



**ARIZONA STATE BOARD OF PHYSICAL THERAPY**  
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**REGULAR SESSION MEETING MINUTES**  
**September 27, 2011**

**MEMBERS PRESENT:**

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

**MEMBERS ABSENT:**

None

**OTHERS PRESENT IN PERSON:**

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

**CALL TO ORDER – 8:36 a.m.**

Dr. Cornwall called the meeting to order at 8:36 a.m.

**1) Review and Approval of Draft Minutes**

**a) August 30, 2011; Regular Session Meeting Minutes**

Dr. Cornwall called the Board’s attention to the above agenda item. Mr. Brown read corrections Dr. Miller had provided prior to the Board meeting. No other Board member requested corrections or modifications to the minutes. Dr. Cornwall moved the Board approve the minutes as amended. Mr. Robbins seconded the motion. The motion carried by unanimous vote.

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

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

**b) Initial Review, Discussion and Action on Complaint**

**a. Complaint #10-51; Shelly Fortner (McClellan), PT**

Dr. Cornwall called the Board’s attention to the above agenda item. Ms. McClellan was present and was not represented by legal counsel. Ms. Donahue provided a summary of the complaint for the Board. The complaint was filed by a physical therapist providing contract work to Ms. McClellan’s employer. During the complainant’s practice at this location, she noticed that Ms. McClellan, PT, had available business cards that did not provide her professional designation of “PT”. The complainant also notified the Board that Ms. McClellan’s standard procedure is for assistive personnel to help Ms. McClellan’s patients with their exercises while Ms. McClellan sits in the office doing paperwork.

Ms. McClellan stated she was present to answer any questions from the Board and stated her cards were done wrong because they were not intended to be used in connection with her physical therapist license. Ms. Hunter asked if Ms. McClellan treated Medicare patients. Ms. McClellan stated she did but that none of the care provided by the physical therapy aides was billed. Dr. Miller stated he did not find any information of complaint from a patient or co-worker and found nothing in the law that requires Ms. McClellan to have business cards.

Ms. Akers arrived at 8:44 a.m.

Dr. Cornwall asked Ms. McClellan to describe how she works with assistive personnel. Ms. McClellan stated she worked in a very small area and participated in the care of 100% of the patients seen. Ms. McClellan stated she would provide reassessments of the patients when she saw them for the first time and would sometime continue the plan of care or modify the plan if she felt it was appropriate. Ms. McClellan stated the assistive personnel did not provide much care and that she performed most of the care.

The Board entered discussion on the complaint. Dr. Miller moved the Board dismiss the complaint. The motion failed for a lack of second. Ms. Hunter stated she felt that Ms. McClellan could use some education in supervision and ethics. Dr. Cornwall moved the Board issue Ms. McClellan an advisory letter advising her to ensure her credentials are on her business cards and to obey all laws. 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
Recused						
Abstained		X				
Absent						

Ms. Hunter stated she still feels some education is needed. Ms. Richardson stated she was leaning more toward dismissal as she did not see substantial proof for her failing to supervise and felt there was no intent to violate the law with her providing business cards without “PT” listed. Dr. Miller moved the Board dismiss the complaint against Ms. McClellan’s license. 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
Nay						
Recused						
Abstained		X				
Absent						

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

Dr. Cornwall called the Board's attention to the above agenda item. Ms. Labriola was present and represented by Kent Nicholas, her attorney. The State was represented by Keely Verstegen, Assistant Attorney General. Christopher Munns, Assistant Attorney General was present to provide the Board with legal advice.

The Board introduced themselves to the parties present. Dr. Cornwall summarized how the proceeding would be conducted and asked if either party had any preliminary motions. Mr. Nicholas' stated he wanted the Board to consider his request to hold off on any possible disciplinary action today until Ms. Labriola's second complaint with the Board that is still under investigation is complete. Mr. Munns noted the Board could table the hearing and combine the hearings and hold the proceeding at a later date, but that it would not be standard to hear the matter today and then pend disciplinary action on any found violations for the resolution of a complaint not yet investigated. Dr. Cornwall stated the matter before the Board would move forward.

Ms. Verstegen provided an opening statement. Ms. Verstegen stated the evidence and testimony presented would show Ms. Labriola failed to supervise assistive personnel in accordance with the laws governing the practice of physical therapy and that she provided substandard care by allowing unqualified physical therapists assistants to treat patients without evaluations as required by law and that improper goals were set for some patients.

Mr. Nicholas provided an opening statement and asked the Board to consider his Mitigation Statement already filed acknowledging some errors by Ms. Labriola. Ms. Verstegen asked if Ms. Labriola was willing to consider stipulating to some of the violations in the Complaint Notice and Mr. Nicholas indicated a stipulation was possible. Mr. Munns suggested that the Board recess to allow the parties to discuss a stipulation.

