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Governor



CHARLES D. BROWN
Executive Director

JONI KALIS, P.T.
President

ARIZONA STATE BOARD OF PHYSICAL THERAPY
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**REGULAR SESSION MEETING MINUTES
(September 22, 2009)**

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

MEMBERS ABSENT: Kris Ohlendorf, P.T.A., Member

OTHERS PRESENT: Charles D. Brown, Executive Director
Paula Brierley, Licensing Administrator
Karen Donahue, Board Investigator
Keely Verstegen, Assistant Attorney General

CALL TO ORDER – 8:30 a.m.

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

- 1. Review and Approval of Draft Minutes
 - a. August 25, 2009; Regular Session Meeting Minutes

Ms. Kalis opened the agenda item for discussion and asked if any Board member had any corrections for the minutes as presented. No Board member expressed any need for corrections to the minutes. Ms. Kalis moved the Board approve the minutes as presented. Dr. Cornwall seconded the motion. The motion carried by unanimous vote.

Vote	Ms. Kalis	Dr. Cornwall	Mr. Robbins	Mr. Sieveke	Ms. Akers	Ms. Ohlendorf
Aye	X	X	X	X	X	
Nay						
Recused						
Abstained						
Absent						X

- b. August 25, 2009; Executive Session Meeting Minutes (11:30 a.m. to 11:48 a.m.)

Ms. Kalis opened the agenda item for discussion and asked if any Board member had any corrections for the minutes as presented. No Board member expressed any need for corrections to the minutes. Ms. Kalis moved the Board approve the minutes as presented. Dr. Cornwall seconded the motion. The motion carried by unanimous vote.

Vote	Ms. Kalis	Dr. Cornwall	Mr. Robbins	Mr. Sieveke	Ms. Akers	Ms. Ohlendorf
Aye	X	X	X	X	X	
Nay						
Recused						
Abstained						
Absent						X

COMPLAINTS, INVESTIGATIONS and COMPLIANCE

Ms. Kalis stated that she would take some matters on the agenda out of order. The next item was taken out of order.

- 5. Review of Consent Agreement and Possible Action on Complaint #09-12;
Sarah Nemec, P.T.

Ms. Kalis opened the next item for discussion. Mr. Brown provided the Board with a brief summary of the matter. On July 28, 2009, the Board reviewed the case against Ms. Nemec for failing to respond to an audit of continuing competence activities within 30 days and for failing to take the required 20 hours of continuing competence activities as required by law. Ms. Nemec was originally found in compliance based on the Board’s incorrect substantive policy statement which was revised in July 2009.

Staff offered Ms. Nemec a consent agreement following the July Board meeting; however, Ms. Nemec requested the Board add additional language to the consent agreement which which provided additional details to the findings of fact. Ms. Nemec has now signed a revised consent agreement, which requires the Board’s approval since the language is not the exact language as approved on July 28, 2009. No Board member objected to the revised language. Ms. Kalis moved the Board approve the revised consent agreement for Sarah Nemec, P.T. in complaint #09-12. Ms. Akers seconded the motion. The motion carried by unanimous vote.

Vote	Ms. Kalis	Dr. Cornwall	Mr. Robbins	Mr. Sieveke	Ms. Akers	Ms. Ohlendorf
Aye	X	X	X	X	X	
Nay						
Recused						
Abstained						
Absent						X

The next agenda item was taken out of order.

- 9. Initial Review, Discussion and Action on Complaint #09-24
Jeffrey Fahrenbruch, P.T.

Ms. Kalis opened the matter for discussion. Dr. Cornwall and Ms. Kalis stated they know Mr. Fahrenbruch, but both members stated they had no bias or conflict. Mr. Fahrenbruch was present, but did not come forward to address the Board. Ms. Donahue provided the Board with a summary of the complaint.

This complaint was received from G.R. who alleged that he received improper treatment on June 20, 2007, when Mr. Fahrenbruch manipulated his lumbar spine, allegedly causing further injury to G.R.’s lumbar region. G.R.’s complaint states that he injured his back and was referred to Mr. Fahrenbruch for treatment by his family physician. G.R. claims that the evening prior to his last physical therapy session on June 20, 2007 he “felt and heard a pop and immediately felt relief of his symptoms. I woke up the next morning and felt great.” G.R. called Mr. Fahrenbruch’s office to cancel his appointment. He states that Mr. Fahrenbruch advised him to attend his last session saying that “the tissues around my lower back were probably still swollen and that another treatment would be beneficial.” G.R. reports that on June 20, 2007, Mr. Fahrenbruch in addition to his usual treatment, manipulated his spine. Following this manipulation and treatment G.R. experienced “trouble walking

again and my mobility wasn't there anymore but the pain was different than it had been prior". G.R. alleges that the treatment provided to him on June 20, 2007 increased the severity of his symptoms leading to a long term decrease in function/ADL's/recreational activities. Ms. Donahue ended her summary.

Dr. Cornwall noted that the patient record for G.R. did not appear to contain a discharge summary. In addition, Dr. Cornwall noted that the manipulation to G.R.'s back may not have been improper. Ms. Kalis stated that if a patient calls and claims they are now fine a manipulation may not be necessary and the patient could have been discharged. Mr. Sieveke noted that he did not necessarily feel the manipulation to G.R.'s back was improper, but stated he may have wished to see a better assessment before conducting the manipulation. Mr. Sieveke noted that there appears to be problems with documentation.

Ms. Kalis noted that Mr. Fahrenbruch could have considered more testing of the patient. In addition, Ms. Kalis stated Mr. Fahrenbruch failed to document a description of the modalities performed on G.R. and failed to indicate which vertebrae were mobilized. Ms. Akers stated that she felt that the documentation issues were more of a concern than the manipulation in question. The Board discussed its options in moving the complaint forward. Ms. Kalis moved the Board forward complaint #09-24 against Jeffrey Fahrenbruch to an Informal Hearing. Mr. Sieveke seconded the motion. The Board entered discussion. Ms. Akers stated that she felt the matter could be handled with a non-disciplinary order for continuing education. Dr. Cornwall agreed with Ms. Akers. Mr. Sieveke noted he had concern with the lack of communication with the patient. Ms. Kalis called the motion to a vote. The motion passed with 3 voting Aye and 2 voting Ney.

