

JANET NAPOLITANO
Governor



HEIDI HERBST PAAKKONEN
Executive Director

JONI KALIS, P.T.
President

ARIZONA STATE BOARD OF PHYSICAL THERAPY
4205 NORTH 7TH AVENUE, SUITE 208 PHOENIX, ARIZONA 85013
(602) 274-0236 Fax (602) 274-1378
www.ptboard.state.az.us

REGULAR SESSION MEETING MINUTES
August 26, 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
Karen Donahue, P.T., Contract Investigator
Keely Versteegen, Assistant Attorney General
Christopher Munns, Assistant Attorney General

CALL TO ORDER

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

1. Review and Approval of Draft Minutes:

July 15, 2008; Regular Session Meeting

The Board reviewed the draft minutes and noted no revisions were necessary. Ms. Kalis moved to approve the minutes as drafted. Dr. Cornwall seconded the motion. The motion carried by a unanimous vote.

July 15, 2008; Executive Session Meeting

Ms. Kalis moved to meet in Executive Session for purposes of discussing confidential information. Mr. Robbins seconded the motion. The motion carried by a unanimous vote. Upon resuming the meeting in public session Ms. Kalis moved the Board approved the draft minutes with the corrected typographical error discussed in the Executive Session. Mr. Robbins seconded the motion. The motion carried by a unanimous vote.

July 22, 2008; Special Session Meeting

The Board reviewed the draft minutes and noted no revisions were necessary. Ms. Kalis moved to approve the minutes as drafted. Dr. Cornwall seconded the motion. The motion carried by a unanimous vote.

July 22, 2008; Executive Session Meeting

The Board reviewed the draft minutes and noted no revisions were necessary. Ms. Kalis moved to approve the minutes as drafted. Mr. Robbins seconded the motion. The motion carried by a unanimous vote.

COMPLAINTS, INVESTIGATIONS and COMPLIANCE

2. Informal Hearing and Possible Action on Complaint

#07-22; Nohora Rodriguez, P.T.

Ms. Herbst Paakkonen summarized the complaint allegations and the status of the case. She stated that the case was opened after receiving a complaint from S.R., a former patient of Ms. Rodriguez, who was treated for four sessions in her home following knee surgery. In her complaint S.R. alleged that Ms. Rodriguez did not listen to her complaints of pain during her stretches and that the licensee did not take seriously her pleas to cease stretching when it became to painful. She also alleged that Ms. Rodriguez refused to provide her with adequate notice of her appointment times, and that she used her cellular phone and sent emails during her treatment sessions. Ms. Herbst Paakkonen advised the Board that Ms. Rodriguez had not submitted any additional information since the initial review of the complaint. Ms. Kalis reviewed the purpose and possible outcomes of an informal hearing. Ms. Tanis Eastridge, Court Reporter, swore in Ms. Rodriguez. The licensee made an opening statement in which she commented that she did not believe that any of her actions rose to the level of violating the laws governing the practice of physical therapy. She described how she scheduled the appointments with S.R. and notified her 20 minutes in advance of her anticipated arrival to her home. She stated that she typically spends 45 minutes with the patient, but in the case of S.R. she was not always ready for her sessions which likely affected her perception relative to the length of the session. She described the "hands-on" treatment that she provided and noted that she was sensitive to the patient's reports of pain. She indicated she advised the patient to use her pain management regimen that was prescribed by her doctor to increase her tolerance for her therapy. Ms. Rodriguez stated that she did not use her Blackberry to the extent that was described in the complaint and that she gave her full attention to S.R. In response to the Board's questions she described the protocol that Arizona Home Care, her employer during the time frame she was S.R.'s therapist, uses for scheduling patients and for notifying patients of their anticipated arrival time. Ms. Rodriguez recalled her conversation with S.R. during which they discussed her transfer to outpatient care, and she commented that she felt comfortable with this arrangement; she remembered this conversation taking place over the phone and that S.R. never mentioned any displeasure with her as a therapist. Ms. Rodriguez also stated that the patient was ambulatory and that she knew an outpatient practice could provide her with the modalities she needed. Ms. Rodriguez also stated that she authorized S.R. to provide her new physical therapist with her cellular number in the event he or she had questions. She also affirmed that the patient could request copies of her records be transferred. Ms. Rodriguez noted that she was unaware that S.R. was unhappy until she received the notice of complaint opening from the Board. Ms. Rodriguez recalled for the Board the advice that she gave to the patient relative to timing her pain medication and using ice after the session. The Board noted that the instructions were not in the treatment record, but Ms. Rodriguez affirmed that she always provides that information to patients. In response to Board questioning she stated that she did encourage the patient to hold her stretches, but that allowed the patient to release the stretch when she was in obvious pain. She further commented that the patient never told her that she couldn't take a particular level of pain. Ms. Rodriguez acknowledged that the rehabilitation process is painful and that the patient's tolerance for pain was obviously lower than for most. She recalled that S.R.'s husband was present for the treatment sessions, but was always in other areas of the home or outside. Ms. Rodriguez commented that she must include the family in her patients' plan of care and that she felt her discussions with S.R.'s husband were mutually understood. She admitted that on one occasion she accepted a telephone call from a physician and advised S.R. that she had to accept that incoming call. She also noted that she replied to one email from Arizona Home Care because the agency needed an immediate affirmation that she could accept a new patient. Ms. Rodriguez stated that she chose an appropriate time during those treatment sessions to engage in those

