

**JANICE K. BREWER**  
Governor



**CHARLES D. BROWN**  
Executive Director

**MARK CORNWALL, P.T., Ph.D.**  
President

**ARIZONA STATE BOARD OF PHYSICAL THERAPY**  
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**REGULAR SESSION MEETING MINUTES**  
**January 26, 2010**

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

**MEMBERS ABSENT:** Joni Kalis, P.T., Member

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

CALL TO ORDER – 8:32 a.m.

Dr. Cornwall called the meeting to order at 8:30 a.m.

**1. Election of Board Officers for 2010**

Dr. Cornwall opened the matter for motion for Board President. Mr. Sieveke moved to elect Dr. Cornwall for Board President. Mr. Robbins seconded the motion. The motion carried by unanimous vote.

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

Dr. Cornwall opened the matter for motions for Board Vice President. Ms. Ohlendorf moved to elect Ms. Akers as Board Vice President. Mr. Robbins seconded the motion. The motion carried by unanimous vote.

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

Dr. Cornwall opened the matter for motions for Board Secretary. Mr. Robbins moved to elect Ms. Ohlendorf as Board Secretary. Ms. Akers seconded the motion. The motion carried by unanimous vote.

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

## 2. Review and Approval of Draft Minutes

### a. December 22, 2009; Regular Session Meeting Minutes

Dr. Cornwall 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. Dr. Cornwall moved the Board approve the minutes as presented. Mr. Robbins seconded the motion. The motion carried by unanimous vote.

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

### b. December 22, 2009; Executive Session Meeting Minutes (11:05 a.m. to 11:10 a.m.)

Dr. Cornwall 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. Dr. Cornwall moved the Board approve the minutes as presented. Mr. Robbins seconded the motion. The motion carried by unanimous vote.

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

### c. December 22, 2009; Executive Session Meeting Minutes (12:16 p.m. to 12:21 p.m.)

Dr. Cornwall 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. Dr. Cornwall moved the Board approve the minutes as presented. Mr. Robbins seconded the motion. The motion carried by unanimous vote.

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

### d. December 22, 2009; Executive Session Meeting Minutes (1:34 p.m. to 1:44 p.m.)

Dr. Cornwall 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. Dr. Cornwall moved the Board approve the minutes as presented. Ms. Ohlendorf seconded the motion. The motion carried by unanimous vote.

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

e. December 23, 2009; Teleconference Regular Session Meeting Minutes

Dr. Cornwall 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. Dr. Cornwall moved the Board approve the minutes as presented. Mr. Sieveke seconded the motion. The motion carried by unanimous vote.

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

Dr. Cornwall took the next item out of order.

## CONSENT AGENDA; REVIEW, CONSIDERATION and ACTION

### 11. Applications For Licensure & Certification

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

<b>Bates, Cynthia</b>	<b>Budach, Amanda</b>	<b>Campos, Lisa</b>
<b>Cope, Kelly</b>	<b>Epstein, Bradley</b>	<b>Giles, John</b>
<b>Haggerty, Laurie</b>	<b>Kozlowski, Amber</b>	<b>Lacko, Joseph</b>
<b>Lovejoy, Christopher</b>	<b>Park, Lorraine</b>	<b>Randall, Jeremiah</b>
<b>Schumacher, Thomas</b>	<b>Swenson, Harriet</b>	<b>West, Lisa</b>
<b>Whipple, Alicia</b>	<b>Gavin, Katieanne</b>	<b>Lewis, Randi</b>
<b>Hahn, Jennifer</b>		

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

<b>Gump, Alexandra</b>	<b>Olson, Karen</b>	<b>Samudrala, Leela</b>
<b>Stevenson, Mary</b>		

Dr. Cornwall called the Board's attention to the above agenda item. Dr. Cornwall asked if any Board member wished to remove an applicant from the consent agenda for further discussion. No member requested an applicant's removal from the consent agenda. Dr. Cornwall moved the Board approve the Consent Agenda as presented and approve licenses and certificates to the noted applicants. Ms. Ohlendorf seconded the motion. The motion carried by unanimous vote.

