

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
July 27, 2010

MEMBERS PRESENT:

Lisa Akers, P.T., Vice President
Kris Ohlendorf, PTA, Secretary
Randy Robbins, Public Member
Melinda Richardson, P.T., Member

MEMBERS ABSENT:

Mark Cornwall, P.T., Ph.D., President
James Sieveke, P.T., O.C.S., Member

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 – 8:34 a.m.

Ms. Akers called the meeting to order at 8:34 a.m.

- 1. Review and Approval of Draft Minutes**
 - a. June 22, 2010, Regular Session Meeting Minutes

Ms. Akers opened the agenda item for discussion and asked if any Board member had corrections for the minutes as presented. Ms. Ohlendorf noted a typographical error on page one of the minutes. No additional Board member expressed a need for corrections or additions to the minutes. Ms. Akers moved the Board approve the minutes as amended. 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 |
| Nay | | | | | | |
| Recused | | | | | | |
| Abstained | | | | | | |
| Absent | X | | | | X | |

3. CONSENT AGENDA: REVIEW, CONSIDERATION and ACTION

a) Applications for Licensure and Certification

- i) Substantive Review, Consideration and Approval of Applications of Physical Therapist Licensure

| | | |
|--------------------|---------------------|------------------------|
| Alexander, Krystle | Arnett, Tyler | Attwood, Kristen |
| Bartels, Jenna | Benson, Hayley | Bloom, Eric |
| Boroos, Holly | Brown, Jessica | Callaman, Jason |
| Cole, Charles | Cole, Shawn | Conley-Raths, Jennifer |
| DeRosa, Sara | Edwards, Jodi | Ellis, Scott |
| Fisher, Danine | Flippen, Nicole | Granger, Lisa |
| Hansford, Sarah | Hanson, Amanda | Hurt Kimberly |
| Hyatt, Jacob | Johnson, Joseph | Johnson, Krystle |
| Keller, Leon | Kloppel, Ashley | Lee, Griffin |
| Lee, Jennifer | Lord, Kathleen | Martin, James |
| McCarville, Rachel | McGurl, Ashley | Meath, Katie |
| Meier, Krista | Nyhus, Laura | Ogle, Krystle |
| Olson, Jayece | Pelletier, Danielle | Plumb, Rochelle |
| Rivas, Carlos | Shula, Molly | Smith, Donna |
| Stewart, LaRissa | Strasshofer, Janet | Truitt, Kevin |
| Van de Voort, Erin | Vance, Jonathan | Vanini, Sam |
| Vega, Maria | Wallace, Kathryn | Williams, Matthew |
| Wirch, Jennifer | Wutoh, Kenneth | Ziegler, Ashley |
| | | |

ii) Substantive Review, Consideration and Approval of Applications for Physical Therapist Assistant Certification

| | | |
|-----------------|-------------------|----------------------|
| Akong, Emmanuel | Cone, Jill | Fulcher, Andrea |
| Fuller, Debra | Merrill, Charisse | Nielson, Camille |
| Noake, Natthew | Richards, Julia | Robinson-Reed, Robin |
| Stastny, Kay | Weber, Bryan | |

Ms. Akers called the Board’s attention to the above matter. Ms. Akers asked if any Board member wished to remove an applicant from the Consent Agenda for further discussion. Ms. Ohlendorf stated she knew some applicants from their internships at her place of employment. Ms. Richardson also noted she knew some applicants from internships at her place of employment. Ms. Ohlendorf and Ms. Richardson stated they had no bias and could vote on the applications. No Board member requested to remove an applicant from the Consent Agenda. Ms. Akers moved the Board approve the Consent Agenda and approve issuing licenses and certificates to the noted applicants. Ms. Richardson seconded the motion. The motion carried by unanimous vote of the members present.

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

Consent Agenda Ends

4) Review, Consideration and Action on Applications for Licensure and Certification

a) Review, Discussion, and Action on 2010-2012 License/Certificate Renewal Applications (Personal Information Disclosures)

i) Karen Bustillo, P.T.

Ms. Akers called the Board’s attention to the above matter. Ms. Bustillo was not present. Ms. Bustillo’s attorney, Cody Hall, was present. Mr. Brown summarized the personal disclosure by Ms. Bustillo related to a pending malpractice lawsuit. Mr. Hall made a statement to the Board. Ms. Akers moved the Board approve Ms. Bustillo’s application for renewal of her license. 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 |
| Nay | | | | | | |
| Recused | | | | | | |
| Abstained | | | | | | |
| Absent | X | | | | X | |

ii) Michael Johnson, P.T.