The meeting recessed at 9:24 a.m.

The Board returned to Regular Session at 10:10 a.m.

Dr. Cornwall called the Board's attention to a new agenda item and stated the hearing would resume when the parties were finished.

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

Axelson, Krysten	Becker, John	Bettes, Jordan
Butler, Susan	Christensen, Kaylene	Clark, Kaitlin
Coats, Cynthia	Creech, Karen	Ferguson, Katie
Funk, Tomasz	Gardner, Michelle	Hannum, Tabitha
Hillier, Caroline	Ho, Jessica	Holochwost, Nathan
Holt, Leann	Hoopas, Vance	Hosking, Naomi
Hovis, Chelsea	Hughes, Kelly	Jackson, Corey
Jameson, Shannon	Johnson, Kristen	Lakhani, Zahra
Lehmann, Sara	Marrs, Lindsay	McKay, Christina
Meador, Cherish	Moes Mulder, Amanda	Phillips, Lisa
Rodgers, Jennifer	Rohrich, Catie	Rushton, Ryan
Sayman, Shelly	Sterrenberg, Kelli	Stricchiola, Danielle
Sutliff, Rani	Twohy, Lucy	Van Voorst, Daniel

- ii. Substantive Review, Consideration and Approval of Applications for Physical Therapist Licensure Pending Receipt of Final Transcript.

Abrahams, Noah	Baldenko, Julia	Bergman, Leanne
Hawley, Nicolas	Mclane, Tracey	Payne, Cara

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

Kinzer, Kelsey	Lowman, Courtney	Olsen, Marcy
Roberts Cooper, Kitrina	Rossi, Dawn	Zimmerlee, Shawn

- iv. Substantive Review, Consideration and Approval of Applications for Physical Therapist Assistant Certification Pending Receipt of Government Issued Picture Identification.

- a) Escobedo, Robyn

Dr. Cornwall called the Board’s attention to the above agenda items. No Board member requested an applicant’s removal from the consent agenda. Dr. Cornwall moved the Board approve the above applicants for licensure or certification as listed on the agenda. 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						

Consent Agenda Ends

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

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

- i. Review of Education, Approval to take the NPTE and the AZLAW (Jurisprudence) Exam, Determination of Supervised Clinical Practice Period (SCPP), and Possible Licensure.
  - (a) Walsh, Muiris

Dr. Cornwall called the Board’s attention to the above agenda item. Mr. Walsh was not present. Ms. Brierley reviewed Mr. Walsh’s credential evaluation and noted multiple deficiencies. Dr. Cornwall moved the Board find the applicant’s education not substantially equivalent to the education of a physical therapist educated in the United States and require the applicant to complete the missing coursework. 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						

- ii. Review and Determination of Request to Change Supervisors for the current SCPP.
  - (a) Smyth, Emma

Dr. Cornwall called the Board’s attention to the above agenda item. Ms. Smyth was not present. Dr. Cornwall moved the Board approve the applicants plan for supervised clinical practice period and allow staff to set the primary and secondary supervisor in accordance with the applicant’s request. 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						

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

- i. Physical Therapist Application and Approval to take the NPTE and the AZLAW (Jurisprudence) Exam and Possible Licensure
  - (a) Holley, Mark

Dr. Cornwall called the Board’s attention to the above agenda item. Mr. Holley was not present. The Board reviewed Mr. Holley’s disclosure on his application. Dr. Cornwall moved the Board approve Mr. Holley to take the NPTE and AZLAW examinations, and licensure upon receipt of passing scores. 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						

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

Dr. Cornwall called the Board’s attention to the above agenda item. Mr. Baum was present and made himself available for questions from the Board. The Board reviewed Mr. Baum’s disclosure on his application. Dr. Cornwall moved the Board approve Mr. Baum to take the NPTE and AZLAW examinations, and certification upon receipt of passing scores. 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) Maki, Kristen

Dr. Cornwall called the Board’s attention to the above agenda item. Ms. Maki was present and made herself available for questions. Dr. Cornwall moved the Board approve Ms. Maki to take the NPTE and AZLAW examinations, and certification upon receipt of passing scores. Dr. Miller seconded the motion. Following review and discussion the motion carried by unanimous vote.

(c) Seronde, Caroline

Dr. Cornwall called the Board’s attention to the above agenda item. Ms. Seronde was present and made herself available for questions. Dr. Cornwall moved the Board approve Ms. Seronde to take the NPTE and AZLAW examinations, and certification upon receipt of passing scores. Dr. Millers seconded the motion. Following review and discussion the motion carried by unanimous vote. Dr. Cornwall requested staff to have Ms. Seronde notify the Board of the outcome of her pending criminal case.

