



ARIZONA STATE BOARD OF PHYSICAL THERAPY
4205 NORTH 7TH AVENUE, SUITE 208 PHOENIX, ARIZONA 85013
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www.ptboard.az.gov

REGULAR SESSION MEETING MINUTES
May 21, 2013

MEMBERS PRESENT:

Melinda Richardson, PT, MA; Member
Peggy Hunter, PTA, CLT, Secretary
James E. Miller, PT, DPT; Member
Michael S. Clinton, CPA; Public Member
Fredric B. Zook, Ph.D., Public Member

MEMBERS ABSENT:

Lisa Akers, PT, MS; President
Al D'Appollonio, PT, MBA, Professional Member

OTHERS PRESENT IN PERSON:

Charles D. Brown, Executive Director
Paula Brierley, Licensing Administrator
Karen Donahue, Investigator
Veronica Cardoza, Office Manager
Mona Baskin, Assistant Attorney General

CALL TO ORDER – 8:30 a.m.

Ms. Richardson called the meeting to order at 8:30 a.m. (A recording of the meeting is available through the Board Office)

1) Review and Approval of Draft Minutes

- a) March 26, 2013 Regular Session Meeting Minutes

Dr. Miller noted a change needed to the Board letterhead, a vote correction under Case 12-19, and requested language added in Case 12-31 to describe the criminal charge not reported in the time allowed under law. Dr. Zook motioned to approve April 23, 2013 as amended. Dr. Miller seconded the motion. Following review and discussion the motion passed by unanimous vote.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye			X	X	X	X	X
Nay							
Recused							

Abstained							
Absent	X	X					

2) COMPLAINTS, HEARINGS, INVESTIGATIONS and COMPLIANCE

- c) Review, Discussion and Action on Compliance with Board Order, Request for Termination of Probation
 - i) Complaint #12-28; Patricia Lang, PTA

Ms. Lang was present and was not represented by legal counsel. Rebecca Lopez-Henry, PT was present to speak on Ms. Lang’s behalf. Ms. Donahue summarized the complaint for the Board. Ms. Lang was accused of working without supervision. Ms. Lang made statements and answered questions asked by the Board. Ms. Hunter moved to offer Consent Agreement. The Consent Agreement is to include a 200 word essay on general supervision, a 30 minute presentation on the importance of knowing about general supervision. Ms. Lang has to present for a crowd of no less than 15 people. The Consent Agreement is to include a 6 month probation period. If Ms. Lang does not sign the Consent Agreement the complaint will go to an informal hearing. Dr. Miller seconded the motion. After review and discussion the motion passed.

Vote	Mr. D’Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye			X		X	X	X
Nay				X			
Recused							
Abstained							
Absent	X	X					

- iii) Complaint #13-10; Michael Kaler, PT

Mr. Kaler was present and was represented by his legal counsel, Ms. Carol Holden. Ms. Donahue summarized the complaint for the Board. Mr. Kaler was accused of insufficient documentation. Mr. Kaler made statements and answered questions asked by the Board. Dr. Miller moved to forward the case to an informal hearing. Mr. Clinton seconded the motion. After review and discussion the motion passed by unanimous vote.

Vote	Mr. D’Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye			X	X	X	X	X
Nay							
Recused							
Abstained							
Absent	X	X					

The Board recessed at 9:25 am

The Board returned at 9:35 am

- ii) Complaint #13-10; Kevin Kelly, PT

Dr. Miller disclosed he knows Mr. Kelly and Mr. Rothblum’s senior partner, but has not bias in the case. Mr. Kelly was not present and was represented by legal counsel Mr. Rothblum. Mr. Brown summarized the complaint for the Board. Mr. Kelly was accused of fraudulent billing. Mr. Rothblum made statements to the Board. Dr. Miller moved to accept the Consent Agreement as long as the word random was added to describe the audits. Mr. Clinton seconded the motion. After review and discussion the motion passed by unanimous vote.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye			X	X	X	X	X
Nay							
Recused							
Abstained							
Absent	X	X					

b) Informal Hearing and Possible Action on Complaint:

i) Complaint #11-18; David Dumyahn, PT

Mr. Dumyahn was present and was not represented by legal counsel. Mr. Dumyahn was sworn in by Ms. Richardson. Ms. Richardson provided a summary of how the proceeding would run and the possible outcomes. The Board and staff introduced themselves. Mr. Brown summarized the complaint. Mr. Dumyahn addressed the Board. The Board asked questions of Mr. Dumyahn. Ms. Richardson concluded the questioning and testimony phase of the hearing. The Board deliberated.