Vote	Ms. Kalis	Dr. Cornwall	Mr. Robbins	Mr. Sieveke	Ms. Akers	Ms. Ohlendorf
Aye	X		X	X		
Nay		X			X	
Recused						
Abstained						
Absent						X

Ms. Kalis took the next item out of order.

Consent Agenda; Review, Consideration and Action

11. Applications For Licensure & Certification

Ms. Kalis asked if any Board member had identified an applicant for removal from the consent agenda. Ms. Kalis removed Karen Asvitt from item 11(A) and Dr. Cornwall removed Margareli Rodriguez from item 11(B). Ms. Kalis moved that the consent agenda be approved as modified. Dr. Cornwall seconded the motion. The motion carried by unanimous vote.

11(A). Substantive Review, Consideration and Action on Applications for Physical Therapist Licensure

Aarsby, Heidi	Anastos, Barbara	
Brooks, Danna	Castleton, Tyler	Dosch, Aimee
DoVico, Michael	Gallagher, Colette	Gilmore, Lynnette
Gonzales, Arnold	Griffin, Stacy	Haws, Nancy
Hefferon, Eric	Jaramillo, Juan	Judd, Tanner
Knable, Barbara	Madison, Tiffany	Magovich, Margaret
Marx, Sarah	Mazur, Megan	McDonough, Brian
Mills, Kasey	Nall, Tiffany	Nelson, Andrea

Newton, Courtney	Rojas, Julia	Rubin-Deloney, Makkeda
Schlesselman, Kathryn	Schumacher, Cyle	Short, Kirk
Stegle, Kathy	Tribe, Lindsay	Vaughn, Anda
Wagoner, Michelle	West, Kyle	

11(B). Substantive Review, Consideration and Action on Applications for Physical Therapist Assistant Certification

Cruz, Armando	Davis, Peter	Forcier, Kelley
Looney, Shirley		Ryberg, Marianne

Vote	Ms. Kalis	Dr. Cornwall	Mr. Robbins	Mr. Sieveke	Ms. Akers	Ms. Ohlendorf
Aye	X	X	X	X	X	
Nay						
Recused						
Abstained						
Absent						X

11(A). Substantive Review, Consideration and Action on Applications for Physical Therapist Licensure

Asvitt, Karen

Ms. Kalis stated that Ms. Asvitt had a prior license in Arizona which required the Board to use A.R.S. §32-2028(B) when approving a license of someone who was previously licensed in Arizona. Ms. Asvitt was present and came forward to address the Board. Ms. Asvitt stated she has not practiced for a number of years, but would like to return to work. Dr. Cornwall asked Ms. Asvitt if she had completed any continuing education after her license lapsed. The Board discussed its options under A.R.S. §32-2028(B) to include remedial courses and requiring an examination. Dr. Cornwall moved that the Board require Ms. Asvitt to take the General Practice Review Tool provided by the Federation of State Board's of Physical Therapy and take 30 hours of remedial continuing education courses. Once Ms. Asvitt has completed her requirements, her application will be reviewed by the Board. Ms. Kalis seconded the motion. The motion carried by unanimous vote.

Vote	Ms. Kalis	Dr. Cornwall	Mr. Robbins	Mr. Sieveke	Ms. Akers	Ms. Ohlendorf
Aye	X	X	X	X	X	
Nay						
Recused						
Abstained						
Absent						X

11(B). Substantive Review, Consideration and Action on Applications for Physical Therapist Assistant Certification

Rodriguez, Margareli

Dr. Cornwall noted that Ms. Rodriguez applied for certification as a physical therapist assistant, but that she was a graduate of a physical therapist program and therefore did not meet certification requirements under the law. Dr. Cornwall moved the Board deny certification of Margareli Rodriguez on the grounds that she does not meet the qualifications for certification under A.R.S. §32-2022(D). Ms. Akers seconded the motion. The motion carried by unanimous vote.

Vote	Ms. Kalis	Dr. Cornwall	Mr. Robbins	Mr. Sieveke	Ms. Akers	Ms. Ohlendorf
Aye	X	X	X	X	X	
Nay						
Recused						
Abstained						
Absent						X

Ms. Kalis returned to the normal order of the agenda.

COMPLAINTS, INVESTIGATIONS and COMPLIANCE

2. Informal Hearing and Possible Action on Complaint #09-07; Judith Vance, P.T.

Ms. Kalis noted that it was the time to hear the Informal Hearing against Judith Vance, P.T., Ms. Vance was present telephonically. The Board members and staff introduced themselves. Ms. Vance was sworn in by Court Reporter Deborah Moreash. Ms. Kalis provided a summary of how the hearing would be conducted and the possible actions the Board could take during the hearing. Mr. Brown provided a summary to the Board.

Mr. Brown stated that on September 01, 2008, Board staff received an application for renewal/reinstatement from Ms. Vance. On September 30, 2009, Ms. Vance was sent notification of being selected for an audit of her continuing competence for the 2006-2008 licensure period. On October 3, 2008, Ms. Vance signed for receipt of her notice of audit.

Ms. Vance drafted a letter to the Board October 7, 2008, explaining that she realized after receiving her audit notification that she had not completed her continuing competence properly. Ms. Vance claims that she took a 50 hour course in personal effectiveness and took CPR. She mistakenly assumed she was compliant with her continuing competence requirements. Ms. Vance claims that she recently lost her granddaughter and is undergoing a divorce all of which contributed to her oversight. Ms. Vance immediately signed up to take Category A courses to come into compliance.

Board staff received Ms. Vance's response on October 27, 2008. She reported 12 hours of Category A continuing competence, 4 hours of Category B3 continuing competence activities, and 50 hours of Category C1 continuing competence activities.

