

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 (TELEPHONIC) MEETING MINUTES
February 23, 2010

MEMBERS PRESENT TELEPHONICALLY:

Mark Cornwall, P.T., Ph.D., President
Lisa Akers, P.T., Vice President
Randy Robbins, Public Member
James Sieveke, P.T., O.C.S., Member
Melinda Richardson, P.T., Member

MEMBERS PRESENT IN PERSON:

Kris Ohlendorf, P.T.A., Secretary

OTHERS PRESENT IN PERSON:

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 8:32 a.m.

- 1. Review and Approval of Draft Minutes
 - a. January 26, 2010; Regular Session Minutes

Dr. Cornwall opened the agenda item for discussion and asked if any Board member had corrections for the minutes as presented. Ms. Ohlendorf noted a correction to the voting table on page 16 of the draft minutes which showed her recused. No other Board member expressed a need for corrections to the minutes. Dr. Cornwall moved the Board approve the minutes as amended. Mr. Sieveke seconded the motion. The motion carried by unanimous vote.

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

- b. January 26, 2010; Executive Session Minutes; 12:30 pm to 12:34 pm

Dr. Cornwall opened the agenda item for discussion and asked if any Board member had corrections for the minutes as presented. No Board member expressed a 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	Mr. Robbins	Mr. Sieveke	Ms. Richardson
Aye	X	X	X	X	X	X
Nay						
Recused						
Abstained						
Absent						

c. January 26, 2010; Executive Session Minutes; 1:05 pm to 1:11 pm

Dr. Cornwall opened the agenda item for discussion and asked if any Board member had 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	Mr. Robbins	Mr. Sieveke	Ms. Richardson
Aye	X	X	X	X	X	X
Nay						
Recused						
Abstained						
Absent						

COMPLAINTS, INVESTIGATIONS and COMPLIANCE

2. Initial Review, Discussion and Action on Complaint #09-39
Judith Vance, P.T.

Dr. Cornwall called the Board’s attention to the above agenda item. Ms. Vance was not present. Dr. Cornwall noted that Ms. Vance was currently under a Board Order of probation that required her to complete continuing competence activities by December 9, 2009 and that Ms. Vance stated she did not receive the order until after the December deadline. Ms. Donahue noted that Ms. Vance submitted documentation of completing the continuing competence activities on February 19, 2010. Ms. Richardson noted that Ms. Vance was present over the phone during the Informal Hearing when the order was issued by the Board and was aware of when her continuing competence activities were due. Mr. Sieveke noted that Ms. Vance was sent notices to her address of record, but that she chose not to be home when the notices were being delivered and never notified Board staff she would not be home to receive mail for extended periods of time.

Ms. Ohlendorf inquired if Ms. Vance had completed her requirement of 20 hours of community service. Ms. Donahue reported it was not complete, but that she still had time remaining according to the Board Order. Dr. Cornwall moved the Board issue Ms. Vance a non-disciplinary order for continuing education and require Ms. Vance to complete 6-8 hours of continuing education in ethics by August 1, 2010. Ms. Sieveke seconded the motion. The motion carried by unanimous vote.

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

3. Initial Review, Discussion and Action on Complaint #09-40
Alana Yerman, P.T.

Dr. Cornwall called the Board's attention to the above agenda item. Ms. Donahue provided a summary of the allegations against Ms. Yerman:

Ms. Yerman applied for reinstatement in October 2009. By virtue of her reinstatement, she was provided notice of audit for continuing competence compliance during the 2006-2008 compliance period on October 29, 2009. A Certified mail card was received by the licensee on November 4, 2009. Ms. Yerman failed to respond to the audit within the acceptable time frame. Ms. Yerman was notified on January 12, 2010 of a complaint filed by the Board staff in regards to her failure to respond to the Notice of Audit of Continuing Competence. She states she received well over 20 CEU units over the past 2 years; however none of the courses were taken during the 2006-2008 compliance period.

Mr. Sieveke noted that according to the investigative record Ms. Yerman was not in compliance with the required continuing competence activities when she signed her reinstatement application and verified her compliance. Ms. Donahue confirmed Ms. Sieveke's statement. Mr. Sieveke noted that the Board may wish to consider the standard consent agreement issued to licensees who do not comply with continuing competence requirements. Mr. Brown noted the Board normally would offer a consent agreement for probation for probation requiring the licensee to take and pass the Board's jurisprudence examination along with completion of continuing education. The Board inquired about a possible civil penalty and Mr. Brown noted that the Board had previously decided not to offer civil penalties in such consent agreements and to include actions that could be issued at Informal Hearings.