Ms. Richardson moved the Board adopt the following Findings of Fact:

1. The Arizona Board of Physical Therapy is that body politic created and empowered pursuant to A.R.S. §32-2001, *et seq.* to administer the laws of the State of Arizona relating to the practice of physical therapy.
2. Respondent is the holder of **License** No. 1698 to practice as a physical therapy in the state of Arizona and was the treating physical therapist for patient D.B.
3. Respondent was the treating physical therapist for patient D.B.
4. Respondent engaged in substandard care by:
 - a. The initial evaluation does not include all objective tests and measurements that would be necessary to determine appropriate diagnosis and treatment.
 - b. A goal, in the initial evaluation to “increase UE strength” was inappropriate as the evaluation indicated the strength of the UE to be WNL.
 - c. A goal, in the initial evaluation to “increase core strength” was inappropriate, as strength measurements for the abdominal and pelvic stabilizers were not measured.
 - d. There are several lapse of care over 4 weeks in which a re-evaluation was not performed:
 - i. 4/4/08
 - ii. 12/12/08
 - iii. 2/27/09
 - iv. 3/6/09

- v. 4/14/09
- vi. 6/10/09
- vii. 8/11/10
- e. Re-Evaluations, throughout the 4 year episode of care, did not adequately contain:
 - i. Objective tests or measurements
 - ii. Patient's subject report
 - iii. Patient's current functional status
 - iv. The patient's response to treatment
 - v. Rationale for continuation of care
 - vi. Progress towards achievement of goals
- f. Re-Evaluations were not performed following:
 - i. 5/23/08 When patient complained of new symptoms of low back pain and burning with standing
 - ii. 10/27/08 following kidney stone surgery
 - iii. 3/6/09 following shunt surgery
 - iv. 10/21/09 following hand fracture
 - v. 12/09/09 When patient reports that he injured his back at school.
 - vi. 3/3/10 documents open sores in bilateral LE due to new AFO's
 - vii. 8/11/10 following undisclosed surgery
 - viii. 9/29/10 following shunt surgery and reports of bulging discs at L4-L5
 - ix. 11/10/10 following reports of left knee patella subluxation
- g. Manual Therapy and application of modalities are performed and removed from the POC without justification or rationale.
- h. Respondent initiates treatment for the bilateral shoulders, cervical and thoracic spine without performance of an evaluation in several incidences throughout the patient record
 - i. 10/6/10 Subjective states no exercise. However, exercise is listed as being performed in the daily documentation.
 - j. Lumbar evaluation following surgery for L2-L3 discectomy on 1/19/1.1
 - i. Balance was not assessed
 - ii. Gait description was illegible
 - iii. Objective tests and measures were not complete
 - iv. Neurological testing was not performed/documentated
 - v. Goals were not appropriate to support the evaluative findings
 - vi. Therapists interpretation of the results of the examination was not documented

- vii. Clinical rationale for therapeutic interventions was not documented
- viii. Plan of care may have failed to identify measureable goals
- k. Treatment is initiated without any objective tests or measures to indicate DX or source of symptoms.

5. Respondent engaged in failure to maintain adequate patient records:

- a. Many sections of numerous daily notes are illegible.
- b. A majority of daily notes failed to document:
 - i. Patients subjective report
 - ii. The therapeutic intervention provided or appropriately supervised
 - iii. Patients response to the therapeutic intervention
 - iv. Objective data from tests or measures, if collected
- c. Plan of the majority of daily notes is “see QW”
- d. Assessment for the majority of daily notes “tolerated well”
- e. Goals in both initial evaluations were not congruent with the findings of the evaluation
- f. Manual therapy parameters were not documented in all daily notes.
- g. The majority of Re-evaluations failed to document:
 - i. Objective tests or measurements
 - ii. The patient’s subjective report
 - iii. The patients response to treatment
 - iv. Assessment of the patients progress
 - v. Patients current functional status
 - vi. Rationale for continuation of care
 - vii. Any change in the plan of care

Mr. Clinton seconded the motion. Following review and discussion the motion carried by unanimous vote.

Vote	Mr. D’Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye			X	X	X	X	X
Nay							
Recused							
Abstained							
Absent	X	X					

Ms. Richardson moved the Board adopt the following 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 Findings of Fact above constitute a violation of A.R.S. §32-2044(1) (“Violating this chapter, board rules or a written board order.”).

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

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

R4-24-303. Patient Care Management:

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.