On February 24, 2009, The Board reviewed the recommendations from the Continuing Competence Audit Committee regarding Ms. Vance and found her in non-compliance. In addition, the Board opened a complaint against Ms. Vance and offered her a consent agreement. On May 26, 2009, the Board voted to offer Ms. Vance a consent agreement, which needed to be signed in 20 days or the case would be forwarded to an Informal Hearing. July 13, 2009, Ms. Vance responded stating she does not wish to sign the consent agreement and will attend an informal hearing. Ms. Vance has requested to be heard over the phone for the hearing.

On March 3, 2009, Ms. Vance was provided six months to demonstrate compliance with her continuing competence activities with documentation of compliance due September 8, 2009. Ms. Vance has provided documentation of 10 hours of Category A activities taken after the 2006-2008 compliance period and 4 hours of Category B activities (CPR), which were taken during the 2006-2008 compliance period. Ms. Vance is still 6 hours deficient in her 2006-2008 continuing competence activities. However, Ms. Vance was not delinquent in completing the activities until September 8, 2009 and has not been noticed for such a violation of law.

Ms. Kalis offered Ms. Vance the opportunity to make an opening statement. Ms. Vance stated she has held licensure in four states since 1967 with no sanctions against her license. Ms. Vance stated that this issue was an error and that she feels the Board should accept the 50 hours Personal Effectiveness course as credit toward her continuing competence. Ms. Kalis opened the matter for questioning by the Board.

Dr. Cornwall questioned Ms. Vance about why she did not complete her continuing competence requirements after being notified she was deficient. Ms. Vance stated she did not intend to return to practice in Arizona and she is now in California. In addition, Ms. Vance stated she was dealing with the requirements of moving during the period. Dr. Cornwall asked Ms. Vance if she would complete her required continuing competence. Ms. Vance indicated she did not see why she should since she was not going to return to practice in Arizona. Ms. Kalis noted Ms. Vance had six months to demonstrate compliance with continuing competence requirements and asked why she did not comply. Ms. Vance indicated she had personal issues that required her attention.

Ms. Akers stated that Ms. Vance needs to comply with her continuing competence requirements in order to renew her license. Dr. Cornwall informed Ms. Vance that she would need six hours of continuing competence to come into compliance for the 2006-2008 licensure period or the Board could offer the ability for her to surrender her license. Ms. Vance asked what a surrender of licensure would include. Mr. Brown explained that a surrender of licensure is a disciplinary action which is done through consent agreement and is reportable to the National Practitioner Databank. Ms. Kalis asked if any Board member had further questions. No member stated they had further questions and Ms. Kalis ended the question phase of the hearing.

The Board deliberated over the matter and discussed its options in resolving the matter. Ms. Kalis moved the Board adopt as findings of fact as follows:

1) Respondent reinstated her physical therapist license for the 2008-2010 licensure compliance period in accordance with A.R.S. §32-2028 and Board rule. As a requirement of licensure renewal, Respondent signed a statement affirming that she had completed the continuing competence requirements of R4-24-401 through R4-24-403.

2) In September of 2008 Respondent was selected at random for audit and the notice was sent and received via certified mail on or about September 30, 2008. Respondent's submission was received by the Board office on October 27, 2008, within the 30-day deadline established by Board rule A.A.C. R4-24-401.

3) Respondent's initial audit documentation submission was found out of compliance with the continuing competence requirements on February 24, 2009. The deficiencies are based on the 12 hours reported under Category A, which were completed after the compliance period. In addition, 50 hours reported under Category C are not related to the practice of Physical Therapy. Respondent was awarded with 4 Category B3 contact hours, which amounted to a total of 4 of the required 20 contact hours.

4) Pursuant to A.A.C. R4-24-401(J), the Board granted Respondent 6 months with which to come into compliance with continuing competence requirements in A.A.C. R4-24-401 thru A.A.C. R4-24-403 beginning March 9, 2009. Respondent has failed to demonstrate compliance with the continuing competence requirements for the 2006-2008 licensure period. Respondent failed to provide documentation of completing her 2006-2008 compliance period continuing competence requirements within six months of notification of a deficiency as required by law.

Ms. Kalis included the following conclusions of law in her motion:

1) The conduct and circumstances described in the findings of fact constitute a violation of A.R.S. §32-2044(1) "Violating this chapter, board rules or a written board order"

2) The conduct and circumstances described in the findings of fact constitute a violation of A.R.S. §32-2044(3) Obtaining or attempting to obtain a license or certificate by fraud or misrepresentation.

3) The conduct and circumstances described in the findings of fact constitute a violation of A.R.S. §32-2044(12) Failing to adhere to the recognized standards of ethics of the physical therapy profession.

4) The conduct and circumstances described in the findings of fact constitute a violation of A.R.S. §32-2044(14) Making misleading, deceptive, untrue or fraudulent representations in violation of this chapter or in the practice of the profession.

Ms. Kalis' motion included an order for probation for six months during which time Ms. Vance must complete 20 hours of community service approved by Board staff and complete the six hours of continuing competence she is delinquent in completing for the 2006-2008 compliance period. The continuing competence must be completed by December 9, 2009. Ms. Sieveke seconded the motion. The Board entered discussion. Dr. Cornwall noted he thought the matter should be forwarded to a Formal Hearing and suggested considering revoking Ms. Vance's license. Ms. Kalis called the motion to a roll call vote. The motion carried with 4 members voting Aye and 1 member voting Nay.

Vote	Ms. Kalis	Dr. Cornwall	Mr. Robbins	Mr. Sieveke	Ms. Akers	Ms. Ohlendorf
Aye	X		X	X	X	
Nay		X				
Recused						
Abstained						
Absent						X

There is a transcript available through Driver and Nix Court Reporting for this agenda item

3. Informal Hearing and Possible Action on Complaint #09-06; 9:30 a.m.
Jeri Lincoln, P.T.

Ms. Kalis noted that it was the time to hear the Informal Hearing against Jeri Lincoln, P.T., Ms. Lincoln was present telephonically. The Board members and staff introduced themselves. Ms. Lincoln was sworn in by Court Reporter, Deborah Moreash. Ms. Kalis provided a summary of how the hearing would be conducted and the possible actions the Board could take during the hearing. Mr. Brown provided a summary to the Board.