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

Nay						
Recused						
Abstained						
Absent				X		

Consent Agenda Ends

## 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, Approval to take the NPTE and AZLAW exam, Determination of Supervised Clinical Practice Period, and Possible Licensure.
  - a. Teering, Francois

Dr. Cornwall called the Board's attention to the above matter and opened the matter for discussion. Dr. Cornwall noted that the application was in order. Dr. Cornwall moved the Board require Mr. Teering to complete a 90 day Supervised Clinical Practice Period of 500 hours and approve Mr. Teering to take the NPTE and AZLAW exams. Mr. Robbins seconded the motion. The motion carried by unanimous vote.

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

- 2) Review of Final Clinical Practice Instrument and possible licensure.
  - a. Paggiaro Simoes, Lucas

Dr. Cornwall called the Board's attention to the above matter and opened the matter for discussion. Dr. Cornwall and Mr. Sieveke both noted the Clinical Practice Instrument was positive. Dr. Cornwall moved the Board grant Mr. Paggiaro Simoes licensure. Ms. Akers seconded the motion. The motion carried by unanimous vote.

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

#### 12(B) Review of Documentation Related to Disclosure on "Personal Information" Section of Physical Therapist Application

- 1) Schmidt, Donna

Dr. Cornwall called the Board's attention to the above matter and opened the matter for discussion. No Board member expressed a concern with the reported criminal history of Ms. Schmidt; minor in possession. Dr. Cornwall moved the Board grant Ms. Schmidt licensure. Ms. Akers seconded the motion. The motion carried by unanimous vote.

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

## 2) Gorham, Dante

Dr. Cornwall called the Board's attention to the above matter and opened the matter for discussion. No Board member expressed a concern with the reported criminal history of Mr. Gorham; driving while impaired. Dr. Cornwall moved the Board approve Mr. Gorham to take the AZLAW exam and grant Mr. Gorham a license after receipt of a passing score. Ms. Akers seconded the motion. The motion carried by unanimous vote.

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

## BOARD BUSINESS AND REPORTS

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

a. Financial Report- Mr. Brown reported the Board is still operating with the expectation the legislature would reduce the FY 2010 appropriation by 15%. Mr. Brown also reported Governor Brewer has proposed a budget plan for FY 2011 that may include a 5% salary reduction for all State employees.

b. Board Staff Activities- Mr. Brown reported Board staff has begun preparations for the renewal process to begin testing the Board's online renewal application in the coming weeks.

c. Legislation- Mr. Brown reported the Board's bill HB 2149 was on the agenda with the House Health and Human Services Committee for January 27, 2010.

d. Rule Activity- Mr. Brown reported he was ready to present the work completed by the Supervision Advisory Group to the Executive Director. The Board requested the information be presented at the Board's February Board meeting.

e. News Bulletin- Mr. Brown reported staff has completed a News Bulletin to be released in February. The Board by consensus approved the release of the presented News Bulletin.

f. 2010 Renewal Forms- Mr. Brown reported Board staff had developed the renewal forms to be used for the 2010-2012 compliance period. Dr. Cornwall provided some grammatical edits. The Board approved the use of the presented forms through consensus.

### 14. Review, Discussion and Possible Action on Public Reporting of Complaints after Five Years.

Dr. Cornwall called the Board attention to the above matter. Mr. Brown reported that staff has identified the means to conduct a review of complaints from 1960 through 2003 and remove the posting of the dismissed complaints from the Board website. Mr. Brown reported the changes would be completed manually, which could take several months. Dr. Cornwall moved the Board instruct staff to take the necessary steps to remove notations of dismissed complaints after five years from the Board website. Mr. Robbins seconded the motion. The motion carried by unanimous vote.

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

The Board recessed at 8:57 a.m.

The Board reentered regular session at 9:05 a.m.

### **COMPLAINTS, INVESTIGATIONS and COMPLIANCE**

3. Informal Hearing and Possible Action on Complaint #09-24; 9:00 a.m.  
Jeffrey Fahrenbruch, P.T.

Dr. Cornwall called the Board's attention to the above matter. Dr. Cornwall disclosed he has known Mr. Fahrenbruch as a past student, but that he does not feel his judgment or ability to hear this matter is biased. Mr. Fahrenbruch came forward to address the Board and was not represented by counsel. Dr. Cornwall provided a summary of how the hearing would be conducted and the possible actions the board may take. Mr. Brown provided a summary of the allegations against Mr. Fahrenbruch.