B. On each date of service, a physical therapist shall:

1. Perform and document each therapeutic intervention that requires the expertise of a physical therapist; and
2. Determine, based on a patient's acuity and treatment plan, whether it is appropriate to use assistive personnel to perform a selected treatment intervention or physical therapy task for the patient.

A.A.C. R4-24-304: Adequate Patient Records:

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.

B. Initial evaluation. As required by A.R.S. § 32-2043(F) (1), a physical therapist shall perform the initial evaluation of a patient. The physical therapist who performs an initial evaluation shall make an entry that meets the standards in subsection (A) in the patient record and document:

1. The patient's reason for seeking physical therapy services;

2. The patient's relevant medical diagnoses or conditions;
3. The patient's signs and symptoms;
4. Objective data from tests or measurements;
5. The physical therapist's interpretation of the results of the examination;
6. Clinical rationale for therapeutic intervention;
7. A plan of care that includes the proposed therapeutic intervention, measurable goals, and frequency and duration of therapeutic intervention; and
8. The patient's prognosis.

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).

D. Re-evaluation. As required by A.R.S. § 32-2043(F)(2), a physical therapist shall perform a re-evaluation when a patient fails to progress as expected, progresses sufficiently to warrant a change in the plan of care, or in accordance with R4-24-303(F)(4). A physical therapist who performs a re-evaluation 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. Assessment of the patient's progress;
3. The patient's current functional status;
4. Objective data from tests or measures, if collected;
5. Rationale for continuing therapeutic intervention; and
6. Any change in the plan of care required under subsection (B)(7).

E. Discharge summary. As required by A.R.S. § 32-2043(F) (3), a physical therapist shall document the conclusion of care in a patient's record regardless of the reason that care is concluded.

1. If care is provided in an acute-care hospital, the entry made under subsection (C) on the last date that a therapeutic intervention is provided constitutes documentation of the conclusion of care if the entry is made by a physical therapist.

2. If care is not provided in an acute-care hospital or if a physical therapist does not make the entry under subsection (C) on the last date that a therapeutic intervention is provided, a physical therapist shall make an entry that meets the standards in subsection (A) in the patient record and document:

- a. The date on which therapeutic intervention terminated;
- b. The reason that therapeutic intervention terminated;
- c. Inclusive dates for the episode of care being terminated;
- d. The total number of days on which therapeutic intervention was provided during the episode of care;
- e. The patient's current functional status;
- f. The patient's progress toward achieving the goals in the plan of care required under subsection (B) (7); and
- g. The recommended discharge plan.

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

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye			X	X	X	X	X
Nay							
Recused							

Abstained							
Absent	X	X					

Dr. Miller moved for a 2 year probation, 6 hours on a Board approved documentation course, monthly monitoring of 6 random charts for 2 years, with the possibility of an early termination at one year. Board staff may give Mr. Dumyahn credit for courses in documentation taken after the complaint was filed. Mr. Dumyahn is to be responsible for all the costs of complying with the order. Dr. Zook seconded the motion. After review and discussion the motion passed unanimously by a roll call vote.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye			X	X	x	x	X
Nay							
Recused							
Abstained							
Absent	X	X					

ii) Complaint #11-53; Arnold Gonzales , PT

Mr. Gonzales was present and was not represented by legal counsel. Mr. Gonzales was sworn in by Ms. Richardson. Ms. Richardson summarized the proceeding and its possible outcomes. The Board and staff introduced themselves. Mr. Brown summarized the complaint against Mr. Gonzales. Mr. Gonzales made statements and answered questions from the Board. Ms. Richardson closed the testimony phase of the hearing. The Board entered deliberations.

Ms. Richardson moved the Board adopt the following Findings of Fact:

1. The Arizona Board of Physical Therapy is that body politic created and empowered pursuant to A.R.S. §32-2001, *et seq.* to administer the laws of the State of Arizona relating to the practice of physical therapy.
5. Respondent is the holder of **License** No. 8660 to practice as a physical therapist in the state of Arizona.
6. Failed to adhere to the recognized standards of ethics; and,
7. Charged unreasonable or fraudulent fees for services performed or not performed.
 - a. The complainant interviewed each of the three patients identified in the complaint and confirmed that they were cognitively sound. Each of the three patients reported that they did not receive physical therapy services from Mr. Gonzales:
 - i. M.L. 10/14/11
 - ii. N.M. 10/6/11
 - iii. S.W. 10/19/11
 - b. Mr. Gonzales confirms that the notes written on these dates for these patients were documented and electronically signed by his electronic signature.
 - c. During his interview, Mr. Gonzales states for patient M.L. "I definitely could have pre-written the note and he was sick and I did not go back and see him and take the note out," Confirming it was possible that he pre-wrote a note/billing and failed to modify the documentation following the patient cancelling.
 - d. In review of patient record N.M., Mr. Gonzales's documentation on 10/6/11 is identical to the documentation produced by Ms. Holly Acosta, PTA on visit prior on 10/5/11. It is unlikely that the am nursing staff was provided training for SPT on two consecutive days. Mr. Gonzales may have copied this note and

