



ARIZONA STATE BOARD OF PHYSICAL THERAPY
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REGULAR SESSION MEETING MINUTES
November 23, 2010

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

MEMBERS ABSENT: None

OTHERS PRESENT IN PERSON: Charles D. Brown, Executive Director
Paula Brierley, Licensing Administrator
Keely Versteegen, Assistant Attorney General

CALL TO ORDER – 8:30 a.m.

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

- 1) **Review and Approval of Draft Minutes**
 - a. October, 2010; Regular Session Meeting Minutes

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 or additions to the minutes. Dr. Cornwall 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	X
Nay						
Recused						
Abstained						
Absent		X				

- 2) **COMPLAINTS, HEARINGS, INVESTIGATIONS and COMPLIANCE**
 - d. Formal Hearing; Request for Rehearing and Possible Action
 - i) Complaint #10-16; Heath Jabs

Dr. Cornwall called the Board’s attention to the above agenda item. Mr. Jabs was not present and was not represented by counsel. Dr. Cornwall summarized the purpose for the matter before the Board. Ms. Versteegen identified herself as the Assistant Attorney General representing the State in the matter. Ms.

Verstegen addressed the Board regarding the relevance of the request for rehearing and the lack of grounds for the rehearing identified in the request. Ms. Verstegen concluded her statement. The Board discussed the request for rehearing.

Lisa Akers, PT entered the meeting at 8:43 a.m.

Mr. Sieveke moved the Board deny Mr. Jabs request for rehearing as the request failed to identify any of the grounds for rehearing identified in law. Ms. Richardson seconded the motion. The motion carried by five ayes and one abstention.

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

b. Initial Review, Discussion and Action on Complaint

i) Complaint # 10-48; Barbara Knable

Dr. Cornwall called the Board’s attention to the above agenda item. Ms. Knable was not present. Ms. Donahue summarized the case for the Board. Ms. Knable renewed online and indicated that she had met the requirements for continuing competency for the 2008-2010 compliance period. Ms. Knable was audited and it was determined that she had not completed her required 10 hours of continuing competence activities as she was licensed for less than one years. Ms. Knable has completed the required hours since receiving her notice of audit. The Board reviewed and discussed the case against Ms. Knable. Dr. Cornwall moved the Board dismiss the complaint against Ms. Knable and issue a non-disciplinary advisory letter stating she understand and remain current on the rules and statutes that govern the practice of physical therapy, especially those related to continuing competency and emphasize the importance of providing true and accurate information on an application for renewal. 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						

ii) Complaint #10-18; Anthony Harden, P.T.

Dr. Cornwall called the Board’s attention to the above agenda item. Mr. Harden was not present and was not represented by legal counsel. Ms. Donahue provided a summary of the matter for the Board. A complaint was opened by the Board on May 25, 2010 in response to information obtained in the Initial Review arising from complaint #10-07; Julie Tindall PT; “Dr. Cornwall moved the board open a complaint against Anthony Harden PT and ordered board staff to review Peak Physical Therapy billing records for improper billing activities.” Ms. Donahue identified multiple patient records that detailed possible improper billing activities and multiple instances of failure to create adequate records.

The Board entered discussion regarding this agenda item and reviewed the findings presented by Ms. Donahue. Ms. Richardson moved the Board forward the case to an informal hearing. 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						

Mr. Sieveke moved the Board add violation of A.R.S. 32-2044 (20) Mr. Robbins seconded the motion. Ms. Ohlendorf moved for an amendment of Mr. Sieveke’s motion to add violations of law to the case against Mr. Harden just sent to informal hearing to include: A.R.S. 32-2043 (A, H, J), A.R.S. 32-2044 (12, 14), Code of Ethics Principles 3 and 7.1E, A.A.C. R4-24-304(A)(4,6) and (D). These violations are in addition to the allegations and violations already noticed to Mr. Harden. Mr. Robbins seconded the motion for amendment. 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 called the vote to Mr. Sieveke’s motion as amended. 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. Second Review, Discussion and Action on Complaint
 - i) Complaint #10-14; Charlene Gaubis, P.T.

