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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
(October 27, 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
Kris Ohlendorf, P.T.A., Member

MEMBERS ABSENT: None

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 8:32 a.m.

- 1. Review and Approval of Draft Minutes
 - a. September 22, 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. Mr. Sieveke requested typographical changes to pages 5 and 10. Ms Ohlendorf requested typographical changes to pages 7 and 12. Ms. Kalis moved the Board approve the minutes as amended. Ms. Ohlendorf 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	X
Nay						
Recused						
Abstained						
Absent						

- b. September 22, 2009; Executive Session Meeting Minutes (12:21 p.m. to 12:28 p.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. 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	X
Nay						
Recused						
Abstained						
Absent						

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.

3. Initial Review, Discussion and Action on Complaint #09-17 James Thomson, P.T.

Ms. Kalis opened the next item for discussion. Mr. Thomson was present and came forward to address the Board. Ms. Donahue provided the Board with a summary of the complaint. Mr. Thomson was arrested on March 10, 2009 for extreme DUI with a blood alcohol level of .208 grams/100ML. Mr. Thomson plead guilty to “Driving or being in actual physical control with an alcohol concentration of .15 or more within two hours of driving or being in actual physical control, Class 1 misdemeanor” on 4/24/09. His sentence included: \$250 fine plus \$480 surcharge, Substance abuse screening and treatment, 30 consecutive days in jail, pay jail costs as imposed by the court, \$1000 prison fund assessment, \$1000 DPS assessment, \$250 Alcohol abatement assessment and 12 month ignition interlock device. Mr. Thomson failed to notify the Board within 10 days following his charge.

Mr. Thompson provided a summary of his arrest, guilty plea, and compliance with his sentencing requirements. Mr. Thomson stated that he considers the matter a learning experience. Mr. Thomson stated that after his charge, his wife contacted the Board office regarding the charge and was told he would need to report the matter on his renewal; however, he later discovered he was required to report the matter sooner. Ms. Kalis questioned who Mr. Thomson’s wife spoke with at the Board office. Mr. Thomson stated she could not recall.

Ms. Akers asked Mr. Thomson to explain what happened with his sentencing. Mr. Thomson stated he was sentenced to 30 days in jail, of which he served 15 days confined to his home, he paid \$3,200 in fines, had a complete suspension of his license for 30 days, and 60 days of suspension with the ability to drive for work. In addition, Mr. Thomson stated he has an interlock device on his vehicle for one year, took 36 hours of alcohol abuse classes, and a driving safety class. Mr. Thomson stated he does not take drinking and driving lightly. Dr. Cornwall questioned Mr. Thomson regarding the difference between the present and the time of the arrest.

Mr. Thomson stated that in March he was getting married and had just found out that his in-laws would be able to travel to attend his wedding. Mr. Thomson and his wife went to dinner and to a club to celebrate as his in-laws had not been able to travel to previous events. Mr. Thomson stated he consumed approximately 8 glasses of wine in five hours and was driving home as his wife did not feel well. He did not think of the effect the alcohol may have on him as an infrequent drinker and just wanted to get his wife home.

Ms. Kalis asked if any Board member had further questions. No Board member stated a question. Ms. Kalis noted that the DUI arrest and charge was on March 10, 2009 and Mr. Thomson reported the matter on April 27, 2009. Ms. Kalis and Mr. Sieveke reviewed all of the Board’s available options to resolve the matter. Dr. Cornwall noted that he would like to monitor the matter until the interlock device is removed and the Board receives information verifying Mr. Thomson’s compliance, which may require a period of probation. Ms. Kalis and Ms. Ohlendorf stated they felt the matter may be handled with an advisory letter. Dr. Cornwall and Mr. Sieveke stated they would prefer assurances that Mr. Thomson is compliant with his sentence. Ms. Ohlendorf

noted that the Board does not always discipline applicants with similar past convictions. Dr. Cornwall noted that applicants often have reported offences much older than the conviction Mr. Thomson has reported.

Ms. Kalis moved the Board enter Executive Session. 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	X
Nay						
Recused						
Abstained						
Absent						

The Board entered Executive Session at 8:51 a.m.

The Board resumed Regular Session at 8:55 a.m.

Ms. Ohlendorf moved the Board issue Mr. Thomson an advisory letter for failure to notify the Board of a criminal charge that may affect patient safety within 10 business days as required by law and to encourage Mr. Thomson to remain in compliance with his sentencing. Dr. Cornwall seconded the motion. The Board entered discussion and Ms. Kalis noted that if Mr. Thomson violated his sentencing he would be required to report his additional charges or conviction on his renewal application. Ms. Kalis called for 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	X
Nay						
Recused						
Abstained						
Absent						

The next agenda item was taken out of order.