billed prior to providing patient care. Mr. Gonzales documented treatment and billed for 50 minutes (15 minutes of gait training and 35 minutes of therapeutic activities).

e. In review of patient record S.W. on 10/19/11, Mr. Gonzales documents “This intervention is medically necessary in order to increase strength which will translate into increased level of functional independence for transfers and ambulation. Pt states she would like to do individual BLE exercises on her own in her room throughout the day. PT agreed.” Mr. Gonzales billed 30 minutes of therapeutic exercise on this date of service.

i. Ms. Wilson states, when interviewed by Ms. Reed (as documented in the patient record received) “In morning Theresa wasn’t there and Albert or Arnold said he would come and get me (too busy in the morning). I did sleep in daytime- but didn’t turn down any therapy”.

f. In review of patient record M.L on 10/14/11, Mr. Gonzales documents “Nu step X 12 step on level 1, pt tolerates tx well. Pt participated in gait training and ambulated with FWW SBA X 60”. With the exception of the distance modified from 40’ to 60’, Mr. Gonzales documentation is identical to the documentation produced by Ms. Regina Manion, PTA the treatment prior on 10/13/11. Mr. Gonzales may have copied this note and billed prior to providing patient care. Mr. Gonzales documented treatment and billed for 30 minutes (20 min therapeutic exercise and 10 min of gait training).

g. The billing time may not be consistent with the documented treatment time instructed or performed.

5. Failed to maintain adequate patient records

a. M.L.

a. 10/14/2011

- i. The patient’s subjective report is not documented
- ii. The patient’s response to the therapeutic intervention is not documented

b. S.W.

a. 10/19/11

- i. The patient’s subjective report is not documented
- ii. The patients response to the therapeutic intervention is not documented
- iii. Note does not document that any therapeutic exercises were instructed or performed

c. N.M.

a. 10/6/11

- i. The patient’s subjective report is not documented

Mr. Clinton seconded the motion. Following review and discussion the motion carried by unanimous vote.

Vote	Mr. D’Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye			X	X	X	X	X
Nay							
Recused							
Abstained							
Absent	X	X					

Ms. Richardson moved the Board adopt the following 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 Findings of Fact above constitute a violation of A.R.S. §32-2044(1) (“Violating this chapter, board rules or a written board order.”).

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

4. The conduct and circumstances explained in the Findings of Fact above constitute a violation of A.R.S. §32-2044(13) (“Charging unreasonable or fraudulent fees for services performed or not performed.”)

5. 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 purposes of this paragraph, “adequate patient records” means legible records that comply with board rules and that contain at a minimum and evaluation of objective findings, a diagnosis, the plan of care, the treatment record, a discharge summary and sufficient information to identify the patient.”)

a. A.A.C. R4-24-304: Adequate Patient Records

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;

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;

6. For each date of service there is an accurate record of the physical therapy services provided and billed.

B. Initial evaluation. As required by A.R.S. § 32-2043(F) (1), a physical therapist shall perform the initial evaluation of a patient. The physical therapist who performs an initial evaluation shall make an entry that meets the standards in subsection (A) in the patient record and document:

1. The patient's reason for seeking physical therapy services;
2. The patient's relevant medical diagnoses or conditions;
3. The patient's signs and symptoms;
4. Objective data from tests or measurements;
5. The physical therapist's interpretation of the results of the examination;
6. Clinical rationale for therapeutic intervention;
7. A plan of care that includes the proposed therapeutic intervention, measurable goals, and frequency and duration of therapeutic intervention; and
8. The patient's prognosis.