Mr. Brown stated that on September 26, 2008, Board staff received an application for reinstatement from Ms. Lincoln. On September 30, 2009, Ms. Lincoln was sent notification of being selected for an audit of her continuing competence for the 2006-2008 licensure period. On October 29, 2008, Ms. Lincoln signed for receipt of her notice of audit.

Board staff received Ms. Lincoln's response to the notice of audit on November 17, 2008. She reported 20 hours of Category A continuing competence and 1 hour of Category B3 continuing competence activities. On February 24, 2009, the Board reviewed the recommendations from the Continuing Competence Audit Committee regarding Ms. Lincoln and found her in non-compliance. In addition, the Board opened a complaint against Ms. Lincoln and offered her a consent agreement.

On June 17, 2009, Ms. Lincoln provided documentation of completing 28 hours of continuing competence activities on November 6-9, 2008. Ms. Vance was found in compliance with continuing competence activities on July 13, 2009. Mr. Brown noted that he recently received documentation that indicated Ms. Lincoln had attended the course previously not supported by documentation. Ms. Kalis provided Ms. Lincoln the opportunity to provide an opening statement.

Ms. Lincoln stated she was guilty of being disorganized. Ms. Kalis asked why it took Ms. Lincoln six months to provide documentation of her continuing competence activities. Ms. Lincoln stated she could not explain why. Ms. Sieveke asked why Ms. Lincoln searched for Dr. Hunter's course when she had already completed continuing competence for 21 hours in another course. Ms. Lincoln stated that she wanted to prove she took the course she claimed in her audit and that the course for 21 hours was taken in 2009 and not in 2008 as indicated on the certificate. Ms. Kalis closed the questioning and opened the matter for deliberation.

Ms. Kalis noted that Ms. Lincoln did not provide documentation of completing her 2006-2008 compliance period continuing competence in 30 days as required by A.A.C. R4-24-401(G)(2). Ms. Akers stated she felt that Ms. Lincoln’s problem was disorganization and she would be fine with a decree of censure or and advisory letter.

Mr. Sieveke moved that the Board adopt findings of fact as follows:

1) Respondent reinstated her physical therapist license for the 2006-2008 licensure compliance period in accordance with A.R.S. §32-2028 and Board rule. As a requirement of licensure renewal, Respondent signed a statement affirming that she had completed the continuing competence requirements of R4-24-401 through R4-24-403.

2) In October of 2008 Respondent was selected for audit and the notice was sent and received via certified mail on or about October 29, 2008. Respondent’s submission was received by the Board office on November 17, 2008, within the 30-day deadline established by Board rule A.A.C. R4-24-401.

3) On February 24, 2009, Respondent’s initial audit documentation submission was found to be out of compliance with the continuing competence requirements based on the fact that of the courses she submitted as Category A compliant courses, 12 of the total 20 required continuing competence contact hours were accepted in accordance with Board rule. Respondent submitted one contact hour in Category B, which was credited to the 20 hour continuing competence contact hour requirement. Respondent was found to have provided documentation of 13 total contact hours when 20 hours is required by Board rule.

4) Pursuant to A.A.C. R4-24-401(J), the Board granted Respondent 6 months with which to come into compliance with continuing competence requirements in A.A.C. R4-24-401 thru A.A.C. R4-24-403 beginning March 9, 2009. Respondent demonstrated compliance with the continuing competence requirements for the 2006-2008 licensure period on September 21, 2009.

Ms. Kalis seconded the motion. The motion carried by unanimous vote.

Vote	Ms. Kalis	Dr. Cornwall	Mr. Robbins	Mr. Sieveke	Ms. Akers	Ms. Ohlendorf
Aye	X	X	X	X	X	
Nay						
Recused						
Abstained						
Absent						X

Ms. Kalis moved the Board adopt conclusions of law that Ms. Lincoln violated A.R.S. §32-2044(1) and A.A.C. R4-24-401(G)(2) . Dr. Cornwall seconded the motion. The motion carried by unanimous vote.

Vote	Ms. Kalis	Dr. Cornwall	Mr. Robbins	Mr. Sieveke	Ms. Akers	Ms. Ohlendorf
Aye	X	X	X	X	X	
Nay						
Recused						
Abstained						
Absent						X

Ms. Kalis moved that the Board issue Ms. Lincoln a decree of censure for failing to provide a timely response and documentation in response to a notice of audit of continuing competence activities for the 2006-2008 compliance period. The motion was seconded by Ms. Akers. Ms. Kalis called a roll call vote. The motion carried by unanimously.

Vote	Ms. Kalis	Dr. Cornwall	Mr. Robbins	Mr. Sieveke	Ms. Akers	Ms. Ohlendorf
Aye	X	X	X	X	X	
Nay						
Recused						
Abstained						
Absent						X

There is a transcript available through Driver and Nix Court Reporting for this agenda item.

The Board recessed at 9:48 a.m.

The Board returned to regular session at 9:55 a.m.

Ms. Kalis took the next agenda item out of order.

APPLICATIONS and CERTIFICATIONS

12. Review, Consideration and Action on Applications for Licensure and Certification

12 (G) Review of Documentation Related to Disclosure on “Personal Information” section of Reinstatement/Renewal Application for licensure and request for waiver of continuing competence requirement.

Peggy Chalk

Ms. Kalis, Dr. Cornwall and Mr. Sieveke disclosed that they know Ms. Chalk, but they felt no conflict existed that would prevent them from hearing this matter. Ms. Chalk was present and came forward to address the Board. Ms. Chalk explained she was before the Board to request reinstatement of her license and to ask that her requirement for continuing competence be waived based on her illness at the time she allowed her license to lapse. Dr. Cornwall asked if the Board denied her request to waive the continuing competence if she would be required to complete 20 hours of continuing competence. Board staff stated that they believe Ms. Chalk would be required to complete the 20 hours of continuing competence if the Board denied Ms. Chalks request for waiver.