APPLICATIONS and CERTIFICATIONS

**8(B) Review of Documentation Related to Disclosure on “Personal Information” Section of Application, Approval to take the National Physical Therapy Examination and Possible Licensure
 Perillo, Michael**

Ms. Kalis opened the matter for discussion. Mr. Perillo was present and came forward to address the Board. Mr. Perillo stated he was before the Board requesting approval to take the NPTE and receive licensure; however, he reported a DUI on his application for licensure. Mr. Perillo reported he received the DUI during a period in his life when he felt he could get away with such behavior without consequence. Mr. Perillo stated the matter was a life lesson which has educated him and has helped him to demonstrate to his friends the ramifications of such decisions.

Ms. Kalis moved the Board approve Mr. Perillo to take the NPTE and grant him licensure upon receipt of a 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	X	X
Nay						
Recused						
Abstained						
Absent						

COMPLAINTS, INVESTIGATIONS and COMPLIANCE

2. Informal Hearing and Possible Action on Complaint #09-10; 9:00 a.m. Lisa Alexander, P.T.

Ms. Kalis called the Board's attention to the above matter. Ms. Kalis noted that it was the time and place to hear the Informal Hearing against Lisa Alexander, P.T. Dr. Cornwall recused himself from the proceeding and left the Board members' table. Ms. Alexander was present and came forward. The Board members and staff introduced themselves. Ms. Alexander was sworn-in by Ms. Kalis. Ms. Kalis provided a summary regarding how the hearing would be conducted and the possible actions the Board could take during the hearing.

Ms. Alexander provided an opening statement regarding the following allegations:

1. Respondent may have failed to evaluate the patient K.R.B.'s acuity and made a decision that the use of assistive personnel (Mr. St. Laurent, P.T.A.) was appropriate as required by A.R.S. 32-2043(H) and A.A.C. R4-24-303(E).
2. Respondent may have failed to document consent to treat K.R.B. that included the material risk of harm or complication, and a reasonable alternative to the proposed intervention as required by A.A.C. R4-24-301(C).
3. On June 17, 20, 23, 24, 27, 2008; and July 3, 2008 Respondent may have billed K.B.R. for services that are not documented or supported in the patient record.
4. Respondent may have failed to ensure that the patient record for K.R.B indicates which notations were entered by Respondent and which were entered by the physical therapist assistant.

Ms. Alexander stated on September 17, 2009 she received her notice of the Informal Hearing. In response to Allegation 1, Ms. Alexander stated her office is an open gym setting that allows her to see patients and staff at all times. Ms. Alexander states that the patient tolerated treatment well until Ms. Alexander wanted to start some rotational movement. She instructed Mr. St. Laurent, P.T.A.; on the activity. Ms. Alexander observed Mr. St. Laurent perform the service and felt he was competent to continue with the service.

In response to Allegation 2, Ms. Alexander stated she failed to document the patient informed consent as required. However, Ms. Alexander stated she normally does provide for and document informed consent and she has since improved the documentation process of informed consent.

In response to Allegation 3, Ms. Alexander stated she noted only one inconsistency as she noted in her response letter to the initial complaint. In response to Allegation 4, Ms. Alexander stated she previously worked with Mr. St. Laurent in a skilled nursing environment and he was newly hired in her outpatient clinic. Ms. Alexander was supervising only Mr. St. Laurent. Ms. Alexander completed her opening statement.

Ms. Kalis opened the proceeding for questions from the Board. Ms. Kalis asked Ms. Alexander how many patients she sees per day. Ms. Alexander stated 12-14 in a day and 2-3 at a time. Ms. Kalis asked if Ms. Alexander bills for heat and e-stim when it is provided at the same time. Ms. Alexander stated she does. Ms. Kalis asked Ms. Alexander why the date of her discharge summary for the patient was changed. Ms. Alexander stated she wrote the discharge summary on the date first noted, but then changed it to the date of the patient's last visit. Ms. Kalis questioned Ms. Alexander regarding how she was made aware of the patient's complaint against Mr. St. Laurent. Ms. Alexander stated that the patient failed to say anything to her when the incident occurred; however, the patient told another staff member on the same date of treatment while the patient was still at the office and then called later that day and told the front office. Ms. Alexander stated she attempted to resolve the issue of possible improper touching between the patient and Mr. St. Laurent, but could not so she referred the patient to another facility.

Ms. Sieveke asked Ms. Alexander to explain her first visit with the patient and explain how the patient history and initial evaluation was documented. Ms. Alexander explained her process and that as she reviews the patients hand written history with the patient she inputs the information into her computer system. Mr. Sieveke questioned Ms. Alexander regarding her billing on 6-23-08. Mr. Sieveke noted that according to the patient record time log, the patient was in the office for less time than the amount of time documented in the patient's daily note. In addition, Mr. Sieveke noted that on 6-24-2008 the record indicates the patient declined e-stim and heat, but the daily note says e-stim and heat was tolerated.

