



ARIZONA STATE BOARD OF PHYSICAL THERAPY

*at Northern Arizona University, 201 West Butler Ave, High Country Conference Center, Room 133 (O'Leary),
Flagstaff AZ 86001.*

REGULAR SESSION MEETING MINUTES

August 30, 2011

MEMBERS PRESENT:

Mark Cornwall, P.T., Ph.D.; President
Lisa Akers, P.T., MS; Vice President
Randy Robbins, Secretary
Melinda Richardson, P.T., MA; Member
Peggy Hunter, P.T.A., CLS; Member
James E. Miller, P.T., DPT; Member

MEMBERS ABSENT:

None

OTHERS PRESENT IN PERSON:

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

CALL TO ORDER – 9:05 a.m.

Dr. Cornwall called the meeting to order at 9:05 a.m.

1) Review and Approval of Draft Minutes

a) July 26, 2011; Regular Session Meeting Minutes

Dr. Cornwall called the Board's attention to the above agenda item. No Board member requested corrections or modifications to the minutes. Dr. Cornwall moved the Board approve the minutes as presented. Ms. Akers seconded the motion. The motion carried by unanimous vote.

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

b) August 2, 2011; Regular Session (Teleconference) Meeting Minutes

Dr. Cornwall called the Board's attention to the above agenda item. No Board member requested corrections or modifications to the minutes. Dr. Cornwall moved the Board approve the minutes as presented. Mr. Robbins seconded the motion. The motion carried by unanimous vote.

| Vote | Dr. Cornwall | Ms. Akers | Ms. Hunter | Mr. Robbins | Dr. Miller | Ms. Richardson |
|------|--------------|-----------|------------|-------------|------------|----------------|
| Aye | X | X | X | X | X | X |

| | | | | | | |
|-----------|--|--|--|--|--|--|
| Nay | | | | | | |
| Recused | | | | | | |
| Abstained | | | | | | |
| Absent | | | | | | |

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

a) Review and Possible Action on Complaint Voted to Informal Hearing; Consideration of Consent Agreement:

a. Complaint #10-22b; Jason Wheeler, PT

Dr. Cornwall called the Board’s attention to the above agenda item. Mr. Wheeler was not present. Faren Akins was present as Mr. Wheeler’s legal counsel. Mr. Brown summarized the proposed consent agreement to resolve the case before proceeding to a hearing. Mr. Akins addressed the Board about Mr. Wheeler’s consent to enter into the agreement. The Board entered discussion regarding the proposal.

Dr. Miller asked Mr. Akins questions regarding the billing practices of Mr. Wheeler during the period of time covered in the Board’s investigations. Mr. Akins responded to the questions. Ms. Verstegen noted that the matter before the Board was for discussion of a consent agreement and not to review the details of the case and that if there were questions about the case not answered the Board should consider moving to a hearing.

Dr. Miller moved the Board amend the proposed consent agreement, considering Mr. Wheel’s complicity in the billing irregularities identified in the investigation to add a probation term of completing the ProBe ethics course provided through the Federation of State Boards of Physical Therapy to be completed in the first 12 months of probation, eliminate the requirement for continuing education in ethics, and extend the period of probation to 24 months. Ms. Akers seconded the motion for the purpose of discussion.

Ms. Akers noted that she was satisfied with the propose consent agreement considering she feels Mr. Wheeler now understands the problems which facilitated the violations identified in the investigation. Dr. Cornwall stated he was ok with the amendment or sending the case to a Formal Hearing. Ms. Richardson stated she was comfortable with the amendment. Ms. Hunter stated she was comfortable with the proposed agreement. Dr. Cornwall called the vote. The motion failed with three members voting aye and three members voting nay.

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

Ms. Akers moved the Board approve the consent agreement as presented. Mr. Robbins seconded the motion. After review and discussion the motion carried with four members voting aye and two members voting nay.

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

A copy of the final consent agreement in this matter is available upon request at the Board office.

The Board recessed at 9:35 a.m.

The Board returned to Regular Session at 9:47 a.m.

- b) Informal Hearing and Possible Action on Complaint:
 - a. Complaint # 10-23; David Lizarraga, PTA

Dr. Cornwall called the Board's attention to the above agenda item. Mr. Lizarraga was present and was represented by his attorney Sara Agne. The Board and Board staff introduced themselves. Dr. Cornwall reviewed the procedures and possible outcome of the hearing. Mr. Brown provided a summary of the allegations against Mr. Lizarraga.

