tests she will indicate any abnormal findings, but does not document when tests

are normal. The Board discussed the fact that the record doesn't indicate any concerns relative to the complainant's allegations, and debated the standard that should be established relative to what information must be present to constitute a complete evaluation. Mr. Sieveke moved to dismiss the original allegations that correlate to A.R.S. §32-2044(13), fraudulent billing and to A.R.S. §32-2044(12), failing to adhere to the recognized standards of ethics. Ms. Ohlendorf seconded the motion. The motion carried by a vote of 4-1. Ms. Kalis moved to remand the case to an informal hearing to add possible violations of A.R.S. §32-2044(4), substandard care and of A.R.S. §32-2044(20), failing to maintain adequate patient records. Mr. Sieveke seconded the motion. The Board noted that there are some linkages missing in her documentation and that she isn't recording all of her clinical rationale. The Board discussed its options under A.R.S. §32-2045(B) with respect to issuing a non-disciplinary order prescribing continuing education, conducting an informal hearing and offering Ms. Sorensen a consent agreement. The motion failed by a vote of 1-4. Dr. Cornwall moved to issue Ms. Sorensen a non-disciplinary order requiring that she complete a 6-hour minimum continuing education courses in documentation and a 6-hour minimum continuing education course in differential diagnosis within 6 months of the effective date of the order. Ms. Ohlendorf seconded the motion. The motion carried by a vote of 4-1.

**6. Review and Possible Action on Scheduled Compliance Interview  
Trent Tripp, P.T.**

Ms. Ohlendorf announced that she would recuse herself from the discussion and possible action on this case as she works with Mr. Tripp. Ms. Herbst Paakkonen summarized the status of Mr. Tripp's probation noting that on November 8, 2006 he began his substance abuse recovery and monitoring program. She advised the Board that one of the terms of the monitoring program requires that Mr. Tripp be interviewed by the Board for purposes of reviewing his success with the program and assessing his ability to practice physical therapy with skill and safety. Ms. Herbst Paakkonen stated that Mr. Tripp's previous interviews were conducted on May 22, 2007 and on November 19, 2007; during the latter the Board agreed to reduce the frequency of his attendance at Dr. Michel Sucher's Health Care Professionals recovery program. She noted that Mr. Tripp has been prompt and fully compliant with all of his requirements and that Dr. Sucher's office recently reported that he is doing very well. Mr. Tripp indicated to the Board that he is not asking for any modifications to the consent agreement requirements at this time. He stated that he is still working for HealthSouth Valley of the Sun Rehab Hospital which is going very well, that he doesn't see any changes coming with respect to employment, and that he feels established there. Mr. Tripp advised the Board that the only change he anticipates to his recovery program is that his sponsor is going to be working in India for the summer; he stated that he may need to find a substitute in which case he will notify Ms. Herbst Paakkonen. The Board thanked Mr. Tripp and congratulated him on his accomplishments.

**7. Review and Possible Action on Probation Compliance Status and Termination of Probation**

**#06-18; Patrick Domanico, P.T.**

Ms. Hiller summarized the status of Mr. Domanico's compliance with the Board order issued for this case and reminded the Board of its findings of fact and conclusions of law which consisted of violations of A.R.S. §32-2044(1) failing to obtain informed consent, §32-2044(12) unethical conduct and §32-2044(13) charging unreasonable or fraudulent fees. Ms. Hiller advised the

Board that this matter has been scheduled for Board review for the purpose of determining whether Mr. Domanico will be required to undergo a second round of chart reviews pursuant to the order. The Board reviewed and discussed the selected records that were reviewed by Ms. Hiller for purposes of determining whether he is now complying with A.R.S. §32-2044(20). The Board queried Ms. Hiller on Mr. Domanico’s documentation relative to the plan of care that he establishes for his patients; Ms. Hiller noted that the licensee does appear to follow a plan of treatment at each visit but he doesn’t document a plan of care at the initial visit. Ms. Kalis moved to deny Mr. Domanico’s request for termination of probation and to require him to submit to a second round of chart reviews. Mr. Sieveke seconded the motion. The Board discussed that it would be preferable to see more consistent linkages between the objective findings and the plan of care. The motion carried by a unanimous vote.

**APPLICATIONS FOR LICENSURE & CERTIFICATION**

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

<b>Robert Bacci *</b>	<b>Rita Chorba</b>	<b>Alysha Dixon</b>
<b>Bess Maxwell</b>	<b>Priscilla Park</b>	<b>Maria Plitz</b>
<b>Justin Sampley</b>	<b>Brandon Stubbs</b>	

The Board discussed the application disclosure for Mr. Bacci and noted he had indicated in 1983 one of his employees was the subject of a malpractice case and as the employer he was originally named in the lawsuit as well. Ms. Brierley advised the Board that Mr. Bacci and his attorney stated that no further action was taken against him since the filing of the suit which indicates no decision was taken against him. The Board also discussed the fact that Ms. Maxwell did not indicate any work experience since 2006 on her application. The Board also noted that Mr. Sampley failed to explain a three year gap in employment on his application. Ms. Kalis moved to license all of the listed applicants with the exception of Ms. Maxwell and Mr. Sampley but that licensure shall be conferred to them if a suitable explanation can be provided to Board staff; otherwise, the applications must come back before the Board. Mr. Robbins seconded the motion. The motion carried by a unanimous vote.

