



**ARIZONA STATE BOARD OF PHYSICAL THERAPY**  
4205 NORTH 7<sup>TH</sup> AVENUE, SUITE 208 PHOENIX, ARIZONA 85013  
(602) 274-0236 Fax (602) 274-1378  
www.ptboard.az.gov

**SPECIAL SESSION MEETING MINUTES  
DECEMBER 21, 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 Verstegen, Assistant Attorney General  
James Barton, Assistant Attorney General

CALL TO ORDER – 8:30 a.m.

Dr. Cornwall called the meeting to order at 8:33 a.m.

- 1) **Review and Approval of Draft Minutes**  
a) November 23, 2010; Regular Session Meeting Minutes

Dr. Cornwall called the Board’s attention to the above agenda item. Ms. Ohlendorf noted corrections required on page 8 of the minutes. After review and discussion Dr. Cornwall moved to approve the minutes as amended. 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						

- b) November 23, 2010; Executive Session Meeting Minutes

Dr. Cornwall called the Board’s attention to the above agenda item. Ms. Ohlendorf stated she had a correction for the Board to review. Dr. Cornwall moved the Board enter Executive Session. 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						

The Board entered Executive Session at 8:35 a.m.  
The Board reentered Special Session at 8:37 a.m.

Dr. Cornwall called the meeting back into session. Ms. Richardson moved the Board approve the minutes as amended. Mr. Robbins seconded the motion. The motion carried. Ms. Ohlendorf abstained from the vote.

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

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

- a) Review, Discussion, and Action on Formal Hearing; Recommended Administrative Law Judge Decision
  - i) Complaint #09-31a; Mandy Aldous, PT.; 09A-09-31A-PTE
  - ii) Complaint #10-31b, James Coleman, P.T.; 09A-09-31B-PTE

Dr. Cornwall called the Board’s attention to the above agenda items. Dr. Cornwall moved to go into 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	X
Nay						
Recused						
Abstained						
Absent						

The Board entered Executive Session at 8:39 a.m.  
The Board reentered Special Session at 8:45 a.m.

Dr. Cornwall called the meeting back into session. The Board and staff introduced themselves. James Barton, Assistant Attorney General was present to provide legal advice to the Board. Dr. Cornwall provided a brief summary on how the matter would proceed. The Board first heard motions regarding the Respondents’ motion to certify the Administrative Law Judge’s (ALJ) Decision. Scott Gibson, attorney for Ms. Aldous came forward and addressed the Board. Mr. Gibson was followed by Bradley Weech, attorney for Mr. Coleman. Keely Verstegen, Assistant Attorney General addressed the Board on behalf of the State. Dr. Cornwall concluded the taking of arguments regarding the motion to certify the ALJ Decision based on the Board not accepting rejecting or modifying the ALJ Decision in 30 days. The Board entered deliberations. After review and discussion Ms. Richardson moved the Board deny the request to certify the ALJ Decision based on the Board failing to take action in the 30 days. 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						

Dr. Cornwall called the Board’s attention to the Respondents’ motion to continue the hearing. Mr. Gibson did not wish to address the Board. Mr. Weech addressed the Board in support of the motion. Ms. Verstegen addressed the Board on behalf of the State. Mr. Barton addressed the Board regarding their timeline in order to review the ALJ Decision and the necessary date to file an acceptance, rejection, or modification of the Order or the ALJ Decision automatically becomes final. Mr. Barton asked Respondent’s counsel for their opinion regarding whether they could agree with the Board and continue the matter by agreement with the Board. Mr. Weech and Mr. Gibson requested time to speak to their clients.

The Board recessed at 9:13 a.m.

The Board reentered Special Session at 9:23 a.m.

Dr. Cornwall called the Board’s attention back to the motion. Mr. Weech addressed the Board regarding the ability to continue the Board’s review of the ALJ Decision by agreement between Respondent’s and the Board. The Board entered deliberations. After review and discussion Dr. Cornwall moved the Board deny the request by Respondent’s to continue the Board review of the ALJ Decision. 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						

Dr. Cornwall called the Board’s attention to the ALJ Decision under review. Dr. Cornwall stated that Respondents’ counsel would be provided 20 minutes each time to address the Board and State’s Counsel would be provided 20 minutes to address the Board. Ms. Verstegen addressed the Board first regarding her written motion to modify the ALJ Decision.