Ms. Kalis questioned Ms. Alexander regarding her initial examination and asked if she tested both shoulders to establish a comparison. Ms. Alexander stated she does test both sides and only documents it if it was not within normal limits. Ms. Kalis noted that she found no strength testing in the patient record. Ms. Alexander confirmed she did not perform strength testing. Ms. Kalis noted that the patient's short and long term goals appeared the same. Ms. Alexander pointed out that the range of motion goal was the same but the second goal regarding the shoulder was different.

Mr. Sieveke asked Ms. Alexander to explain her use of the P.T.A. Ms. Alexander explained that Mr. St. Laurent worked with her for a very short period of time and was used mostly as a physical therapy aide would be used. Ms. Alexander said that she also has front office staff that may take a patient off of a modality, but that her staff is limited in how they help with treatment. Ms. Kalis asked Ms. Alexander how she notes patient improvement. Ms. Alexander stated she has improved in her documentation, but that for the records being reviewed she did not document much functional improvement. Ms. Kalis asked if any Board member had additional questions. No member voiced any further questions.

Ms. Alexander provided a closing statement. She noted that she has improved her documentation and understands that the records before the Board are lacking in documentation. Ms. Alexander stated she will continue her improvement process.

The Board entered deliberations. Mr. Sieveke noted problems in the recorded time the patient was in the office compared to the amount of treatment time recorded in the daily notes and billed. Mr. Sieveke also stated he felt the documentation in the records was lacking. Ms. Akers stated she felt Mr. St. Laurent was properly monitored; however, issues existed in the patient record time verses treatment for 6/17, 19, 20, 23, and 24/2008. Ms. Kalis stated she agreed with Ms. Akers and Mr. Sieveke and noted the patient's progress was not documented. The board ended deliberations.

Ms. Kalis moved the Board adopt the following Findings of Fact:

1. Respondent failed to obtain informed consent as specifically described in rule including nature of the proposed intervention, material risk of harm or complication, a reasonable alternative to the proposed intervention and the goal of treatment.
2. Respondent overcharged on the initial evaluation of 6-17-08. Respondent charged 3 units of 97530 but documented only 20 minutes of this activity in the written record, overbilling by 2 units. Respondent documented in the written record that the treatment visit for patient K.R.B. was 60 minutes in duration, but billed for an evaluation, 3 units of therapeutic activity (97530), and 15 minutes of simultaneous moist heat and unattended electrical stimulation. The evaluation/treatment as billed could not have been completed in 60 minutes of time.
3. On 6-19-08, Respondent documented that patient K.R.B. was in the clinic for a total of 65 minutes. However, Respondent documented and billed for 15 minutes of simultaneous moist heat and unattended electrical stimulation, 45 minutes of therapeutic activities, and 15 minutes of manual

therapy, the sum total of which would require patient K.R.B. be in the clinic for a minimum of 75 minutes for treatment. This is without considering the additional time required for set-up of the treatment interventions.

4. Respondent's evaluation of K.R.B. on 6-19-2008 lacked objective findings including ROM assessment of the opposite extremity for comparison, bilateral strength measurements, PROM assessment with end feels, and lacked an adequate assessment of K.R.B. that would allow for the establishment of the plan of care.
5. On 6-20-08, Respondent documented that patient K.R.B. was in the clinic for a total of 70 minutes. However, Respondent documented and billed for 15 minutes of simultaneous moist heat and unattended electrical stimulation, 50 minutes of therapeutic activities, and 10 minutes of manual therapy, the sum total of which would require patient K.R.B. be in the clinic for a minimum of 75 minutes of treatment. This is without considering the additional time required for set-up of the treatment interventions.
6. On 6-24-2008, Respondent documented that patient K.R.B. was in the clinic for a total of 70 minutes. However, Respondent documented and billed for 15 minutes of simultaneous moist heat and unattended electrical stimulation, 50 minutes of therapeutic activities, and 10 minutes of manual therapy, the sum total of which would require patient K.R.B. be in the clinic for a minimum of 75 minutes of treatment. This is without considering the additional time required for set-up of the treatment interventions.
7. On 6-23-2008, and 6-24-2008, Respondent documented in her assessment of the treatment: "Tolerance to electro-therapeutic modalities was good, and muscle guarding reduction was observed. These changes to intervention were observed post treatment. Tolerance to physical agents & mechanical modalities was good. The patient's response to treatment included muscle guarding decreased." However, patient K.R.B. declined and did not receive both the moist heat and electrical stimulation treatment interventions on those days.
8. Respondent's documentation failed to include an accurate assessment of the progress or lack thereof of patient K.R.B., and failed to provide any objective findings of ROM, strength or functional improvement over the course of 13 treatment visits from 6-17-08 through 7-8-08.
9. Respondent altered the treatment record of patient K.R.B. when Respondent changed the date on the Discharge summary from 7-13-08, the date it was actually written, to 7-8-08.