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

1. Engaged in substandard care on June 23, 2010 in the course providing care to patient G.S.
 - a. Mr. Lizarraga exceeded his authority to provide tasks selected and delegated by his supervising physical therapist when he discharged patient G.S.
 - b. Mr. Lizarraga documented and completed progress notes (reevaluations) for patient G.S. when such activities must be completed and documented by the treating physical therapist.
2. Failed to create and maintain adequate patient records for patient G.S.
 - a. Daily notes do not document patient's subjective report.
 - b. Daily notes do not document patient's response to treatment.
 - c. Daily notes do not document any objective tests or measurements.
 - d. Daily notes do not document any communication between the PTA and the supervising PT.
 - e. Daily notes does not document who was the supervising physical therapist of record for each visit.
 - f. Daily notes 6/8/10, 6/14/10, 6/15/10 and 6/17/10 are identical in content, spelling and capitalization.
 - g. Many of the daily notes are identical in content, spelling and capitalization with the exception of changes in the distance of ambulation or seconds of standing without support.
 - h. Daily notes 2/1/10, 2/2/10 and 2/4/10 are identical in content, spelling and capitalization with the exception of omission of "10ft" in note written on 2/4/10

Mr. Lizarraga provided an opening statement to the Board. Mr. Lizarraga reviewed patient G.S.'s care from the start of treatment and reviewed his conversation with the patient's mother on June 22, 2010 when she felt Mr. Lizarraga discharged G.S. from care. Mr. Lizarraga stated he called G.S.'s mother as the Rehab Coordinator at his place of employment. Mr. Lizarraga reported G.S. is now continuing care with Mr. Lizarraga's employer, but he does not participate in G.S.'s care. Mr. Lizarraga stated he understands that his documentation was not up to the standard and he will no longer write identical notes. Ms. Agne provided addition documents to the Board for review.

Dr. Cornwall opened the matter to questions from the Board. Dr. Cornwall asked Mr. Lizarraga if he was working under general supervision when treating G.S. Mr. Lizarraga stated he was working under general supervision. Mr. Lizarraga stated he did not do the initial evaluation that it was performed by a physical therapist. Mr. Lizarraga did state he made changes to G.S.'s exercise program. Dr. Cornwall asked how often the supervising physical therapist would see a patient Mr. Lizarraga was seeing under general supervision. Mr. Lizarraga stated a physical therapist would see the patient every 6-7 visits. Mr. Lizarraga stated he would speak to the physical therapist once a week about the care and changes he was making to treatments.

Ms. Hunter asked Mr. Lizarraga if he felt he was working within the his authority as a physical therapist assistant when he was providing care to G.S. Mr. Lizarraga stated he did feel he was working under his authority. Ms. Hunter stated she found that concerning. Ms. Richardson asked if Mr. Lizarraga was the rehab

coordinator when he called G.S.'s mother. Mr. Lizarraga stated yes. Dr. Cornwall asked Mr. Lizarraga how communication between him and the supervising physical therapist worked. Mr. Lizarraga stated the physical therapist performs the initial evaluation and sets the plan of care and then Mr. Lizarraga begins the treatment. The care is continued until the system tells Mr. Lizarraga a reevaluation is needed and Mr. Lizarraga tells the physical therapist. The system tells him the reevaluation is needed about every 10 visits. Ms. Hunter asked Mr. Lizarraga if he consulted with the physical therapist after receiving the letter that caused him to call G.S.'s mother on June 22, 2010. Mr. Lizarraga stated he did not talk to a physical therapist before making the call or after the call and did not document the call.

Ms. Akers asked Mr. Lizarraga if he stated the physical therapist would see the patient every 7-10 visits. Mr. Lizarraga stated yes. The Board ended its questioning of Mr. Lizarraga. Teresa Browne, O.T. Rehab Manager for Life Care Centers came forward. Ms. Browne was present under subpoena request from the Board. Ms. Browne confirmed reevaluations are set for every 10 visits. Ms. Browne stated that the physical therapists and physical therapists assistants meet each morning before the patient's arrive to review the schedule and meet once a week to review care. Dr. Cornwall asked if a physical therapist is now in the building when Mr. Lizarraga treats. Ms. Browne stated yes.

Ms. Agne provided a closing for Mr. Lizarraga. She stated Mr. Lizarraga made the call in question as a coordinator and did not discharge the patient that it appeared to be a customer service issue. She requested the Board resolve the matter with a non-disciplinary order for continuing education.

The Board entered deliberations. Dr. Miller stated his greatest concern in this case is the clinical issues. He feels the complainant's request to withdraw the complaint demonstrates the resolution of their concern. Dr. Cornwall stated he has concerns with the lack of understanding of Mr. Lizarraga's requirements while working under general supervision and that this should be resolved with more than non-discipline. Ms. Akers stated she feels some audits will be needed to address the concerns. Ms. Richardson stated she felt more than non-discipline was needed.