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

<b>Barbara Bautch-Smallbrock</b>	<b>Paul Canup</b>	<b>Kevin Massey</b>
<b>Joselito Padaoan</b>		

The Board reviewed the application files and noted that Mr. Massey indicated a three month gap from graduation to certification. Ms. Kalis moved to grant certification to the listed applicants. Dr. Cornwall seconded the motion. The motion carried by a unanimous vote.

**10. Review and Possible Action on Supervised Clinical Practice Period Proposal Shirley McGeehon**

Ms. Brierley advised the Board that the Board had previously conducted a substantive review of Ms. McGeehon’s application and had learned that the applicant has not practiced or been licensed since 2001 while she raised her children. The Board noted that Ms. McGeehon’s proposed supervised clinical practice period (SCPP) is at a pediatric physical therapy clinic. The Board discussed whether the applicant should be required to complete her SCPP at a facility that would provide her with more general exposure to physical therapy practice or whether she should complete this requirement in a facility that allows her the opportunity to specialize her

practice. The Board reviewed and discussed the rule R4-24-204 Supervised clinical practice. Dr. Cornwall moved to approve the SCPP as proposed but that Board staff advise Ms. McGeehon that the Board encourages her to obtain some of her continuing education hours in the areas of general physical therapy, acute care, and differential diagnoses. Ms. Akers seconded the motion. The motion carried by a unanimous vote.

**11. Executive Director's Report – Discussion and Possible Action**

**a. Financial Report:** Ms. Herbst Paakkonen advised the Board that she has informed the Governor's Office of Strategic Planning and Budget that based on the filing of the Citizenship and Alien Status forms, renewal revenue for fiscal year 2009 will fall short of the projections that were made one year ago.

**b. Board Staff Activities:** No additional information to report.

**c. FSBPT News and Initiatives:** The Board reviewed and discussed the report on the Practice Review Tool which was recently piloted in several states including Arizona, noting that participation by Arizona licensees was very good and that the pilot participants would receive a certificate of completion that could be used to demonstrate completion of the required 10 contact hours of Category A continuing competence.

**d. Rule Writing Update:** No additional information to report.

**e. Legislative Update:** Ms. Herbst Paakkonen reminded the Board that Stuart Goodman, legislative liaison, will attend the Board's June 24, 2008 regular session meeting to provide a summary of the 2008 legislative session. She advised the Board that she has not learned of any verifiable updates relative to the Governor's plan to consolidate the administrative functions of the small health boards.

**12. Review and Possible Action on Proposed Substantive Policy Statement: Physical Therapist Continuing Competence Requirements**

The Board reviewed the draft substantive policy statement (SPS) and Ms. Herbst Paakkonen advised the Board that she and Ms. Hiller had made the revisions identified during the previous review and discussion of the document. Ms Herbst Paakkonen noted that while she would have liked to have drafted more helpful language as it relates to the documentation requirements, doing so would likely have constituted an attempt to use the SPS to modify a rule. The Board discussed with the staff how the SPS could be used to educate licensees on the continuing competence requirements. Ms. Kalis moved to adopt the SPS as presented to the Board. Dr. Cornwall seconded the motion. The motion carried by a unanimous vote.

**13. Review and Possible Action on Rulemaking**

**a. Proposed Revisions to Title 4, Chapter 24, Articles 2 and 3**

**b. Possible Revisions to Title 4, Chapter 24, Article 2**

The Board discussed whether to revise the rule R4-24-204. Supervised clinical practice period to stipulate that the prospective employer of an interim permit holder shall not be approved to serve as the SCPP facility or supervisor. The Board discussed concerns relative to conflict of interest on the part of that person. The Board also discussed how such a policy decision might affect large corporations that operate multiple facilities. Additional discussion identified the fact that clinical sites often become employers for new U.S. educated physical therapy graduates. The Board debated how to draw a distinction between an honest supervisor and one who may be motivated to falsify information on the Clinical Performance Instrument (CPI) out of a sense of urgency to assist the Interim Permit holder to become licensed for the purpose of being hired by

the facility. The Board noted that it may not have the authority to impose this type of restriction and asked Ms. Verstegen to research the matter. Ms. Herbst Paakkonen advised the Board that it may want to consider requesting legislative changes to the existing statutes such that one set of requirements is established for foreign educated physical therapists and another is established for reentry applicants. She volunteered to poll her counterparts with other physical therapy boards to inquire into how they have attempted to minimize the potential of conflict of interest on the part of supervisors over Interim Permit holders. The Board also discussed whether to require a disclosure on the part of the proposed Interim Permit supervisor and noted that the supervisor could be investigated under A.R.S. §32-2044(14), Grounds for disciplinary action, “making misleading, deceptive, untrue or fraudulent representations” or under subsection (16) in the same statute, “aiding or abetting a person who is not licensed . . . and who directly or indirectly performs activities requiring a license”. The Board concurred that more research should be done on this subject.

**14. Discussion of and Possible Action on July Meeting Schedule**

Ms. Herbst Paakkonen advised the Board of a scheduling conflict for the July regular session meeting and presented the Board with some alternative options. The Board members agreed by consensus to conduct the substantive review of and possible action on the applications as scheduled on July 22, 2008 during a conference call meeting to be held at 1:00 p.m. The Board rescheduled the regular session meeting to July 15, 2008 with the location of the meeting to be announced soon.

**CALL TO THE PUBLIC**

None

**ADJOURNMENT**

The meeting adjourned at 1:50 p.m.

Prepared by,

Heidi Herbst Paakkonen  
Executive Director

Approved by,

Randy Robbins  
Secretary