The Board next received comment from Mr. Gibson. Mr. Gibson addressed the ALJ’s Decision and findings regarding the Board’s investigation and the evidence presented. Mr. Gibson supported the Board not modifying the ALJ Decision. Mr. Weech next addressed the Board. Mr. Weech addressed the work put into the order by the ALJ, the six days of hearings, and lengthy ALJ Decision. Mr. Weech commented on the changing of the ALJ’s Findings of Fact as requested by Ms. Verstegen was unprecedented in his experience. Ms. Verstegen made a rebuttal statement reiterating she has nothing to gain from the Board’s decision on a case, the length of the ALJ Decision is not out of the ordinary, and that Board’s often use their authority to reject or modify ALJ Decisions when the evidence supports the change.

Dr. Cornwall concluded the taking of comments from all parties and requested that they only address the Board in response to questions while the Board is in deliberation. The Board entered deliberations regarding the ALJ’s Decision.

After deliberation Dr. Cornwall moved the Board accept the Findings of Fact of the ALJ Decision #’s 1-6. 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						

After deliberation Dr. Cornwall moved the Board accept Findings of Fact of the ALJ Decision #7. 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						

After deliberation Dr. Cornwall moved the Board accept Findings of Fact of the ALJ Decision #'s 8-10. 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. Barton asked the Board to address whether each Board member had reviewed the entire record of the case to include hearing date recordings, evidence, the order, and motions. Dr. Cornwall asked the question of the Board. All Board members responded yes.

After deliberation Ms. Akers moved the Board modify Findings of Fact of the ALJ Decision #4 to reflect the periods between the initials "PT". 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						

After deliberation Dr. Cornwall moved the Board accept Findings of Fact of the ALJ Decision #'s 11-13. 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						

The Board deliberated about clerical errors in Findings of Fact of the ALJ Decision #'s 14-17. Dr. Cornwall moved the Board adopt Findings of Fact of the ALJ Decision #'s 14-17 as corrected. 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						

After deliberation Dr. Cornwall moved the Board accept Findings of Fact of the ALJ Decision #'s 18-34. Mr. Robbins seconded the motion. After review and discussion 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						

After deliberation Dr. Cornwall moved the Board accept Findings of Fact of the ALJ Decision #'s 35-45 amending the initials "C.L." to read "L.C.". Mr. Robbins seconded the motion. After review and discussion 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						

After deliberation Dr. Cornwall moved the Board accept Findings of Fact of the ALJ Decision #'s 46-61. Ms. Richardson seconded the motion. After review and discussion 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						

After deliberation Dr. Cornwall moved the Board accept Findings of Fact of the ALJ Decision #'s 62-63. Ms. Akers seconded the motion. After review and discussion 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						

After deliberation Dr. Cornwall moved the Board accept Findings of Fact of the ALJ Decision #'s 64-73. Ms. Akers seconded the motion. After review and discussion 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						

The Board discussed and deliberated paragraph #71. After deliberation, Dr. Cornwall moved the Board accept Findings of Fact of the ALJ Decision #'s 74-97. Ms. Akers seconded the motion. After review and discussion 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						

The Board recessed at 10:55 a.m.  
The Board reentered Special Session at 11:05 a.m.