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	X
Nay						
Recused		X				
Abstained						
Absent						

Ms. Kalis moved the Board adopt the following Conclusions of Law:

1. A.R.S. §32-2044(1) Violating this chapter, board rules or a written board order.
 R4-24-301. Lawful Practice
 C. A physical therapist shall obtain a patient's informed consent before treatment. The consent shall be in writing or documented in the patient chart and include:

1. The nature of the proposed intervention,
 2. Material risk of harm or complication,
 3. A reasonable alternative to the proposed intervention, and
 4. The goal of treatment.
2. A.R.S. §32-2044(13). Charging unreasonable or fraudulent fees for services performed or not performed.

3. A.R.S. §32-2044(20). Failing to maintain adequate patient records. For the purposes of this subsection, "adequate patient records" means legible records that comply with board rules and that contain at a minimum an evaluation of objective findings, a diagnosis, the plan of care, the treatment record, a discharge summary and sufficient information to identify the 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	X
Nay						
Recused		X				
Abstained						
Absent						

Ms. Kalis moved the Board issue the following Order:

Probation for one year.

1. Continuing Education:
 - a. Respondent shall complete 8 hours of continuing education in documentation within six months of the effective date of the Order. The course(s) shall be preapproved by Board staff.
 - b. Respondent shall complete 8 hours of continuing education in billing within six months of the effective date of the Order. The course(s) shall be preapproved by Board staff.
2. Patient Records Audit:
 - a. Respondent shall undergo a minimum of one audit of 3 randomly selected patient records. The patient records must include at least two different third party payors.
 - b. The audit of patient records shall be performed by Board staff.
 - c. The first audit shall begin at least 30 days following Respondent's completion of all required continuing education in the Order.
 - d. If Board staff finds deficiencies in the first audit of patient records, Respondent shall undergo one additional audit within three months of the first audit. If a second audit is performed, it will include 3 randomly selected patient records. The patient records must include at least two different third party payors.

Mr. Sieveke seconded the motion. Ms. Kalis called a roll call 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		X				
Abstained						
Absent						

The Board recessed at 10:10 a.m. and returned to Regular Session at 10:21 a.m.

Dr. Cornwall returned to the Board members table. Ms. Kalis took the next agenda item out of order.

APPLICATIONS and CERTIFICATIONS

8(C) Review of Documentation and Possible Action on Application for Physical Therapist Licensure Not Appearing in the Consent Agenda.

3) Asvitt, Karen

Ms. Asvitt was present and came forward. Ms. Kalis stated that Ms. Asvitt was applying for licensure and at the September 22, 2009 Board meeting, the Board required Ms. Asvitt to complete the Practice Review Tool (PRT) with the Federation of State Boards of Physical Therapy (FSBPT) and complete 30 hours of continuing competence.

Ms. Asvitt stated that she completed the PRT but noted trouble in finding study material so she studied material used to prepare for the NPTE. Ms. Asvitt noted that she felt it was good she took the PRT but noted that when she contacted FSBPT she was told not to study for the PRT. Mr. Brown stated that the PRT is meant to be taken as a tool to demonstrate areas in which a Physical Therapist may need additional or refresher information that may explain why the FSBPT suggested Ms. Asvitt not study for the PRT.

Ms. Kalis moved the Board approve Ms. Asvitt's application for licensure. 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	X
Nay						
Recused						
Abstained						
Absent						

COMPLAINTS, INVESTIGATIONS and COMPLIANCE

4. Initial Review, Discussion and Action on Complaint #09-21 Daniel Frisch, P.T.A.

Ms. Kalis called the Board's attention to the above matter. Ms. Kalis recused herself from this matter because she previously worked with Mr. Frisch. Ms. Kalis left the Board table. Dr. Cornwall took over the direction of this matter. Mr. Frisch was not present. Ms. Donahue provided the Board with a summary of the case. The complaint was received from the mother of a 9 year old patient, R.T., alleging that Mr. Frisch, P.T.A.; had R.T. transferred from her wheelchair to a bean bag on the floor when the child and the nurse had refused the transfer. R.T. is a special needs child with Spinal Muscular Atrophy Type 1 and is wheelchair and ventilator dependent. R.T.'s mother states that she has made it clear that for safety reasons R.T. is not to have any physical therapy at school. In addition, she states that Ms. Cynthia Come (Head of Special Education for the Vail School District) was instructed to have any provider "call the mother prior to interacting with ..." R.T. During this treatment R.T. was neither on her heated circuit nor pulse oximeter and that her shell was left on while in the beanbag chair. Mr. Frisch notified R.T.'s mother of the transfer after the incident, not prior; in that phone call on April 23, 2009 Mr. Frisch suggested that R.T. "get a new shell and new seat cushion." Finally, the patient's mother alleges that Mr. Frisch was not following the care plan or PT regime that was already in place.