Ms. Akers called the Board’s attention to the above matter. Mr. Johnson was not present. Mr. Johnson’s attorney, Cody Hall, was present. Mr. Brown summarized the personal disclosure by Mr. Johnson related to a pending malpractice lawsuit. Mr. Hall made a statement to the Board. Ms. Akers moved the Board approve Mr. Johnson’s application for renewal of his license. 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 |
| Nay | | | | | | |
| Recused | | | | | | |
| Abstained | | | | | | |
| Absent | X | | | | X | |

iii) Susan Priestman, P.T.

Ms. Akers called the Board’s attention to the above matter. Ms. Priestman was not present. Mr. Brown summarized for the Board Ms. Priestman’s report of receiving disciplinary action in Oregon related to failure to disclose previous disciplinary action on her application for licensure. Ms. Akers moved the Board approve Ms. Priestman’s application for renewal of her license. 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 |
| Nay | | | | | | |
| Recused | | | | | | |
| Abstained | | | | | | |
| Absent | X | | | | X | |

Ms. Akers instructed Board staff to open a complaint against Ms. Priestman’s license for receiving disciplinary action in another jurisdiction.

iv) Anna Mercado, P.T.A.

Ms. Akers called the Board’s attention to the above matter. Ms. Mercado was present. Mr. Brown summarized for the Board that Ms. Mercado disclosed on her renewal application a charge and conviction for driving under the influence. Mr. Brown stated Board staff was in the process of initiating a complaint against Ms. Mercado’s license. Ms. Mercado made a statement to the Board. Ms. Akers moved the Board approve Ms. Mercado’s application to renew her certificate. 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 |
| Nay | | | | | | |
| Recused | | | | | | |
| Abstained | | | | | | |
| Absent | X | | | | X | |

b) Review of and Possible Action on the Following Applications for Physical Therapist Licensure – Foreign Educated Graduates of Programs Not CAPTE Accredited.

- i) Review of Education, Determination of Supervised Clinical Practice Period, and Possible Licensure
 - (a) Gamboa, Claire

Ms. Akers called the Board’s attention to the above matter. Ms. Gamboa was not present. Ms. Brierley reported to the Board that Ms. Gamboa’s professional education was deficient in content areas that are required in the Coursework Tool 5. Ms. Akers moved the Board find Ms. Gamboa’s education not substantially equivalent. 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 |
| Nay | | | | | | |
| Recused | | | | | | |
| Abstained | | | | | | |
| Absent | X | | | | X | |

e) Review of Documentation Related to Disclosure on “Personal Information” Section of Application

- ii) Physical Therapist Assistant Application and Determination of Approval to take the AZLAW (Jurisprudence) Exam, NPTE and Possible Certification
 - (a) Castillo, Patrick

Ms. Akers called the Board’s attention to the above matter. Mr. Castillo was present. Ms. Brierley summarized for the Board that Mr. Castillo has disclosed multiple convictions on his application for certification. Mr. Castillo made a statement to the Board and explained his compliance with his convictions sentencing and that the matters were related to his now diagnosed bipolar disorder which is currently controlled with medical care. The Board discussed the application. Ms. Akers moved the Board approve Mr. Castillo to take the AZLAW and NPTE examination and be certified upon receipt of passing scores. 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 |
| Nay | | | | | | |
| Recused | | | | | | |
| Abstained | | | | | | |
| Absent | X | | | | X | |

- b) Review of and Possible Action on the Following Applications for Physical Therapist Licensure – Foreign Educated Graduates of Programs Not CAPTE Accredited.
- i) Review of Education, Determination of Supervised Clinical Practice Period, and Possible Licensure
 (b) Morales, Melissa

Ms. Akers called the Board’s attention to the above matter. Ms. Brierley reported to the Board that Ms. Morales’ professional education was deficient in content areas that are required in the Coursework Tool 5. Ms. Akers moved the Board find Ms. Morales’ education not substantially equivalent. 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 |
| Nay | | | | | | |
| Recused | | | | | | |
| Abstained | | | | | | |
| Absent | X | | | | X | |

- i) Review of Education, Determination of Approval to take the AZLAW Examination, Determination of Supervised Clinical Practice Period, and Possible Licensure:
 (a) Catequista, Marlon

Ms. Akers called the Board’s attention to the above matter. Ms. Brierley reported to the Board that Mr. Catequista’s professional education was deficient in content areas that are required in the Coursework Tool 5. Ms. Akers moved the Board find Mr. Catequista’s education not substantially equivalent. 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 |
| Nay | | | | | | |
| Recused | | | | | | |
| Abstained | | | | | | |
| Absent | X | | | | X | |

2) **COMPLAINTS, HEARINGS, INVESTIGATIONS and COMPLIANCE**

- a) Informal Hearing and Possible Action on Complaint:
 i) Complaint # 09-42; Michael Palmieri

Ms. Akers called the Board’s attention to the above matter. Mr. Palmieri was present via the telephone and was not represented by legal counsel. The Board and Board staff introduced themselves to Mr. Palmieri. Ms. Akers summarized the procedures for conducting an Informal Hearing, Mr. Palmieri’s rights, and the possible outcomes of the hearing. Mr. Brown read a summary of the allegations as follows:

Based on the investigation by Board staff and the Board’s Initial Review of this complaint it is alleged that Mr. Palmieri:

1. Signed his reinstatement form affirming that he completed all continuing competence requirements for the 2006-2008 compliance period.
2. Failed to respond to the Notification of Audit within 30 days as required by law.
3. Failed to respond to his notification of complaint within the 30 day time frame.