Dr. Cornwall called the Board's attention back to the ALJ Decision being reviewed. Ms. Akers opened deliberation regarding the State's motion to modify the ALJ Decision paragraph #64. After deliberation, Ms. Akers moved the Board modify the ALJ Decision paragraph #64 to conform to the State's motion page 9 based on the State's justification and the

fact that the modification clarifies the performance of services by physical therapy aides as supported by the record. Ms. Ohlendorf seconded the motion. After review and discussion 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						

After deliberation, Ms. Akers moved the Board modify the ALJ Decision paragraph #68 to conform to the State's motion based on the State's justification and the fact that the modification clarifies the testimony provided about when the supervising physical therapists would arrive at the clinic. Ms. Ohlendorf seconded the motion. After review and discussion 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						

After deliberation, Ms. Akers moved the Board modify the ALJ Decision paragraph #70 to conform to the State's motion based on the State's justification. Ms. Ohlendorf seconded the motion. After review and discussion 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						

After deliberation, Ms. Akers moved the Board modify the ALJ Decision paragraph #13 to conform to the State's motion based on the State's justification. Ms. Richardson seconded the motion. After review and discussion 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						

After deliberation, Dr. Cornwall moved the Board modify the ALJ Decision Findings of Fact paragraph #81 and Conclusions of Law paragraphs 7 and 9 to conform to the State's motion based on the State's justification and the testimony of James Coleman that he entered the notes based on what he normally would and not based on the notes kept by the treating therapist Ms. Williams, and the footnotes 23 and 24 of the State's motion. Ms. Akers seconded the motion. After review and discussion 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						

After deliberation, Ms. Akers moved the Board modify the ALJ Decision paragraph #86 to conform to the State's motion page 11 based on the State's justification. Mr. Robbins seconded the motion. After review and discussion 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						

After deliberation, Ms. Akers moved the Board modify the ALJ Decision paragraph #44 to conform to the State's motion based on the State's justification to include footnotes 26 and 27. Mr. Robbins seconded the motion. After review and discussion 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						

After deliberation, Ms. Akers moved the Board modify the ALJ Decision paragraph #61 to conform to the State's motion based on the State's justification to include footnotes 28-31. Mr. Sieveke seconded the motion. After review and discussion 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						

After deliberation, Ms. Akers moved the Board modify the ALJ Decision General Findings to conform to the State's motion page 12-14 line 2 based on the State's justification to include footnotes 32-42. Ms. Richardson seconded the motion. After review and discussion 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						

After deliberation, Ms. Akers moved the Board modify the ALJ Decision testimony of Helen Fearon to conform to the State's motion page 14 based on the State's justification to include footnotes. Mr. Sieveke seconded the motion. After review and discussion 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						

After deliberation, Ms. Akers moved the Board modify the ALJ Decision regarding the testimony of Daniel Morrill to conform to the State's motion page 15 based on the State's justification to include footnotes #44-47. Ms. Ohlendorf seconded the motion. After review and discussion 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						

After deliberation, Ms. Akers moved the Board modify the ALJ Decision General Findings to conform to the State's motion page 15 line 19 thru 23 based on the State's justification. Mr. Robbins seconded the motion. Ms. Richardson moved the Board modify ALJ Decision paragraph #41 to conform to the State's motion page 16. Ms. Ohlendorf seconded the motion. After review and discussion 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 of the original 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						

The Board discussed any other possible modification to the Findings of Fact. With no modifications moved. Dr. Cornwall moved the deliberation to the Conclusions of Law.

After deliberation, Dr. Cornwall moved the Board accept the ALJ Decision Conclusions of Law #'s 1-3. Mr. Sieveke seconded the motion. After review and discussion 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						

After deliberation, Dr. Cornwall moved the Board accept the ALJ Decision Conclusions of Law # 4. Ms. Akers seconded the motion. After review and discussion 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						

After deliberation, Mr. Sieveke moved the Board reject the ALJ Decision Conclusions of Law # 5 based on the hearing record, evidence and Findings of Fact. Ms. Richardson seconded the motion. After review and discussion 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						

After deliberation, Dr. Cornwall moved the Board adopt Conclusion of Law #5 as a violation of A.R.S. §32-2044(6); A.R.S. §332-2043(G)(H)(J); A.A.C. R4-24-303(B)(2) & (C)(1) based on the hearing record and the Findings of Fact. Mr. Sieveke seconded the motion. After review and discussion 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 to Conclusion of Law #5 a violation of A.A.C. R4-24-303(E) based on the testimony of patients and aides in the record, the hearing record, Findings of Fact, and that one physical therapy aide was allowed to burn three patients with ultrasound equipment before any corrective action was taken. Ms. Richardson seconded the motion. After review and discussion 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						