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) Jones, Tyrone (Pending Receipt of Government Issued Photo ID)

Dr. Cornwall called the Board’s attention to the above agenda item. Mr. Jones was present and made himself available for questions from the Board. The Board reviewed Mr. Jones’ disclosure on his application. Dr. Cornwall moved the Board approve Mr. Jones to take the NPTE and AZLAW examinations, and certification 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 Licensure from Applicant Previously Licensed in Arizona

(a) Zenda, Michelle

Dr. Cornwall called the Board’s attention to the above agenda item. Ms. Brierley reported that Ms. Zenda must complete one of the requirements under A.R.S. §32-2028 in order to be licensed in Arizona. Dr. Cornwall moved the Board accept Ms. Zenda’s submitted continuing education as fulfilling the requirement under A.R.S. §32-2028 and grant her licensure. 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						

d) Review of and Possible Action on Application for Licensure from Applicant Previously Licensed in Arizona; Possible Action on Allegations of Applicant Practicing Physical Therapy Without a License and Production of Fraudulent Physical Therapy License

i. Rice, Steven

Dr. Cornwall called the Board's attention to the above agenda item. Mr. Rice was present and came forward to address the Board. Ms. Brierley reviewed information staff received regarding Mr. Rice's application that was not disclosed on his application for licensure.

**Issue #1: Practicing Physical Therapy in Arizona without a current license:**

On September 8, 2011 Virginia's PT Board Operations Manager, Missy Currier, sent an email to AZ staff notifying us that it had come to their attention that one of their licensees may be practicing as a physical therapist in Arizona and indicating to us that he was in violation of his probation in Virginia. Ms. Currier sent a copy of his Board order which we already had due to FSBPT indication of probation in Virginia.

Staff turned the information over to Ms. Karen Donahue, Board investigator. According to information from his employer, Mr. Rice presented to them a current license (wallet card as issued at time of renewal) to practice PT in AZ. This appears to be a forged document because **1)** Dr. Cornwall's signature does not appear on wallet cards or renewals as they are signed by the current Board Secretary; **2)** Expiration date states 2013 which is not a valid year; **3)** document states it was issued prior to Mr. Rice's application for licensure, **4)** the license number would not have been Mr. Rice's previous license number as it had expired more than three years ago. Upon application he would be given a new number. **5)** Licensees who have NOT gone through a renewal cannot be issued the renewal receipt with attached wallet card because there is not a renewal date in the renewal section of the database. If a newly licensed person wants another wallet card, it comes on wallet card stock (white with black writing).

**Issue #2:**

Virginia Order for case # 124288: Findings of Fact: Failure to completely and adequately document physical therapy patient records for 84 patients.

**Issue #3:**

Investigation documentation and report dated 8/18/09. Note: Page 21 of the report states that Mr. Rice stated he was convicted in 1990 for 2 counts of soliciting prostitution. This last was not mentioned in Mr. Rice's narrative that accompanied his AZ application.

Mr. Rice addressed the Board and stated he did create the fraudulent license wallet card because he had moved to Arizona and taken a job, but knew it would take some time before the Board could consider his application. Mr. Brown asked Mr. Rice to confirm he is admitting to creating the wallet card he submitted to his employer. Mr. Rice confirmed he did create the wallet card himself.

Dr. Cornwall asked how long Mr. Rice worked for Ideal Rehabilitation. Mr. Rice stated six months. Dr. Miller asked if the Attorney General's Office would pursue the issue of the forging of a State document. Ms. Versteegen stated the Board could forward the matter to a criminal authority. Mr. Brown noted the Board needed to meet its time frames regardless if the matter is forwarded for criminal review. Ms. Richardson moved the Board deny Mr. Rice's application for licensure on the Grounds of (A.R.S.) § 32-2023(B)(1) Knowingly making a false statement of fact required to be revealed in the initial application, renewal application or reinstatement application for a license or certificate. Specifically, he failed to notify the Board on his application for licensure that in 1990 he was convicted of 2 counts of soliciting prostitution. In addition, the

denial is based on §32-2023(B)(2) Committing fraud in the procurement of a license or certificate. Specifically, creating a false license to practice physical therapy in the state of Arizona in the form of a wallet card of the type only issued to a physical therapist who has renewed a physical therapist license. 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						

- e) Review of and Possible Action on Application for Licensure from Applicant Requesting ADA Accommodations and Possible Licensure Pending Receipt of Government Issued Picture ID.
  - a) Pierce, Katie

Dr. Cornwall recused himself from this agenda item and left the Board table. Ms. Akers called the Board’s attention to the above agenda item. Ms. Pierce was not present. Ms. Akers reviewed the applicant’s request for accommodations. The Board discussed the request. Ms. Akers moved the Board grant all accommodations requested. 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
Nay						
Recused	X					
Abstained						
Absent						

Dr. Cornwall returned to the Board table.