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

- (1) Mr. Lizarraga (Respondent) was a physical therapist assistant assigned to provide services to patient G.S. while working under general supervision stated that his understanding is that patient G.S. should be reevaluated by a physical therapists every 7-10 visits.
- (2) Respondent's daily intervention notes for patient G.S. contained no documentation of consultations with the supervising physical therapist James Wendel, PT when respondent knew patient G.S. had changes in his status.
- (3) Respondent failed to document discussions with patient G.S.'s mother during a June 23, 2010 telephonic discussion, which resulted in G.S.'s discontinuation of care.
- (4) Respondent failed to create and maintain adequate patient records for patient G.S. in that his:
 - (a) Daily notes do not document patient's subjective report.
 - (b) Daily notes do not document patient's response to treatment.
 - (c) Daily notes do not document any objective tests or measurements.
- (5) Respondent failed to document the name and license number of the supervising physical therapist in the patient record of G.S. each date respondent worked under general supervision.
- (6) Respondent's daily notes of 6/8/10, 6/14/10, 6/15/10 and 6/17/10 are identical in content, spelling and capitalization. Respondent's daily notes for 2/1/10, 2/2/10 and 2/4/10 are identical in content, spelling and capitalization with the exception of omission of "10ft" in note written on 2/4/10.

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

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

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(5) (Engaging in the performance of substandard care by a physical therapist assistant, including exceeding the authority to perform tasks selected and delegated by the supervising licensee 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(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).

4. The conduct and circumstances explained in the Findings of Fact above constitute a violation of A.A.C. R4-24-304 A. A physical therapist shall ensure that a patient record meets the following minimum standards: 1. Each entry in the patient record is: a. Legible, b. Accurately dated, and c. Signed with the name and legal designation of the individual making the entry; 2. If an electronic signature is used to sign an entry, the electronic signature is secure; 3. The patient record contains sufficient information to: a. Identify the patient on each page of the patient record, b. Justify the therapeutic intervention, c. Document results of the therapeutic intervention, d. Indicate advice or cautionary warnings provided to the patient, e. Enable another physical therapist to assume the patient's care at any point in the course of therapeutic intervention, and f. Describe the patient's medical history. 4. If an individual other than a physical therapist or physical therapist assistant makes an entry into the patient record, the supervising physical therapist co-signs the entry; 5. If it is determined that erroneous information is entered into the patient record: a. The error is corrected in a manner that allows the erroneous information to remain legible, and b. The individual making the correction dates and initials the correct information; and 6. For each date of service there is an accurate record of the physical therapy services provided and billed. C. Therapeutic-intervention notes. For each date that 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 of current status or response to therapeutic intervention; 2. The therapeutic intervention provided or appropriately supervised; 3. Objective data from tests or measures, if collected; 4. Instructions provided to the patient, if any; and 5. Any change in the plan of care required under subsection (B)(7).

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

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

Dr. Cornwall moved the Board issue the following Order:

1. **Probation:** The Arizona Board of Physical Therapy hereby orders that David Lizarraga (Respondent), holder of Certificate No. 0168A, be placed on probation for a period two (2) **years** 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 Respondent violates this Order or violates the Arizona Physical Therapy Practice Act. Respondent 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:

2. **Continuing Education:** Respondent 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

1. Documentation- Respondent shall complete a minimum of six (6) hours of continuing education in documentation. The course(s) must be preapproved by Board staff and the Respondent must provide documentation of completing the course to Board staff upon completion.

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

1. Respondent shall undergo a minimum of one audit of 3 randomly selected patient records.
2. The audit of patient records shall be performed by Board staff.
3. The first audit shall begin not less than 60 days following Respondent's completion of all required continuing education in the Order.
4. If Board staff finds deficiencies in the first audit of patient records, Respondent 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 neurological based patient.

4. **Jurisprudence Examination:** Respondent shall take and pass with a scale score of at least 600, the Board's Jurisprudence Examination (AZLAW) within the six months of the effective date of this Order.

5. **Presentation:** Respondent shall submit to Board staff within twenty four (24) months of the effective date of this order a presentation on ethics and jurisprudence and execute the presentation to an audience described by the Board. The presentation must be submitted to Board staff for approval. Respondent must provide the presentation to a group of currently enrolled physical therapist assistant students, currently certified physical therapist assistants or currently licensed physical therapists within twenty four (24) months of the effective date of this Order.

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

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

b. Complaint #10-54; Debbie Meade, PTA

Dr. Cornwall called the Board's attention to the above agenda item. Ms. Meade was present and was not represented by legal counsel. The Board and Board staff introduced themselves. Dr. Cornwall reviewed the procedures and possible outcome of the hearing. Mr. Brown provided a summary of the allegations against Ms. Meade.

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

1. Engaged in substandard care on September 22, 2010 in the course of providing treatment to patient E.H. when she engaged in activity that caused, or failed to recognize an unsafe environment for patient care which resulted in patient E.H. falling and fracturing her hip.
2. Failed to create and maintain adequate patient records for patient E.H.
 - a. Ms. Meade failed to create a daily intervention note for September 22, 2011.
 - b. Ms. Meade’s daily intervention notes do not document the patient subjective complaints.
 - c. Ms. Meade’s daily intervention notes do not consistently document the patient’s response to treatment.
 - d. Ms. Meade documented a change in the patient’s status on August 20-21, 2010, but failed to document any reporting of the patient’s change to your supervising physical therapist.