After deliberation, Ms. Richardson moved the Board accept the ALJ Decision Conclusions of Law # 6. Mr. Sieveke seconded the motion. After review and discussion 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						

After deliberation, Ms. Richardson moved the Board reject the ALJ Decision Conclusions of Law # 7. Mr. Sieveke seconded the motion. After review and discussion 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						

After deliberation, Ms. Richardson moved the Board adopt Conclusion of Law #7 as a violation of A.R.S. §32-2044(14) based on the hearing record and the Findings of Fact, to include that Mr. Coleman intentionally entered fraudulent, untrue and inaccurate notes into the patient record when claiming to have taken Ms. Williams typed notes and put them into the typed patient record and that Respondents billing practices often include the manufacturing of patient records on dates the patient was not seen to allow for increased billing of multiple body parts. Mr. Sieveke seconded the motion. After review and discussion 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						

After deliberation, Ms. Richardson moved the Board reject the ALJ Decision Conclusion of Law #8. Mr. Sieveke seconded the motion. The Board entered discussion. After review and discussion 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						

After deliberation, Ms. Richardson moved the Board adopt as Conclusion of Law #8 a violation of A.R.S. §32-2044(12) Principle 3 based on the hearing record and the Findings of Fact. Mr. Sieveke seconded the motion. The Board entered discussion and Ms. Akers moved the motion be amended to include violations of Principles 4 and 9. Mr. Sieveke seconded the motion. After review and discussion the motion to amend carried. With 5 aye votes and 1 nay vote.

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

Following review and discussion the original motion as amended 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						

After deliberation, Ms. Richardson moved the Board strike ALJ Decision Conclusion of Law #9 and adopt as Conclusion of Law #9 a violation of A.R.S. §32-2044(13) based on the hearing record and the Findings of Fact, to include that Respondents admitted billing practices often include the manufacturing of patient records on dates the patient was not seen to allow for increased billing of multiple body parts, Ms. Williams testimony of billing that she did not submit and Ms. Fearon's testimony Respondents billing practices for dates when the patient was not seen are not appropriate. Mr. Sieveke seconded the motion. After review and discussion 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						

After deliberation, Mr. Sieveke moved the Board accept the ALJ Decision Conclusion of Law #10. Mr. Robbins seconded the motion. After review and discussion 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						

After deliberation, Dr. Cornwall moved the Board modify ALJ Decision Conclusion of Law #11 to strike line 26 of the ALJ Decision and include a violation of A.A.C. R4-24-303(A)(4) and A.A.C. R4-24-304(A-E) based on the hearing

record and the Findings of Fact, to include numerous errors in documentation of what services were performed by the assistive personnel and Ms. Williams testimony regarding the billing for services she never documented as performed or billed. Mr. Sieveke seconded the motion. After review and discussion 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						

After deliberation, Dr. Cornwall moved the Board accept the ALJ Decision Conclusions of Law # 12. Ms. Richardson seconded the motion. After review and discussion the motion carried with four aye votes and 2 nay votes.

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

After deliberation, Mr. Sieveke moved the Board reject ALJ Decision Conclusion of Law #13 and adopt as Conclusion of Law #13 that established that Ms. Aldous and Mr. Coleman provided treatment intervention unwarranted by the condition of the patient or treatment beyond the point of reasonable benefit. Testimony by assistive personnel and patients demonstrated a set protocol for patients to initiate treatment each visit prior to seeing a physical therapist and without change in care as necessitated by the patients' condition. The patient records in evidence failed to establish progress in patient conditions even though care was provided for long durations without reevaluation by a physical therapist. Therefore, the Board concludes that Ms. Aldous and Mr. Coleman are in violation of A.R.S. § 32-2044(22). Ms. Akers seconded the motion. After review and discussion 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						