4. Was deficient 15 hours of continuing competence activity for the 2006-2008 compliance period based on the outcome of his audit.
5. Took a TPI continuing competence course in 2007 that was not approved by the APTA; however, the course was later approved in 2008.

Mr. Palmieri was sworn in by Ms. Akers. Mr. Palmieri provided an opening statement. Mr. Palmieri stated he was unsure why the hearing was being conducted as he was under the impression the initial review of the matter in April was to determine if the Board would accept his continuing competence activities that Board staff determined were not in compliance with requirements for the 2006-2008 compliance period. Mr. Brown provided a review of how the complaint process was conducted and the notices Mr. Palmieri received regarding the Informal Hearing which he accepted. Ms. Verstegen verified that Mr. Palmieri had been notified of the allegation against him related to his failure to respond to a notice of audit of continuing competence activities.

Mr. Palmieri confirmed with the Board that he has completed the necessary hours of continuing competence activities that were deemed deficient during the Board's audit. Ms. Akers opened the matter for questions from the Board. After, the Board questioned Mr. Palmieri, Ms. Akers closed the questioning portion of the hearing. Mr. Palmieri made a closing statement stating he felt the consent agreement offered to him prior to the hearing included overly burdensome penalties to include taking the AZLAW examination and a fine when his only issue was falling to respond to a notice of audit. Ms. Akers opened the matter for deliberation.

The Board entered deliberations regarding the matter. Ms. Richardson asked Ms. Verstegen to clarify the Board's options. Ms. Verstegen reviewed the Board's options if the developed Findings of Fact and Conclusions of Law substantiated that a violation occurred. Ms. Richardson moved the Board adopt Findings of Fact as follows:

1. Mr. Palmieri was sent notice of audit of his 2006-2008 continuing competence activities on November 10, 2009.
2. Mr. Palmieri received his notice of audit at his address of record on November 12, 2009. He failed to respond to the notice of audit within 30 days. The Board opened Complaint #09-42 against his license on December 15, 2009 for failure to respond to the notice of audit.

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

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

Ms. Richardson moved the Board adopt the following Conclusion of Law:

1. The conduct and circumstances described in the above paragraphs constitute a violation of A.R.S. §32-2044(1) "Violating this chapter, board rules or a written board order"
A.A.C. R4-24-401. Continuing Competence Requirements for Renewal G. A licensee is subject to Board auditing for continuing competence compliance. 2. Within 30 days of receipt of a notice of audit,

a licensee shall submit evidence to the Board that shows compliance with the requirements of continuing competence. Documentation of a continuing competence activity shall include:

- a. The date, place, course title, sponsor, schedule, and presenter;
- b. The number of contact hours received for the activity; and
- c. Proof of completion, such as an abstract, certificate of attendance, sign-in log, or other certification of completion.

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

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

The Board entered deliberations regarding a Board Order. Ms. Akers moved the Board issue Mr. Palmieri a Decree of Censure regarding the conduct described in the Findings of Fact. Ms. Richardson seconded the motion. Ms. Akers called a roll call 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 |
| Nay | | | | | | |
| Recused | | | | | | |
| Abstained | | | | | | |
| Absent | X | | | | X | |

Ms. Akers informed Mr. Palmieri of the action the Board took and informed him he could contact Board staff with any questions.

- b) Initial Review, Discussion and Action on Complaint
 - i) Complaint # 10-12; Michelle Irvin, P.T.

Ms. Akers called the Board’s attention to the above agenda item. Ms. Irvin was present with Jill Osborn, Ms. Irvine’s attorney. Ms. Donahue provided a summary of the case as follows:

The complainant requested that a physical therapy evaluation be performed on her son, K.M., to determine if physical therapy services would be provided by the Gilbert School District. Ms. Irvin completed the evaluation and determined that services were not warranted based upon the IDEA requirements for school physical therapy. The complainant disputes the findings in Ms. Irvin’s evaluation. Based on review by Board staff, the evidence suggests, based upon the IDEA federal guidelines, that the evaluation performed at the school by Ms. Irvin is complete and meets the standard of care. The other evaluations that are used in contrast to Ms. Irvin’s evaluation were not performed in the school setting and thus offer limited objective data to determine K.M. function within the school setting.