Ms. Meade provided an opening statement. She stated the patient’s fall was an accident and was witnessed by several people that all felt it was an accident except for one witness. Ms. Meade stated she was holding the patient walker while she was providing direction to the patient and another person ran into Ms. Meade causing her to fall and when she fell she pulled down the patient’s walker which caused the patient to fall. Ms. Meade stated she has taken continuing education on avoiding patient falls.

The Board entered the questioning phase of the hearing. Ms. Hunter asked Ms. Meade where the supervising physical therapist was at the time of the accident. Ms. Meade said the physical therapist was not in the same room. Dr. Cornwall asked if she was working under general supervision. Ms. Meade stated she was working under general supervision but was in communication with the physical therapist every day. No other Board members had questions of Ms. Meade. Ms. Meade provided a closing statement.

The Board entered deliberations. Dr. Cornwall commented that he felt there were issues with Ms. Meade’s documentation, but that the accident was not substandard care. Ms. Akers agreed that Ms. Meade was not providing substandard care and that the documentation is a facility issue. Dr. Cornwall moved the Board dismiss this complaint and issue Ms. Meade a Non-disciplinary Order for Continuing Education to require Ms. Meade to six hours of continuing education in documentation to be completed in six months. Mr. Robbins seconded the motion. Following review and discussion the motion carried by unanimous vote.

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

- c) Initial Review, Discussion and Action on Complaint
 - a. Complaint #11-13; Renee Barrett, PTA

Dr. Cornwall called the Board’s attention to the above matter. Ms. Barrett was present and was not represented by legal counsel. Ms. Donahue provided a summary of the complaint to the Board. Board opened a complaint against Ms. Barrett, PTA due to her employment at Achievement Therapy Services (ATS) and the reported violations as related to cases #10-52; Denise Labriola, PT. This case was opened by the Board to investigate Ms. Barrett’s supervision and completion of documentation while working for ATS.

Ms. Barrett addressed the Board and stated she believes she did document her supervising physical therapists name and licensure number while working under general supervision and admitted she did document 2 discharge summaries of patients. Ms. Hunter asked Ms. Barrett why she did not speak with someone regarding her physical therapist not properly supervising her activities. Ms. Barrett stated she tried, but nothing happened, she felt stuck and the patient still needed care. Dr. Miller asked Ms. Barrett to confirm she did go to her supervising physical therapists superior to address the supervision problems. Ms. Barrett stated yes. Dr. Cornwall stated he felt there were significant allegations and possible violations in this case. Dr. Cornwall moved the Board forward this complaint to Informal Hearing to include all possible violations identified in the investigative report. Ms. Akers seconded the motion. Following review and discussion the motion carried by unanimous vote.

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

Dr. Cornwall directed staff to issue a subpoena Ms. Barrett’s patient schedule, identify random patients and then subpoena patient records.

b. Complaint #11-14; Ashley Millikan, PTA

Dr. Cornwall called the Board’s attention to the above agenda item. Ms. Milliken was not present and was not represented by legal counsel. Ms. Donahue provided a summary of the complaint allegations to the Board. The Board opened a complaint against Ms. Millikan, PTA; due to her employment at Achievement Therapy Services and the reported violations as related to case #10-52; Denise Labriola, PT. This case was opened by the Board to investigate Ms. Millikan’s supervision and completion of documentation while working for ATS. Ms. Millikan submitted, as part of her response, documentation of three patients she treated under the supervision of Ms. Labriola. One of the patient’s, JA, documentation indicates that Ms. Millikan may have performed treatment to patient JA independently, under general supervision, without a physical therapist evaluation or adequate supervision potentially resulting in substandard delivery of care by Ms. Millikan and Ms. Labriola.

Ms. Hunter stated she felt this case should be forwarded to a Formal Hearing. Ms. Richardson stated she felt there are patient safety issues in this complaint. Ms. Richardson moved the Board forward this case to a Formal Hearing and fast track the process if possible. Ms. Akers seconded the motion. Following review and discussion the motion carried by unanimous vote.