The Board returned to the hearing regarding Ms. Labriola at 10:44 a.m.

- 2) **COMPLAINTS, HEARINGS, INVESTIGATIONS and COMPLIANCE**
  - a) Formal Hearing and Possible Action
    - i. Complaint #10-52; Denise Labriola, PT

Dr. Cornwall called the Board’s attention to the above matter. All parties were present. Ms. Verstegen stated the parties had stipulated to Findings of Fact and Conclusions of Law. Ms. Verstegen read the Findings of Fact stipulated to:

**Findings of Fact:**

1. On or about October 8, 2010, a complaint was filed against Respondent by Sally Cress, (“Complainant”) a registered nurse who was treating patient C.R.
2. Ms. Cress alleged that Respondent failed to provide ongoing, onsite, supervisory visits for patient C.R., a three year old male child with Down Syndrome, Congenital Cardiac Anomaly and Asthma – who is scheduled to receive weekly physical therapy sessions from Lori Miles, PTA, who was employed at Achievement Therapy Services (“ATS”).



3. Ms. Cress reported that based upon her review of patient C.R.'s Home Health Notes dating back to January 1, 2009, the last documented onsite supervisory visit made by Respondent was on April 24, 2009.
4. Ms. Cress further reported that on July 1, 2010, Lori Miles, PTA, made a weekly visit and noted in the child's home/parent notebook, that patient C.R.'s New Goal was: SKIPPING – which requires a combination of galloping and jumping.
5. Ms. Cress was concerned that the goal of skipping for a child with Down Syndrome was unrealistic and based upon her thirty years of pediatric experience, an average child does not learn to skip until they are around five to seven years old.
6. Ms. Cress also disagreed with Ms. Miles' notes on July 1, 2010 that patient C.R. had a good therapy session.
7. Ms. Cress confronted Respondent regarding the goal set for patient C.R., the increasing difficulty that Ms. Miles was having in working with patient C.R. and the lack of onsite supervisory visits.
8. Respondent reported to Ms. Cress that due to State budget cut-backs and Respondent's own list of clients, Respondent was no longer able to continue with onsite supervisory visits and was only doing so if the parents requested such visits.
9. Respondent was notified of the complaint and provided a response to the Board on or about November 8, 2010.
10. In her response, Respondent attached the initial evaluation and supervisory notes for patient C.R.
11. Respondent admits that she is the direct supervisor of Lori Miles, PTA.
12. Respondent performed the initial evaluation on patient C.R. on July 9, 2007 and since then, Ms. Miles has been treating patient C.R. in his home for an hour every week under her supervision.
13. Respondent reports that she provided onsite supervision of treatment of patient C.R. once a month until April of 2009.
14. Respondent reports that after April of 2009, onsite visits are no longer required for general supervision and that she provides supervision of Ms. Miles through face to face scheduled meetings once a month to review and update each patient's care plan as per Respondent's employer's policy.
15. Board staff received the information in response to the subpoena on November 6, 2010, however, billing, daily notes and supervisory notes were missing from the record.
16. Board staff conducted an interview with Amy Gallagher, the owner of ATS, on January 27, 2011.
17. Ms. Gallagher confirmed that the policy at ATS was for the physical therapist to perform the initial evaluation and then supervise the physical therapist assistant, who would continue the treatment of the child with monthly meetings between the physical therapist and the physical therapist assistant to discuss and provide updates on each child's condition.
18. Ms. Gallagher further confirmed that the physical therapist wrote the monthly reports and that the physical therapist assistant wrote the quarterly reports and discharges.
19. Board staff conducted an interview with Ashley Millikan, a PTA employed at Achievement Therapy Services, ("ATS") on February 11, 2011.
20. Ms. Millikan reported that she received certification from the Board on February 23, 2010 and began her employment under general supervision with ATS on March 1, 2010.
21. Ms. Millikan's application filed with the Board on January 25, 2010 indicates that she had no professional experience in the past five years.
22. Ms. Millikan reported that Respondent was her supervisor.
23. Respondent failed to ensure that Ms. Millikan had acquired 2000 hours of on-site supervision prior to allowing her to be supervised under general supervision. Respondent unreasonably relied upon her employer to verify the 2000 hour requirement.
24. Email correspondence on July 15, 2009 from Respondent to Ms. Bowden, Clayton Robertson and Lori Miles, physical therapist assistants at ATS, detail the changes in Respondent's method of supervision.
25. Respondent informed her physical therapist assistants that she will be meeting with them every month instead of meeting with their clients.