Ms. Irvine addressed the Board and explained the practice setting of a school-based environment and how the evaluations performed are to determine if a student requires physical therapy to function in the school environment. Ms. Irvine stated that disabilities that do not affect the student’s ability to participate in the school

environment do not warrant physical therapy services in the school setting although the child may benefit from physical therapy services. Ms. Irvine stated that the evaluation is done by a team of school employees and health care providers, and all team members agreed to the recommendation, but that K.M.'s mother disagreed.

The complainant was not present to address the Board. Ms. Akers opened the matter to questions from the Board. No Board member expressed any questions. Mr. Robbins moved the Board dismiss the complaint against Ms. Irvine. 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 |
| Nay | | | | | | |
| Recused | | | | | | |
| Abstained | | | | | | |
| Absent | X | | | | X | |

i) Complaint #10-16; Heath Jabs, P.T.

Ms. Akers called the Board's attention to the above matter. Mr. Jabs was not present and was not represented by legal counsel. Ms. Donahue provided a summary of the case as follows:

Mr. Jabs has been non-compliant with the terms of his Board Order 09-23. Mr. Jabs has self-reported to the Board his relapse and admission of consuming alcoholic beverages. Mr. Jabs has failed to notify the Board of address changes.

Mr. Brown stated that when the Board determines how to proceed with the case and, if the Board wishes to have a hearing, they consider what level of action may be taken at the hearing and to consider moving the matter to a Formal Hearing if the Board feels at this point suspension of the license may be required. Mr. Robbins stated that he felt the Board needed to limit Mr. Jabs practice. Ms. Richardson expressed concern with Mr. Jabs' ability to practice and requested to know if the Board Order is limiting his ability to practice. Ms. Donahue reported that Mr. Jabs' license is on probation, but he is still allowed to practice. The Board discussed the lack of contact Mr. Jabs has had with Board staff and the inability to verify Mr. Jabs' current location and whether he is practicing in Arizona or another state considering his self report substance abuse relapse. Ms. Akers moved the Board enter Executive Session to obtain legal advice. Mr. Robbins seconded the motion.

The Board entered Executive Session at 9:47 a.m.

The Board reentered Regular Session at 9:56 a.m.

Ms. Akers moved the Board summarily suspend Heath Jabs' license number 6313 to practice physical therapy in Arizona based on the immediate threat to the health, safety and welfare of the public. Ms. Richardson seconded the motion. Ms. Akers called a roll call 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 |
| Nay | | | | | | |
| Recused | | | | | | |
| Abstained | | | | | | |
| Absent | X | | | | X | |

- c) Review, Discussion, and Action on Board Consider Action on Complaint Filing
 - i) Audrey Clark, D.C. and Shannon Hodge, D.C.

Ms. Akers called the Board’s attention to the above agenda item. Dr. Hodge was present and was not represented by legal counsel. Dr. Clark was not present or represented by legal counsel. Mr. Brown stated that the Board received an anonymous complaint against Dr. Hodge and Dr. Clark for using the term “physical therapy” in advertising. Mr. Brown stated the matter was before the Board to determine jurisdiction and determine if the Board should open a complaint to investigate the matter. Dr. Hodge stated she was present on behalf of her and Dr. Clark. She stated as a licensed chiropractor she is certified also in physiotherapy and that the term physical therapy has been removed from her website and advertising. Dr. Hodge provided copies of the corrections to the Board. Dr. Hodge stated the Board of Chiropractic Examiners is also addressing the matter. The Board questions Dr. Hodge regarding the changes made and the use of the term physiotherapy rather than physical therapy. Ms. Versteegen noted the Board’s only option if a complaint is opened, is an injunction through the courts, but that the Board would need to demonstrate possible public harm. The Board took no action on this matter.

- ii) Thomas Masters, D.O.

Ms. Akers called the Board’s attention to the above agenda item. Dr. Masters was not present and was not represented by legal counsel. Mr. Brown stated that the Board received a complaint against Dr. Masters for using the term “physiotherapy” in advertising. Mr. Brown stated the matter was before the Board to determine jurisdiction and determine if the Board should open a complaint to investigate the matter. Mr. Brown reported that Dr. Masters has not been in contact with Board staff. Ms. Akers moved the Board send Dr. Masters a letter informing him of the law reserving the use of the term “physiotherapy” for licensed physical therapist and to correct his advertising if the services related to his use of the term “physiotherapy” performed in his office are not performed by a licensed physical therapist. 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 |
| Nay | | | | | | |
| Recused | | | | | | |
| Abstained | | | | | | |
| Absent | X | | | | X | |

4) **Review, Consideration and Action on Applications for Licensure and Certification**