Mr. Brown reported based on the investigation by Board staff and the Board's Initial Review of this complaint it is alleged that Mr. Fahrenbruch:

1. May not have created documentation that met the 2007 standards. Mr. Fahrenbruch did not perform a discharge summary.
2. Failed to document a neurological assessment in the initial evaluation of G.R.
3. May have performed a manipulation to patient G.R. on 6/20/07 that was below the standard of care and without the patient's informed consent.
4. Failed to adequately describe and discuss with G.R. the manipulation prior to its administration.
5. There is no evidence in the record that G.R. consented to a manipulation on 6/20/07. However, in the initial communication to the referring physician, Mr. Fahrenbruch did document that "patient was informed of the plan of care and agreed to treatment."
6. May not have documented in the plan of care, specifically, manipulation as a treatment intervention.

Board members introduced themselves to Mr. Fahrenbruch. Mr. Fahrenbruch was sworn in by Dr. Cornwall. Mr. Fahrenbruch provided an opening statement indicating he does not feel the law is clear on how to address informed consent when a change in the treatment plan is indicated. Mr. Fahrenbruch indicated he did get the patient's informed consent for treatment when treatment was initiated. Mr. Fahrenbruch concluded his opening statement.

Dr. Cornwall noted Mr. Fahrenbruch had not presented any witnesses and no other persons signed in wishing to speak on this agenda item. Dr. Cornwall opened the hearing to questions from the Board. Mr. Sieveke noted that the patient stated in the complaint he reported to Mr. Fahrenbruch that he has had poor experiences with manipulations in the past. Mr. Sieveke asked Mr. Fahrenbruch if he recalled the discussion

with the patient's. Mr. Fahrenbruch indicated he recalled the patient reporting previously seeing a chiropractor, but not a report of any adverse reaction to an adjustment.

Dr. Cornwall asked Mr. Fahrenbruch if he informed the patient he was going to perform the manipulation prior to performing the manipulation. Mr. Fahrenbruch stated he did not tell the patient he was going to perform a manipulation; however, he told the patient he was going to perform a deeper stretch than normal and that the patient may feel a pop. Mr. Fahrenbruch stated after he performed the first manipulation while the patient lay on one side, he requested the patient roll over and the patient complied without noting any distress. Mr. Fahrenbruch reported he then performed another manipulation to the patient's spine while he lay on his opposite side.

Mr. Sieveke noted that he did not find a clear reassessment in the patient record for June 20, 2007 when the alleged injury occurred. Mr. Sieveke asked Mr. Fahrenbruch how the patient presented on the day in question. Mr. Fahrenbruch reported the patient presented with increased range of motion and decreased pain and indicated it would be his last physical therapy visit. Mr. Fahrenbruch stated that because the patient did not plan to return for care he felt a manipulation would be beneficial. Mr. Fahrenbruch stated he did not reassess the patient following the manipulation.

Ms. Ohlendorf asked Mr. Fahrenbruch if he performed a discharge summary for the patient. Mr. Fahrenbruch stated he did not complete a discharge summary and could not explain why he did not other than it just fell through the cracks. Mr. Sieveke asked if the patient returned after the June 20, 2007 visit. Mr. Fahrenbruch indicated he did return, but he still did not complete a discharge summary.

The Board concluded its questions. Mr. Fahrenbruch provided a closing statement indicating he is aware his documentation for patient G.R. was inadequate, but felt his treatment and plan of care was good. The Board entered deliberations.

Mr. Sieveke stated he felt that the documentation was inadequate and the Board needed to address the issue. Mr. Sieveke also noted that while Mr. Fahrenbruch did gain informed consent before treatment was started Mr. Fahrenbruch admitted he did not tell the patient when he was going to begin providing a manipulation, did not address the patient's previous concern with manipulations and may have insufficiently maintained informed consent. Ms. Akers noted she felt the plan of care was proper but that Mr. Fahrenbruch failed to document his actions and findings in the record. Dr. Cornwall noted he felt that there are problems in the documentation provided and in the informed consent, but he did not feel the problems required disciplinary action.