Dr. Cornwall expressed a desire for Ms. Yerman to complete ethics continuing education. Mr. Sieveke expressed a desire for Ms. Yerman to take and pass the Board's jurisprudence examination. Dr. Cornwall moved the Board offer Ms. Yerman a consent agreement with findings of fact drafted by Board staff, conclusions of law for violations of A.R.S. §32-2044(1) and (14); and a Board Order for probation for six months requiring Ms. Yerman to take and pass the Board's jurisprudence examination in the six months of probation and complete a minimum of 8 hours of continuing education in ethics preapproved by Board staff within the six months of probation. Mr. Sieveke seconded the motion. The Board entered discussion. Ms. Richardson inquired if Ms. Yerman would be allowed to use the ethics activities toward her required continuing competence for renewal. Mr. Brown stated that the Board normally does not allow disciplinary continuing education to be credited to a licensee's required continuing competence activities for renewal. Dr. Cornwall called the vote. The motion carried by unanimous vote.

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

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

5. Review of Consent Agreement and Possible Action on Compliance with Board Order #09-16
 Caleb Lionberger, P.T.A.

Dr. Cornwall called the Board’s attention to the above agenda item. Mr. Lionberger was present and came forward to address the Board. Mr. Brown provided a summary for the Board:

Mr. Lionberger is currently on probation under a Board order and has complied with the provisions of the order; however, Mr. Lionberger failed to gain preapproval of course material to be used in a presentation to coworkers; therefore, Board staff could not terminate the probation as Mr. Lionberger may have violated a provision of the Board order. Mr. Lionberger stated he did not read the order in enough detail to realize he need the material for his presentations to be preapproved by Board staff. Mr. Lionberger noted that the material used in his initial presentation was not approved, but was approved by Ms. Donahue prior to performing the second presentation. Ms. Donahue confirmed Mr. Lionberger’s statement, but noted a few minor changes had been required.

Ms. Ohlendorf moved the Board find Mr. Lionberger in compliance with the terms of his Board order and terminate his probation. Ms. Richardson seconded the motion. The motion carried by unanimous vote.

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

4. Initial Review, Discussion and Action on Complaint #10-02
 Lonny Nenadovich, P.T.

Dr. Cornwall called the Board’s attention to the above agenda item. Mr. Nenadovich was not present. Ms. Donahue provided a summary of the allegations to the Board:

Patient J.R. filed a complaint on 1/4/09 stating that Mr. Nenadovich P.T. performed a cervical manipulation without J.R.’s consent while being treated for low back pain. The Investigation noted there is not a prescription on file for this patient; no documentation of a cervical evaluation; no documentation of a thoracic evaluation; no documentation of a cervical diagnosis; no documentation of a thoracic diagnosis; the Assessment/Diagnosis throughout the treatment record indicates Chronic Low Back Pain and SIJ dysfunction L-Side and referred pain into Fortin area; there is documentation on each date of service that the patient orally consented to treatment; there is documentation of a A/A manipulation on 10/7/09, the patient refutes that a cervical manipulation was performed on this date; no documentation of a Discharge report; no documentation of the patient phone call or visit to the clinic the following week in the patient record; and billing records indicate 97001 being charged for each session due to Cigna payment policy.

Dr. Cornwall inquired if this complaint rose from weekday or weekend employment for Mr. Nenadovich. Ms. Donahue stated this patient was treated at Mr. Nenadovich’s weekday employer. Mr. Brown noted that this case was not related to Mr. Nenadovich’s case heard by the Board on January 26, 2010.

Dr. Cornwall moved the Board forward this matter to an Informal Hearing including the allegations and possible violations of law outlined in the investigative report. Ms. Akers seconded the motion. The Board entered discussion. Ms. Ohlendorf asked if staff could have the complainant provide

a statement regarding the treatment. Ms. Donahue stated she would follow-up with the patient. Dr. Cornwall called the vote. The motion carried by unanimous vote.

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

Mr. Sieveke instructed Board staff to follow-up with Mr. Nenadovich to gain a clear understanding of what activities he was delegating to the physical therapy aides he supervised when J.P. was being treated.