communications. She noted that she receives emails from the office throughout the day. In response to the Board's questions she indicated that S.R. did not indicate to her that she was displeased with her taking that particular call or responding to the email. Ms. Rodriguez admitted that there could be mistakes in the record between R ("right") and L ("left") as she treats many knee patients. She described the electronic records system that is used by Arizona Home Care and how she enters information into her daily notes. Ms. Rodriguez reiterated that S.R. was never ready for her sessions and that she believes S.R. is of the impression that she only spent 20 minutes with her because that represents the time they spent actively stretching; the rest of the time was spent encouraging her to be ambulatory and transferring. Ms. Rodriguez's attorney, Gordon Lewis, offered a closing statement asking the Board to find that Ms. Rodriguez did not violate the law as she met the standard of care with the patient. He asked the Board find that Mr. Rodriguez's actions were appropriate and asked the complaint be dismissed. Dr. Cornwall moved to dismiss the allegations associated with A.R.S. §32-2044(4), providing substandard care. Ms. Kalis seconded the motion. The Board noted the challenges that providing physical therapy care in the home health arena presents but discussed that there isn't any evidence that Mr. Rodriguez fell below the standard of care. The motion carried by a unanimous vote. The Board reviewed the remaining jurisdiction of A.R.S. §32-2044(12), failing to adhere to the recognized standards of ethics, and discussed the fact that while there are some things that Ms. Rodriguez could have done better, her conduct doesn't appear to rise to the level of a violation. The Board discussed whether it is appropriate for the home health agency to require an immediate response to an email, but noted that the licensee was obligated to do so by her employer. The Board deliberated the topic of whether outpatient physical therapy practices should expect proactive contact from the discharging home health therapist and whether Ms. Rodriguez should have asked S.R. for permission to accept a call and reply to the email. Ms. Kalis moved to dismiss the remaining allegations of the complaint. Mr. Robbins seconded the motion. The motion carried by a unanimous vote.