Dr. Cornwall noted that it appeared the Board had sufficient information at this time to move the case forward to an Informal or Formal Hearing. Ms. Akers moved the Board forward the case against

Mr. Frisch to an Informal Hearing. Ms. Ohlendorf 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	X					
Abstained						
Absent						

Dr. Cornwall noted the Board may need to consider opening a complaint against Tere Bryant, P.T. who provided Mr. Frisch’s general supervision. The Board discussed opening the complaint. Dr. Cornwall moved the Board open a complaint against Tere Bryant, P.T. Mr. Robbins seconded the motion. The Board entered discussion. Mr. Brown asked if the Board desired to have the complaint against Ms. Bryant go through initial review prior to Mr. Frisch’s Informal Hearing. The Board instructed Mr. Brown to schedule the initial review of Ms. Bryant’s case for the Board’s December meeting. No change to the motion was proposed. Dr. Cornwall called for the 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	X					
Abstained						
Absent						

Ms. Kalis returned to the Board table.

5. Initial Review, Discussion and Action on Complaint #09-26
 Mark Barnes, P.T.

Ms. Kalis called the Board’s attention to the above matter. Mr. Barnes was not present. Ms. Donahue provided the following summary:

- August 31, 2008- License lapsed
- May 2008 Reinstatement application received
- June 1, 2009 Notification of CEU Audit
- July 9, 2009 30 day deadline for response expired
- July 17, 2009 Complaint 09-26; Mark Barnes P.T. is opened by ASBOPT
- August 28, 2009 Mr. Barnes submits CEU records for review, but did not provide a written response to compliant 09-26.
- September 10, 2009 Mr. Barnes is notified that he has not met the continuing competence requirements of Arizona Administrative Code R4-24-401 with 0 hours approved resulting in a deficiency of 20 hours.

Ms. Akers inquired if Mr. Barnes was located in Arizona. Ms. Donahue reported Mr. Barnes current address is out of state. Ms. Akers inquired if staff knew Mr. Barnes intention of keeping his license. Ms. Donahue stated she did not have any information indicating Mr. Barnes intention of renewing his license. Dr. Cornwall noted he did not feel Mr. Barnes was working to keep his license and suggested the Board consider

offering Mr. Barnes a consent agreement to surrender his license. Mr. Sieveke voiced agreement with Dr. Cornwall. Dr. Cornwall moved the Board offer Mr. Barnes a consent agreement with a fine of \$500, requirement to take and pass the AZLAW examination, and provide proof of completing continuing competence activities during the 2006-2008 licensure period. Failure to provide the continuing competence documentation will cause the matter to be forwarded to a Formal Hearing or Mr. Barnes can surrender his license. Ms. Kalis seconded the motion. The Board entered discussion. Ms. Verstegen instructed the Board on the difficulties in creating a consent agreement as described. Dr. Cornwall withdrew his motion and Ms. Kalis withdrew her second.

Dr. Cornwall moved the Board request Mr. Barnes to provide proof of completing continuing competence activities during the 2006-2008 licensure period within five days. Failure to provide the proof of completing continuing competence activities during the 2006-2008 licensure period shall cause the matter to be forwarded to a Formal Hearing. If Mr. Barnes provides the requested documentation, Board staff shall schedule an additional review of the complaint before 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	X
Nay						
Recused						
Abstained						
Absent						

6. Initial Review, Discussion and Action on Complaint #09-28
 Lonnie Nenadovich, P.T.

Ms. Kalis called the Board’s attention to the above matter. Mr. Nenadovich was not present. Ms. Donahue provided a summary of the complaint to the Board. Ms. Weeks, the complainant, reports that on 7/18/09, Lonnie Nenadovich, P.T.; was speaking with another staff member, John Schranz, COTA; about resident D.P. Mr. Nenadovich referred to the fact that the resident appeared difficult to work with during his OT session and Mr. Nenadovich stated “OK, that’s not happening”.

- Per Mr. Nenadovich’s documentation, he did not see the patient and documented that the patient refused.
- When Mr. Nenadovich was questioned regarding this incident he stated “I did not offer him therapy because I could tell by the way the resident was acting with John that he would not participate”.
- Mr. Nenadovich resigned from this facility on the day he was questioned.

Mr. Schranz, COTA also submitted a complaint that Mr. Nenadovich texted him on 7/24/09 at 6:16pm using obscene language.