Dr. Cornwall called the Board’s attention to the above agenda item. Ms. Gaubis was not present and was not represented by legal counsel. Ms. Donahue provided a summary of the matter for the Board. At the Initial Review of Ms. Gaubis, PT, the PT Board directed staff to audit Ms. Gaubis’ Continuing Competence to determine if she was compliant with the requirements as required by AZ Statute/Rules. Ms. Gaubis provided staff with her Continuing Competence certificates for review on October 26, 2010. Ms. Gaubis was found to be in compliance with the 2008-2010 Compliance period. After review and discussion, Dr. Cornwall moved the Board dismiss the complaint against Ms. Gaubis. 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						

- d. Review, Discussion and Action with Consent Agreement and Order
 - i) Complaint #10-40; Bonnie Kurth, P.T.

Dr. Cornwall called the Board’s attention to the above agenda item. Ms. Kurth was not present and was not represented by legal counsel. Mr. Brown provided a summary of the matter. Ms. Kurth self reported a

period of practice while her license was administratively suspended. The matter was before the Board for consideration of the consent agreement accepted by Ms. Kurth and drafted in accordance with the discipline matrix for unlawful practice. Dr. Cornwall moved the Board accept the consent agreement 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						

ii) Complaint #10-43; Chad Reilly, P.T.

Dr. Cornwall called the Board’s attention to the above agenda item. Mr. Reilly was not present and was not represented by legal counsel. Mr. Brown provided a summary of the matter. Mr. Reilly self reported a period of practice while his license was administratively suspended. The matter was before the Board for consideration of the consent agreement accepted by Mr. Reilly and drafted in accordance with the discipline matrix for unlawful practice. Dr. Cornwall moved the Board accept the consent agreement 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						

e. Review, Discussion and Action on Consideration of Opening a Complaint

i) Zane Larson, P.T.

Dr. Cornwall called the Board’s attention to the above agenda item. Mr. Larson was not present. Ms. Donahue summarized the matter for the Board. The allegation against Mr. Larson is that he is practicing outside the scope of practice of a physical therapist by performing needle EMG and is interpreting test results inaccurately which is below the standard of care. Ms. Donahue reported that the Board had previously investigated a complaint against Mr. Larson with similar allegations and found Mr. Larson’s education, training, and additional certifications qualified him to perform a needle EMG under a physical therapists scope of practice. The Board reviewed and discussed the matter. Dr. Cornwall moved the Board open a complaint against Mr. Larson to investigate the allegation of substandard care. 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						

Ms. Richardson instructed Board staff to subpoena records of three additional needle EMG’s for review in the investigations.

3) **CONSENT AGENDA: REVIEW, CONSIDERATION and ACTION**

b) Applications for Licensure and Certification

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

Brown, Wendy	Burbank, Tricia	Chandler, Ashley
Conrad, Andrew	Fitterer, Molly	Hinchliffe, Leah
Igwe, Benjamin	Russell, Cori	Shelley, Justin
Super, Jessica	Thomas, Esther	

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

Brown, Wendy	Burbank, Tricia	Chandler, Ashley
Conrad, Andrew	Fitterer, Molly	Hinchliffe, Leah
Igwe, Benjamin	Russell, Cori	Shelley, Justin
Super, Jessica	Thomas, Esther	

Dr. Cornwall called the Board’s attention to the above agenda item. Ms. Ohlendorf disclosed her relationship as a clinical instructor for multiple physical therapist assistant applicants. Dr. Cornwall asked if any Board member wished to remove an applicant from the Consent Agenda for further discussion. No Board member requested the removal of a name. Dr. Cornwall moved the Board grant licensure and certification to the applicants on the consent agenda. 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						

Consent Agenda Ends

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

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

i) Substantive Review of Final Clinical Practice Instrument and Possible Licensure – Foreign Educated Graduate of Program not U.S. Accredited

(a) Vismanos, Lord Re-An

Dr. Cornwall called the Board’s attention to the above matter. The Board reviewed and discussed the above applicant. Dr. Cornwall moved the Board grant licensure to Mr. Vismanos. 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) Review of Documentation Related to Disclosure on “Personal Information” Section of Application

- i) Physical Therapist Application and Approval to take the AZLAW (Jurisprudence) Exam and Possible Licensure
 - (a) Eiland, Walter

Dr. Cornwall called the Board’s attention to the above matter. Mr. Eiland was not present. The Board reviewed and discussed the above applicant and his disclosure of disciplinary action in Texas for practicing with an expired license for four months. After review and discussion by the Board Dr. Cornwall moved the Board approve Mr. Eiland to take the AZLAW examination and be licensed 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						

- (b) Dougan, Loretta

Dr. Cornwall called the Board’s attention to the above matter. Ms. Dougan was not present. The Board reviewed Ms. Dougan’s disclosure of a driving under the influence conviction. After review and discussion by the Board Dr. Cornwall moved the Board approve Ms. Dougan to take the AZLAW examination and be licensed upon receipt of a passing score.