3. Initial Review and Possible Action on Complaint #08-05; William Perry, P.T.

Ms. Herbst Paakkonen summarized the complaint and reviewed the investigative report for the complaint. She reminded the Board that this complaint was opened following the informal hearing for complaint #07-09; Alicia Peavey, P.T. Ms. Herbst Paakkonen noted that during the hearing Ms. Peavey stated that without her knowledge or consent, and affirmed by Mr. Perry in a letter he submitted to the Board, Mr. Perry recreated several treatment notes in the records for Ms. Peavey's patient (and the complainant for #07-09) using information from other notes to reconstruct entries for electronic notes that he says were lost when a computer was stolen in January 2007. Ms. Peavey also testified that Mr. Perry changed her billing documentation such that S.B.'s charges for many dates of service do not reflect the treatment provided or marked by Ms. Peavey. Ms. Herbst Paakkonen called to the Board's attention the possible jurisdiction and summarized the response to the complaint submitted by Mr. Perry. She advised the Board that while it isn't listed on the current meeting agenda, complaint #07-18 concerning Mr. Perry was previously remanded to an informal hearing and that if an informal hearing is required to resolve this case, the two could be combined and conducted together. Mr. Perry was present and advised the Board that he has recently learned that his previous billing staff had altered a number of charges inappropriately and that he has since terminated the staff. He indicated that he and his new billing manager have reviewed the files and found that there were both over and under charges and that in the case of overcharging they are refunding them. The Board noted that there were a number of questions associated with this case that are most appropriately explored in an informal hearing. Ms. Kalis moved to remand the case to an informal hearing and to combine it with #07-18. Mr. Robbins seconded the motion. The motion carried by a unanimous vote.

**4. Initial Review and Possible Action on Complaint
#08-08; Patrick Marmon, P.T.A.**

Ms. Herbst Paakkonen summarized the investigative report for the case noting that was opened in response to a complaint from a physical therapist who reported concerns that Mr. Marmon was working as a physical therapist assistant at Archstone Nursing and Rehab but his wall certificate at the facility indicates he is licensed in Ohio. The complainant also reported that the part-time physical therapist working at Archstone refuses to supervise Mr. Marmon so a physical therapist at another facility is apparently his supervisor and evaluates the patients, although she doesn't see the patient every fourth visit. Ms. Herbst Paakkonen advised the Board that the possible jurisdiction for the complaint was listed in the investigative report, and she summarized Mr. Marmon's response to the complaint. She called to the Board's attention the written statements that were provided by Vicki Beaudet, P.T. and Jessica Berry, P.T. in which they describe their supervisory arrangements with Mr. Marmon. Ms. Herbst Paakkonen also advised the Board that Ms. Hiller conducted a site visit at Archstone during which she reviewed a number of randomly selected physical therapy patient charts; her review found that Mr. Marmon was documenting his supervising physical therapist in accordance with Board rule. Mr. Marmon was present for the review of the case and was granted permission to make a statement to the Board. Mr. Marmon advised the Board that he simply made a mistake by posting his Ohio wall certificate at Archstone and once the error was discovered it was promptly removed and the Arizona certificate was posted. In response to the Board's questions the certificate holder stated that he believed the facility was in compliance with the law as it relates to general supervision of physical therapist assistants. He indicated that Ms. Berry, his off-site supervisor, and he worked a similar schedule and engaged in telecommunications concerning patient care whenever it was needed. The Board discussed that the role of Ms. Beaudet who works onsite at the facility, and that of Ms. Berry isn't very clear as it relates to how supervision is provided to Mr. Marmon. The Board reviewed A.A.C. R4-24-303(F)(4) and noted that the patient records reviewed by Ms. Hiller indicate that Ms. Beaudet is the therapist providing the 4th treatment visit, but questioned whether the law considers her to be the supervisor of Mr. Marmon. The Board debated whether any of Mr. Marmon's actions could have constituted a violation of law. Ms. Kalis moved to issue an advisory letter to Mr. Marmon that will address his failure to inform the Board of the change to his work address, the erroneous posting of the Ohio wall certificate, and that will serve as a reminder that he understand and comply with the law as it relates to general supervision of physical therapist assistants. Mr. Sieveke seconded the motion. The motion carried by a unanimous vote. Ms. Ohlendorf moved to open an investigation into Ms. Beaudet and Ms. Berry with the following jurisdiction: A.R.S. §32-2044(1) as it relates to A.A.C. R4-24-303 and A.R.S. §32-2043, and A.R.S. §32-2044(6), failing to supervise assistive personnel. Ms. Kalis seconded the motion. The Board advised Ms. Herbst Paakkonen that the investigation should further explore the supervisory arrangements at Archstone and indicated that further review of additional patient records is not necessary. The Board also directed staff to obtain copies of the facility policies, procedures, and protocols for assistive personnel supervision and patient care management, and explore the role of the other therapists working in the facility in terms of who is supervising the identified assistive personnel. The motion carried by a unanimous vote.