26. Respondent informed her physical therapist assistants that she will write a note, but the physical therapist assistants are still responsible for the daily notes, quarterly notes and discharge notes.
27. Respondent's care of C.R. was substandard in that she wrote monthly progress reports based exclusively on the PTA's report on the progression of goals, current functional status and any tests or measurements without directly re-evaluating the patient.
28. Respondent failed to properly supervise physical therapist assistants Lori Miles, Tess Bowden and Ashley Millikan under general supervision.
29. Respondent documented in several monthly reports after April of 2009 that goals of patient C.R. were being met without actually seeing the patient herself.
30. Respondent develops and documents additional goals in several monthly reports after April of 2009 without actually seeing patient C.R. herself.
31. Respondent failed to perform and document a re-evaluation after patient C.R.'s heart surgery and prior to Ms. Miles resuming her care on August 21, 2008. Respondent unreasonably relied on Ms. Miles to do the re-evaluation.
32. A review of the records revealed that there is sparse notation throughout the records regarding patient C.R.'s response to treatment. Respondent acknowledges that notation could have been more complete.
33. Respondent documents a supervisory note on January 18, 2008 for patient C.R., but Ms. Miles stated that there were no daily notes in January of 2008 because she did not see C.R. that month at all.
34. Billing submitted by Respondent's employer was not audited by Respondent resulting in errors.

### **Conclusions of Law:**

1. The Board has jurisdiction over this matter pursuant to A.R.S. § 32-2001, *et seq.* and the rules promulgated by the Board relating to the practice of physical therapy.
2. The conduct and circumstances explained in the Factual Allegations 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 Factual Allegations above constitute a violation of A.R.S. §32-2044(1) (Violating this chapter, board rules or a written board order) and A.R.S. §32-2044(6) (Failing to supervise assistive personnel, physical therapy students or interim permit holders in accordance with this chapter and rules adopted pursuant to this chapter) as it relates to the following:
  - a. A.R.S. §32-2043 (A) (A physical therapist is responsible for patient care given by assistive personnel under the physical therapist's supervision. A physical therapist may delegate to assistive personnel and supervise selected acts, tasks or procedures that fall within the scope of physical therapy practice but that do not exceed the education or training of the assistive personnel).
  - b. A.R.S. §32-2043(F) (A physical therapist is responsible for managing all aspects of the physical therapy care of each patient. A physical therapist must provide:
    1. The initial evaluation and documentation for a patient.
    2. Periodic reevaluation and documentation of a patient.
    3. The documented discharge of a patient, including the response to therapeutic intervention at the time of discharge.
  - c. A.R.S. §32-2043(H) (For each patient on each date of service, a physical therapist must provide and document all of the therapeutic intervention that requires the expertise of a physical therapist and must determine the use of physical therapist assistants and other assistive personnel to ensure the delivery of care that is safe, effective and efficient. Documentation for each date of service must be as prescribed by the board by rule).
  - d. A.A.C. R4-24-303(A) (A physical therapist is responsible for the scope of patient management in the practice of physical therapy as defined by A.R.S. § 32-2001. For each patient, the physical therapist shall:
    1. Perform and document an initial evaluation;

2. Perform and document periodic reevaluation;
  3. Document a discharge summary and the patient’s response to the course of treatment at discharge;
  4. Ensure that the patient’s physical therapy record is complete and accurate; and
  5. Ensure that services reported for billing, whether billed directly to the patient or through a third party, are accurate and consistent with information in the patient’s physical therapy record).
- e. A.A.C. R4-24-303(D) (Before delegating performance of a selected treatment intervention to a physical therapist assistant working under general supervision, the supervising physical therapist shall ensure that the physical therapist assistant:
1. Is Certified under this Chapter, and
  2. Has completed at least 2,000 hours of experience as a physical therapist assistant working with patients under onsite supervision).
- f. A.A.C. R4-24-303(F)(4) (A physical therapist who provides general supervision for a physical therapist assistant shall: Perform a reevaluation and provide each therapeutic intervention for the patient that is done on the day of the reevaluation every fourth treatment or every 30 days, whichever occurs first).
4. The conduct and circumstances explained in the Factual Allegations 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) as it relates to the following:
- a. Principle 4.1(B) (Regardless of practice setting, a physical therapist has primary responsibility for the physical therapy care of a patient and shall make independent judgments regarding the care consistent with accepted professional standards).
  - b. Principle 4.2(B) (A physical therapist shall not delegate to a less qualified person any activity that requires the professional skill, knowledge, and judgment of the physical therapist).
5. The conduct and circumstances explained in the Factual Allegations above constitute a violation of A.R.S. §32-2044(20) (Failing to maintain adequate patient records. For the purposes of this paragraph, “adequate patient records” means legible records that comply with the 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) as it relates to: her supervisory notes.