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

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye			X	X	X	X	X
Nay							
Recused							
Abstained							
Absent	X	X					

Ms. Hunter moved to have Mr. Gonzales take 6 hours of a Board approved documentation course, 6 hours of a Board approved ethics course and six hours in Board approved billing course, (no online course will be accepted), Board staff to perform a minimum of one random chart audit (3 charts), probation of 1 year w/possible early termination. Audit is to begin 30 days after courses are completed. Mr. Gonzales will be responsible for all costs. Dr. Zook seconded the motion. After review and discussion the motion passed unanimously by a roll call vote.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye			X	X	X	X	X
Nay							
Recused							
Abstained							
Absent	X	X					

iii) Complaint #12-29; Morgan Brown, PT

Mr. Morgan was present and was not represented by legal counsel. The complainant was not present. Mr. Morgan Brown was sworn in by Ms. Richardson. Ms. Richardson summarized the proceeding and its possible outcomes. The Board and staff introduced themselves. Mr. Charles Brown summarized complaint for the Board. Morgan Brown was accused of sexual misconduct. Morgan Brown answered questions from the Board. Ms. Richardson ended the testimony phase of the hearing. The Board entered deliberations.

Following deliberations Dr. Zook moved to dismiss the case. Dr. Miller seconded the motion. After review and discussion the motion unanimously passed by a roll call vote.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye			X	X	X	X	X
Nay							
Recused							
Abstained							
Absent	X	X					

The Board recessed at 11:40 am
 The Board returned at 12:00 pm

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

- b) Substantive Review of Documentation Related to Disclosure on “Personal Information” Section of Application and Possible Licensure pending receipt of passing scores and final transcript
 - i. Physical Therapist Application and Approval to take the NPTE and the AZLAW (Jurisprudence) Exam and Possible Licensure pending receipt of passing scores and final transcript

(3) Gordon, David

Mr. Gordon was present and was not represented by legal counsel. Mr. Gordon did not address the Board and there were no questions from the Board. Dr. Zook moved to approve licensure for Mr. Gordon upon receipt of passing scores and transcript. Ms. Richardson seconded the motion. After review and discussion the motion passed by unanimous vote.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye			X	X	X	X	X
Nay							
Recused							
Abstained							
Absent	X	X					

(5) Kurash, Jeremy

Ms. Richardson disclosed she knows Mr. Kurash through his student internship. Mr. Kurash was present and was not represented by legal counsel. Mr. Kurash addressed the Board and answered questions from the Board. Ms. Hunter moved to approve licensure upon receipt of passing scores and final transcript. Mr. Clinton seconded the motion. After review and discussion the motion passed by unanimous vote.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye			X	X	X	X	X
Nay							
Recused							
Abstained							
Absent	X	X					

- ii) Physical Therapist Assistant Applications and Approval to take the NPTE and AZ LAW (Jurisprudence) Exam and Possible Certification upon receipt of passing scores and final transcript.

(1) Camantigue, Frances

Mr. Camantigue was present and was not represented by legal counsel. Ms. Richardson moved to approve certification upon receipt of passing scores and final transcript. Ms. Hunter seconded the motion. After review and discussion the motion passed by unanimous vote.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye			X	X	X	X	X
Nay							

Recused							
Abstained							
Absent	X	X					

ii) (2) Howland, Susan

Ms. Howland was present and was not represented by legal counsel. Ms. Howland addressed the Board and answered questions from the Board. Ms. Richardson moved to approve certification upon receipt of passing scores and transcript. Dr. Miller seconded the motion. After review and discussion the motion passed by unanimous vote.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye			X	X	X	X	X
Nay							
Recused							
Abstained							
Absent	X	X					

ii) (4) Martinez, Angela

Ms. Martinez was present and was not represented by legal counsel. Ms. Martinez addressed the Board and answered questions from the Board. Ms. Richardson moved to approve certification upon passing scores and transcript. Mr. Clinton seconded the motion. After review and discussion the motion passed by unanimous vote.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye			X	X	X	X	X
Nay							
Recused							
Abstained							
Absent	X	X					

ii) (9) Wartenburg, Jonelle

Ms. Wartenburg was present and was not represented by legal counsel. Ms. Wartenburg addressed the Board and answered questions from the Board. Ms. Hunter moved to approve upon receipt of passing scores and transcript. Mr. Richardson seconded the motion. After review and discussion the motion passed by unanimous vote.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye			X	X	X	X	X
Nay							
Recused							
Abstained							
Absent	X	X					