**5. Review and Possible Action on Voluntary Surrender of Licensure
#08-02; Margaret (Peggy) Gurnett, P.T.**

Christopher Munns, Assistant Attorney General, was present to advise the Board as the case is in formal hearing status. Ms. Herbst Paakkonen reminded the Board that it had previously voted this case to a formal hearing to seek a revocation of Ms. Gurnett's license as she had violated the terms of her substance abuse monitoring and recovery program established through a consent agreement. Specifically, Ms. Gurnett was ordered to abstain from using alcohol but in May had been charged with a DUI, and she had also made some false statements to the Board. Ms. Herbst

Paakkonen indicated that the formal hearing was scheduled for August 28, 2008 but after she received the complaint and notice of formal hearing Ms. Gurnett emailed her indicating that she was willing to surrender her physical therapist license. Ms. Herbst Paakkonen explained that she prepared a proposed consent agreement using the same findings of fact and conclusions of law from the complaint and notice of formal hearing and sent it to Ms. Gurnett who in turn signed it and returned it to the Board office. She advised that the formal hearing will proceed as scheduled if the Board decides to reject the consent agreement. The Board inquired into Ms. Gurnett's current treatment status; Ms. Herbst Paakkonen indicated that at last report she was receiving some residential and counseling services in Phoenix through Crossroads but that she didn't have any information relative to Ms. Gurnett's treatment or recovery program. Dr. Cornwall moved to accept the consent agreement. Ms. Kalis seconded the motion. The motion carried by a unanimous roll call vote.

APPLICATIONS FOR LICENSURE & CERTIFICATION

6. Review and Possible Action on Administrative Law Judge Recommendation for Application Denial Hearing Frances Wright

Mr. Munns was present for the Board's deliberation and action on this matter. The Board noted that Ms. Wright was not present for the review and possible action concerning this agenda item. Ms. Versteegen indicated she was present representing the State of Arizona concerning this application denial. She reminded the Board that it had previously voted to deny the application of Ms. Wright and that the applicant appealed the decision which resulted in a hearing by the Arizona Office of Administrative Hearings. She advised the Board that the Administrative Law Judge (ALJ) has affirmed the Board's decision and recommended the Board adopt it. Dr. Cornwall moved to adopt the findings of fact listed in the ALJ recommendation. Mr. Robbins seconded the motion. The motion carried by a unanimous vote. Mr. Sieveke moved to accept the conclusions of law indentified by the ALJ. Ms. Kalis seconded the motion. The motion carried by a unanimous vote. Ms. Kalis moved to accept the recommended order. Dr. Cornwall seconded the motion. The motion carried by a unanimous vote.

7. Review and Possible Action on Disclosure on Licensure or Certification Renewal Application

Matt Anderson, P.T.A.

Ms. Herbst Paakkonen advised the Board that Mr. Anderson resides out of state as he is a traveling physical therapist assistant. The Board noted that the DUI conviction he reported was a singular event and discussed the fact that he provided evidence that he completed his court-ordered terms and he has modified his behavior. Ms. Kalis moved to grant Mr. Anderson renewal of his physical therapist assistant certificate. Mr. Robbins seconded the motion. The motion carried by a unanimous vote.

Mark Balch, P.T.

Mr. Balch was present for the Board review and discussion. Mr. M. Brent Peugnet, attorney for Mr. Balch, advised the Board that he submitted the materials concerning Mr. Balch's disclosure of a malpractice lawsuit filed against him and noted the case is in active litigation. He stated that he and his client are actively denying the allegations and that an expert witness has affirmed that Mr. Balch met the standard of care with the patient and that he could not have caused any injuries the patient may have incurred. The Board asked Ms. Versteegen to provide advice relative to how to review allegations of malpractice. Ms. Versteegen stated that the Board can consider the allegations and determine whether any information exists to suggest that renewal of the license should be denied, but that the evidence should be very compelling. She further advised that the Board can open its own investigation into the case, but it may find that a challenge when the case

is in the early stages. The Board discussed the fact that the outcome of malpractice cases can be reported to the Board through a variety of channels. Ms. Kalis moved to grant Mr. Balch renewal of his physical therapist license. Dr. Cornwall seconded the motion. The motion carried by a unanimous vote.