After deliberation, Ms. Akers moved the Board reject ALJ Decision Conclusion of Law #14 and adopt as Conclusion of Law #14 the hearing record and Findings of Fact establish that Respondents failed to use "P.T." after their name and that although they corrected the violation after receipt of the Board complaint the Respondents are in violation of A.R.S. §32-2042(A). Mr. Robbins seconded the motion. After review and discussion 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 find Respondents in violation of A.R.S. §32-2044(1) as established by the hearing record and Findings of Fact. Mr. Robbins seconded the motion. After review and discussion 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						

After deliberation, Dr. Cornwall moved the Board reject the ALJ Decision recommended Order as it is not consistent with the actions the Board has taken for similar violations. Ms. Akers seconded the motion. After review and discussion 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						

After deliberation, Dr. Cornwall moved the Board and Order as follows for both Respondents:

Suspension: for three (3) months from the effective date of this Order. Upon completion of the terms of suspension and the elapsing of the three months the Board shall lift the suspension of Respondent’s license. During the period of suspension and before the suspension may be lifted Respondent shall complete the following:

a. Notification to Payers:

Respondent shall submit evidence to the Board of having provided written notification to third-party payers of billing errors occurring in APT during the period of March 2007 through December 2009.

b. Jurisprudence Examination:

Respondent shall take, pass (score of 600) and submit evidence of passing the Board’s AZLAW examination. The Respondent must present evidence of the passing score prior to the lifting of the period of suspension.

c. Education:

Within the three (3) month period of suspension, Respondent shall complete a Board-approved health care professional documentation and billing continuing education consisting of at least fifteen(15) contact hours in person.

Probation: Upon the lifting of the period of suspension Respondent for a period of twenty-four (24) months. Respondent may petition the Board for early termination or modification of probation if Respondent has complied with the requirements after one year of active practice. If the Board determines that Respondent has not complied with all the requirements of this Order, the Board, at its sole discretion, may continue the probation.

Respondent is subject to the following terms and conditions during the period of probation:

A. Monitoring:

Within the suspension period, Respondent shall enter into an agreement with a neutral and objective Board-approved monitor (“Monitor”) and shall submit a copy of the agreement to the Monitor. The Monitor shall provide monitoring services such as those offered by Affiliated Monitors headquartered in Boston, Massachusetts. The Monitor shall not be owned by or employ any person who a) is related to Respondent by blood or marriage, b) has had a social or professional relationship with Respondent prior to the execution of this order, c) receives compensation of any nature from Respondent or d) otherwise has a conflict-of-interest as determined by the Board.

The Board-approved monitor’s recommendations for monitoring of Respondent shall be unilaterally incorporated into this Order and Respondent shall promptly comply with any recommendations that the Board-approved monitor states in writing. Should the Board-approved monitor make recommendations to change Respondent’s practice activities, the change will take place within ten (10) days of notice of the

recommendation. Respondent may protest the recommendations to the Board; however, such protest must be submitted to the Board, in writing, within ten (10) days of notice of the recommendations. The Board will determine if the recommendations should be implemented. If Respondent fails to implement the recommended changes or file protest with the Board within ten (10) days, Respondent may be found in violation of the Board order.

Respondent shall cause the Board-approved monitor to send monthly reports of Respondent’s compliance with this Order and the Board-approved monitor’s recommendations to the Board, which must be received by the Board by the 10<sup>th</sup> of each month.

If Respondent fails to contact and enter into an agreement with a Board –approved monitor within the period of suspension, the Board may determine that Respondent has violated this Order and may take additional disciplinary action. At a minimum, monitoring of Respondent shall include the following:

- i. Monthly visits to Respondents place(s) of practice for review of documentation and billing policies, procedures, and practices. The monthly visits shall include the inspection of all necessary records to review the billing of services and the documentation of delegation of services to assistive personnel and the documentation of what services assistive personnel perform.
- ii. During the probation, the Monitor shall conduct a review Respondent’s charts and billing records every six months. Each review shall include three complete and separate patient charts. The purpose of the review is to assess compliance with the Board’s statutes and rules regarding adequate patient records, billing and coding. After the Monitor has completed twelve months of chart review and the evidence shows that Respondent is in compliance with the Board’s statutes and rules the Respondent may petition the Board to allow for reduction or elimination of the documentation reviews.