2) COMPLAINTS, HEARINGS, INVESTIGATIONS AND COMPLIANCE

c) Initial Review, Discussion and Action on Complaint

I iv) Complaint #13-12; Linda Johnston, PT

Ms. Johnston was not present and was not represented by legal counsel. Ms. Donahue summarized complaint for the Board. Ms. Johnston failed to respond to the Board pertaining to a continuing competence activities audit until a complaint was filed. Mr. Clinton moved to offer Consent Agreement for a \$250.00 fine or the complaint is forwarded to an informal hearing. Ms. Hunter seconded the motion. After review and discussion the motioned passed by unanimous vote.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye			X	X	X	X	X
Nay							
Recused							
Abstained							
Absent	X	x					

d) Review and Possible Action of Request for Termination of Board Order

ii) Complaint # 12-15; Judith Woehrle, PT

Ms. Woehrle was not present and was not represented by legal counsel. Dr. Miller moved to grant early termination. Ms. Richardson seconded the motion. After review and discussion the motion passed by unanimous vote.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye			X	X	X	X	X
Nay							
Recused							
Abstained							
Absent	X	x					

i) Complaint #11-14; Ashley Milikan, PTA

Ms. Milikan was not present and was not represented by legal counsel. Dr. Miller moved to grant early termination of probation. Dr. Zook seconded the motion. After review and discussion the motion passed by unanimous vote.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye			X	X	X	X	X
Nay							
Recused							
Abstained							
Absent	X	x					

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

i) Donald Hardwick, PT

Mr. Harwick was not present and was not represented by legal counsel. Ms. Richardson moved the Board take no action regarding opening a complaint. Mr. Clinton seconded the motion. After review and discussion the motion passed by unanimous vote.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye			X	X	X	X	X
Nay							
Recused							
Abstained							
Absent	X	x					

3) CONSENT AGENDA: REVIEW, CONSIDERATION and ACTION

a) Applications for Licensure and Certification

i) Review, Consideration and Approval of Applications of Physical Therapist Licensure upon Receipt of Passing Scores on the NPTE/AZLAW and Final Transcript

Agee, Justin	Akin, Alexander	Bassett, Erik
Coil, Vanessa	Gamble, Heather	Hatch, Brittany
LaPointe, Bianca	Ineck, Yesenia	McCauley, Jennifer
Pauw, Scott	Szostakowski, Lisa	Valerius, LeAnn
Wayman, Shelley		

ii) Review, Consideration and Approval of Applications of Physical Therapist Assistant Certification upon Receipt of Passing Scores on the NPTE/AZLAW and Final Transcript.

Arndt, Lindsey	Burks, Amy	Herman, Richard (Removed)
Mack, Kelly	Melgoza, Daniel	Nguyen, Hien
Wevodau, Emily		

Ms. Hunter requested to pull Richard Herman from the consent agenda. Ms. Hunter moved to approve all applicants for Physical Therapist Licensure and all applicants for Physical Therapist Assistant Certification upon receipt of passing scores and official transcripts. Ms. Richardson seconded the motion minus Richard Herman. After review and discussion the motion passed by unanimous vote.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye			X	X	X	X	X
Nay							
Recused							
Abstained							
Absent	X	X					

Richard Herman

Ms. Hunter noted that the applicant was using a physical therapist assistant title. Ms. Hunter moved to approve Mr. Herman for certification upon receipt of passing scores and an official transcript. In addition she requested staff contact Mr. Herman to inform him of the proper use of titles in Arizona. Ms. Richardson seconded the motion. After review and discussion the motion carried by unanimous vote.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye			X	X	X	X	X
Nay							
Recused							
Abstained							
Absent	X	X					

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, Determination of Supervised Clinical Practice Period, and Possible Licensure

(1) Kroese, Julianna

Ms. Kroese was not present and was not represented by legal counsel. Ms. Richardson moved to approve Ms. Kroese to take the required examinations, and complete a SCPP in 90 days. Dr. Miller seconded the motion. After review and discussion the motion carried by unanimous vote.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye			X	X	X	X	X
Nay							
Recused							
Abstained							
Absent	X	X					

ii) Review Final CPI and Possible Licensure

(1) Walsh, Liam Muiris

Mr. Walsh was not present and was not represented by legal counsel. Ms. Richardson moved to approve for licensure. Dr. Miller seconded the motion. After review and discussion the motion passed by unanimous vote.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton

Aye			X	X	X	X	X
Nay							
Recused							
Abstained							
Absent	X	X					

b) Substantive Review of Documentation Related to Disclosure on “Personal Information” Section of Application and Possible Licensure pending receipt of passing scores and final transcript

(1) Falcon, Jaime

Ms. Hunter recused herself and left table. Ms. Richardson moved to license upon receipt of passing scores and final transcript. Mr. Clinton seconded the motion. After review and discussion the motion passed.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye				X	X	X	X
Nay							
Recused			X				
Abstained							
Absent	X	X					

Ms. Hunter returned to the table.