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

Dr. Cornwall moved the Board open a complaint against Denise Labriola regarding her supervision of Ms. Milliken and care for patient J.A. Dr. Miller seconded the motion. Following review and discussion the motion carried by unanimous vote.

| Vote | Dr. Cornwall | Ms. Akers | Ms. Hunter | Mr. Robbins | Dr. Miller | Ms. Richardson |
|---------|--------------|-----------|------------|-------------|------------|----------------|
| Aye | X | X | X | X | X | X |
| Nay | | | | | | |
| Recused | | | | | | |

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|-----------|--|--|--|--|--|--|
| Abstained | | | | | | |
| Absent | | | | | | |

c. Complaint #11-22; Michelle Suski, PT

Dr. Cornwall called the Board’s attention to the above agenda item. Ms. Suski was present and was not represented by legal counsel. Ms. Donahue provided a summary of the complaint to the Board. Bradley Senska, PT alleges that his supervisor, Ms. Suski, PT, changed his submitted charges without his knowledge or approval. Mr. Senska alleges that his documentation did not justify the billing changes.

Ms. Suski addressed the Board. She stated she was the primary signer of Mr. Senaka’s daily notes and billing because he was newly hired and the process is required by her employer. She did not consult with Mr. Seneka before making the change and thought he just made an error in his billing.

Dr. Cornwall asked Ms. Suski if she saw the patient since she was the primary signature. Ms. Suski stated she did not see the patient. Ms. Hunter asked Ms. Suski who would take responsibility for harm to the patient if she did not see the patient but signed as the primary signature on the record and billed under her name and license. Ms. Suski stated she did not know who would be responsible. Ms. Akers stated she felt the failure to tell the insurance company who the treating physical therapist is may be misleading to the third party payor. Jamie Pinder and Susan Priestman came forward to address the Board. They provided a description of how the billing is conducted with a primary signer until the treating therapist is credentialed.

Dr. Cornwall moved the Board dismiss the complaint against Ms. Suski and issue a non-disciplinary advisory letter advising that she do not improperly alter patient records or change billing codes without consultation with the treating physical therapist and following recording keeping requirements. In addition, she insures third party payors are properly informed of who the treating physical therapist is and which physical therapists license the treatment is billed under. Ms. Akers seconded the motion. Following review and discussion the motion carried by unanimous vote.

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

The Board recessed at 12:03 p.m.
 The Board reentered regular Session at 12:13 p.m.

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

6) Board Questions and Answer Period With Students

Dr. Cornwall called the Board’s attention to the above agenda item. Dr. Cornwall noted students from the Physical Therapy program at Northern Arizona University were present and allowed them to address the Board and ask questions about the Board’s operations that are not case specific. Two students addressed the Board. No action was taken or required.

2) COMPLAINTS, HEARINGS, INVESTIGATIONS and COMPLIANCE

e & d Complaint #'s11-30 and 11-31; James Wendel, PT

Dr. Cornwall called the Board’s attention to the above agenda item. Mr. Wendel was not present and was not represented by legal counsel. Ms. Donahue provided a summary of the complaint to the Board. The Board opened a complaint against Mr. Wendel in regards to his supervision of David Lizarrga, PTA; in regards to case 10-23 heard at Informal Hearing on this agenda. Case 10-23 relates to Mr. Lizzarga discharging patient G.S. Dr. Cornwall called the Board’s attention to Case #11-31 against Mr. Wendel listed on this same agenda and opened the discussion for both cases based on their relationship in allegations. The Board discussed the allegations. Ms. Donahue noted Mr. Wendel has an additional case waiting Formal Hearing and has been held bending these investigations. Dr. Cornwall moved the Board forward case Complaint #’s11-30 and 11-31to Formal hearing and combine all case against Mr. Wendel’s license that are pending Formal Hearing. Ms. Hunter seconded the motion. Following review and discussion the motion carried by unanimous vote.

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

f. Complaint #11-32; James Maiorana, PT

Dr. Cornwall called the Board’s attention to the above agenda item. Dr. Cornwall stated he knew Mr. Maiorana as a student, but had no bias that would prevent him from participating in this case. Dr. Miller knows the complainant, Laura markey, PT through social contact, prior employment and current co-owners of PTPN, but he has no bias. Mr. Maiorana was present and was not represented by legal counsel. Ms. Donahue provided a summary of the complaint for the Board. While currently treating patient S.W., Mr. Maiorana engaged in a relationship outside of the patient/ client venue.

Mr. Maiorana addressed the Board. He stated he had no sexual contact with the patient and made no sexual statements to the patient. He stated that he did socialize with the patient outside the clinic and takes responsibility for his action.

Ms. Richardson asked Mr. Maiorana if he had flirtatious text messages with the patient as he indicated in his response to the complaint, did you feel it compromised care. Mr. Maiorana stated he did not feel care was compromised. Dr. Miller noted in the response Mr. Maiorana stated he met with the patient to play pool one night even after he realized he was creating an improper relationship with the patient.

Ms. Akers stated she had issues with the actions of Mr. Maiorana and moved the Board forward the complaint to an Informal Hearing. Mr. Robbins seconded the motion. After review and discussion the motion failed.