Dr. Cornwall moved that the Board waive Ms. Chalk’s requirement for continuing competence and approve her application for reinstatement of her license. Ms. Kalis seconded the motion. The Board entered discussion and discussed possibly writing Ms. Chalk a letter suggesting she complete some continuing competence activities. The motion was not altered. Ms. Kalis called the motion to a vote. The motion carried by unanimous vote.

Vote	Ms. Kalis	Dr. Cornwall	Mr. Robbins	Mr. Sieveke	Ms. Akers	Ms. Ohlendorf
Aye	X	X	X	X	X	
Nay						
Recused						
Abstained						
Absent						X

The Board returned to the normal order of the agenda.

COMPLAINTS, INVESTIGATIONS and COMPLIANCE

4. Informal Hearing and Possible Action on Complaint #08-24; Monalisa Knabben, P.T.

Ms. Kalis called the Board’s attention to the above agenda item. Ms. Knabben was present and came forward with her attorneys Ed Ladley and Sarah Sato. Ms. Kalis also noted that Rhonda Peasel, P.T. and Courtney Marrs, O.T. were also present as subpoenaed by the Board to provide testimony. The Board members and staff introduced themselves. Ms. Knabben was sworn in by Court Reporter, Deborah Moreash.

Ms. Kalis provided a summary of how the hearing would be conducted and the possible actions the Board could take during the hearing. Mr. Brown provided a summary to the Board.

Mr. Brown stated on December 5, 2008, the Board received a complaint from the rehabilitation manager at Ms. Knabben's place of employment. The complainant believed Ms. Knabben was billing in excess of the actual time she was treating patients and pre-billing patients prior to treatment. The complainant based the complaint on a time study done on 11/20/08 by the Assistant Rehab manager, Ronda Peasel P.T.

Mr. Brown noted that the Board conducted an initial review of this complaint on June 23, 2009 and that the allegations noticed to Ms. Knabben included:

1. Respondent may have failed to create and maintain adequate records in accordance with law.
2. Respondent may have created patient records before providing service to patients.
3. Respondent may have billed or submitted documentation for the purpose of billing that was not actually provided or documented in patient records.

Ms. Kalis provided an opportunity for Mr. Ladley to provide an opening statement to the Board. Mr. Ladley summarized his client's position that the treatment records for the date in question are accurate and the billing she submitted is accurate. Ms. Ladley contends that the time log supplied by Ms. Knabben is accurate and that the time study conducted on Ms. Knabben has no foundation.

Ms. Kalis opened the matter to questioning by the Board. Board members questioned Ms. Knabben regarding her normal documentation routines and billing routines. Ms. Knabben described the process she normally used to document her treatment and submit billing. Ms. Knabben represented that Ms. Marrs provided all staff with assistance in changing improperly entered billing, which was done by submitting a request and completing and signing a request form issued by Ms. Marrs.

The Board members questioned Ms. Knabben regarding her abilities to correct billing mistakes while they were being entered into the computer system used at Mi Casa nursing center. The Board reviewed the time study submitted with the complaint and the time log submitted by Ms. Knabben. The Board questioned Ms. Knabben regarding the inconsistencies in the log and the study. Mr. Sieveke noted that Ms. Knabben's documentation in the patient's record did not describe the activities she was describing to the Board. Dr. Cornwall noted that Ms. Knabben appeared to have billed gait training when she was performing therapeutic exercises.

Ms. Kalis asked Ms. Peasel to come forward and answer questions. Ms. Peasel came forward and was represented by Dustin Christner. Ms. Peasel was sworn in by the court reporter. Ms. Peasel provided a review of her time study for the Board. The Board questioned Ms. Peasel regarding how she tracked Ms. Knabben throughout the day. Ms. Peasel stated she watched from hallways, nurse stations and other offices, but did not enter patient rooms to observe treatment. Ms. Peasel stated she was present when Ms. Knabben arrived and punched in at the time clock. Ms. Peasel stated she and Ms. Knabben attended a training session in the afternoon following her lunch, but that she did not observe Ms. Knabben during her lunch period. The Board provided Mr. Ladley the opportunity to question Ms. Peasel. Mr. Ladley questioned Ms. Peasel's regarding her observations of Ms. Knabben beginning with her arrival to work until after 1:00 p.m. on the day in question. Mr. Ladley questioned how many times Ms. Peasel had conducted a time study. Ms. Peasel stated this was her first time study. Ms. Kalis allowed Mr. Christner to question Ms. Peasel regarding the accuracy of her time study. Mr. Sieveke questioned Ms. Peasel regarding any orientation or training in billing Ms. Knabben received. Ms. Peasel stated Ms. Knabben did not complete the orientation while employed at Mi Casa and she was not aware what type of training she would have received regarding billing standards.

Ms. Kalis excused Ms. Peasel and asked Ms. Marrs to come forward. Ms. Marrs came forward with her attorney Dustin Christner. Ms. Marrs was sworn in by the court reporter. The Board asked Ms. Marrs to explain how billing was entered into the computer system while Ms. Knabben was employed at Mi Casa. Ms. Marrs explained the process for entering billing and the process for requesting a change to previously entered billing. Mr. Ladley was provided an opportunity to come forward and question Ms. Marrs. Ms. Christner was also provided opportunity to question Ms. Marrs.

Ms. Kalis provided Mr. Ladley an opportunity to present a closing statement. Mr. Ladley stated that based on the evidence presented the Board should dismiss the matter. The Board then entered deliberations.