John Burton, P.T.

The Board noted that Mr. Burton was not present for the Board's review and discussion of his application disclosure that he was cited by the Physical Therapy Board of California for failing to notify that agency of his change of address. Ms. Kalis moved to grant Mr. Burton renewal of his physical therapist license. Mr. Robbins seconded the motion. The motion carried by a unanimous vote.

Jennifer Guerena, P.T.

Ms. Guerena was present for the review of her application but indicated that she did not need to make a statement unless the Board had questions. The Board discussed the fact that the malpractice lawsuit has not yet been adjudicated but that there was no evidence to indicate that Ms. Guerena's license should not be renewed, nor does the Board need to open an investigation at this time. Mr. Sieveke moved to grant Ms. Guerena renewal of her physical therapist license. Mr. Robbins seconded the motion. The motion carried by a unanimous vote.

Jennifer Hallquist, P.T.

The Board noted that Ms. Hallquist was not present for the Board's review and discussion but that she had disclosed on her renewal application that she was convicted of extreme DUI. The Board discussed the fact that she had provided a statement indicating that she has changed her conduct since this event and that her documentation indicates she met all of the requirements of her sentence. Dr. Cornwall moved to grant Ms. Hallquist renewal of her physical therapist license. Ms. Kalis seconded the motion. The motion carried by a unanimous vote.

Jon Harris, P.T.

Ms. Herbst Paakkonen called to the Board's attention the letter Mr. Harris submitted which indicated that he would have been present for the review and discussion of his application disclosure, but a health-care related commitment to a family member precluded him from doing so. The Board reviewed and discussed the documentation Mr. Harris' attorney submitted on his behalf relating to a malpractice allegation. The Board noted that the insurance company of Mr. Harris' former employer forced the settlement against the licensee's wishes. The Board determined there was no evidence to either deny the licensure renewal or to open an investigation. Mr. Sieveke moved to grant Mr. Harris renewal of his physical therapist license. Ms. Akers seconded the motion. The motion carried by a unanimous vote.

Melissa Korey, P.T.

Steve Benson introduced himself as the licensee's attorney and father and thanked the Board for reordering the agenda to accommodate Ms. Korey and her infant. Mr. Benson described the licensee's academic and professional background. He characterized the matter that she disclosed on her application as a domestic argument and noted that the Scottsdale Police Department has a very strict policy of arresting at least one member of a party to a domestic disturbance. He stated that the matter has been resolved and that she met her court-ordered requirements. Ms. Herbst Paakkonen summarized the Board's options relative to taking action on the renewal application in light of the disclosure made. Ms. Korey advised the Board that prior to her arrest she had discontinued her anti-anxiety medications in hopes of becoming pregnant. She engaged in an argument with her husband and he called the police out of concern for her well-being. She noted that most of the charges were dropped and that the counseling program in which she participated was helpful. She also reported that today she is doing well. Ms. Kalis moved to renew the license of Ms. Korey. Dr. Cornwall seconded the motion. The motion carried by a unanimous vote.

Stacy Lynch, P.T.A.

The Board noted that the disclosure made by Mr. Lynch on his physical therapist assistant renewal application contained the same information and documentation as the malpractice case

concerning Ms. Guerena. Dr. Cornwall moved to renew the certificate of Mr. Lynch. Mr. Sieveke seconded the motion. The motion carried by a unanimous vote.

Dorinda Kroymann-Moens, P.T.

Ms. Kroymann-Moens was present for the Board's review of her licensure renewal disclosure that she has been named in a malpractice complaint. She reported that she works for a school district but was out sick on the day in question when the student and subject of the malpractice complaint was placed in a supine stander by a substitute nurse and later it was discovered that the student had broken bones in his legs. She stated that she is named in the lawsuit because she is on the student's Individual Education Plan and has attempted to present evidence that she should be removed from the suit but this action has not yet occurred. Ms. Kroymann-Moens explained that the student has severe osteoporosis and the injury could actually have occurred prior to the date he was placed in the stander. Dr. Cornwall moved to renew the license of Ms. Kroymann-Moens. Mr. Robbins seconded the motion. The motion carried by a unanimous vote.