**B. Ethics Remediation Course:**

Within twelve (12) months of the effective date of this Order, Respondent shall complete the ProBe-PT program offered by the Federation of State Boards of Physical Therapy. Respondent shall submit evidence of completion during the probationary period.

**C. Obey All Laws.** Respondent shall obey all state, federal and local laws, and all rules governing the practice of physical therapy in Arizona.

**D. Tolling.** In the event Respondent should leave Arizona to reside or practice outside the State or for any reason should Respondent stop practicing physical therapy in Arizona, Respondent shall notify the Board in writing within ten days of departure and return or the dates of non-practice within Arizona. Non-practice is defined as any period of time exceeding thirty days during which Respondent is not engaging in the practice of physical therapy. Periods of temporary or permanent residence or practice outside Arizona or of non-practice within Arizona, will not apply to the reduction of the probationary period.

**E. Costs:** Respondent shall be responsible for any and all costs associated with his compliance with this Order.

Mr. Robbins seconded the motion. After review and discussion Dr. Cornwall conducted a Roll Call vote and 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						

The Board recessed at 12:55 p.m.  
 The Board reentered Special Session at 1:06 p.m.

- b) Initial Review, Discussion and Action on Complaint
  - i) Complaint #10-19; Lacey Hardesty, P.T.

Dr. Cornwall called the Board’s attention to the above agenda item. Ms. Hardesty was present and came forward. Ms. Donahue provided a summary to the Board. Ms. Medlyn, a Quality Assurance Reviewer for PTPN was performing a retrospective chart review for patient D.O. In the course of her records review, Ms. Medlyn identified several sub-standard practices that may have impacted the patient’s condition during the period of care that was provided.

Ms. Hardesty did not wish to address the Board but stated she would answer questions. The Board deliberated regarding the investigative record. Ms. Richardson moved the Board add allegations addressed in the investigative report and A.R.S. 3§2-2043(A)(F)(J); A.R.S. §32-2042(A); A.A.C. R4-24-303(A)(4) and (5) to the case. Ms. Akers seconded the motion. After review and discussion 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 moved the Board forward this complaint against Ms. Hardesty’s license to an Informal Hearing. Ms. Richardson seconded the motion. Following review and discussion 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 #10-45; Linda Kammerer, P.T.

Dr. Cornwall called the Board’s attention to the above agenda item. Ms. Kammerer was present and came forward. Ms. Donahue provided a summary to the Board. Two patients on two different dates of service at two different facilities both reported that they smelled alcohol on Ms. Kammerer’s breath. Ms. Kammerer is a contract physical therapist for TRS. Once this information was received by Ms. Cerie, who employs Ms. Kammerer, she was ordered to undergo a drug test which resulted in a positive test for alcohol.

Ms. Kammerer did not wish to make a statement before the Board. The Board discussed its options in adjudicating the case. 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	X
Nay						
Recused						
Abstained						
Absent						

The Board entered Executive Session at 1:21 p.m.  
The Board reentered Special Session at 1:25 p.m.

Dr. Cornwall called the meeting back into session. The Board discussed the investigation. Ms. Richardson moved the Board forward the case to Informal Hearing to include all possible allegations and violations listed in the Investigative Report. 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						

c) Review, Discussion and Action on Consideration of Opening A Complaint

i) Sam Freeman

Dr. Cornwall called the Board’s attention to the above agenda item. Mr. Freeman was not present. Ms. Donahue provided a summary for the Board. Mr. Freeman is a retired physical therapist from the military and was conducting some classes at a local church. A member of the public has alleged that Mr. Freeman poked her back after she informed him of some past health problems. The action by Mr. Freeman has allegedly caused the member of the public discomfort, distress, and a financial burden for treatment to recover from Mr. Freeman’s action.