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) Caulder, Sharon

Dr. Cornwall called the Board’s attention to the above matter. Ms. Caulder was not present. The Board reviewed and discussed Ms. Caulder’s disclosure of a previous denial of licensure and a felony conviction for concealment of assets in a Bankruptcy Proceeding and Willful Failure to File a Tax Return. The Board discussed Ms. Caulder’s current licensure in New York and her work in Arizona under Federal Employment. After review and discussion by the Board Dr. Cornwall moved the Board deny licensure to Ms. Caulder based on a criminal conviction in a United States District Court on two counts of Concealment of Assets in a Bankruptcy Proceeding and on five counts of Willful Failure to File Tax Return. The Board determined that the offenses have a reasonable relationship to the practice of physical therapy. 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						

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

Dr. Cornwall called the Board’s attention to the above matter. The Board reviewed and discussed Mr. Montsclaros’ disclosure of multiple driving under the influence conviction with the last occurring in 2009. After review and discussion Dr. Cornwall moved the Board deny Mr. Montsclaros’ request to take the AZLAW examination and receive licensure and offer him a consent agreement for an evaluation for substance abuse and requiring him to follow any recommendations made by the evaluator. Mr. Sieveke seconded the motion. The Board entered discussion regarding the denial of the license. After discussion Dr. Cornwall called the vote. The motion failed by 0 aye votes and six nay votes.

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

Dr. Cornwall moved the Board offer Mr. Montsclaros the opportunity to gain licensure by entering a non-disciplinary substance abuse monitoring consent agreement and undergo evaluation and follow recommendations and be granted licensure upon entering into the consent agreement. 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) Review of and Possible Action on Application for Licensure from Applicant Previously Licensed in Arizona

iii) Archodakis, Fotini

Dr. Cornwall called the Board’s attention to the above agenda item. The Board reviewed and discussed the applicant’s previous licensure history and continuing competence activities. Dr. Cornwall moved the Board find the application complete and grant licensure. 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						

iv) Blackwell, Nathan

Dr. Cornwall called the Board’s attention to the above agenda item. The Board reviewed and discussed the applicant’s previous licensure history and continuing competence activities. Dr. Cornwall moved the Board find the application complete and grant licensure. 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						
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- d) Review of Physical Therapist Application and Possible Action on Request for ADA Accommodations for the AZLAW (Jurisprudence) exam and the NPTE, Approval to take the AZLAW and the NPTE, and Possible Licensure
 (1) Moriarty, Ronda

Dr. Cornwall called the Board’s attention to the above agenda item. The Board reviewed Ms. Moriarty’s request. After review and discussion Dr. Cornwall moved to approve time and a half to take the AZLAW and NPTE examinations and to have a separate room in which to take the examinations. Ms. Moriarty will be licensed upon receipt of passing scores. 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						

5) Review, Consideration and Action on Applications for Physical Therapist Licensure Renewal / Reinstatement

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

- a) Sifling, William

Dr. Cornwall called the Board’s attention to the above matter. Mr. Sifling was present. Ms. Ohlendorf recused herself from the matter and left the Board table. Dr. Cornwall offered Mr. Sifling the opportunity to make a statement. Mr. Sifling declined to make a statement. Mr. Brown summarized Mr. Sifling’s appearance before the Board in September for non-compliance based on a relapse in his substance abuse and the Board’s decision to take no action. Dr. Cornwall moved the Board enter Executive Session to obtain legal advice. 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
Nay						
Recused			X			
Abstained						
Absent						

The Board entered Executive Session at 9:37 a.m.
 The Board exited Executive Session at 9:44 a.m. and reentered Regular Session.