Mr. Nicholas agreed the above are the Findings of Fact and Conclusion of Law stipulated to by Ms. Labriola. Dr. Cornwall moved the Board adopt the stipulated Findings of Fact and Conclusions of Law. 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						

Ms. Verstegen and Mr. Nicholas provided closing statements. The Board entered discussion regarding the Board Order. Ms. Hunter noted the unprofessional conduct of Ms. Labriola and the safety issues related to the treatment of the child in the case. Ms. Hunter moved the Board revoke the license of Ms. Labriola. The motion failed for a lack of a second.

Dr. Cornwall noted that her violations were wide spread, but she acted as her employer requested and has come before the Board prepared to change. Dr. Miller stated he had a similar feeling and would want the Board to consider the ProBE ethics course when considering discipline. Ms. Hunter stated she felt a suspension was required because of the risk to her patients. Ms. Akers stated she felt there was a problem with her leaving her patients in the care of PTA’s and that Ms. Labriola is the responsible party for what happened. Ms. Akers

suggested the Board consider a one month suspension. Ms. Richardson stated that public safety was an issue and that children could have been harmed by Ms. Labriola's actions. Mr. Robbins stated he felt Ms. Labriola admitted to her mistakes and he was in favor of no suspension.

Dr. Miller moved the Board adopt the following Board Order:

**Restriction:** Denise Labriola's (Respondent) License No. 7465 shall be **restricted** for three (3) years from the effective date of this Order. The restriction of the license is that Respondent may not supervise, under onsite or general supervision, assistive personnel, or interim permit holders.

**Probation:** Respondent's license is placed on probation for a period of **three (3) years from the effective date of this order**. Respondent may petition the Board for **early** termination or modification of probation if Respondent has complied with the requirements. 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. Ethics Remediation Course:**

Within twelve (12) months of the effective date of this Order, Respondent shall complete the ProBe program offered by the Federation of State Boards of Physical Therapy. Respondent shall submit evidence of completion during the first twelve months of the probationary period. Respondent shall also complete the six and twelve month longitudinal follow-up.

**B. Continuing Education:**

Respondent shall complete continuing education courses as prescribed below within twelve (12) 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- Respondent shall complete a minimum of eight (8) hours of continuing education in ethics. The course(s) must be preapproved by Board staff and Respondent must provide documentation of completing the course to Board staff upon completion.
- ii. Documentation and Billing-- Respondent shall complete a minimum of fifteen (15) hours of continuing education in documentation billing. The course(s) must be preapproved by Board staff and Respondent must provide documentation of completing the course to Board staff upon completion.

**C. ESSAY:**

Respondent within 90 days of the effective date of this order shall review the Board's statutes and rules governing the practice of physical therapy in Arizona and write a two thousand (2000) word essay outlining the requirements of the laws. The essay shall be approved by the Board or Board staff. The Board may use the essay as an educational tool in future matters.

**D. MONITORING:**

Within the first twelve (12) months of probation or within 30 days of completion of her required continuing education, whichever comes first, 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 first twelve (12) months of probation or within 30 days of completion of her required continuing education, 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.

During the Monitoring, the Monitor shall conduct a review Respondent’s charts and billing records once every month for six months. Each review shall include ten (10) 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, discharge summaries, and quarterly reports.

Mr. Robbins seconded the motion. Following review and discussion the motion carried with four aye votes and two nay votes. The vote was taken by roll call.

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

b) Initial Review, Discussion and Action on Complaint

- ii. Complaint #11-11; Marcella Lewis (Not Licensed)

Dr. Cornwall called the Board’s attention to the above agenda item. Ms. Lewis was not present and was not represented by legal counsel. Ms. Donahue provided a summary of the complaint to the Board. The complaint was filed by Jerry Roberts with the national Insurance Crime Bureau following a referral from the Auto Club Insurance (MI) regarding questionable activities of Ms. Lewis as she billed for physical therapy services to a patient in AZ and does not appear to have any medical license or certification allowing her to do so. Ms. Lewis does not have a license as a physical therapist in any state.

The Board discussed the case. Dr. Cornwall noted that the investigation indicates Ms. Lewis treated a relative only and that she did not establish a practice or clinic in Arizona. Dr. Cornwall moved the Board close the complaint and send a letter to Ms. Lewis informing her of the consequences of practicing physical therapy without a license or representing herself as a physical therapist without holding a license. 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						

iii. Complaint #11-27; Jason Taylor, D.C. & Michael Abromovitz, D.C.