Ms. Akers noted that Mr. Nenadovich admitted he did not ask D.P. if he wanted treatment, but Mr. Nenadovich documented in the patient record that D.P. refused treatment. Mr. Sieveke moved the Board forward the complaint against Mr. Nenadovich to an Informal Hearing. Dr. Cornwall seconded the motion. The Board entered discussion. Dr. Cornwall instructed staff to identify the charge nurse on duty at the facility during the incident in question. Ms. Kalis instructed staff to add an allegation of violating A.R.S. §32-2044(14). 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	X
Nay						
Recused						
Abstained						
Absent						

7. Applications For Licensure & Certification

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

Akovenko, Patricia	Bloomfield, Jennifer	Borok, Robin
Darling, Leah	Evans, Joy	Gaylord, Emily
Gannon, Elizabeth	Han, Hope	Hatlestad, Kelli
Herbst, Jennifer	Ireland, Lana	Janssen, Elizabeth
Jonte, Jennifer	Jonte, Daniel	Katz, Susan
Kwiatkowski, Jessica	Leventhal, Heather	Miller, Lora
Paulsen, Jennifer	Rafferty, Jamie	Romney, Bethanie
Shiffler, Mark	Solheim, Benjamin	Van House, Daniel
Wood, Wendy		

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

Alder, Shannon	Groskopf, Candyce	Johnson, Jackie
Keith, Tricia	Lopez, Jose	Moosman, Colleen
Thomsen, Amber		

Ms. Kalis called the Board’s attention to the consent agenda. Ms. Kalis asked if any Board member had a request to remove an applicant from the consent agenda. No Board member made a request. Ms. Kalis moved the Board approve the consent agenda as presented. 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	X	X
Nay						
Recused						
Abstained						
Absent						

APPLICATIONS and CERTIFICATIONS

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

The Board may vote to go into Executive Session pursuant to A.R.S. §38-431.03(A)(2) for purposes of discussing confidential information or §38-431.03(A)(3) to obtain legal advice

8(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

Kwatra, Garima

Ms. Kalis called the Board’s attention to the above matter. Ms. Kwatra was present and came forward. The Board noted there was a question regarding the documentation from India that Ms. Kwatra’s school was accredited by the ministry of education in India. Ms. Kalis noted it seems all the paperwork was in order. Ms. Kalis moved the Board require Ms. Kwatra to undergo a Supervised Clinical Practice Period. 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	X
Nay						

Recused						
Abstained						
Absent						

2) Review and Determination of Request to Change SCPP Primary Supervisor.
Basilio, Fatima

Ms. Kalis called the Board’s attention to the above matter. Ms. Basilio was not present. Ms. Kalis moved the Board grant Ms. Basilio’s request to change her SCPP primary supervisor. 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	X
Nay						
Recused						
Abstained						
Absent						

8(C) Review of Documentation and Possible Action on Application for Physical Therapist Licensure Not Appearing in the Consent Agenda.

1) **Sanchez. Steven**

Ms. Kalis called the Board’s attention to the above matter. Mr. Sanchez was not present. Mr. Brown reported that Mr. Sanchez stated on his application he is currently working as the Rehab Manager of Phoenix Children’s Hospital, which may be in violation of A.R.S. §32-2042 and A.R.S. §32-2048. Ms. Kalis moved the Board enter Executive Session. 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	X
Nay						
Recused						
Abstained						
Absent						

The Board entered Executive Session at 11:06 a.m. The Board re-entered Regular Session at 11:15 a.m.

Ms. Kalis called the meeting back to order. Ms. Kalis moved the Board offer Mr. Sanchez a consent agreement for licensure with Findings of Fact as detailed by Mr. Brown’s summary and by Mr. Sanchez’s application; Conclusions of Law for violating A.R.S. §32-2042(D) and A.R.S. §32-2048(A); and issue a Decree of Censure for practicing as a physical therapist in Arizona without a license for 7 months. If Mr. Sanchez fails to sign the consent agreement in 30 days, the Board denies his application for licensure based on Mr. Sanchez’s practicing as a physical therapist in Arizona without a license. 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	X
Nay						
Recused						
Abstained						
Absent						

2) **Courcy, Brian**

Ms. Kalis called the Board’s attention to the application of Mr. Courcy. Mr. Courcy was not present. Ms. Kalis noted that Mr. Courcy applied for licensure and reported four current or past licenses in other jurisdictions; however, Board staff found that Mr. Courcy has a current or past license in 21 jurisdictions. Dr.

Cornwall noted that Mr. Courcy provided an explanation he felt sufficiently addressed Mr. Courcy’s failure to report the other licenses. Dr. Cornwall moved to grant Mr. Courcy licensure. Ms. Akers seconded the motion the motion carried 5 Aye votes to 1 Nay vote.