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

Dr. Miller moved the Board dismiss the complaint and issue a non-disciplinary advisory letter advising Mr. Maiorana regarding inappropriate involvement with a patient outside of the patient/client venue, to review the Code

of Ethics regarding relationships outside of the patient/client venue, and to act in a professional manner at all times. Ms. Hunter seconded the motion. Following review and discussion the motion carried.

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

g. Complaint #11-33; Brian Courcy, PT

Dr. Cornwall called the Board’s attention to the above agenda item. Mr. Courcy was not present and was not represented by legal counsel. Ms. Donahue provided a summary of the complaint for the Board. Mr. Courcy renewed his license on-line on 7/13/10. Given that he renewed on-line indicates that he affirmed that he had completed the continuing competency requirements for the 2008-2010 compliance period. Mr. Courcy was selected for audit of his continuing competence. The audit resulted in Mr. Courcy being deficient 20 hours. He was sent notification of his deficiency on November 17, 2010 by certified mail. The certified mail was signed, by Mr. Courcy, as received, on 11/24/11. Mr. Courcy had until May 17, 2011 to complete the 20 required hours to satisfy the 2008-2010 compliance period. Mr. Courcy failed to send in any correspondence in order to satisfy the requirements of the audit. On May 27, 2011, the Board staff opened complaint #11-33. The certified mail was returned to the office on June 20, 2011. On June 21, 2011, Board staff sent notice of complaint by regular mail and e-mail. Mr. Courcy has failed to respond to the complaint by the June 26, 2011 deadline. As of August 12, 2011, Mr. Courcy has not provided any communication or sent any certificates of completion to satisfy his 2008-2010 continuing competency requirements.

The Board discussed the investigation report presented. Dr. Cornwall moved the Board forward the complaint against Mr. Courcy’s license to a Formal hearing. Dr. Miller seconded the motion. Following review and discussion the motion carried by unanimous vote.

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

h. Complaint #11-34; Nichole Gagnaire, PT

Dr. Cornwall called the Board’s attention to the above agenda item. Ms. Gagnaire was not present and was not represented by legal counsel. Ms. Donahue provided a summary of the complaint for the Board. Ms. Gagnaire renewed her license on-line on 8/4/10. Given that she renewed on-line indicates that she affirmed that she had completed the continuing competency requirements for the 2008-2010 compliance period. Ms. Gagnaire was selected for audit of her continuing competence. The audit resulted in Ms. Gagnaire being deficient 8 hours. She was sent notification of her deficiency on November 17, 2010 by certified mail. The certified mail was signed as received, on 11/19/11. Ms. Gagnaire had until May 17, 2011 to complete the 8 required hours to satisfy the 2008-2010 compliance period. Ms. Gagnaire failed to send in any correspondence in order to satisfy the requirements of the audit. On May 27, 2011, the Board staff opened complaint #11-34. Ms. Gagnaire has failed to respond to the complaint by the June 26, 2011 deadline. As of August 11, 2011, Ms. Gagnaire has not provided any communication or sent any certificates of completion to satisfy her 2008-2010 continuing competency requirements.

The Board discussed the investigative report. Dr. Cornwall moved the Board forward the complaint against Ms. Gagnaire’s license to a Formal Hearing. Ms. Hunter seconded the motion. Following review and discussion the motion carried by unanimous vote.

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

i. Complaint #11-37; E. Paul Pratt, PTA

Dr. Cornwall called the Board’s attention to the above agenda item. Mr. Pratt was not present and was not represented by legal counsel. Ms. Donahue summarized the complaint for the Board. Mr. Pratt was arrested for DUI in Utah on June 18, 2011. Mr. Pratt reported the arrest on June 20, 2011 within the 10-day notification period. Mr. Pratt does not have any prior incidents as recorded in Arizona case search.

The Board discussed the investigation report. Dr. Cornwall moved the Board dismiss the complaint against Mr. Pratt and issue a non-disciplinary advisory letter advising him to refrain from drinking alcoholic beverages when engaging in driving. Mr. Robbins seconded the motion. Following review and discussion the motion carried by unanimous vote.

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

d. Review, Discussion, and Action on Compliance with A Board Order

a. Case #10-02; Lonny Nenadovich, PT

Dr. Cornwall called the Board’s attention to the above agenda item. Mr. Nenadovich was not present and was not represented by legal counsel. Ms. Donahue provided a summary of Mr. Nenadovich’s compliance with the terms of his probation. Ms. Donahue stated that Nenadovich previously received an extension to the time to complete his probation terms and complete required continuing education and records audits. Mr. Nenadovich completed the continuing education and submitted to an audit as the extension time expired. Upon review of the provided patient records several discrepancies were noted and the majority of the records were not legible.

Dr. Cornwall moved the Board open a complaint against Mr. Nenadovich’s license for failure to comply with the terms of his Board order and for inadequate patient records. Ms. Hunter seconded the motion. Following review and discussion the motion carried by unanimous vote.

