



ARIZONA STATE BOARD OF PHYSICAL THERAPY
4205 NORTH 7TH AVENUE, SUITE 208 PHOENIX, ARIZONA 85013
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REGULAR SESSION MEETING MINUTES
July 26, 2011

MEMBERS PRESENT:

Mark Cornwall, P.T., Ph.D., President
Lisa Akers, P.T., Vice President
Randy Robbins, Secretary
Melinda Richardson, P.T., Member
Peggy Hunter, P.T.A., Member

MEMBERS ABSENT:

James Sieveke, P.T., O.C.S., Member

OTHERS PRESENT IN PERSON:

Charles D. Brown, Executive Director
Paula Brierley, Licensing Administrator
Karen Donahue, Investigator
Seth Hargraves; Assistant Attorney General

CALL TO ORDER – 8:38 a.m.

Dr. Cornwall called the meeting to order at 8:38 a.m.

2) COMPLAINTS, HEARINGS, INVESTIGATIONS and COMPLIANCE

- c) Review, Discussion, and Action on Request for Rehearing Informal Hearing
 - i) Complaint #10-68; Emmerson Salamat, PT

Dr. Cornwall called the Board's attention to the above agenda item. Mary Jo Foster, Assistant Attorney General attended the meeting by telephone to advise the Board on the above agenda item. Mr. Salamat was present and was not represented by legal counsel. Mr. Hargraves was present on behalf of the State.

Mr. Salamat addressed the board and stated he was requesting a rehearing or review based on his belief the three month suspension of his license to practice physical therapy was excessive punishment in relation to his case, but that he did not dispute the Board's findings of fact in the case.

Mr. Hargraves addressed the Board. Mr. Hargraves stated that at the hearing on May 24, 2011 Mr. Salamat declined to make opening or closing statements, did not testify or bring forward witnesses and did not cross examine the State's witness. Mr. Salamat is not disputing the facts of the case only his claim under A.A.C. R4-24-308(D) that the punishment was excessive. The Board is permitted by law to take action within their authority based on the facts of a case. The suspension is within the Board's authority and the State requests the board deny Mr. Salamat's request for rehearing or review.

The Board ended the portion to the proceeding of taking motions or testimony. The Board entered discussion. Ms. Hunter stated she felt the suspension was severe and would consider reducing the suspension. Ms. Akers stated it was unfortunate the matter made it to this point, but there was little choice given the lack of communication from Mr. Salamat. Ms. Akers stated she feels everyone needs to be held accountable for their actions and is not in favor of changing the order, but is not opposed either.

Ms. Richardson stated that the hearing demonstrated a repeated pattern of conduct with no change in behavior and that she has not heard from Mr. Salamat that he knows and understands the law. Dr. Cornwall stated he has a concern with the pattern of Mr. Salamat's conduct.

Mary Jo Foster advised the Board that they first needed to address the request for rehearing or review. They have the option of rehearing the case at a later date, granting the review and conducting the review now or at a later date, or denying the request. Dr. Cornwall moved the Board grant the request for review and conduct the review immediately. Ms. Akers seconded the motion. After review and discussion the motion carried by unanimous vote.

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

Dr. Cornwall moved the Board modify the previous Board order by reducing the suspension from three (3) months to one (1) month and leaving all other requirements of the Order in place. Mr. Robbins seconded the motion. After review and discussion the motion carried and was conducted by roll call vote.

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

1) **Review and Approval of Draft Minutes**
a) July 5, 2011; Regular Session Meeting Minutes

Dr. Cornwall called the Board's attention to the above agenda item. Dr. Cornwall asked if any Board member had additions, corrections, or changes of the minutes. No Board member requested any change, addition, or correction. Dr. Cornwall moved the Board approve the minutes as presented. Ms. Richardson seconded the motion. After review and discussion the motion carried by unanimous vote.