- c) Review and Possible Action on the Following Application for Physical Therapist Licensure – Foreign Educated Graduates of Programs Not CAPTE Accredited, Determination of Approval to take the AZLAW exam.
 - i) Review of Mid-Term CPI, Possible Action on Determination of Continuation or Revocation of Interim Permit, Review and Decision of Proposal for New Location and Supervisor for Supervised Clinical Practice Period:
 - (a) Vismanos, Lord Re-An

Ms. Akers called the Board’s attention to the above agenda item. Mr. Vismanos was not present. Ms. Brierley reported that the Board has received the Mid-term review of Mr. Vismanos’ SCPP and that Mr. Vismanos is requesting approval of a new supervisor, secondary supervisor and practice facility. The Board discussed Mr. Vismanos’ request and noted that the report from his current supervisor demonstrated less than entry level abilities in several areas. The Board discussed its options regarding requiring additional hours in the SCPP. Ms. Akers moved the Board grant Mr. Vismanos’ request for a new supervisor and secondary supervisor at the new facility, and that the Board require Mr. Vismanos complete an addition 190 hours of work under the

SCPP and request the secondary supervisor complete a separate CPI. 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 |
| Nay | | | | | | |
| Recused | | | | | | |
| Abstained | | | | | | |
| Absent | X | | | | X | |

- ii) Review of CAPTE Accredited Application, Determination of Approval to take the AZLAW and the NPTE, Determination of SCPP and possible Licensure:
 - (1) Couto, Justyna

Ms. Akers called the Board’s attention to the above matter. Ms. Brierley reported Ms. Couto was a graduate of a CAPTE accredited program and the Board could waive her substantial equivalency requirement. Ms. Akers moved the Board waive the substantial equivalency requirement for Ms. Couto and the required SCPP and license Ms. Couto upon receipt of a passing score on the AZLAW and NPTE examinations and after receipt of a social security number. 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 |
| Nay | | | | | | |
| Recused | | | | | | |
| Abstained | | | | | | |
| Absent | X | | | | X | |

- f) Request for Reconsideration, Review And Determination of Previous Board Decision
 - i) Macia, Donna

Ms. Akers called the Board’s attention to the above agenda item. Ms. Macia was present and was not represented by legal counsel. Ms. Brierley stated Ms. Macia would like the Board to reconsider the requirement that the Board ordered at the June 22, 2010 Board meeting which required her to take and pass the NPTE and undergo a SCPP. Ms. Macia stated she felt the requirement was too high for the six year period she was not in practice while she realizes the Board has the authority to require the test and SCPP. Ms. Macia felt the Board has other options that could be considered since she only missed the reinstatement deadline in 2009 by a few days due to an incorrect address and form. Ms. Macia stated if she would not have missed the deadline she would not be required to do any of the tasks the Board has required. The Board discussed their options in relation to A.R.S. §32-2028.

Ms. Akers moved the Board withdraw the requirement to take and pass the NPTE before licensure and maintain the ordered SCPP. 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 |
| Nay | | | | | | |
| Recused | | | | | | |
| Abstained | | | | | | |
| Absent | X | | | | X | |

- ii) Physical Therapist Assistant Application and Determination of Approval to take the AZLAW (Jurisprudence) Exam, NPTE and Possible Certification

(b) Cordero, Annette

Ms. Akers called the Board’s attention to the above agenda item. Ms. Cordero was not present. Ms. Brierley stated Ms. Cordero is applying for certification as a physical therapist assistant, but requires approval to take the AZLAW and NPTE examinations since she reported a conviction for driving under the influence in 2004. The Board discussed the personal disclosure by Ms. Cordero. Ms. Akers moved the Board approve Ms. Cordero to take the AZLAW and NPTE examinations and be certified upon receipt of a passing score. 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 |
| Nay | | | | | | |
| Recused | | | | | | |
| Abstained | | | | | | |
| Absent | X | | | | X | |

- e) Review of Documentation Related to Disclosure on “Personal Information” Section of Application
 - i) Physical Therapist Assistant Application and Determination of Approval to take the AZLAW (Jurisprudence) Exam and Possible Licensure
 - (a) Pope, Eric

Ms. Akers called the Board’s attention to the above agenda item. Mr. Pope was not present. Ms. Brierley reported Mr. Pope disclosed a conviction for driving under the influence and a disciplinary action by the California Board of Physical Therapy for failing to change his address. Mr. Pope requires approval to take the AZLAW examination and approval of certification. The Board discussed Mr. Pope’s application. Ms. Akers moved the Board approve Mr. Pope to take the AZLAW examination and be certified upon receipt of a passing score. 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 |
| Nay | | | | | | |
| Recused | | | | | | |
| Abstained | | | | | | |
| Absent | X | | | | X | |

The Board recessed at 10:55 a.m.

The Board returned to Regular Session at 11:06 a.m.