Dr. Cornwall moved the Board issue Mr. Fahrenbruch a non-disciplinary order to complete a minimum of 8 hours of continuing education in documentation through courses preapproved by Board staff and complete the courses within six months from the effective date of the order. Mr. Sieveke seconded the motion. The Board entered discussion. Ms. Akers suggested the Board also issue a non-disciplinary advisory letter to Mr. Fahrenbruch instructing him to review his practice for gaining and maintaining informed consent from patients and to assess his practice of reviewing documentation to ensure missing records are properly completed. Dr. Cornwall modified his motion to add the non-disciplinary advisory letter as described by Ms. Akers. Mr. Sieveke stated his second to the motion stands. The motion carried by unanimous vote.

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

4. Informal Hearing and Possible Action on Complaint #09-28; 9:00 a.m.  
Lonny Nenadovich, P.T.

Dr. Cornwall called the Board's attention to the above matter. Mr. Nenadovich was present and not represented by legal counsel. Mr. Nenadovich introduced himself to the Board. The Board members introduced themselves. Dr. Cornwall provided a summary of how the proceeding would be conducted and what actions the Board can take at the hearing. Mr. Brown provided a summary of the allegations in the case.

Mr. Brown reported based on the investigation by Board staff and the Board's Initial Review of this complaint it is alleged that Mr. Nenadovich:

1. Failed to treat patient D.P. without providing D.P. the option of receiving treatment.
2. Documented in the patient's record that the patient refused physical therapy treatment on 7/18/09.; however, there is no evidence to indicated, based on the complaint and Mr. Nenadovich's written response, that he directly asked the patient to engage in physical therapy services, but rather based his decision not to treat the patient on the actions he witnessed during the patient's OT session.
3. Failed to return later in the day to request treatment for this patient on 7/18/09 following return to his room by John Schranz, COTA.
4. Admitted to using vulgar language with the Charge Nurse on 7/18/09.

Mr. Nenadovich provided an opening statement. Mr. Nenadovich stated that he did leave the facility the day in question, but instructed the physical therapist assistant working under his supervision to stop work until he returned. Mr. Nenadovich stated he did return to the facility to continue work, but did not visit patient D.P. in his room after returning to the facility.

Ms. Akers asked Mr. Nenadovich to describe how he felt the patient declined physical therapy services on the day in questions. Mr. Nenadovich stated that while he was observing an occupational therapist try to provide services to D.P. he was working on some documentation and waiting to provide physical therapy services to D.P. However, D.P. did not cooperate with the O.T. and repeatedly requested to return to his room. D.P. repeatedly refused services from the O.T. so Mr. Nenadovich felt D.P. was not going to be cooperative for physical therapy services on the day in question and documented the patient refused physical therapy services. Mr. Nenadovich stated he did not directly ask D.P. if he wanted physical therapy services.

Ms. Ohlendorf asked Mr. Nenadovich if he saw D.P. or went to D.P.'s room after Mr. Nenadovich returned to the facility that day. Mr. Nenadovich stated he was only gone about 35 minutes and did not feel D.P. would have settled down enough to engage in physical therapy services. He did not go to D.P.'s room to see if D.P. was ready to participate in treatment. Dr. Cornwall asked if Mr. Nenadovich inquired with other staff about D.P. after he returned. Mr. Nenadovich stated he did not speak to the other staff about D.P.

Mr. Sieveke asked Mr. Nenadovich to explain the text message he sent to the facilities Executive Director that was included in the complaint. Mr. Nenadovich stated it occurred after the incident and the Director was continuing to question him regarding the incident. Mr. Nenadovich stated he had already stated he



did not directly ask D.P. if he refused care. Mr. Nenadovich claimed he had previous disagreements with the Director regarding company policy and that he did not agree with the Director's military management style. Mr. Nenadovich stated he did send the text containing the inappropriate language. Mr. Nenadovich also stated he did use inappropriate language when the charge nurse informed him that he would be required to stop using the nurse station for documentation and use a room Mr. Nenadovich felt was unsanitary. However, Mr. Nenadovich stated he said "f--- that" and not "f--- you".

Dr. Cornwall asked Jennifer Rose and Andrew Quinn to come forward. Ms. Rose and Mr. Quinn stated they were present on behalf of Life Care Centers, Mr. Nenadovich's former employers. Ms. Rose stated she is the Regional Manager for Life Care and that she wanted the Board to know that the facility has a code of conduct its employees are required to follow regarding use of language and that Mr. Nenadovich's failure to ask the patient if he wanted care and failure to follow-up with the patient shocked her. Ms. Rose also stated that D.P. was a Medicare patient and that Medicare has requirements for documenting refusal of care for the patient to continue receiving the care. The Board inquired about the facilities orientation practices and Ms. Rose confirmed Mr. Nenadovich completed the facility orientation.