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

4) Barduson, Beth

Ms. Kalis called the Board’s attention to the application of Ms. Barduson. Ms. Barduson was present. Ms. Barduson reported she currently has a pending criminal charge for driving under the influence in March. Ms. Barduson reported she is using an attorney in defense of her charge and a trial date has not been set. She claimed she does not feel she was impaired when she was stopped for a civil violation of a wide right turn. The Board discussed Ms. Barduson’s application. The Board noted if Ms. Barduson is convicted she will be required to report the conviction to the Board. Ms. Kalis moved the Board grant Ms. Barduson 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	X	X
Nay						
Recused						
Abstained						
Absent						

5) Nithman, Robert

Ms. Kalis called the Board’s attention to the application of Mr. Nithman. Mr. Nithman was not present. Mr. Brown reported Mr. Nithman provided his business card with his application for licensure which used the initials “PT” following his name. Mr. Brown stated Mr. Nithman has been working in the Physical Therapy program at Midwestern University for less than 60 days, but that the use of “PT” following his name may be in violation of A.R.S. §32-2042. The Board discussed Mr. Nithman’s application and noted he may be working in compliance with A.R.S. §32-2021(C)(3). Ms. Kalis moved the Board grant Mr. Nithman licensure and direct staff to write a letter to Mr. Nithman suggesting he ensure his compliance with the Arizona Physical Therapy Practice Act in the future and use his position as a educator to inform students regarding the meaning and proper use of initials before 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	X	X
Nay						
Recused						
Abstained						
Absent						

8(D) Review of Documentation Related to Disclosure on “Personal Information” Section of Application, Approval to Take the AZLAW Exam and Possible Certification.

Cody, Daniel

Ms. Kalis called the Board’s attention to the above matter. Mr. Cody was not present. Ms. Brierley reported Mr. Cody reported a prior DUI conviction on his application. Ms. Kalis moved the Board approve Mr. Cody to take the AZLAW examination and grant certification upon receipt of a passing score. 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	X
Nay						
Recused						
Abstained						
Absent						

8(E) 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.

1) Morgan, Derek

Ms. Kalis called the Board’s attention to the above matter. Mr. Morgan was not present. Ms. Brierley stated Mr. Morgan reported an arrest for felony robbery, assault kidnapping, and a drive by shooting; however, Mr. Morgan was convicted of felony robbery with other persons in possession of a weapon. Ms. Kalis noted that the Board would be granting licensure to a convicted felon. Mr. Robbins noted Mr. Morgan completed his sentence and his civil rights have been restored. Ms. Akers noted the matter occurred when Mr. Morgan was 16 and that he has demonstrated he has changed his behavior since the incident. Ms. Akers moved the Board approve Mr. Morgan to take the NPTE and AZLAW examinations and grant certification upon receipt of passing scores on both exams. Ms. Ohlendorf 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	X
Nay						
Recused						
Abstained						
Absent						

2) Thurman, Matthew

Ms. Kalis called the Board’s attention to the application of Mr. Thurman. Mr. Thurman was present and came forward. Mr. Thurman stated that when he was 19-21 he made several mistakes and got into trouble. He stated his last incident for driving while ability impaired (DWAI) made him realize his behavior was a problem and he has had no trouble since the DWAI. Dr. Cornwall moved the Board approve Mr. Thurman to take the NPTE and AZLAW examinations and grant certification upon receipt of passing scores on both exams. Ms. Ohlendorf 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	X
Nay						
Recused						
Abstained						
Absent						

BOARD BUSINESS AND REPORTS

11. 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 matter. The Board and staff introduced themselves. Peg Hiller, P.T.; Linda Duke, P.T.; and Heidi Herbst Paakkonen came forward and introduced themselves as representing the Arizona Physical Therapy Association.

Ms. Hiller provided a summary of the report the AzPTA developed in response to the changes the Board made to the 2010 draft omnibus legislation being prepared for the 2010 legislative session. Ms. Hiller noted the

response from the AzPTA removed any request to change statutes regarding supervision and it does not include any request for language to regulate business entities.

The Board and the AzPTA members discussed draft changes to A.R.S. §32-2022. Dr. Cornwall noted that the AzPTA was not prepared to support new qualifications for licensure. Dr. Cornwall asked if it was an issue with the language that could be changed to gain support. Ms. Hiller explained that the AzPTA did not feel that the Board had provided sufficient information or data to demonstrate the need to include new requirements for licensure that includes a requirement to have practiced in 3 of the last five years. Ms. Hiller stated the Board has not provided any documentation showing someone who has been granted a license that was not active in three of the last five years has harmed a member of the public. Ms. Hiller further noted there was not a requirement of active practice to renew a license and having one for initial licensure has not been substantiated.