6. Review of Interim Order and Possible Action on request for Modification of Board Order Christopher O'Donnell, P.T

Dr. Cornwall called the Board's attention to the above agenda item. Mr. O'Donnell was not present. Mr. Brown reported that the Board had previously ordered Mr. O'Donnell to complete a psychosexual examination with a Board approved evaluator and have the report submitted to the Board within specific time frames. Mr. Brown noted Mr. O'Donnell has an evaluation scheduled for March 2 and 3, 2010, but that the report would not be available until after the timeframe outlined in the Board Order. Mr. Brown stated Mr. O'Donnell is requesting an extension to have the report submitted.

Dr. Cornwall moved the Board grant Mr. O'Donnell an additional 30 days to complete the evaluation and have the report submitted to Board staff. Mr. Robbins seconded the motion. The Board entered discussion. Ms. Richardson asked if Mr. O'Donnell were to rescheduled the evaluation and missed the new timeframe what would occur. Ms. Verstegen stated if Mr. O'Donnell does not have the evaluation and report completed within the extend time period, the Board could add an allegation of violating a Board order to the complaint allegations. Dr. Cornwall called the vote. The motion carried by unanimous vote.

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

CONSENT AGENDA; REVIEW, CONSIDERATION and ACTION

8. Applications For Licensure & Certification

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

Bernal, Jamie	Bolin, Lisa	Bunazawa, Asuka
Good, Merrilee	Gunther, Rachel	Hoegh, James
McCaffrey, Margaret	Okafor, Nkechi (not approved on consent agenda)	Schaefer, Renee
Severino, Mike	Severino, Nicole	

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

Miller, Jane	Millikan, Ashley	Robinson, Jennifer
Wheelan, John	Wichman, Julia	

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. Ms Akers requested Nkechi Okafor’s removal from the consent agenda. Dr. Cornwall moved the Board approve the Consent Agenda excluding Nkechi Okafor and approve issuing 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	Mr. Robbins	Mr. Sieveke	Ms. Richardson
Aye	X	X	X	X	X	X
Nay						
Recused						
Abstained						
Absent						

Okafor, Nkechi

Ms. Akers noted Ms. Okafor graduated in 2002, but has not practiced in any jurisdiction since graduation. Mr. Brown noted the applicant graduated in 2002 but passed the NPTE examination in January of 2010. Ms. Versteegen stated the Board’s statutes that apply to this application do not allow the Board to require current practice or any testing of competency beyond the NPTE examination.

Dr. Cornwall moved the Board grant licensure to Nkechi Okafor. Ms. Akers seconded the motion. The motion carried by unanimous vote.

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

Consent Agenda Ends

APPLICATIONS and CERTIFICATIONS

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

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

No action was required on this agenda item.

9(B) Review of Documentation Related to Disclosure on “Personal Information” Section of Physical Therapist Application

1) Maiorana, James

Dr. Cornwall called the Board’s attention to the above agenda item. Dr. Cornwall reported that the above applicant was a former student of his, but that he did not feel he was biased in any manner. Ms. Ohlendorf noted the applicant reported an arrest from 20 years ago and has since corrected his behavior. Mr. Robbins stated the applicant has shown a good deal of effort in rehabilitation. Ms. Ohlendorf moved the Board approve Mr. Maiorana to take the AZLAW exam and grant licensure upon receipt of a passing score. Ms. Akers seconded the motion. The motion carried by unanimous vote.

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

9 (C) Review of Documentation Related to Disclosure on “Personal Information” Section of Physical Therapist Assistant Application

1) Blair, Melinda

Dr. Cornwall called the Board’s attention to the above agenda item. Ms. Ohlendorf noted the applicant reported an arrest in 2002, but that it did not appear there have been any problems since the arrest. Ms. Ohlendorf moved the Board grant Ms. Blair certification. Dr. Cornwall seconded the motion. The motion carried by unanimous vote.

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

BOARD BUSINESS AND REPORTS

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

a. Financial Report- In addition to summarizing the written 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 some of the options under consideration by the Legislature is 15% reductions in appropriation to all agencies in FY 2010 and FY 2011, and a 10% salary reduction for staff all accompanied by fund transfers equaling the reductions. Mr. Brown reported that the Board’s budget worksheet included options to accommodate the possible reductions.

b. Board Staff Activities- Summary of written report.

c. Legislation- Mr. Brown reported the Board’s bill HB 2149 passed by the House of Representatives and transmitted to the Senate. Mr. Sieveke asked if there was any information regarding legislation being run on behalf of the Athletic Trainers Association. Heidi Herbst Paakkonen, Executive Director for the Arizona Physical Therapy Association came forward and addressed the Board. Ms. Herbst Paakkonen reported the AzPTA was in discussion with the sponsors of the legislation expanding the scope of work for athletic trainers and that progress was being made in adopting changes that both parties could agree upon and that the legislation passed through the Senate Health Committee the previous week.

d. Rule Activity- Summary of written report.