Dr. Cornwall asked Mr. Sifling to come forward and update the Board on his sobriety. Mr. Sifling made a statement to the Board regarding his recent completion of 90 NA meetings in 90 days. He stated he is attending all his meetings and is in compliance with Dr. Sucher’s monitoring. Mr. Sifling stated he is currently unemployed. The board reviewed and discussed Mr. Sifling’s application. Dr. Cornwall moved the Board reinstate Mr. Sifling’s 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	X
Nay						
Recused			X			
Abstained						
Absent						

Mr. Brown addressed Mr. Sifling and notified him that his Board Order was immediately in affect with the reinstatement and that any failure to comply with a term of the order will cause staff to bring Mr. Sifling before the Board for non-compliance. Dr. Cornwall stated that Mr. Sifling may have just received his last chance at compliance with the Board.

The Board recessed at 9:52 a.m.

The Board entered Regular Session at 10:06 a.m. Ms. Ohlendorf returned to the Board table.

6) 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 to the Board.
 - ii) Board Staff Activities- Mr. Brown summarized the written report to the Board. No action was take or necessary on this item.
 - iii) Legislation- Nothing reported beyond the written report. No action was taken or necessary on this agenda item.
 - iv) Rule Activity- Nothing reported beyond the written report. No action was taken or necessary on this agenda item.
 - v) FSBPT- Nothing reported beyond the written report. No action was taken or necessary on this agenda item.
- b) Stakeholder Discussion and Public Comment on HB 2123 and HB 2149; Review Discussion and Action on Request for Rule Making Moratorium Exemption; 10:00 AM

Dr. Cornwall called the Board’s attention to the above matter. Mr. Brown provided a summary of the changes proposed to Arizona Administrative Code as it relates to Physical Therapy based on the legislation passed that requires the Board to begin registering physical therapy business entities. Dr. Cornwall invited those that wish to speak to complete a speaker slip before addressing the Board. Linda Duke, PT, came forward and addressed the Board. Ms. Duke expressed a suggestion the Board consider updating the definition of assistive personnel to clarify that a physical therapist that has trained persons such as restorative aides is not supervising the restorative aide. The Board discussed the matter with Ms. Duke. The Board answered questions from the audience regarding what businesses would be required to register. With no other persons wishing to address the Board the Board concluded the public comment period. Dr. Cornwall moved the Board instruct Mr. Brown to request an exemption to the Rule Making process and initiate a rule package based on the proposed changes regarding business entities and HB 2123. 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						

Dr. Cornwall called the Board’s attention to the above matter. Mr. Brown provided a summary of the changes proposed to Arizona Administrative Code as it relates to Physical Therapy based on the legislation passed in HB 2149. Dr. Cornwall invited those that wish to speak to complete a speaker slip before addressing the Board. With no other persons wishing to address the Board the Board concluded the public comment period. The Board discussed the possible changes submitted by staff. Dr. Cornwall moved the Board instruct Mr. Brown to request and exemption to the Rule Making process and initiate a rule package based on the proposed changes regarding HB 2149. Mr. Sieveke seconded the motion. The motion carried by unanimous vote.

c) Review, Discussion and Action on Federation of State Boards of Physical Therapy Annual Meeting

Dr. Cornwall called the Board's attention to the above matter. Mr. Brown and Ms. Richardson provided a summary of the events at the FSBPT Annual Meeting. The Board discussed the topic of Interstate Licensure compacts. No action was taken or required on this item.

d) Review, Discussion and Action on Board of Physical Therapy Disciplinary Sanctions Reference Points

Dr. Cornwall called the Board's attention to the above matter. Ms. Richardson and Dr. Cornwall summarized the presentation they attended at the FSBPT Annual Meeting regarding sanctioning reference points. The Board reviewed and discussed the process from Virginia. Mr. Brown summarized the positive benefits and to conflicts with a referencing system for disciplinary action. The Board discussed some of the benefits of defined sanctions as punitive measures verses the benefits of an undefined system for rehabilitative measures. Mr. Brown summarized the staff's efforts at updating the Board's database to provide disciplinary activity in the past and reminded the Board that if there is a question on action from the past they should be asking the staff during proceedings. Following discussion and review the Board took no action on the matter.

7) CALL TO THE PUBLIC

Dr. Cornwall offered a call to the public. No person from the public came forward.

ADJOURNMENT

The meeting adjourned at approximately 10:28. p.m.

Prepared by,

Charles D. Brown
Executive Director

Approved by,

Kris Ohlendorf, P.T.A.
Secretary