Mr. Nenadovich provided a closing statement. Mr. Nenadovich stated he still feels the patient refused treatment on the day in question and clarified that his orientation was one hour in length and he had an additional 40 minutes of code of conduct instruction.

The Board entered deliberations. Ms. Akers stated that whether the patient verbalized the refusal of care he most likely did not want treatment as it was documented in the record the patient refused care on other occasions, but that Mr. Nenadovich did not ask and did not document the encounter. In addition, Ms. Akers stated she felt that the language Mr. Nenadovich used with his coworkers was an ethical issue. Dr. Cornwall indicated he did not feel it was a therapists right to say no to treatment on the behalf of the patient and not follow-up. Dr. Cornwall also expressed ethical concerns with Mr. Nenadovich's use of language with coworkers. Mr. Sieveke stated he had issues with Mr. Nenadovich making assumptions in patient care and not going back to see the patient later in the day.

Dr. Cornwall moved the Board adopt the findings of fact as follows:

1. Respondent did not approach patient D.P. on July 18, 2009 directly to gain the patient's acceptance or refusal of physical therapy services.
2. Mr. Nenadovich admitted to using unprofessional language in the work setting and text communications to coworkers.

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

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

Dr. Cornwall moved the Board adopt the following conclusions of law.

Respondent's actions as described in the Findings of Fact constitute violation of:

1. **A.R.S. §32-2044(1)** "Violating this chapter, board rules or a written board order."

2. **A.R.S. §32-2044(12)** “Failing to adhere to the recognized standards of ethics of the physical therapy profession.”
- a. **2.4(A)**: “A physical therapist shall respect the patient’s/client’s right to make decisions regarding the recommended plan of care, including consent, modification or refusal.”
- b. **11.3**: “Physical therapists shall not disparage colleagues and other health care professionals.”

Mr. Robbins seconded the motion. The motion carried by unanimous vote.

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

Dr. Cornwall moved the Board issue Mr. Nenadovich a Decree of Censure to include that on July 18, 2009 Respondent failed to respect the rights of his patient D.P. in that respondent observed the patient’s encounter with another healthcare provider as a refusal to participate in physical therapy treatment and did not directly ask the patient if he wished to refuse or participate in treatment. Respondent used unprofessional language in the work place and in text communications to a coworker. Mr. Robbins seconded the motion. The motion carried by a unanimous vote taken by roll call of the Board.

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

The Board recessed at 10:25 a.m.

The Board reentered regular session at 10:34 a.m.

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

## **BOARD BUSINESS AND REPORTS**

15. Presentation by Affiliated Monitors, Inc. 10:30 a.m.

Vincent DiCianni of Affiliated Monitors, Inc. (AMI) came forward and addressed the Board. Mr. DiCianni explained that AMI is a company based out of Boston Massachusetts that provides monitoring services to regulated individuals. Mr. DiCianni reported that AMI has worked with Mr. Brown in the past when Mr. Brown was employed by the Arizona Board of Chiropractic Examiners and that AMI works with multiple Boards in Arizona. AMI provides the monitoring services normally performed by Board staff as well as other services, but the monitoring is done at the cost of the individual licensee. Mr. DiCianni explained how AMI operates in forming monitoring programs for licensees based on Board orders and their process of hiring local monitors to conduct the actual monitoring. Mr. DiCianni also discussed AMI’s audit procedures, reporting to the Board and AMI’s extensive compliance program. Mr. DiCianni expressed AMI’s willingness to work with the Board in the future. The Board questioned Mr. DiCianni about AMI’s services. Mr. DiCianni ended his presentation. Dr. Cornwall instructed Mr. Brown to notify the Board when he felt the services of AMI could be used to monitor a licensee facing disciplinary action. No further action by the Board was required

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

## **COMPLAINTS, INVESTIGATIONS and COMPLIANCE**

10. Review, Discussion, and Action on Case #'s 09-29 and 09-30 Forwarded to Formal Hearing and Consideration of Consent Agreement.  
William Perry, P.T.