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

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

- a) Formal Hearing and Possible Action
i) Time: 9:00 a.m. Complaint #10-52; Denise Labriola, PT (Pending Motion to Continue)

Dr. Cornwall called the Board’s attention to the above agenda item. Ms. Labriola was not present and was not represented by legal counsel. Mr. Hargraves came forward and addressed the Board. Mr. Hargraves stated the State has presented a motion to continue the Hearing. Ms. Labriola’s counsel has provided confirmation he is not opposed to the Board granting the motion. Mr. Brown confirmed receiving the communication. Ms. Richardson moved the Board grant the motion to continue the Hearing to a future Board meeting. Dr. Cornwall seconded the motion. After review and discussion the motion carried by unanimous vote.

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

b) Informal Hearing and Possible Action

i) Time: 9:00 a.m. Complaint #10-25; Kevin Eggers, PT

Dr. Cornwall called the Board’s attention to the above agenda item. Mr. Eggers was present and was represented by Amy Cotton, Mr. Eggers’ attorney. The Board and staff introduced themselves. Dr. Cornwall provided a summary of how the hearing would be conducted and the possible outcomes of the Hearing. Mr. Brown provided a review of the allegations against Mr. Eggers.

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

1. Was the treating physical therapist of patient R.A. from January 18, 2010 thru June 9, 2010.
2. Failed to create and maintain complete and accurate patient records for patient R.A.
3. Failed to document complete objective findings in the patient record of patient R.A.
4. Created patient records that contained some objective measures conflicting with measure provided to other healthcare providers.
5. Inconsistently documented the patient functional status throughout the course of treatment of patient R.A.
6. Provided inconsistent reports to other health care providers not substantiated in the patient record.
7. Failed to consistently document duration and intensity of treatment interventions for patient R.A.
8. Provided substandard care to patient R.A.
9. Failed to properly notify patient R.A. he was discharged from care.
10. Failed to refer patient R.A. to another health care provider following discharge.
11. Failed to create and maintain adequate patient records to include an initial evaluation, daily intervention notes, reevaluations, and discharge summary.

Mr. Eggers came forward and provided a statement for the Board. Mr. Eggers stated he is sorry the matter has come to this point. He has been practicing for 17 years without incident. He has three offices and works primarily in an office that is in a rural community. He stated the referring physician connected to this patient has a long history with Mr. Eggers and Mr. Eggers feels that he may have relaxed in his documentation because he had such a good relationship with the physician. Mr. Eggers stated he realizes his documentation needs to improve.

Mr. Eggers provided the Board with a copy of his new policy to hold quarterly charts for review, stated he brought records for the Board’s review, and provided documentation of completing an online course with the APTA regarding documentation. Mr. Eggers ended his statement.

The Board entered the questioning phase of the hearing. Ms. Richardson noted that Mr. Eggers practice is in a rural community and that he admits some patients may exceed his skill level. Ms. Richardson asked if Mr. Eggers documents his discussions with patients when they are explained how their condition exceeds his skill level. Mr. Eggers said they do

have the discussion, but that he does not document the discussion. Dr. Cornwall asked Mr. Eggers how many patients he sees with neurological problems beyond his skill level. Mr. Eggers stated a guess would be 4 to 5 in a year. Dr. Cornwall asked Mr. Eggers to explain the 40% of goals achieved that he documented for patient R.A. on February 17, 2011. Mr. Eggers explained the note meant that 4 out of ten goals were met. Dr. Cornwall asked Mr. Eggers to explain how in the patient record he notes that the patient has trace movements in one hand and arm, but in a report to the physician the same area has 30% movement. Mr. Eggers stated that he failed to document that the 30% was passive movement.

Ms. Hunter asked Mr. Eggers why when he referred the patient to another facility for an electrical stimulation device he discharged the patient from care, but then documented telling the patient if they did get the new device they could return for care in helping learn the device. Mr. Egger stated he does not actually know how to teach a patient to use the device in question. Ms. Akers asked Mr. Egger if the patient was told to use a Tens unit. Mr. Eggers stated the patient had the unit so Mr. Eggers showed the patient proper placement and settings and told him it would not hurt to use the device. Ms. Akers asked if there was going to be a benefit to the device. Mr. Eggers stated there was not going to be a realized benefit, but felt it was ok as it would not injure the patient. Ms. Akers asked if Mr. Eggers did send a letter apologizing to the patient for not communicating to the patient he was being discharged. Mr. Eggers stated he did send the letter and did offer the patient more of a maintenance schedule. The Board concluded the questioning phase of the Hearing.