The Board discussed the case and the possible actions the Board may take considering the lack of jurisdiction the Board has over Mr. Freeman. After review and discussion, Dr. Cornwall moved the Board issue the church named in the allegations against Mr. Freeman with a letter requesting they ensure Mr. Freeman not hold himself as a licensed physical therapist, inform the church of the applicable laws, and inform Mr. Freeman of the Board’s communication. Ms. Richardson seconded the motion. Following review and discussion 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 on Request for Modification of Board Order

i) Complaint #09-27; Christopher O’Donnell, P.T.

Dr. Cornwall called the Board’s attention to the above agenda item. Mr. O’Donnell was present and came forward to address the Board. Mr. O’Donnell reported his compliance with the terms of his order and the benefit he has received from his monitoring. Mr. O’Donnell requested the Board relieve him of terms of the Order such as counseling, practice restriction and monitoring by Affiliated Monitors.

The Board entered discussion regarding the monitoring and its benefits to Mr. O’Donnell. The Board noted improvement in Mr. O’Donnell and his compliance with the terms of the Order. Mr. Sieveke moved the Board lift the restriction of not treating female patients and leave the remaining Order in place for a minimum of three months and allow Mr. O’Donnell to request a modification to the Order following the three months. 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						

ii) Complaint #09-30; William Perry, P.T.

Dr. Cornwall called the Board’s attention to the above agenda item. Mr. Perry was not present. Ms. Donahue summarized Mr. Perry’s request to reduce the frequency of his chart reviews. The Board discussed Mr. Perry’s progress, but that his last review showed problems with charting and billing. After review and discussion Dr. Cornwall moved the Board deny Mr. Perry’s request to modify his Order. Mr. Sieveke seconded the motion. After review and discussion 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						

iii) Complaint #10-02; Lonny Nenadovich, P.T.

Dr. Cornwall called the Board’s attention to the above agenda item. Mr. Nenadovich was present and came forward to address the Board about his request for an extension to comply with the terms of his order. Mr. Nenadovich has had trouble finding courses to complete the terms of his Order, but has located and registered for courses that will satisfy the Order. After discussion Dr. Cornwall moved to extend Mr. Nenadovich’s deadline to complete the terms of his Order by six months from the date of the meeting. 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						

e) Review of Consent Agreement and Possible Action of Request for Termination of Board Order

i) Complaint #10-01; Joseph Gallegos, P.T.

Dr. Cornwall called the Board’s attention to the above agenda item. Mr. Gallegos was present and came forward to address the Board. Mr. Gallegos reported he was compliant with all terms of the Order. The Board discussed the Order. Dr. Cornwall moved the Board terminate the Board Order of Mr. Gallegos. 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						

**2) Board Business**



b) Review, Discussion, & Action on Board Member Continuance, A.R.S. §32-2002(B)

i) Lisa Akers, P.T.

Mr. Brown reported Ms. Akers reappointment. No action was taken on this item.

ii) James Sieveke, P.T.

Dr. Cornwall called the Board's attention to the above agenda item. Mr. Brown reported that Mr. Sieveke has not been replaced or reappointed with his term ending in January 2011. The Board must vote to allow Mr. Sieveke to continue to serve past his appointment. Dr. Cornwall moved the Board approve Mr. Sieveke to serve until he is replaced or reappointed. Ms. Richardson seconded the motion. The motion carried. 5 aye votes 1 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						

iii) Kris Ohlendorf, P.T.A.

Dr. Cornwall called the Board's attention to the above agenda item. Mr. Brown reported Ms. Ohlendorf's term would expire in January 2011 and her replacement has been named as Peggy Hunter, PTA. No action was taken on the matter. The Board presented Ms. Ohlendorf with a certificate recognizing her service to the State of Arizona while serving on the Board.

**3) CALL TO THE PUBLIC**

No person came forward.

**ADJOURNMENT**

The meeting adjourned at approximately 1:44. p.m.

Prepared by,

Charles D. Brown  
Executive Director

Approved by,

Secretary