Ms. Akers noted that Ms. Knabben billed for 324 minutes of services in a period of approximately 315 minutes. However, Ms. Akers noted that the billing was for all the services she claimed to have completed in her total work day of over 500 minutes. Ms. Akers noted that the time study also failed to observe Ms. Knabben the entire day. Ms. Kalis noted that she billed for more time than she was present when the billing was entered, therefore, she must have pre-billed for services. Dr. Cornwall noted that the time study was limited and he was more concerned with the billing for gait training when therapeutic exercises were actually performed.

Ms. Kalis moved the Board enter Executive Session to obtain legal advice. Mr. Robbins seconded the motion. The motion carried by unanimous vote.

Vote	Ms. Kalis	Dr. Cornwall	Mr. Robbins	Mr. Sieveke	Ms. Akers	Ms. Ohlendorf
Aye	X	X	X	X	X	
Nay						
Recused						
Abstained						
Absent						X

The Board entered Executive Session to obtain legal advice at 12:21 p.m. The Board returned to the Regular Session at 12:28 p.m.

Ms. Akers moved that the Board dismiss the complaint #08-24 against Monalisa Knabben, P.T. and issue Ms. Knabben a non-disciplinary order for 6-8 hours of continuing education in billing and 6-8 hours in documentation within six months. Mr. Sieveke seconded the motion. The Board entered discussion. Ms. Akers noted she did not feel the time study provided was complete. Ms. Kalis stated she felt the time study was accurate and showed Ms. Knabben was entering billing prior to providing services. Mr. Sieveke stated he felt there are discrepancies in the time study and the time log. Dr. Cornwall noted he was in favor of discipline, but for the issues he noted earlier regarding the documentation and billing for gait training. Ms. Kalis called the motion for a vote. The motion carried with 3 voting Aye and two voting Nay.

Vote	Ms. Kalis	Dr. Cornwall	Mr. Robbins	Mr. Sieveke	Ms. Akers	Ms. Ohlendorf
Aye			X	X	X	
Nay	X	X				
Recused						
Abstained						
Absent						X

There is a transcript available through Driver and Nix Court Reporting for this agenda item.

The Board took the next agenda item out of order.

BOARD BUSINESS AND REPORTS

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

a. Financial Report: Mr. Brown reported that on September 18, 2009 all agency heads received a directive from the Governor's Office that each agency must meet a target reduction of 15% their FY 2010 budget. Mr. Brown provided the Board with a list of recommended reductions to the Board. Mr. Brown stated the recommendation would realize the target without reductions in force of agency staff, but would cause a lack of funds for continuing the ISA with the Office of the Attorney General, and a reduction to ISA's with the School Facilities Board for database support, CSB for accounting support, and ISD for information technology support. In addition, the Board would remove budgeting for investigative consultants, lobbying activities, rule writing, and several other items. Further, Mr. Brown reported that the Board would need to consider holding monthly meeting telephonically and quarterly meetings face to face to reduce travel. Mr. Brown stated the Board would need to consider conducting its own Formal Hearings and that such hearings will be delayed considering the cancelation of the ISA with the Office of the Attorney General.

The Board expressed concerns with the depth of the spending cuts required for the 15% reduction and the impact it may have on conducting Board business. Mr. Brown stated that while nothing has been enacted by the legislature any delay in making the cuts will cause greater interference in conducting Board business. Mr. Brown requested approval for the suggested cuts or other cuts from the Board as they must be reported by October 9, 2009. The Board provided consensus approval for the cuts suggested by Mr. Brown.

Mr. Brown stated that the Board Physical Therapy has been identified for a possible move to a location on the Capital Mall. Mr. Brown stated that Board staff has not yet been invited to any meetings on the discussion, but that the Governor's Office would contact staff this week regarding current progress on identifying any efficiencies in a move.

b. Board Staff Activities- No new information provided.

c. Legislation- Mr. Brown informed the Board that the Governor's Office has requested no omnibus legislation be run by State Agencies and that a more recent verbal request was that no legislation be run by the Board of Physical Therapy. Mr. Brown suggested the Board continue its work on the draft legislation already begun and make a decision on how to proceed at a later time.

d. Rule Activity- No new verbal information.

e. Volunteer Forms- No new verbal information.

14. **Review, Discussion and Possible Action on Proposed 2010 Omnibus and Response from Arizona Physical Therapy Association.**

Ms. Kalis called the Board's attention to the above agenda item. Stuart Goodman and Brandy Petrone, Board legislative liaisons came forward. Mr. Brown provided the Board with a summary of the current status of the Board's proposed omnibus legislation for the 2010 legislative session. Mr. Goodman provided a summary of portions of the legislation that may cause difficulties in the legislative process. The Board discussed Mr. Goodman's recommendations.

Ms. Kalis invited members of the AzPTA to come forward and address the Board. Peggy Hiller, P.T.; Linda Duke, P.T.; and Al D'Appollonio, P.T. came forward to address the Board. Ms. Hiller reviewed the written response to the omnibus provided by the AzPTA. The Board members discussed the possible additions and changes requested by the AzPTA. Ms. Hiller noted that in light of the current legislative atmosphere the AzPTA would consider limiting some of its proposed legislation. Ms. Hiller added that the report and proposed language would be presented to the AzPTA membership in early October 2009.

Ms. Kalis left the meeting at 2:00 p.m.

The Board reviewed the proposed legislation with staff and identified items it would like to continue discussing with the AzPTA. The Board requested Mr. Brown schedule the matter for further discussion in October after the AzPTA membership reviews the legislation.

Dr. Cornwall took the next agenda item out of order.

APPLICATIONS and CERTIFICATIONS

12. Review, Consideration and Action on Applications for Licensure and Certification

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

- 1) Review of Education, Determination of Supervised Clinical Practice Period, and possible licensure

Lucas Paggiaro Simoes

Mr. Simoes was present and came forward to address the Board. Ms. Brierley provided a summary of Mr. Simoes application status which is lacking a letter from the Ministry of Education in Brazil. Dr. Cornwall moved that the Board waive the requirement of a letter of the Ministry of Education, find Mr. Simoes education substantially equivalent, and require Mr. Simoes to undergo a Supervised Clinical Practice Period. Ms. Akers seconded the motion. The motion carried by unanimous vote.