Mr. Eggers provided a closing statement in which he stated he cannot explain why he would not have informed the patient of the discharge and reminded the Board that he has had no issues with his license in 17 years. The Board entered the deliberation phase of the Hearing.

Ms. Akers stated she feels Mr. Eggers' documentation need improvement and he needs to document his discussions with patients in the rural community when he is informing them of the limitations of his services. Dr. Cornwall stated he understands the challenges Mr. Eggers faces in a rural community, but he feels Mr. Eggers has failed to take the initiative to further his education in areas he is less skilled. Dr. Cornwall also felt the documentation was lacking necessary components and that some of his documentation was contradictory. The Board continued their discussion.

Dr. Cornwall moved the Board adopt the following Findings of Fact:

1. Mr. Eggers created a hand written evaluation on or about February 17, 2010 indicating patient R.A.'s wrist flexion is at 30 degrees with finger flexion WFL; however, the typed report provided to R.A.'s physician stated R.A.'s upper extremity AROM is limited to trace movements in the left hand and elbow, which are conflicting reports.
2. Mr. Eggers failed to create adequate patient records to include daily intervention notes. On February 17, 2010 Respondent created a patient flow sheet of treatment provided, but failed to document a daily intervention note with the components required by law.
3. On June 16, 2010, Mr. Eggers failed to inform R.A. of his discharge, patient R.A.'s discharge documentation in patient R.A.'s patient record does not demonstrate the discharge or discharge discussion with R.A.

Mr. Robbins seconded the motion. After review and discussion the motion carried by unanimous vote.

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

Dr. Cornwall moved the Board adopt the following Conclusions of Law:

1. The conduct and circumstances explained in the Findings of Fact above constitute a violation of A.R.S. §32-2044(1) (Violating this chapter, board rules or a written board order).

2. The conduct and circumstances explained in the Findings of Fact above constitute a violation of A.R.S. §32-2044(4) (Engaging in the performance of substandard care by a physical therapist due to a deliberate or negligent act or failure to act regardless of whether actual injury to the patient is established).

3. The conduct and circumstances explained in the Findings of Fact above constitute a violation of A.R.S. §32-2044(12) (Failing to adhere to the recognized standards of ethics of the physical therapy profession).

Principles:

- 8.1(A) “A physical therapist shall provide the patient/client accurate and relevant information about his/her condition and plan of care.”
- 8.1(D) “A physical therapist shall inform the patient when, in his/her judgment, the patient will receive negligible benefit from further care.

4. The conduct and circumstances explained in the Findings of Fact above constitute a violation of A.R.S. §32-2044(20) (Failing to maintain adequate patient records. For the purpose of this paragraph, “adequate patient records” means legible records that comply with board rules and that contain at a minimum an evaluation of objective findings, a diagnosis, the plan of care, the treatment record, a discharge summary and sufficient information to identify the patient).

5. The conduct and circumstances explained in the Findings of Fact above constitute a violation of A.A.C. R4-24-304 (C) (Each time a therapeutic intervention is provided to a patient, the individual who provides the therapeutic intervention shall make an entry that meets the standards in subsection (A) in the patient record and document: (1) The patient’s subjective report; (2) The therapeutic intervention provided or appropriately supervised; (3) The patient’s response to the therapeutic intervention; (4) Objective data from tests or measures, if collected; (5) Instructions provided to the patient, if any; and (6) Any change in the plan of care required under subsection (B)(8).

Ms. Akers seconded the motion. After review and discussion the motion carried by unanimous vote.