Dr. Cornwall called the Board's attention to the above matter. Mr. Perry was present and was accompanied by his attorney, Faren Akins. Ms. Verstegen stated that she would not be providing the Board with advice on this matter since the case is pending a formal hearing and she is the prosecuting attorney. Mr. Akins stated he provided Mr. Brown with a letter which was provided to the Board outlining the wish of Mr. Perry to settle the cases pending formal hearing. Mr. Perry provided a statement to the Board apologizing for his actions, he is ashamed of what he has done and disappointed in himself.

Mr. Akins stated that the allegations against Mr. Perry in the current matters and in previous complaints that have placed him under disciplinary action are based on Mr. Perry's operation of his business and are not based on patient care issues. Therefore, Mr. Akins is proposing the Board and Mr. Perry enter into an agreement that will allow Mr. Perry to retain his license but require him to sell or dissolve his practices, work under supervision, not supervise other providers and be under monitoring similar to that described by Affiliated Monitors in the presentation previously provided to the Board.

Ms. Akers stated that being a physical therapist is more than providing patient care and that the allegations against Mr. Perry are very serious, which is why the Board stated it would seek revocation of Mr. Perry's license when the matter was voted to Formal Hearing. Dr. Cornwall stated that the Board had previously placed Mr. Perry's license under restriction and Mr. Perry seems to have continued the same practices, which makes it difficult to trust Mr. Perry. However, Dr. Cornwall noted he may be willing to review a proposal. Mr. Sieveke stated that the requirement of Mr. Perry dissolving his businesses may allow him to consider a proposal. The Board reached consensus that they would consider reviewing a consent agreement with Mr. Perry as prepared by Board staff at the February 23, 2010 Board meeting.

5. Initial Review, Discussion and Action on Complaint #09-34  
Tina Patel, P.T.

Dr. Cornwall called the Board's attention to the above matter. Ms. Patel was present and was accompanied by her attorney Sara Soto. Ms. Donahue provided a summary for the Board. The complaint was received from B.H. alleging that while receiving physical therapy services at St. Joseph's Rehabilitation Outpatient Center for a fractured left ankle (sustained 1/2/09), under the care and supervision of Ms. Patel P.T., B.H. fell while performing a balancing activity on a rocker board and sustained a fracture of her left hip as a result of the fall.

Ms. Sato provided a statement to the Board. Ms. Sato stated Ms. Patel has a good working relationship with her patients and is dedicated to her work. B.H.'s case has been reviewed by outside therapists and has been found within the standard of care.

Ms. Akers asked if prior to the fall B.H. was using the same equipment as when the fall occurred. Ms. Patel stated B.H. had used the same equipment but that when the fall occurred B.H. was farther from the wall than she was previously. Ms. Patel stated the patient used green and yellow rocker boards on the day in question and stated the yellow board was higher than the green. The fall occurred when the patient was on the lower

green board that B.H. had previously used. Ms. Patel stated that when treatment started that day she was in close proximity to B.H., but as treatment progressed she was farther away as B.H. had no balance problems.

Ms. Akers asked Ms. Patel when she had contacted B.H.'s physician. Ms. Patel stated that after the fall B.H. was moved to a table and asked if she required an ambulance. B.H. stated she did not need an ambulance and stayed at the clinic while she recovered. Ms. Patel then contacted B.H.'s physician regarding the fall and B.H. left the clinic under her own power. B.H. was told to return or contact Ms. Patel if she felt her condition worsened.

B.H. was present and came forward to address the Board. B.H. stated she was not filing a complaint in pursuit of some financial reimbursement, but that she did not want another patient to go through what she experienced. B.H. stated she was not offered an ambulance until she returned to the clinic after the fall. B.H. stated she was on a board balancing and catching a ball when the fall occurred. She does not feel that the activity was safe. B.H. left the clinic that day and went to work, but returned because of the pain. B.H. was not satisfied with the fact that she had to drive herself to the emergency room and asked to have someone assist her.

Dr. Cornwall ended the Board's questioning in the case. The Board discussed what action should be taken. Dr. Cornwall noted that Ms. Patel failed to document an assessment of B.H. after the fall and failed to do any range of motion testing. Ms. Akers moved the Board issue Ms. Patel a non-disciplinary advisory letter regarding the importance of maintaining patient safety during treatment and documenting details of treatment interventions that detail and support actions and to dismiss the complaint. Mr. Robbins seconded the motion. The motion carried by unanimous vote.