Vote	Ms. Kalis	Dr. Cornwall	Mr. Robbins	Mr. Sieveke	Ms. Akers	Ms. Ohlendorf
Aye		X	X	X	X	
Nay						
Recused						
Abstained						
Absent	X					X

- 2) Supervised Clinical Practice Period Proposal

Lucas Paggiaro Simoes

Dr. Cornwall opened the matter for discussion. Mr. Sieveke noted that Mr. Simoes would be conducting his SCPP with his current employer. The Board discussed the proposal. Ms. Akers moved to approve the proposed SCPP plan. Mr. Robbins seconded the motion. The motion carried by unanimous vote.

Vote	Ms. Kalis	Dr. Cornwall	Mr. Robbins	Mr. Sieveke	Ms. Akers	Ms. Ohlendorf
Aye		X	X	X	X	
Nay						
Recused						
Abstained						
Absent	X					X

12 (B) Review of Documentation Related to Disclosure on “Personal Information” Section of Application, and possible licensure

- 1) **James Gillespie**

Dr. Cornwall opened the matter for discussion. Mr. Gillespie was present and provided a statement regarding his disclosure on his application for licensure. Dr. Cornwall moved the Board approve Mr. Gillespie for licensure. Mr. Robbins seconded the motion. The motion carried by unanimous vote.

Vote	Ms. Kalis	Dr. Cornwall	Mr. Robbins	Mr. Sieveke	Ms. Akers	Ms. Ohlendorf

Aye		X	X	X	X	
Nay						
Recused						
Abstained						
Absent	X					X

2) **Mary Cook**

Ms. Cook was not present. Dr. Cornwall moved the Board approve Ms. Cook for licensure. Ms. Akers seconded the motion. The motion carried by unanimous vote.

Vote	Ms. Kalis	Dr. Cornwall	Mr. Robbins	Mr. Sieveke	Ms. Akers	Ms. Ohlendorf
Aye		X	X	X	X	
Nay						
Recused						
Abstained						
Absent	X					X

12(C) Review of Documentation Related to Disclosure on “Personal Information” Section of Application, approval to take the National Physical Therapy Examination and the AZLAW Exam and possible certification.

Michael Koerner

Mr. Koerner was present and came forward to provide the Board with a brief statement regarding his disclosure on his application for certification. Dr. Cornwall moved that the Board approve Mr. Koerner to take the AZLAW and National Physical Therapy examinations and be certified upon receipt of passing scores. Mr. Sieveke seconded the motion. The motion carried by unanimous vote.

Vote	Ms. Kalis	Dr. Cornwall	Mr. Robbins	Mr. Sieveke	Ms. Akers	Ms. Ohlendorf
Aye		X	X	X	X	
Nay						
Recused						
Abstained						
Absent	X					X

12(D) Review of Documentation Related to Disclosure on “Personal Information” Section of Application, Approval to take the National Physical Therapy Examination and the AZLAW Exam and Possible Licensure

Regina Monaco

Ms. Monaco was present and came forward to provide the Board with a summary of her disclosure on her application. Dr. Cornwall moved that the Board approve Ms. Monaco to take the AZLAW and National Physical Therapy examinations and be licensed upon receipt of passing scores. Mr. Robbins seconded the motion. The motion carried by unanimous vote.

Vote	Ms. Kalis	Dr. Cornwall	Mr. Robbins	Mr. Sieveke	Ms. Akers	Ms. Ohlendorf
Aye		X	X	X	X	
Nay						
Recused						
Abstained						
Absent	X					X

12(E) Request for Approval to Take the National Physical Therapist Examination; Review of Documentation Related to Disclosure on “Personal Information” Section of Application, and possible certification

1) **Daniel Ozuna**

Mr. Ozuna was present and came forward to provide the Board with a summary of his disclosure on his application. Dr. Cornwall moved that the Board approve Mr. Ozuna to take the National Physical Therapy examination and be certified upon receipt of passing score. Mr. Robbins seconded the motion. The motion carried by unanimous vote.

Vote	Ms. Kalis	Dr. Cornwall	Mr. Robbins	Mr. Sieveke	Ms. Akers	Ms. Ohlendorf
Aye		X	X	X	X	
Nay						
Recused						
Abstained						
Absent	X					X

2) Karletta Hoffmeier

Ms. Hoffmeier was present and came forward to provide the Board with a summary of her disclosure on her application. Dr. Cornwall moved that the Board approve Ms. Hoffmeier to take the National Physical Therapy examination and be certified upon receipt of passing score. Mr. Sieveke seconded the motion. The motion carried by unanimous vote.

Vote	Ms. Kalis	Dr. Cornwall	Mr. Robbins	Mr. Sieveke	Ms. Akers	Ms. Ohlendorf
Aye		X	X	X	X	
Nay						
Recused						
Abstained						
Absent	X					X

12(F) Review of Documentation Related to Disclosure on “Personal Information” Section of Application and possible certification.

Christine Cosmello

Ms. Cosmello was not present. Dr. Cornwall moved that the Board approve certification for Ms. Cosmello. Mr. Robbins seconded the motion. The motion carried by unanimous vote.

Vote	Ms. Kalis	Dr. Cornwall	Mr. Robbins	Mr. Sieveke	Ms. Akers	Ms. Ohlendorf
Aye		X	X	X	X	
Nay						
Recused						
Abstained						
Absent	X					X

Dr. Cornwall returned to the normal order of the agenda.

COMPLAINTS, INVESTIGATIONS and COMPLIANCE

7. Initial Review, Discussion and Action on Complaint #09-15
Amanda Albert, P.T.

Dr. Cornwall called the Board attention to the above agenda item. Ms. Donahue provided the Board with a summary of the complaint as follows:

Board staff received an application for renewal/reinstatement from Ms. Albert on February 7, 2009. Ms. Albert was sent notification of being selected for an audit of her continuing competence for the 2006-2008 licensure period on February 27, 2009.