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

Dr. Cornwall moved the Board issue Mr. Eggers the following Order:

Probation: The Arizona Board of Physical Therapy hereby orders that Mr. Eggers, holder of License No. 6475, be placed on probation for a period twelve (12) months to commence upon execution of this Order. The probation may be extended or other enforcement actions taken, after notice and an opportunity for a hearing, in the event Mr. Eggers violates this Order or violates the Arizona Physical Therapy Practice Act. Mr. Eggers may petition the Board for early termination of probation following completion of all terms of probation. Early termination is at the sole discretion of the Board. The Board orders Respondent to comply with the following terms and conditions of probation:

Continuing Education: Mr. Eggers shall complete continuing education courses as prescribed below within six months of the effective date of this order. Any continuing education approved and credited for use in complying with the conditions of the order are in addition to the continuing competence activities required for renewal of an Arizona physical therapist license

- i. Ethics- Mr. Eggers shall complete a minimum of six (6) hours of continuing education in ethics. The course(s) must be preapproved by Board staff and Mr. Eggers must provide documentation of completing the course to Board staff upon completion.
- ii. Documentation—Mr. Eggers shall complete a minimum of six (6) hours of continuing education in documentation. The course(s) must be preapproved by Board

staff and Mr. Eggers must provide documentation of completing the course to Board staff upon completion.

- iii. Neurological Rehabilitation- Mr. Eggers shall complete a minimum of six (6) hours of continuing education in neurological rehabilitation techniques and evaluation practices. The course(s) must be preapproved by Board staff and Mr. Eggers must provide documentation of completing the course to Board staff upon completion.

Patient Records Audit: Mr. Eggers shall undergo audit(s) of his patient records according to the following terms during the period of probation.

1. Mr. Eggers shall undergo a minimum of one audit of 3 randomly selected patient records. The patient records must include at least one patient with a neurological dysfunction.
2. The audit of patient records shall be performed by Board staff.
3. The first audit shall begin not less than 30 days following Mr. Eggers' completion of all required continuing education in the Order.
4. If Board staff finds deficiencies in the first audit of patient records, Mr. Eggers shall undergo one additional audit within three months of the first audit. If a second audit is performed, it will include 3 randomly selected patient records. The patient records must include at least one patient with a neurological dysfunction.

Ms. Akers seconded the motion. After review and discussion the motion carried by roll call vote.

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

The Board recessed at 10:17 a.m.

The Board reentered regular session at 10:40 a.m.

- d) Initial Review, Discussion and Action on Complaint
 - i) Complaint # 11-16; Tess Bowden, PTA

Dr. Cornwall called the Board's attention to the above agenda item. Ms. Bowden was not present and was not represented by legal counsel. Ms. Donahue provided a summary of the complaint for the Board. The Board opened a complaint against Ms. Bowden, a certified physical therapist assistant due to her employment at Achievement Therapy Services and the reported violations as related to cases #10-52; Denise Labriola, PT. This case was opened by the Board to investigate Ms. Bowden's supervision and completion of documentation while working for ATS. Ms. Donahue summarized the investigative analysis which indicated possible violations of law regarding improper supervision, inadequate recordkeeping, substandard care, and failing to report to the Board direct knowledge of conduct that may be in violation of this chapter.

The Board discussed the case. Ms. Hunter noted that a physical therapist assistant is responsible to know the law to include supervision requirements. Dr. Cornwall moved the Board forward this complaint to an Informal Hearing. Ms. Akers seconded the motion. Following review and discussion the motion carried by unanimous vote.

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

Baptie, Patricia	Brewer, Stephanie	Brown, Dustin
Brown, Luke	Coulter, Alysson	Esser, Emily
Hardee, Stacy	Jacob, Jennie	Jaspers, Matthew
Kallail, III, Donald	Koepsel, Alicia	Lantz, Kathryn
Lauer, Christen	Lesniewski, Gina	Lynch, Stephanie
McGarry, Susan`	Petty, Amanda	Renwick, Tiffany
Rousseau, Kathryn	Sprute, Jacob	Stevenson, Mekeia
Stivers, Joshua	Underhill, Rachelle	Watson, Jarrod
Wammack, Courtney	Wesley, Heidi	Williams, Ashley

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

Bartlett, Lorinda	Kaneti Mladenova, Diane	Scholtes, Pamela
Venteicher, Kara		

iii) Substantive Review, Consideration and Approval of Applications for Physical Therapist Licensure Pending
Receipt of Government Issued Picture Identification or Official Transcript as indicated.