Dr. Cornwall called the Board’s attention to the above agenda item. Dr. Taylor and Dr. Abromovitz were not present or represented by legal counsel. Ms. Donahue provided a summary of the complaint for the Board. The complainant reports that a lighted “Physical Therapy Sign” is being advertised at the Spine and Disc Center of Arizona. The Complainant also identifies advertising for physical therapy services on the chiropractic physicians’ webpage. It is alleged there is no identified physical therapist on staff at the Spine and Disc Center of Arizona. Ms. Donahue noted that Mr. Brown had recently visited the location of the Spine and Disc Center of Arizona and all references to physical therapy were removed from the signage as verified by photographs taken by Mr. Brown. Dr. Cornwall moved the Board close the complaint against Dr. Taylor and Dr. Abromovitz. 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						

5) **BOARD BUSINESS AND REPORTS**

b) Legislation and NPTE Fixed Date Testing- Stakeholder Discussion of Possible legislation Related to restricted Licensure and Pre-graduation Testing

Dr. Cornwall called the Board’s attention to the above agenda item. Dr. Cornwall stated that the Board was prepared to hear persons with comment regarding possible Board action to address concerns with the effect fixed date testing for the National Physical Therapy Examination. Brandy Petrone, the Board’s Legislative Liaison was present.

Jim Farris representing AT Still University came forward and addressed the Board in favor of a form of early testing.

Linda Duke representing the AzPTA came forward and addressed the Board in favor of a form of early testing and expressed a willingness to explore a form of interim licensure.

Blair Packard representing himself came forward and addressed the Board in favor of both early testing and a form of interim licensure.

Robyn Wilhelm representing Pima Medical Institute in Mesa came forward and address the Board in favor of both early testing and a form of interim licensure and noted some states such as Ohio allow early testing.

Peter Zawicki representing Gateway Community College came forward and addressed the Board in favor of a form of interim licensure.

Debbie Bierwas representing Midwestern University came forward and address the Board in favor of an interim form of licensure.

Kay Wing representing herself came forward to address the Board an in favor of a form of early testing.

Lou Ann Negrete representing Pima medical Institute in Tucson came forward and addressed the Board in favor of either early testing or an interim license and noted years ago Arizona had a form of temporary license.

The Board discussed issues related to early testing and interim licensure with staff and the members of the public present. Following Board discussion and consensus that the Board should seek some form of legislative solution of early testing and /or interim licensure. Dr. Cornwall instructed Mr. Brown to hold a stakeholder meeting exploring both option before the October 25, 2011 Board meeting and report back to the Board.

- d) Review, Discussion, and Possible Action; Inclusion or Exclusion of Student Physical Therapists and Student Physical Therapist Assistants from the Definition of Assistive Personnel and the Supervision Ratio

Dr. Cornwall called the Board's attention to the above agenda item. Mr. Brown reported that in December 2009 the Board was asked for an opinion on whether students in approved physical therapist and physical therapist assistant educational programs participating in internships are included in the ratio limitations of supervising assistive personnel. Mr. Brown stated that since January 2009 staff has been informing the profession and public that students are included in the limitations on supervising assistive personnel as noted in A.A.C. R4-24-303(C). Mr. Brown reported that staff had reviewed the law with the Board's Assistant Attorney General and it was determined that based on the broad language in the definition of assistive personnel and the lack of exception listed in law the inclusion of students was required unless otherwise interpreted by the Board. The Board declined to issue an opinion in 2009, which left staff providing the same answer to the public and profession of student being included in the supervision restrictions (ratio).

Peter Zawicki representing the physical therapist assistant program at Gateway Community College came forward and addressed the Board. Mr. Zawicki explained the limitations it could present to educational programs if their clinics that take student interns must include those students in supervision ratios. He expressed a desire for the Board to interpret the current vague law in a way that remains neutral on the students' inclusion in the ratio. Dr. Cornwall noted that the ratio was present to avoid abuses and that he felt the law currently does include students in the ratio restriction.

Jim Farris representing AT Still University addressed the Board and stated there are abuses of the ratio and could be if students were not included, but asked the Board to consider the impact to Clinical Instruction. Mr. Brown stated that staff has no opinion on what action the Board should take , but noted that an official position is needed to provide clarity to the schools, profession, students and the public. The Board discussed the issue of including students in the ratio and through consensus stated they believe the law does include students in the definition of assistive personnel. Dr. Cornwall instructed Mr. Brown to draft a possible change to the Board's Substantive Policy Statement on Supervision and insert language to make it clear students are to be included in ration restrictions as assistive personnel. Mr. Brown is to present the draft for Board consideration at a future Board meeting.

The Board recessed at 1:30 p.m.

The Board returned to Regular Session at 1:40 p.m.