On March 30, 2009, Ms. Albert sent a copy of CEU certificates with a letter stating “In the process of collection documentation for the continuing education audit, I realized that I had miscalculated the units earned within the competence period of September 1, 2006 through August 31, 2008.”

On July 28, 2009 Ms. Albert’s response was received. Ms. Donahue stated the documentation presented by Ms. Albert totals 19.5 hours of continuing competence for the licensure period September 1, 2006 through August 31, 2008. Ms. Albert has not provided documentation of completing the remaining ½ hour.

The Board discussed its option regarding this complaint. Mr. Sieveke moved the Board forward the complaint to an Informal Hearing and offer Ms. Albert the same consent agreement previously offered. Mr. Robbins seconded the motion. The motion carried by unanimous vote.

Vote	Ms. Kalis	Dr. Cornwall	Mr. Robbins	Mr. Sieveke	Ms. Akers	Ms. Ohlendorf
Aye		X	X	X	X	
Nay						
Recused						
Abstained						
Absent	X					X

10. Initial Review, Discussion and Action on Complaint #09-25
Steven Campbell, P.T.

Dr. Cornwall opened this matter for discussion. Mr. Campbell was not present. Ms. Donahue provided the following summary:

This complaint was received from the mother of a former patient of Mr. Campbell’s alleging that on March 31, 2009 her son was treated at Campbell Orthopedic Physical Therapy in which “The receptionist, who had checked my son in, escorted us back. She began to fill out paperwork. Soon thereafter, she showed the patient how to do an exercise and then turned her back to complete more paperwork. No one watched him to ensure that he was doing the exercise properly. When he finished he waited until she was done writing. Then she moved on to another exercise and the entire scene repeated itself for the entire set of approximately 5 exercises. Mr. Campbell did not work with the patient at this time as he was working with a technician on one of his machines. When this was completed, the patient was placed in a room where they waited for Mr. Campbell. He did a minimal amount of small talk and massaged the patient’s calves. The encounter with Mr. Campbell took no more than 5 minutes.”

The complaint: 1) a licensed physical therapist must perform the actual physical therapy and, 2) The complainant believes she should not be charged for a visit with a receptionist.

The Board began discussion regarding this complaint. The Board noted that there did not appear to be any documentations problems and that the receptionist mentioned in the complaint is actually a physical therapy aide. Mr. Sieveke moved the Board dismiss the complaint and issue a non-disciplinary advisory letter regarding the apparent lack of communication Mr. Campbell had with the involved patient. Ms. Akers seconded the motion. The motion carried by unanimous vote.

Vote	Ms. Kalis	Dr. Cornwall	Mr. Robbins	Mr. Sieveke	Ms. Akers	Ms. Ohlendorf
Aye		X	X	X	X	
Nay						
Recused						
Abstained						
Absent	X					X

8. Initial Review, Discussion and Action on Complaint #09-23
Heath Jabs, P.T.

Dr. Cornwall called the Board’s attention to the above agenda item. Mr. Jabs was not present. Ms Donahue provided the following summary for the Board.

Ms. Donahue stated that this complaint, received on June 8, 2009 alleges that Mr. Jabs arrived to work intoxicated on May 28, 2009. The complaint alleges that “Heath was observed arriving to work disheveled with bloodshot eyes, difficulty with walking, bumping into objects, inability to operate a keyboard, open a door or maintain urine in a commode. He smelled of alcohol. Inspection of his open container he brought to work revealed an odor of alcohol. Health admitted to bring in the alcoholic beverage to work on this date.” Mr. Jabs violated company policy and his employment was terminated on May 29, 2009. In addition, Mr. Jabs urinalysis results taken on 5/28/09 indicated an alcohol level of .154. Ms. Donahue reported Mr. Jabs claims he is in treatment in Michigan and has not provided an address in Michigan.

The Board discussed using its authority under A.R.S. §32-2045(A)(5) to order Mr. Jabs to undergo a substance abuse evaluation. Dr. Cornwall moved that the Board order Mr. Jabs to undergo a substance abuse evaluation within 60 days and that the evaluation be conducted by a Board approved evaluator. Dr. Cornwall included in his motion that if the evaluation is not completed in accordance with the order, the complaint be automatically moved to an Informal Hearing. Ms. Akers seconded the motion. The motion carried by unanimous vote.

Vote	Ms. Kalis	Dr. Cornwall	Mr. Robbins	Mr. Sieveke	Ms. Akers	Ms. Ohlendorf
Aye		X	X	X	X	
Nay						
Recused						
Abstained						
Absent	X					X

Dr. Cornwall requested staff add an allegation of not providing a change of address to the complaint.

6. Initial Review, Discussion and Action on Complaint #09-13
Luis Rivera, P.T.

Dr. Cornwall called the Board’s attention to the above agenda item. Mr. Rivera was not present. Ms. Donahue provided the Board with a summary of the complaint. Ms. Donahue stated that Mr. Rivera’s employer had filed a complaint alleging that Mr. Rivera was found to have been billing patients at Mi Casa for services he was not performing.

Ms. Akers indicated that Mr. Rivera’s actions following his termination of employment and the filing of this complaint indicate he may want to surrender his license. The Board discussed offering Mr. Rivera the option of surrendering his license. Ms Akers moved that the Board offer Mr. Rivera a consent agreement to surrender his license, provide 20 days to sign the consent agreement or send the complaint to a Formal Hearing. Dr. Cornwall seconded the motion. The motion carried by unanimous vote.

Dr. Cornwall instructed staff to reschedule items 15 and 18 on the agenda for the next Board meeting. The Board did not discuss items 16 and 17 on the agenda.

CALL TO THE PUBLIC

Dr. Cornwall offered a call to the public, but no member of the public came forward to address the Board.

Regular Session Meeting
September 22, 2009
ADJOURNMENT

The meeting adjourned at approximately 3:06 p.m.

Prepared by,

Charles D. Brown
Executive Director

Approved by,

Randy Robbins
Secretary