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

6. Initial Review, Discussion and Action on Complaint #09-35  
Tad Pieczynski, P.T.

Dr. Cornwall called the Board's attention to the above matter. Mr. Pieczynski was present and was accompanied by his attorney Charles Hover. Ms. Donahue provided a summary of the case for the Board. This complaint was received from D.S. stating that in July 2009, Mr. Pieczynski P.T. "put a stimulation electrode directly on my surgery incision and caused a very deep burn."

Dr. Cornwall asked if Mr. Pieczynski had a statement to make. Mr. Hover stated they had no statement. Dr. Cornwall asked Mr. Pieczynski to explain why his treatment notes for August 12, 2009 was altered after it was provided to the patient physician. Mr. Pieczynski stated he did not know why. Mr. Pieczynski was provided with a copy of both notes in the Board's record for August 12, 2009 but he still could not say why the note was altered. He stated that the changes are in his own hand writing.

Mr. Sieveke moved the Board forward the case to Informal Hearing. Mr. Robbins seconded the motion. The Board entered discussion regarding the need to send the matter to a hearing. Dr. Cornwall called for the vote. The motion failed with one aye vote and four nay votes.

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

Dr. Cornwall moved the Board issue Mr. Pieczynski a non-disciplinary advisory letter noting the Board's concern with the altering of patient records and the need to use proper addendums when making additions to records after the original note is created. Mr. Robbins seconded the motion. The motion carried by unanimous vote.

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

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

Dr. Cornwall called the Board's attention to the above matter. Mr. Jabs was present and came forward. Mr. Jabs stated that he has completed his required evaluation and is embarrassed by his actions, but that he is seeking care for his addiction. The Board discussed Mr. Jabs addiction evaluation.

Dr. Cornwall moved the Board enter Executive Session for the purposes of obtaining legal advice. Mr. Sieveke seconded the motion. The motion carried by unanimous vote.

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

The Board entered Executive Session at 12:30 p.m.

The Board reentered Regular Session at 12:34 p.m.

Dr. Cornwall moved the Board offer Mr. Jabs a consent agreement to Mr. Jabs and provide 20 days to accept the agreement or the matter is forwarded to an Informal Hearing. The consent agreement will have Findings of Fact:

1. Respondent did arrive at work on May 28, 2009 impaired with a urine alcohol level of 0.54 which translated to blood level of .09.
2. Respondent did not report a conviction for driving under the influence in Michigan in 2003.
3. Respondent did not provide the Board with an updated address when he moved to Dewey Arizona within 30 days.
4. Respondent did not report his driving under the influence charge in 2008 in 10 days as required by law.

The Motion was seconded by Ms. Akers. The motion carried by unanimous vote.

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

Dr. Cornwall moved the Board adopt the following Conclusion of Law in the consent agreement to be offered to Mr. Jabs.

1. **A.R.S. §32-2044(1)** “Violating statute, board rules or a written board order.”

**A.A.C. R4-24-312. Mandatory Reporting Requirement**

A. As required by A.R.S. § 32-3208, an applicant, licensee, or certificate holder who is charged with a misdemeanor involving conduct that may affect patient safety or a felony shall provide written notice of the charge to the Board within 10 days after the charge is filed.

2. **A.R.S. §32-2044(8)** “Practicing as a physical therapist or working as a physical therapist assistant when physical or mental abilities are impaired by disease or trauma, by the use of controlled substances or other habit-forming drugs, chemicals or alcohol or by other causes.”

3. **A.R.S. §32-2044(12)** “Failing to adhere to the recognized standards of ethics of the physical therapy profession.”

PRINCIPLE 4- A physical therapist shall exercise sound professional judgment.

4.1 Professional Responsibility

- a. A physical therapist shall make professional judgments that are in the patient’s/client’s best interests.
- c. A physical therapist shall not provide physical therapy to a patient/client while his/her ability to do so safely is impaired.

4. **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.

5. **A.R.S. §32-2044 (23)** “Failing to report to the board a name change or a change in business or home address within thirty days after that change.”

The motion was seconded by Mr. Robbins. The motion carried by unanimous vote.