11. Review Discussion and Action on Report from the Supervision Advisory Group To The Executive Director

Dr. Cornwall called the Board’s attention to the above agenda item. Mr. Brown provided a report to the Board as follows:

In January 2009 I was hired by the Board as Executive Director and a lingering assignment from my predecessor was transferred to me upon my hiring. The Board was in the process of reviewing the substantive policy statement regarding supervision to resolve an issue of how supervision is properly performed when a mixture of general supervision and onsite supervision takes place. It became apparent

quickly that the Board could not address the issue through policy, but that changes to Arizona Administrative Codes would be required. In the summer of 2009 the Board determined to address the issue by assigning me the task of researching necessary changes to the law. I formed a supervision advisory group of volunteers to assist me in my review.

Presented for the Board's review is a group list of persons involved in the volunteer group, a list of goals given to the group, a summary of concerns the group identified related to supervision and the proposed solutions. Finally, I have drafted possible changes to Arizona Administrative Code which would address the concerns identified by the group. In review you will find that the group addressed more than the issue of mixing general and onsite supervision. I requested the group identify as many issues as possible as I felt when updating rules it would be better to do one larger package than several small packages.

The information presented is for Board review and action. I would like direction from the Board regarding the work completed. Is the direction the group took sufficient, is the Board comfortable with the identified concerns, and are the concerns adequately address? If the Board would like the group to continue its work, I would ask for a list of goals from the Board. If the Board feels the work done thus far is ready to proceed to the rule making process, I would suggest the Board consider a Stakeholder meeting prior to any formal rule making. If the Board is comfortable with scheduling a stakeholder meeting; I suggest the Board consider inviting representatives from the following organizations:

AzPTA
Arizona Home Care Association
Phoenix PT Directors
Gateway Community College
Pima Medical Institute
PT Providers Network
Arizona Hospital and Healthcare Association
Arizona Healthcare Association
K-12 School representative-Organization Not Yet Identified

Mr. Sieveke suggested the Board review the report from Mr. Brown in accordance with the concerns identified. The Board reviewed and discussed the report item by item. The Board instructed Mr. Brown to thank the group of volunteers that assisted him in the assignment and to perform three tasks before bringing the matter back to the Board. 1) Submit a survey to the licensed profession asking for input on possible definitions of "routine physical therapy tasks". 2) Draft possible language requiring a physical therapist assistant to notify a supervising physical therapist of any possible change in a patient's acuity. 3) Develop language the Board can review that would make it clear physical therapist students and physical therapist assistant students are included in supervision ratios.

Mr. Brown stated he would complete the Board's assignments and report back to the Board when the work is complete. The Board stated that it did not feel it was necessary to form the group of volunteers to complete the new assignments.

The Board recessed at 10:28 a.m.

The Board reentered regular session at 10:35 a.m.

COMPLAINTS, INVESTIGATIONS and COMPLIANCE

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

Dr. Cornwall called the Board's attention to the above agenda item. Mr. Perry and his attorney, Faren Akins was present and came forward to address the Board. Mr. Brown summarized for the Board it's instruction to staff relating to the above cases heard during the Board's January 23, 2010 Board Meeting. Mr. Brown reported the requested draft consent agreement was drafted by Ms. Verstegen and submitted to the Board and that Mr. Perry and Mr. Akins had received a copy and submitted requested modifications.

Mr. Akins provided a summary of his submission to the Board with requested modifications and the reasoning for the modifications. The Board reviewed the draft consent agreement with Mr. Akins and instructed staff on acceptable modifications to the original draft. The Board instructed Ms. Verstegen to work with Mr. Akins on language for the consent agreement in certain areas and instructed Mr. Brown to place the matter on the Board's March 23, 2010 Board Meeting 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.

ADJOURNMENT

The meeting adjourned at approximately 12:05 p.m.

Prepared by,

Charles D. Brown
Executive Director

Approved by,

Kris Ohlendorf, P.T.A.
Secretary