Richard Nez, P.T.

Mr. Nez indicated he was present and available to answer the Board's questions. He reported that he was arrested in August of 2007 following a domestic dispute between he and his wife that involved shouting and pushing. Mr. Nez indicated that was the arrested party because his wife placed the call. He explained that he agreed to the sentencing terms, completed the court-sponsored counseling program, and accordingly the case was dropped. In response to the Board's questions he stated that the counseling program was helpful in that it addressed some cultural issues and helped him and his wife better understand and work through their differences. He advised the Board that he had never before been arrested and it was an "eye-opening" and humiliating experience to go through, but that as a result of this experience he believes he has improved himself. Mr. Sieveke moved to grant licensure to Mr. Nez. Dr. Cornwall seconded the motion. The motion carried by a unanimous vote.

Sheryl Viltrakis (Blocker), P.T.

Ms. Viltrakis was present for the Board's review of the disclosure of her domestic violence arrest. She advised the Board that she had a premature baby early in 2007 and that her husband also suffered a head injury which caused problems in their marriage. Ms. Viltrakis commented that they separated and were working on their problems, but on one occasion when he failed to join their family for dinner she went looking for him and in the process found evidence of him doing drugs and having an affair. She relayed to the Board that in the confrontation she struck their car which resulted in police involvement with her being arrested for domestic violence and him for the same in addition to possession of drug paraphernalia. She described to the Board her court-ordered counseling and noted that she has moved on with her life. Ms. Kalis moved to grant renewal of licensure to Ms. Viltrakis. Dr. Cornwall seconded the motion. The motion carried by a unanimous vote.

Susan Wynsma-Best, P.T.A.

The Board discussed the documentation submitted by Ms. Wynsma-Best relative to her disclosure on her application that she was the subject of a domestic violence charge. Ms. Herbst Paakkonen advised the Board that the certificant lives and works in California but noted that she did not submit a written statement describing the event from her perspective. Dr. Cornwall moved to direct staff to obtain a written statement from Ms. Wynsma-Best relative to this matter and to provide an update on the status of the case. Mr. Robbins seconded the motion. Ms. Herbst Paakkonen advised the Board that because she filed a timely application the certificate does not lapse pursuant to A.R.S. §41-1092.11. The motion carried by a unanimous vote.

8. Review and Possible Action on Disclosure on Licensure Renewal Application and Request for Waiver of Continuing Competence Requirement

Mary Dawson, P.T.

The Board discussed the fact that Ms. Dawson was making the same request as she did in 2006 which consists of a renewal of her license with the practice restriction due to her Multiple Sclerosis and a waiver of her continuing competence requirements. Dr. Cornwall moved to offer Ms. Dawson the same consent agreement that was executed in 2006 which renews her license with the practice restriction and grants the waiver. Mr. Robbins seconded the motion. The Board noted that in these instances, a licensee's competence would be assessed before he or she would be granted an unrestricted license. The motion carried by a unanimous vote.

Nancy Hauser, P.T.

The Board reviewed the continuing competence partial waiver request submitted by Ms. Hauser and noted that due to her being diagnosed with back-to-back episodes of cancer she has completed only 12 of the required 20 continuing competence contact hours. Ms. Herbst Paakkonen clarified for the Board that the licensee is expected to complete the requirements beginning for the 2008-2010 licensure period unless she comes back to the Board at this time in 2010 and provides evidence that she qualifies for another waiver. Ms. Kalis moved to grant Ms. Hauser a waiver of the remaining 8 continuing competence contact hours for the 2006-2008 licensure period. Mr. Sieveke seconded the motion. The motion carried by a unanimous vote.