Ms. Verstegen noted that the Board has expressed for some time they would like to require a period of active practice or competency evaluation for applicants that have already taken the NPTE but have not practiced for a number of years. Mr. Brown noted that previous Arizona licensees or certificate holders with licenses that have lapsed for three years or more are required to demonstrate competency. The Board is attempting to use the same tool for initial applicants from other jurisdictions when they have not actively practiced in 3 of the last five years. Mr. Brown also noted that the intent of regulation is not to wait until the public is harmed but to initiate safeguards before harm takes place while not creating over burdensome regulation. Ms. Hiller noted that it is possible that after further work, language could be drafted that the AzPTA could support; however, Ms. Hiller also stated the AzPTA has not said it is in opposition of the language, just that it is not supported at this time.

Ms. Kalis directed the discussion to draft changes to A.R.S. §32-2027. Ms. Kalis noted this would establish a retirement status and inactive status. Ms. Herbst Paakkonen noted that there was nothing in the language that indicated if a retired or inactive licensee or certificate holder could use initials as do active licensees or certificate holders. The Board and AzPTA representatives discussed possible options to allow use of initials while identifying a retired status. Ms. Kalis noted there still seems to be issues in the language.

Ms. Kalis called the Board's attention to the request of the AzPTA to implement a 30-day grace period for licensees and certificate holders to renew without being disciplined for practicing or working with an expired license. Ms. Kalis noted she was not in favor of such a period. Dr. Cornwall suggested that the Board consider removing language regarding initial licensure requirements, retirement, inactive status and not include a grace period and move forward with the legislation. Dr. Cornwall noted the other changes appear to be supported by the Board and AzPTA and in the future language could be added or other legislation could be initiated. The Board and AzPTA representatives discussed the ability to move forward with the draft omnibus language as suggested by Dr. Cornwall.

Ms. Kalis moved the Board pursue legislative changes to the Arizona Physical Therapy Practice Act with an Omnibus Bill in the 2010 legislation. 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	X
Nay						
Recused						
Abstained						
Absent						

The draft bill language the Board voted to pursue as changes to A.R.S. §32-2001 et.al. is available at the Board office. Members of the public may request a copy by contacting Board staff.

9. Executive Director’s Report – Discussion and Possible Action

a. Financial Report- Mr. Brown reported Board staff is now working with a FY 2010 budget that include the 15% reduction in appropriation to ensure that operation continues if the legislature enacts an appropriation reduction.

b. Board Staff Activities- Mr. Brown reported staff had placed new application and Board forms on the Board website, www.ptboard.az.gov which allow the person completing the document to type in all information except signatures and certifying information. Mr. Brown also reported that at the FSBPT Annual Conference he was elected the Chair of the Council of Board Administrators.

c. Legislation- No additional information not included in the written E.D. Report.

d. Rule Activity- Mr. Brown reported that the Board rule package including changes to the Course Work Tool, Time Frames Table, and Lawful Practice sections of the Board’s administrative code (Rules) was approved by the Governor’s Regulatory Review Council and would take affect December 7, 2009. Mr. Brown also reported GRRC requested he appear in one year to provide a report on the effect of the change to the Course Work Tool.

12. Review, Discussion, and Possible Action on Physical Therapy Billing Standards.

The Board entered discussion regarding billing standards in the physical therapy profession. Ms. Akers noted that not all providers use Medicare standards and that it may not be proper for the Board to require that Medicare standards always be followed. Ms. Kalis noted that she uses the standards as do most physical therapist she has worked with and that even the AMA CPT Code Book requires a provider to substantially complete the service described in a billing code before billing for the service. Ms. Akers agreed that it is the best practice and an ethical practice, but that it was not a minimum standard that the Board is required to enforce. The Board continued discussion regarding billing standards.

Mr. Brown noted that there appears to be billing requirements that are clearly required and some that are less standardized. Mr. Brown suggested the Board allow staff to work on drafting a possible billing standard policy statement based on known standards. The Board agreed and directed staff to work with physical therapy stake holders to draft policy regarding billing standards fort the Board to consider at a later date.

13. Review, Discussion and Possible Action of Executive Director Performance Evaluation.

Ms. Kalis called the Board’s attention to the above matter. Ms. Kalis moved the Board enter Executive Session to discuss personnel issues pursuant to A.R.S. §38-431.03(A)(1). Mr. Robbins seconded the motion. The motion carried by unanimous vote.

The Board entered Executive Session at 1:05 p.m.

The Board re-entered Regular Session at 1:16 p.m.

Ms. Akers moved the Board instruct Ms. Brown to place his performance evaluation on a future Board agenda when he feels the Board’s budget provides for the Board to consider approval of a pay increase for the Executive Director position. 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	X
Nay						
Recused						
Abstained						
Absent						

CALL TO THE PUBLIC

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

ADJOURNMENT

The meeting adjourned at approximately 1:19 p.m.

Prepared by,

Charles D. Brown
Executive Director

Approved by,

Randy Robbins
Secretary