- d) Substantive Review of Final Clinical Practice Instrument and Possible Licensure – Foreign Educated Graduate of Program not U.S. Accredited, Review of New Application Received, new Coursework Tool Received and Final CPI:
 - (a) Gadon, Franklin

Ms. Akers called the Board’s attention to the above agenda item. Mr. Gadon was not present. Ms. Brierley stated that Mr. Gadon has completed his SCPP with positive remarks; however, while completing the SCPP Mr. Gadon’s application expired and a new application was filed. When Mr. Gadon submitted a new application he was required to have his education reviewed under the change in the definition of credential evaluation tool which now requires Coursework Tool 5. Under the new credential evaluation Mr. Gadon is missing one content area of “cultural competency”. Mr. Brown reported that Mr. Gadon’s VISA will expire in August and he has reported he will not qualify for a new VISA without receiving licensure before August 24, 2010. The Board discussed its options and the definition of substantially equivalent education. Ms. Versteegen stated that the Board is not allowed to waive required content in the education. Ms. Akers moved the Board find

Mr. Gadon’s education not substantially equivalent. 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 |
| Nay | | | | | | |
| Recused | | | | | | |
| Abstained | | | | | | |
| Absent | X | | | | X | |

Ms. Akers instructed Board staff to schedule a Special Session Board meeting in August if Mr. Gadon completes his required educational content before the August 24, 2010 Board meeting.

2) **COMPLAINTS, HEARINGS, INVESTIGATIONS and COMPLIANCE**

- b) Review of Consent Agreement and Possible Action; Patient Record Audit and Request for Termination of Board Order
 - ii) Complaint #09-10; Lisa Alexander, P.T.

Ms. Akers called the Board’s attention to the above agenda item. Ms. Alexander was present and was not represented by legal counsel. Ms. Donahue reported that Ms. Alexander has undergone the records review required under her Board Order and the audit identified several areas of concern. Ms. Alexander addressed the Board and explained the steps she has taken to address the issues identified in her Board Order. Ms. Richardson stated that it was apparent Ms. Alexander was making progress, but that she felt a second audit of patient records should be required. Ms. Richardson moved the Board require Ms. Alexander to complete one additional audit of a minimum of three patient records before the Board considers a request for termination of probation on Ms. Alexander’s license. Ms. Ohlendorf seconded the motion. The motion carried by unanimous vote.

5) **BOARD BUSINESS AND REPORTS**

- a) Executive Director’s Report – Discussion and Possible Action
 - i) Financial Report- Mr. Brown reported nothing additional beyond the written report of the Board. Mr. Brown requested the Board consent to include decisions packages in the 2012 and 2013 budget requests to the Governor. The Board provided consent to Mr. Brown to proceed with the Budget requests.
 - ii) Board Staff Activities- Mr. Brown summarized the written report to the Board. Mr. Brown reviewed the Board’s current deadline for receiving material to add a matter to a Board meeting agenda. The current deadline is two Fridays before the Board meeting. Mr. Brown stated that left only the following Monday for Board staff to complete compiling all material to be presented at the Board meeting and complete the scanning process to send Board material on the Tuesday prior to the Board meeting. Mr. Brown reported that the Board staff could not decrease any time in preparing material. Ms. Richardson noted that once the material is received Board members have less than a week to prepare for the Board meeting. No Board member requested Board staff modify the deadline for receipt of material for inclusion on the Board meeting agenda.
 - iii) Legislation- Nothing reported beyond written report. No action was taken or necessary on this agenda item.
 - iv) Rule Activity- Nothing reported beyond written report. No action was taken or necessary on this agenda item.
 - v) FSBPT- Mr. Brown reported that new registrations for both the PT and PTA versions of the NPTE have been suspended as of 11:59 PM, Sunday, July 11, 2010, for all graduates of physical therapy programs located in Egypt, India, Pakistan and the Philippines. Testing will resume once development of the NPTE-YRLY has been completed. The Federation expects to launch the NPTE-YRLY in or about the fall of 2011. Currently, the Federation intends to offer the NPTE-YRLY once

per year, at select test sites to be identified at a later date. Mr. Brown reported that the suspension was based on a long history and investigation of persons graduating in the identified countries receiving an unfair advantage in preparing and taking the NPTE. Mr. Brown reported the most common form of compromising the exams is from test takers recalling questions on the exam and providing them to students or other persons requiring taking the examinations. Mr. Brown stated that this suspension has affected the application process of 10 out of 17 applicants in Arizona that a foreign educated applicants still needing to take and pass the NPTE. Mr. Brown reported that there is no other option than the NPTE through the FSBPT and the ten applicants affected will all have their applications expire before qualifying to take the NPTE-YRLY in the fall of 2011. The Board discussed the suspension and determined they could take no action at this time. Mr. Brown stated he would continue to research the future impact of the suspension and report to the Board.