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

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

a) Applications for Licensure and Certification

a. Substantive Review, Consideration and Approval of Applications of Physical Therapist Licensure

| | | |
|----------------------|--------------------|----------------|
| Bracamonte, Cristina | Canterbury, Brenna | Reid, Markita |
| Curtis, Catherine | Flamand, Edward | Hays, Janell |
| Martinez, Aileen | McKinnon, Cory | Milne, Britany |
| Peifer, Karen | Garra, Julie | |

b. Substantive Review, Consideration and Approval of Applications for Physical Therapist Assistant Certification

| | | |
|-----------------|--------------------|--------------------|
| Casper, Douglas | Fortunat, Clifford | Freshour, Shalimar |
| Leonard, Dawn | Rapier, Shelley | Riege, Lindsey |

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

| |
|-------------------|
| Cananea, Julienne |
|-------------------|

Dr. Cornwall called the Board attention to all items on the consent agenda. No Board member requested to remove an applicant from the consent agenda. Dr. Cornwall moved the Board approve licensure and certification for the applicants listed above in accordance with the agenda. Ms. Akers seconded the motion. Following review and discussion the motion carried by unanimous vote.

| | | | | | | |
|-----------|--------------|-----------|------------|-------------|------------|----------------|
| Vote | Dr. Cornwall | Ms. Akers | Ms. Hunter | Mr. Robbins | Dr. Miller | 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.

a. Review of Education, Approval to take the AZLAW (Jurisprudence) exam and the NPTE, Determination of Supervised Clinical Practice Period, and Possible Licensure

(a) Roa, Junriel

Dr. Cornwall called the Board’s attention to the above agenda item. Dr. Cornwall noted that the applicant’s credential review report found multiple areas of her education not substantially equivalent to the education of a United States educated physical therapist. Dr. Cornwall moved the Board find Ms. Roa’s education not substantially equivalent and require her to complete the education identified as not present or deficient in the credential evaluation. Ms. Akers seconded the motion. Following review and discussion the motion carried by unanimous vote.

| | | | | | | |
|---------|--------------|-----------|------------|-------------|------------|----------------|
| Vote | Dr. Cornwall | Ms. Akers | Ms. Hunter | Mr. Robbins | Dr. Miller | Ms. Richardson |
| Aye | X | X | X | X | X | X |
| Nay | | | | | | |
| Recused | | | | | | |

| | | | | | | |
|-----------|--|--|--|--|--|--|
| Abstained | | | | | | |
| Absent | | | | | | |

- b. Review of Education, Approval to take the AZLAW (Jurisprudence) Exam, Determination of Supervised Clinical Practice Period (SCPP), and Possible Licensure.
 - (a) Evangelista, Higinio

Dr. Cornwall called the Board’s attention to the above agenda item. Dr. Cornwall noted the applicant’s education was found substantially equivalent to the education of a United States educated physical therapist. Dr. Cornwall moved the Board find the applicant’s education substantially equivalent, approve the applicant to take the AZLAW examination, waive the requirement of a Supervised Clinical Practice Period and license the applicant upon receipt of a passing score for the AZLAW examination. Dr. Miller seconded the motion. Following review and discussion the motion carried by unanimous vote.

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

- b) Substantive Review of Documentation Related to Disclosure on “Personal Information” Section of Application
 - a. Physical Therapist Application and Approval to take the AZLAW (Jurisprudence) Exam and Possible Licensure
 - (a) Zelch, Timothy

Dr. Cornwall called the Board’s attention to the above agenda item. The Board reviewed the applicant’s disclosure on his application. No Board member voiced objection to licensure of the applicant. Dr. Cornwall moved the Board approve the applicant to take the AZLAW examination and be licensure upon receipt of a passing score. Dr. Miller seconded the motion. Following review and discussion the motion carried by unanimous vote.

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

- b. Physical Therapist Application and Possible Licensure
 - (a) Colner, Mikaela

Dr. Cornwall called the Board’s attention to the above agenda item. Ms. Colner was present and was not represented by legal counsel. The Board reviewed the applicant’s disclosure on his application. No Board member objected to licensure of the applicant and had no questions for Ms. Colner. Dr. Cornwall moved the Board approve Ms. Colner for licensure. Mr. Robbins seconded the motion. Following review and discussion the motion carried by unanimous vote.

| Vote | Dr. Cornwall | Ms. Akers | Ms. Hunter | Mr. Robbins | Dr. Miller | Ms. Richardson |
|-----------|--------------|-----------|------------|-------------|------------|----------------|
| Aye | X | X | X | X | X | X |
| Nay | | | | | | |
| Recused | | | | | | |
| Abstained | | | | | | |

| | | | | | | |
|--------|--|--|--|--|--|--|
| Absent | | | | | | |
|--------|--|--|--|--|--|--|

- c. Physical Therapist Assistant Application and Approval to take NPTE and the AZLAW (Jurisprudence) Exam and Possible Certification
 - (a) Rowe, Diana

Dr. Cornwall called the Board’s attention to the above agenda item. The Board reviewed the applicant’s disclosure on her application. No Board member objected to certification of the applicant. Dr. Cornwall moved the Board allow the applicant to take the NPTE and AZLAW examinations and be certified upon receipt of passing scores. Ms. Akers seconded the motion. Following review and discussion the motion carried by unanimous vote.