Hunt, Wendy (Picture ID)	Blicke, Elizabeth (Picture ID)	Splichal, Luke (Picture ID)
Hill, Candice (Official Transcript)		

iv) Substantive Review, Consideration and Approval of Applications for Physical Therapy Assistant Certification Pending Receipt of Government Issued Picture Identification

Burnett, Jerry	Contreras, Christopher	Holmes, Jarrett
Ortiz, Tawny	Stewart, Brandi	McGuire, Wendy

Dr. Cornwall called the Board's attention to the items on the consent agenda. Dr. Cornwall asked if any Board member would like to remove a person or item from the consent agenda for further discussion. No Board member requested the removal of a person or item. Dr. Cornwall moved the Board approve licensure or certification for the applicants listed on the consent agenda upon receipt of any listed or required documentation. Mr. Robbins seconded the motion. After review and discussion the motion carried by unanimous vote.

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

Consent Agenda Ends

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

- a) Review of and Possible Action on Application for Licensure from Applicant Previously Licensed in Arizona
 - i) Norman, Darcy

Dr. Cornwall called the Board’s attention to the above agenda item. Ms. Brierley provided a summary of the application for the Board. Ms. Brierley stated Mr. Norman’s license was lapsed for less than three years and he applied for initial licensure when he previously held a license. Board staff requested him to complete an application for reinstatement, which he has completed. However, while processing the application it was found Mr. Norman was on probation with this Board when he failed to renew his license. He failed to pay a fine and pass the AZLAW examination before his license lapsed. In accordance with the Board Order his license was to be voluntarily suspended if he failed to comply with the terms of the Order. Mr. Hargraves reviewed the applications, the Board order and licensing file and advised the Board that Mr. Norman has two applications with the Board and they can accept either application. In addition, the Board may approve or deny either application. Ms. Richardson moved the Board reject the reinstatement application and move forward with the application for licensure and accept that the previous license was voluntarily suspended when Mr. Norman failed to complete the terms of his probation in his previous Board Order. In addition, Mr. Norman is approved to take the AZLAW examination and staff is requested to bring the application to the Board for review after receiving a passing score. Dr. Cornwall seconded the motion. After review and discussion the motion carried by unanimous vote.

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

5) **BOARD BUSINESS AND REPORTS**

- a) Executive Director’s Report – Discussion and Possible Action
 - i) Financial Report- Mr. Brown provided a review of the Board’s FY 2011 revenues and expenditures and reviewed the FY 2012 Budget. No action was taken or required on this matter.
 - ii) Board Staff Activities- Mr. Brown reviewed the Board’s staff previous month’s activities and discussed his appearance before the Board of Acupuncture in June. Mr. Brown reported the Acupuncture Board’s wish to form a joint committee to explore the performance of Dry Needling procedures by licensed physical therapists. The Board discussed the matter and took no action on the request to form a committee.
 - iii) Legislation- Nothing reported.
 - iv) Rule Activity- Mr. Brown reported the Board has received approval to move forward with rulemaking related to administrative suspension and Business Entity regulation. No action was required or taken on this matter.
 - v) FSBPT- Mr. Brown provided a report of current activity to include preparations of the Annual Meeting in September. Mr. Brown reported that Ms. Donahue would attend the meeting in his place as the Board’s administrator. In addition, Mr. Brown stated the NPTE Summit would occur before the next Board meeting and Mr. Brown would supply a report to the Board in August to cover what was discussed at the summit. No action was required or taken on this matter.

2) **CALL TO THE PUBLIC**

Dr. Cornwall made a call to the public. No member of the public was present or came forward to address the Board.

ADJOURNMENT

The meeting adjourned at approximately 11:37 a.m.

Prepared by,

Charles D. Brown
Executive Director

Approved by,

Randy Robbins
Secretary