b) Review, Discussion and Action on Report from the Supervision Advisory Group To The Executive Director

Ms. Akers tabled the above agenda item to be heard at the August 24, 2010 Board meeting when a greater number of Board members would be present.

c) Review, Discussion and Action on Public Request to Review Foreign Educated Application Process

Ms. Akers called the Board's attention to the above agenda item. Mr. Adi Halili came forward to address the Board. Mr. Brown reported that in October 2009 he appeared before the Governor's Regulatory Review Council (GRRC) to address a Petition by Mr. Halili to modify Board Rules related to the credential evaluation of foreign educated physical therapist applicants and the TOEFL score requirement for non English speaking applicants. In addition, Mr. Halili provided public comments to the Board Rule package to adopt the Coursework Tool 5. Mr. Brown stated GRRC requested Mr. Brown and Mr. Halili return in one year to report on the effect of CWT 5 and the TOEFL requirement. Mr. Brown stated Mr. Halili has provided a study of the physical therapist vacancy rate in Arizona and additional information he wanted to share before the Board and he begin preparing to submit reports to GRRC.

Mr. Halili reviewed the information he provided to the Board, which he felt demonstrated that there is a real identifiable shortage of physical therapists in Arizona. Mr. Halili stated the shortage is greater than the number of physical therapists that will be graduated in all current and upcoming physical therapist programs in Arizona (4 programs accredited or in process). Ms. Akers noted that it did appear Mr. Halili's data shows a shortage using the ratio of 55,000 persons to 1 active physical therapist. Mr. Halili stated he felt that one option of increasing physical therapist in Arizona would be to ease the licensure process for foreign educated physical therapist. Mr. Halili stated while it would require a change in the law one option is to allow applicants with excess hours in professional education to use the excess hours to compensate for deficiencies in General Education. Mr. Brown noted that while the idea sounds like a positive option, it does not account for an applicant lacking required content in General Education or the recognized expectation that General Education is normally in areas not directly related to the degree sought by the student. The Board noted that the four applicants that had their education found not substantially equivalent today were in the areas of professional education not General Education. The Board noted the Board is not the actual credential evaluator, but it is done by private organizations using a tool approved by the Board which reflects the minimum education for a physical therapist educated in the United States.

Mr. Halili stated he also saw opportunity for the Board to ease the application process by changing the TOEFL iBT score requirement. Arizona requires the iBT score of 100 with a minimum score of 25 in each the four test components. Mr. Halili stated the score required by most other physical therapy state Board's in other jurisdiction is a score of 89. Mr. Halili stated he understands the Board position that the 89 score is partially based on entrance requirements for work VISA's and partly based on academic admission standards into

physical therapy programs and not for direct entry into the physical therapy profession. The Board noted that the scores required to gain entry into an educational program vary and are set to determine if a person has a good chance of success in the program and provides for years of education before the person would be allowed to treat patients. The Board considered a proper score of someone directly entering the work environment and treating physical therapy patients which has the ability to negatively impact public health and safety. Mr. Halili indicated he understands the Board's position, but suggests the Board consider lowering the score and changing the law to require an applicant not meeting a set score to complete an English language course approved by the Board. Ms. Akers stated she did not feel the course was a bad idea, but that she felt the Board would still want confirmation of proficiency in English by passing the test after the course was complete. The Board and Mr. Halili continued to discuss the information he provided and options available to the Board.

Mr. Brown reported that he has compiled the available data from the Board database regarding foreign educated applicants and there is a significant drop in the number of applicants gaining licensure after the Board adopted the CWT 4 in 2006 and the TOEFL iBT score in 2006. The Board noted that much of the drop is related to the CWT 4 standard which for the first time began reviewing foreign educated applicants education based on the minimum program requirements in the United States and not in relation to basic minimum requirements detailed in Board Rules. Mr. Brown reported that he would provide Mr. Halili with his data. Mr. Brown stated he would like the Board's consent to begin drafting a report for GRRC, which he will present to the Board in August and submit to GRRC in September. Mr. Brown stated he would include the information provided by Mr. Halili and the data collected by Board staff. Ms. Akers instructed Mr. Brown to begin drafting the report.