(2) Finch, Raymond

Mr. Finch was not present and was not represented by legal counsel. Ms. Richardson moved to approve for testing and license upon receipt of passing scores and final transcript. Dr. Miller seconded the motion. After review and discussion the motion passed by unanimous vote.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye			X	X	X	X	X
Nay							
Recused							
Abstained							
Absent	X	X					

(4) Hernandez, Edward

Mr. Hernandez was not present and was not represented by legal counsel. Ms. Richardson moved to approve for testing and license upon receipt of passing scores and final transcript. Dr. Miller seconded the motion. After review and discussion the motion passed by unanimous vote.

(6) Madden, Ryan

Mr. Madden was not present and was not represented by legal counsel. Ms. Richardson moved to approve to take exams upon and license upon receipt of passing scores and final transcript. Dr. Miller seconded the motion. After review and discussion the motion passed by unanimous vote.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye			X	X	X	X	X
Nay							
Recused							
Abstained							
Absent	X	X					

(7) Manatt, Sarah

Ms. Manatt was not present and was not represented by legal counsel. Ms. Hunter moved to approve for testing and to license upon receipt of passing scores and final transcript. Dr. Miller seconded the motion. After review and discussion the motion passed by unanimous vote.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye			X	X	X	X	X
Nay							
Recused							
Abstained							
Absent	X	X					

- ii. Physical Therapist Assistant Applications and Approval to take the NPTE and the AZLAW (Jurisprudence) Exam and Possible Certification upon receipt of passing scores and final transcript.

(3) Lavigne, Beverly

Ms. Lavigne was not present and was not represented by legal counsel. Ms. Richardson moved to approve for testing and certification upon receipt of passing scores and final transcripts. Ms. Hunter seconded the motion. After review and discussion the motion passed.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye			X	X	X	X	
Nay							X
Recused							
Abstained							
Absent	X	X					

(5) Reyes, James

Mr. Reyes was not present and was not represented by legal counsel. Ms. Richardson moved to approve for testing upon and certification upon receipt of passing scores, and final transcript. Dr. Miller seconded the motion. After review and discussion the motion passed by unanimous vote.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye			X	X	X	X	X
Nay							
Recused							
Abstained							
Absent	X	X					

(6) Rodriguez, Krystle

Ms. Rodriguez was not present and was not represented by legal counsel. Ms. Hunter moved to approve for testing. The Board is requesting to revisit Ms. Rodriguez's application prior to considering certification. Dr. Miller seconded the motion. After review and discussion the motion passed by unanimous vote.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye			X	X	X	X	X
Nay							
Recused							
Abstained							
Absent	X	X					

(7) Smith, Joshua

Mr. Smith was not present and was not represented by legal counsel. Ms. Hunter moved to approve for testing and certification upon receipt of passing scores and final transcript. Ms. Richardson seconded the motion. After review and discussion the motion passed by unanimous vote.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye			X	X	X	X	X
Nay							
Recused							
Abstained							
Absent	X	X					

(8) Smith, Reginald

Mr. Smith was not present and was not represented by legal counsel. Ms. Richardson moved to approve for testing certification upon receipt of passing scores and final transcript. Ms. Hunter seconded the motion. After review and discussion the motion passed by unanimous vote.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye			X	X	X	X	X
Nay							
Recused							
Abstained							

Absent	X	X					
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(10) Whitman, Crystal

Ms. Whitman was not present and was not represented by legal counsel. Ms. Richardson moved to approve for testing and certification upon receipt of passing scores and final transcript. Dr. Miller seconded the motion. After review and discussion the motion passed by unanimous vote.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye			X	X	X	X	X
Nay							
Recused							
Abstained							
Absent	X	X					

c) Review of and Possible Action on Application for Licensure from Applicant Requesting ADA Accommodations.

(1) Henderson, Anthony

Mr. Henderson was not present and was not represented by legal counsel. Ms. Richardson moved to approve ADA Accommodations. Ms. Hunter seconded the motion. After review and discussion the motion passed by unanimous vote.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye			X	X	X	X	X
Nay							
Recused							
Abstained							
Absent	X	X					

(2) Rovinsky, Avraham

Mr. Rovinsky was not present and was not represented by legal counsel. Ms. Hunter moved to approve ADA Accommodations. Dr. Miller seconded the motion. After review and discussion the motion passed by unanimous vote.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye			X	X	X	X	X
Nay							
Recused							
Abstained							
Absent	X	X					

d) Review of and Possible Action on Application for Licensure from Applicant Previously Licensed in Arizona

i) Michelson, Evan

Mr. Michelson was not present and was not represented by legal counsel. Mr. Richardson moved to accept Mr. Michelson’s continuing education for compliance with A.R.S. §32-2028 and approve licensure. Dr. Miller seconded the motion. After review and discussion the motion passed by unanimous vote.