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

Dr. Cornwall moved the Board offer Mr. Jabs an Order to include all of the Board’s standard language for substance abuse monitoring, probation for five years, continuing education for a minimum of eight hours in ethics to be preapproved by Board staff and completed within six months of the effective date of this order, substance abuse monitoring to include all elements as described in Dr. Sucher’s evaluation report, requirement to notify his current employer of the consent agreement and any future employer, and Respondent can seek early termination after three years. Ms. Ohlendorf seconded the motion. The motion carried by unanimous vote.

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

8. Review of Consent Agreement and Possible Action on Compliance with Board Order #08-21  
Jared Kitamura, P.T.

Dr. Cornwall called the Board's attention to the above matter. Mr. Kitamura was not present. Ms. Donahue reported that Mr. Kitamura had completed all the terms of his probation under the extension provided by the Board. Dr. Cornwall moved the Board find Mr. Kitamura in compliance with his terms of probation and terminate his probation under the above order. Ms. Akers seconded the motion. The motion carried by unanimous vote.

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

9. Review of Consent Agreement and Possible Action on request for Modification of Board Order  
William Sifling, P.T.

Dr. Cornwall called the Board's attention to the above matter. Ms. Ohlendorf recused herself from this matter since she has worked with Mr. Sifling. Ms. Ohlendorf left the Board table. Mr. Brown reported that Mr. Sifling has provided a request to modify his Board order. Mr. Sifling has not been able to gain employment as a physical therapist since his license was reinstated last year. Mr. Sifling claims that being required to work under direct supervision 50% of a working day prevents a supervisor from taking any time off, which is why he cannot gain employment. Mr. Sifling claims he has an offer of employment if the restriction can be modified. The Board discussed Mr. Sifling's request.

Dr. Cornwall moved the Board modify Mr. Sifling's Board order regarding supervision to require direct supervision 80% of a work week and general supervision 20% of the work week. Mr. Sieveke seconded the motion. The motion carried by unanimous vote.

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

Ms. Ohlendorf returned to the Board table.

The Board recessed at 12:55 p.m.

The board returned to session at 1:04 p.m.

## BOARD BUSINESS AND REPORTS

17. Review, Discussion and Possible Action on AZLAW Examination Questions.

Dr. Cornwall called the Board's attention to the above matter. Ms. Akers moved the Board enter Executive Session to discuss confidential information. Dr. Cornwall seconded the motion. The motion carried by unanimous vote.

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

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

The Board reentered Regular Session at 1:11 p.m.

Dr. Cornwall instructed Mr. Brown to place the review of the AZLAW Examination on a future agenda if requested by a Board member.

16. Review, Discussion and Possible Action on Legislation. 1:00 p.m.

Dr. Cornwall called the Board's attention to the above matter. Tom Dorn Legislative Liaison for the AzPTA, Al D'Appollonio, P.T.; and Peggy Hiller, P.T. came forward to address the Board on behalf of the Arizona Physical Therapy Association. Brandy Petrone was present as the Board's legislative liaison.

Mr. D'Appollonio stated that the AzPTA has provided the Board with the language of the business entities bill HB 2123 and is present to discuss the legislation and Board support. Mr. Dorn reported that the bill has been filed and is awaiting an amendment to reflect the language before the Board and any modifications agreed upon. Mr. Dorn reported that the AzPTA will begin work with other stakeholders after today's discussion with the Board. The Board discussed some concerns with the language currently being used to include, indicating a P.T.A. is responsible for managing patient care, the lack of an effective date in the law, conforming disciplinary action with the Board's current statutes; use of language that may require facilities owned entirely by other healthcare providers to register with the Board; and the use of inspection language. The Board discussed with the representatives of the AzPTA their deadlines for making changes and moving the bill forward in the legislative process. Mr. D'Appollonio stated he was responsive to the Board's concerns and would work with Board staff to make changes. The Board gave consensus approval for Board staff and legislative liaisons to work with the AzPTA representatives to edit the current bill language and provide support to the bill under the condition the requested edits are made and reserving the right to modify Board support as the bill moves through the legislative process.

## CALL TO THE PUBLIC

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

## ADJOURNMENT

The meeting adjourned at approximately 1:45 p.m.

Prepared by,

Charles D. Brown  
Executive Director



Approved by,

Kris Ohlendorf, P.T.A.  
Secretary