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

Absmeier-Koppenhafer, Ashley	Amedro, Angela	Barnes, Dwight
Buckingham, Jacelyn	Espeland, Megan	Framel, Stephanie
Heim, Peggy	Hunt, Thomas	Kasal, Nicholas
Lin, Andy	Lybarger, Christopher	McCarthy, Rachel
Onnen, Lisa	Permar, Gage	Plotkin, Andrea
Rivera, Jennifer	Schardt, Justin	Schuster, Kari
Towle, Adaline	Walker, Kenisha	Weins, Gayle
Zapolski, Mary	Zielinski, Christina	Petty, Tyler

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

Ms. Herbst Paakkonen explained that while the Illinois Physical Therapy Board has faxed the verification of Ms. Rivera's license in that state, that agency had not yet mailed the original; she advised that the Board's policy is to delay the issuance of the license until the original is received. Dr. Cornwall stated for the record that Ms. Buckingham and Mr. Permar are former students but that he is able to vote on their applications without bias. Ms. Kalis moved to license all of the listed applicants with the exception of Ms. Rivera with the effective date of September 1, 2008 and that Ms. Rivera's license will be granted upon receipt of the original Illinois verification. Mr. Sieveke seconded the motion. The motion carried by a unanimous vote.

9(B). Substantive Review and Possible Action on Applications for Physical Therapist Assistant Certification

Douglas, Jason	Fettig, Carrie	Gray, Lenna
Hernandez, Luisa	Hester, Julie	Jama, Ruun
Ortiz, Patricia	Phernetton, Leslie	Schupmann, Christine

Ms. Ohlendorf stated for the record that she was a clinical supervisor for Ms. Hester but that she is able to vote on the application without bias. Ms. Kalis moved to grant certification to the listed applicants with the effective date of September 1, 2008. Dr. Cornwall seconded the motion. The motion carried by a unanimous vote.

9(C) Request for Accommodation to the National Physical Therapy Examination In Accordance with the Americans with Disabilities Act

Ashley Clark

The Board reviewed the application file and her documentation supporting her request for the accommodation for the National Physical Therapy Examination and noted that the information was complete and very thorough. Ms. Kalis moved to approve the requested accommodation of time-and-a-half with which to take the NPTE. Dr. Cornwall seconded the motion. The motion carried by a unanimous vote. Ms. Verstegen advised the Board that because due to the way this matter is described on the agenda the Board cannot grant certification upon receipt of a passing score. Ms. Herbst Paakkonen stated that she will track this applicant's timing with respect to her taking and passing the NPTE and will request a quorum of Board members participate in a teleconference substantive review of the application and vote on her certification if waiting for the next regular session meeting forces Ms. Clark to wait beyond the required time frames for the approval of her certificate.

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

R. Lauren Green, P.T.

David Higgins, P.T.

Lynne Maffeo, P.T.

Pamela Neuharth, P.T.

Ms. Herbst Paakkonen advised the Board that the listed licensees all reinstated their Arizona physical therapist licenses within the last 90-120 days and were therefore subject to the audit. Ms. Kalis moved to find Ms. Green, Ms. Maffeo and Ms. Neuharth in compliance with the requirements based on the recommendations of the Continuing Competence Audit Committee. Dr. Cornwall seconded the motion. The motion carried by a unanimous vote. Ms. Herbst Paakkonen clarified that Mr. Higgins had submitted evidence of having completed at least 20 contact hours of continuing competence activities, but none of the activities qualified as Category A activities rendering him deficient the 10 hours required in that category. Ms. Kalis moved to find Ms. Higgins out of compliance with the continuing competence requirements specific to the 10 hours required in Category A, but that the Board grant him 6 months to come into compliance pursuant to A.A.C. R4-24-401(J). Mr. Sieveke seconded the motion. The motion carried by a unanimous vote.

BOARD BUSINESS AND REPORTS

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

a. Financial Report: The Board commented on Ms. Herbst Paakkonen's accuracy relative to revenue projections and actual revenues. The Board noted that the substantial balance of unspent funds from the FY 2008 appropriation could either be spent before June 30, 2009 or could roll back into the agency fund. The Board agreed by consensus that for now the funds should not be obligated.

b. Board Staff Activities: Ms. Herbst Paakkonen advised the Board that the last two weeks of August has not seen a dramatic increase in licensure and certification renewal application as has been the case in years past which is a positive development. She stated that physical therapist renewals will exceed her projections by a modest amount while physical therapist assistant renewals have far exceeded expectations. In response to the Board's questions, Ms. Herbst Paakkonen indicated that the percentage of licensees and certificate holders renewing online is only about 45% and that the staff continues to receive multiple reports each day from applicants who report problems using the online application.