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

- c) Review of and Possible Action on Application for Certification from Applicant Previously Certified in Arizona
 - (a) Lavigne, Carolyn

Dr. Cornwall called the Board’s attention to the above agenda item. The Board discussed the applicant’s application and submitted documentation of continuing competence activity. No Board member objected to certification of the applicant. Dr. Cornwall moved the Board approve certification for the applicant. Ms. Richardson seconded the motion. Following review and discussion the motion carried by unanimous vote.

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

- d) Review of and Possible Action on Application for Physical Therapist Licensure
 - (a) Vargas, Luis

Dr. Cornwall called the Board’s attention to the above agenda item. Mr. Vargas-Delgado was not present and was not represented by legal counsel. Mr. Brown reported that the applicant submitted his application on August 2, 2011. The applicant also submitted his Curriculum Vita using the initials “PT” following his name and indicated he was employed since February 2011 as Director and Professor of the Human Neuroscience, Biopsychosocial Issues; Clinical Conditions II (Pathology) and Physical Agents I and II courses; Participating in Faculty Meetings, Department Activities and University related activities and events; Mentor to junior physical therapy faculty; Design and revision of courses in the physical therapy curriculum; Professor of Aquatic Rehabilitation; at Midwestern University in Glendale Arizona. Mr. Brown reported that Mr. Vargas-Delgado may be using the initial “PT” in violation of statute and practicing physical therapy without a license by teaching physical therapy at Midwestern University.

The Board discussed Mr. Vargas-Delgado’s application. Dr. Cornwall moved the Board offer Mr. Vargas-Delgado a consent agreement for licensure and placing the license on probation upon issuance with terms of probation as follows:

Probation: Applicant’s License is placed on **probation for six (6) months** with terms and conditions detailed in the following paragraphs. The Board reserves the right to amend this agreement unilaterally to ensure Applicant’s successful completion of probation. Applicant may petition the Board for early termination of probation once the Applicant has completed the terms of probation.

a. Original Essay: Applicant shall create and submit to the Board for approval a 1,000 word essay consisting of Applicant’s completely original work. The essay will cover the topics of the importance of regulation in public protection, ethics in the physical therapy profession, and the proper use of titles as related to the practice of physical therapy in Arizona.

Mr. Vargas-Delgado has 20 days to accept the consent agreement or his application for licensure as a physical therapist in Arizona is denied. Mr. Robbins seconded the motion. Following review and discussion the motion carried by unanimous roll call vote.

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

5) **BOARD BUSINESS AND REPORTS**

- a) Executive Director’s Report – Discussion and Possible Action
 - a. Financial Report- Written report only. The Board took no action.
 - b. Board Staff Activities- Mr. Brown provided the Board with a list of projects the Board is currently working on to include a ranking of the projects sensitivity and cost. The Board discussed the list and asked Mr. Brown to rank the projects in order of his sensitivity ranking and bring the list before the Board at a future Board meeting.
 - c. Legislation- The Board discussed fixed date testing and the impact on the application process. The Board discussed possible legislation regarding restricted licensure and certification or granting access to the NPTE examinations before graduation. The Board instructed Mr. Brown to communicate with the AzPTA, and Physical Therapist and Physical Therapist Assistant programs to ask them to meet with the Board to discuss possible legislation.
 - d. Rule Activity- Written report only. The Board took no action.
 - e. FSBPT- Mr. Brown and Dr. Cornwall provided the Board with comment on the FSBPT’s NPTE Summit and the issues related to NPTE testing. The Board took no action.
 - f. Newsletter- The Board reviewed the draft 2011 Newsletter and provided Mr. Brown with requested changes. The Board consented to the release of the Newsletter once the changes were made.
- b) Recognition of James Sieveke, PT for service to the State of Arizona as a Member of the Board of Physical Therapy

Dr. Cornwall called the Board’s attention to the above agenda item. Mr. Sieveke was not present. Dr. Cornwall spoke to the Board and the audience recognizing Mr. Sieveke for his service to the State of Arizona, the citizens of Arizona, the physical therapy profession, and the Board. Dr. Cornwall revealed the certificate prepared for Mr. Sieveke and instructed staff to mail the certificate to Mr. Sieveke.

7) **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 1:53 p.m.

Prepared by,

Charles D. Brown
Executive Director

Approved by,

Randy Robbins
Secretary