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

- b) Initial Review, Discussion and Action on Complaint
  - iv. Complaint #11-35; Robert Carl, PT

Dr. Cornwall called the Board's attention to the above agenda item. Mr. Carl was not present. The complainant S.C. was present. Ms. Donahue provided a summary of the complaint for the Board. The complaint alleges that in October 2008, Mr. Carl signed a release of liability for his son to return to high school athletics for an injured ankle without being evaluated at the facility and without identification of his credentials on the

AOA School Status form. The investigation found evidence that the release was signed by a physician that worked with Mr. Carl.

S.C. addressed the Board regarding her concerns that her son was released to return to sports related activities without evaluation and that it was done without her consent. S.C. submitted a records request to the physician's office and no records could be provided to show an exam was conducted. The Board discussed the complaint and investigative report. Ms. Akers moved to dismiss the complaint Dr. Miller seconded the motion. Following review and discussion the motion failed.

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

Following further discussion Dr. Cornwall moved the complaint be dismissed and the Board issue Mr. Carl an advisory letter stating the Board's concerns relate to his treatment of his son without producing documentation to support the treatment. The Board formally advises you to be careful not to blur the lines of professionalism when treating family members. Ms. Richardson 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						

v. Complaint #11-38; Scott Richardson, PT

Dr. Cornwall called the Board's attention to the above agenda item. Mr. Richardson was not present and was not represented by legal counsel. Ms. Donahue provided a summary of the complaint for the Board. The complainant T.S. alleges that Mr. Richardson performed substandard care in treatment of her foot complaints, overbilling of services and failure to reimburse for overpayment for services. Ms. Donahue noted the investigation found several record keeping discrepancies and issues related to substandard care. Dr. Miller moved the Board forward the complaint to an informal hearing and include all possible violation noted in the investigative report to include A.A.C. R4-24-301 and 304. 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						

vi. Complaint #11-40; Arnold Gonzales, PT

Dr. Cornwall called the Board's attention to the above agenda item. Mr. Gonzales was not present and was not represented by legal counsel. Ms. Donahue provided a summary of the complaint to the Board. Mr. Gonzales was arrested for DUI in Sierra Vista, Arizona on July 1, 2011. Mr. Gonzales reported the arrest on July 9, 2011 within the 10-day notification period. Mr. Gonzales does not have any prior incidents as recorded



in Arizona case search. Mr. Brown reported that based on his reporting on time the Board may lack any violation of law. Dr. Cornwall moved the Board dismiss the complaint against Mr. Gonzales. 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) Review, Discussion, and Action on Compliance/Modification of Board Order
  - i. Complaint #09-29; William Perry, PT

Dr. Cornwall called the Board’s attention to the above agenda item. Mr. Perry was not present and was not represented by legal counsel. Ms. Donahue reported that Mr. Perry was requesting his term of probation of being under indirect supervision of a physical therapist be lifted. Dr. Cornwall noted that Mr. Perry had just come off suspension for violating some terms of his probation and that he was not in favor of a change in the terms of the order. Dr. Cornwall moved the Board deny Mr. Perry’s request for modification of the terms of his probation. 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						

- ii. Complaint #10-24; Jason Ball, PT

Dr. Cornwall called the Board’s attention to the above agenda item. Mr. Ball was not present. Mr. Brown reported that Mr. Ball has completed most of the terms of his probation, but has been unable to have an audit of his patient records conducted as he is living out of State and his employer will not allow him to release the records. Mr. Brown noted the Board has no authority to issue a subpoena to a business in another state. Mr. Brown stated the Board has the option of tolling the probation and audit requirements until Mr. Ball is able to produce records for the purpose of conducting audits or the Board may authorize Mr. Ball to present records of patients treated outside his normal employment such as family or friends. The Board discussed the options available. The Board noted an audit of records created just for the purpose of an audit would not reflect his true records. Dr. Cornwall moved the Board toll Mr. Ball’s probation and audits until he is able to produce records from a current employer for the purpose of audits. 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						

5) **BOARD BUSINESS AND REPORTS**

- a) Executive Director’s Report – (Verbal Report Only) Discussion and Possible Action

Mr. Brown reported on the Board's recent budget and revenues. Mr. Brown reported that the Board's Newsletter had a positive response and many requests for additional information on supervision were received. Mr. Brown created a draft educational document and would present the document at the next Board meeting. No action was required to taken on this agenda item.

c) Review, Discussion, and Possible Action; October and November 2011 Board Meetings

Ms. Brierley reported on some possible conflicts with upcoming Board meetings. The Board reviewed the conflicts and made no changes to the scheduled Board meetings.

**ADJOURNMENT**

The meeting adjourned at approximately 2:17 p.m.

Prepared by,

Charles D. Brown  
Executive Director

Approved by,

Randy Robbins  
Secretary