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

d. Rule Writing Update: The Board reviewed and discussed the report prepared by Ms. Herbst Paakkonen that ranks the states according to fees charged for renewal of physical therapist licenses and physical therapist licenses/certificates. The Board noted that generally the autonomous or independent boards tend to charge higher fees, but commented that it is likely that the consolidated umbrella agencies either rely in some part on monies from their states' general funds or "pooled" funds from a number of professions. The Board expressed surprise that administrators and boards in some states are unaware of how much revenue is generated by physical therapy renewal fees and that they are also unaware of their agency budgets appropriations or expenditures.

e. Legislative Update: No additional information to report.

12. Review of and Possible Action on Response to Proposed "Modern Health Board" Consolidation Plan

The Board discussed the fact that its statutes do not allow it to be forced into a consolidated board and questioned what "stick" the Governor's staff and the Department of Administration actually have in order to coerce the Board to sign an interagency agreement for the purpose of consolidation. Ms. Herbst Paakkonen advised the Board that to the best of her knowledge, none of the other ten "Modern Health Boards" have elected to consolidate. The Board commented that the proposed plan that was released in May has not been updated and continues to contain many inadequacies – notably that it lacks accurate data and evidence demonstrating that the public will be better served or protected by a consolidated board. The Board discussed the possible ramifications should it issue the draft response which opts the agency out of the consolidation plan. Ms. Herbst Paakkonen stated that she and Dr. Cornwall plan to attend the next meeting on this topic arranged by Tracy Hannah for September 4, 2008. The Board agreed by consensus to delay the issuance of the draft response to Ms. Hannah until after this meeting and to revisit this matter again on its September regular session meeting agenda.

13. Review of and Possible Action on Request for Scope of Practice Advisory Opinion – Intramuscular Stimulation

Ms. Herbst Paakkonen advised the Board that it has been several years since it had received a written request for an advisory opinion on whether a certain treatment or modality was within the scope of practice of physical therapy in Arizona. She explained that approximately 8-10 years ago this Board would issue such opinions but that the Attorney General's office advises boards and agencies to refrain from doing so. Ms. Verstegen advised the Board that the possible harm outweighs any potential good that can come from issuing an opinion. She noted that a future board could disagree with this Board's opinion but because it is public record it is stuck with that determination. She also advised that an advisory opinion could come back to haunt a board because it may have been issued under circumstances whereby it does not necessarily have all of the facts and circumstances. She also stated that advisory opinions restrict a board in a way they don't want to be restricted. Finally she commented that this request is asking for a legal opinion that a board cannot give. The Board discussed the fact that in the future it could consider statutory changes that expand on the definition of A.R.S. §32-2001(11) which defines the practice of physical therapy. The Board directed Ms. Verstegen to write a letter to the author of the advisory opinion request stating that its practice is to refrain from issuing advisory opinions. The Board further directed staff to issue the same letter to any future advisory opinion requests.

14. Scheduling of November and December 2008 Board Meetings

The Board reviewed the calendars for November and December and agreed by consensus to hold its November regular session meeting on the 23rd and the December regular session meeting on the 18th.

15. Review and Possible Approval of Proposed Fiscal Year 2009 Budget

Ms. Herbst Paakkonen advised the Board that in recent years it has reviewed and approved the agency budget and she called to the Board's attention the justifications that she has prepared that describe the anticipated costs and how they break down in order to provide more explanation. She noted that the Board reviewing and approving the budget provides some transparency to the process. The Board asked for clarification relative to the contract investigator, formal hearing, printing and postage expenses. Ms. Kalis moved to approve the proposed budget for the agency for the fiscal year 2009. Mr. Robbins seconded the motion. The motion carried by a unanimous vote.

CALL TO THE PUBLIC

None.

ADJOURNMENT

The meeting adjourned at 12:25 p.m.

Prepared by,

Heidi Herbst Paakkonen
Executive Director

Approved by,

Randy Robbins
Secretary