The Board thanked Mr. Halili for his dedication to the matter of foreign educated applicants and his willingness to continually work with the Board to collect information and hold discussions on the matter. Mr. Halili thanked the Board for their time and stated he would continue to communicate with Mr. Brown in preparing to present information to GRRC.

d) Review, Discussion and Action of Automatic Licensure of Applicants Meeting Licensure and Certification Qualifications

Ms. Akers called the Board's attention to the above matter. Mr. Brown reported that members of the public and the Board had approached him about a method of speeding up the application process for the applicants that meet the criteria to be placed on the Board's consent agenda. Mr. Brown stated that currently the Board approves or denies all applications for licensure or certification and those on the consent agenda have been found by Board staff to meet all qualifications for licensure or certification; however, they must wait up to three weeks at times for approval by the Board considering the time between Board meetings. Mr. Brown stated that he has received inquiries regarding the Board delegating some authority to the Executive Director to approve licensure or certification for these applicants and decrease the length of the application process for these licenses. Mr. Brown reported he has researched the matter with Ms. Verstegen and there appears to be no precedence in Arizona to delegate such authority and the statutes related to Board duties seem to prevent such delegation. Ms. Verstegen affirmed Mr. Brown's report. The Board took no action on this matter.

6) CALL TO THE PUBLIC

Ms. Akers called the Board's attention to the above matter. Ms. Akers asked if any person in the audience wished to address the Board. No person came forward. Mr. Brown stated he has a written call to the public to read. Mr. Brown left the Board table and addressed the Board from the public position before the Board. Mr. Brown read the following:

Dear Charles:

We ask that you distribute the attached exposure draft of an AAIHR position paper and read the following during the Call to the Public portion of the July 27 Arizona Physical Therapy Board meeting:

Our firm is a member of the American Association of International Healthcare Recruitment (AAIHR). Many of the physical therapists that our membership employs were educated in the Philippines.

As you may be aware, the Federation of State Boards of Physical Therapy (FSBPT) recently took the unprecedented action of barring graduates from schools located in Egypt, India, Pakistan and the Philippines from taking the National Physical Therapy Examination (NPTE) indefinitely.

The AAIHR agrees that the integrity of the NPTE must be maintained. But, it must be maintained in a manner that does not penalize innocent physical therapists.

The Federation had other options: It could have: 1) expanded the NPTE's item bank, 2) suspended the exam uniformly until test security problems were solved, 3) scheduled more limited offerings of the exam during the year or 4) invalidated NPTE scores on a case-by-case basis.

Rather, the FSBPT chose to collectively punish a group of people based on where they went to school. A path that was certain to punish innocent applicants.

Unfortunately the FSBPT, without public hearings, has charted a course that is discriminatory, ineffective, punishes innocent people, and sets a bad precedent. The FSBPT's policy has resulted in a number of problematic issues, including the following:

- **The Policy Engages in Collective Punishment**

The FSBPT policy is a form of "collective punishment" in which innocent people are punished. Prohibitions against collective punishment can be found in documents as diverse as the Old Testament, the US Constitution, the US Civil Rights Act, and the Geneva Convention. Collectively punishing an entire group of therapist is un-American.

- **The Policy Does Not Universally Protect the Test's Integrity**

The FSBPT spent many hours and dollars monitoring the behavior of a narrow population. They discovered cheating through online discussion boards, chat rooms, and a single review center in the Philippines. While graduates from all countries have access to the internet, the FSBPT singled out ONLY graduates from four countries for punishment

The FSBPT's policy, unfortunately, does not universally protect the test's integrity. Apparently the FSBPT believes that while cheating can be accomplished with ease, applicants from the US do not do so. This flies in the face of common-sense.

- **The Policy is Discriminatory**

The FSBPT's policy has a discriminatory impact. U.S. citizens and permanent residents who graduated from schools in the four restricted countries, have had their right to take the exam taken away without a hearing. Arguably, this violates their due process and equal protection rights. In contrast, cases involving graduates from any other country accused of cheating would be treated on a case-by-case basis and those accused would have a right to a hearing.

- **The Policy Represents Bad Foreign Policy**

The policy taints the world's perception of the fairness of the U.S. licensure process. The policy hinders US healthcare facility's ability to attract the world's best and brightest healthcare professionals.

- **The Policy Will Have an Adverse Impact on U.S. and Arizona Health Care**

The US is experiencing a current and projected shortage of qualified physical therapists. Internationally educated therapists have been offered jobs only because qualified U.S. candidates have not been found to fill them. Unfortunately, rural facilities, critical access facilities and those treating elderly populations are likely to be most impacted by the Federation's actions.

I am writing to ask the Arizona Board of Physical Therapy to not standby and watch a policy be implemented that is certain to punish innocent applicants. We urge your Board to authorize its Administrator to join with other State Board Administrators and to contact the FSBPT and to find a more equitable way of protecting the exam's integrity.

Thank you.

Warmest regards,

Steve

Steve Albert
EVP Business Development
Health Carousel Network

The Board provided no response to the Call to the Public read by Mr. Brown and no Board member requested the matter be reviewed at a future meeting.

ADJOURNMENT

The meeting adjourned at approximately 12:55 p.m.

Prepared by,

Charles D. Brown
Executive Director

Approved by,

Kris Ohlendorf, P.T.A.
Secretary