Vote	Mr. D’Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye			X	X	X	X	X
Nay							
Recused							
Abstained							
Absent	X	X					

2) COMPLAINTS, HEARINGS, INVESTIGATIONS and COMPLIANCE

a) Formal Hearing and Possible Action

Complaint #10-70; Angela Kennedy, PT

Ms. Kennedy was not present and was not represented by legal counsel. Ms. Richardson read script for the Formal Hearing. Roll call was taken. Ms. Donahue was sworn in by Ms. Richardson. Ms. Donahue summarized the steps of noticing Ms. Kennedy for the hearing for the Board. Ms. Kennedy failed to respond to notices sent to her by the Board. The notices were returned as not deliverable. Ms. Baskin made an opening statement to the Board. Ms. Kennedy renewed online. Ms. Kennedy was selected for a random audit and received the notice for the random audit. Ms. Kennedy never responded to the letter regarding her informal hearing. Ms. Donahue presents exhibits 1-8. There were no other witnesses or respondents. Ms. Baskin made her closing argument establishing factual allegations. Ms. Kennedy was not truthful concerning her continuing education when she renewed online in 2010. Ms. Kennedy admitted to not having completed her required continuing education. Ms. Kennedy said she would complete the continuing education courses, but did not. Ms. Kennedy failed to update her address with the Board. The State requests that Ms. Kennedy license be revoked.

Ms. Richardson ended the testimony phase of the hearing. The Board entered deliberations.

Ms. Richardson moved adopt the following Findings of Facts.

1. The Arizona State Board of Physical Therapy, is the duly constituted authority for licensing and regulating the practice of physical therapy in the State of Arizona.
2. Angela Kennedy, PT (“Respondent”), holds License No. 3145, to practice physical therapy in the State of Arizona.
3. On about August 4, 2010, Respondent renewed her license to practice physical therapy in the State of Arizona. On her renewal application Respondent affirmed that she had completed her required 20 hours of continuing competence requirements for the 2008-2010 licensure period.
2. The Board sent Respondent a certified letter advising her that she had been randomly selected for an audit of her continuing competence compliance for the 2008-2010 licensure period. Respondent signed for the certified letter on or about October 25, 2010.

3. On or about November 16, 2010, Respondent sent an electronic mail message to the Board's Executive Director advising him that she had not completed the required continued competence requirements for the 2008-2010 licensure period.

4. On or about December 16, 2010, Board staff sent Respondent a certified letter notifying her of the complaint against her license for failing to meet the continuing competence requirements for the 2008-2010 licensure period and requested a response pursuant to A.A.C. R4-24-305(D)(2). The certified letter was signed for at Respondent's address of record with the Board. Respondent did not respond to the Board's request.

5. On or about March 25, 2011, Board staff sent Respondent a letter, to her address of record with the Board, notifying her that the complaint against her license would be presented to the Board for initial review and consideration at the April 26, 2011, Board meeting.

6. On or about October 12, 2011, Board staff sent Respondent a certified letter requesting that she attend an Informal Hearing before the Board on November 22, 2011. The certified letter was signed for at Respondent's address of record with the Board. Respondent did not appear at the Informal Hearing.

7. To date, Respondent has failed to provide proof of her continued competence requirements for the 2008-2010 licensure period.

Ms. Hunter seconded the motion. Following review and discussion the motion passed by unanimous vote.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye			X	X	X	X	X
Nay							
Recused							
Abstained							
Absent	X	X					

Ms. Richardson moved the Board adopt the following Conclusions of Law.

1. The conduct and circumstances set forth in the Factual Allegations constitute a violation of A.R.S. §32-2044(24), failing to complete continuing competence requirements as established by the Board by rule, as defined in A.A.C. R4-24-401 through 403.

2. The conduct and circumstances set forth in the Factual Allegations constitute a violation of A.R.S. §32-2044(3), obtaining or attempting to obtain a license or certificate by fraud or misrepresentation, and A.R.S. §32-2044(14), making misleading, deceptive, untrue or fraudulent representations in violation of this chapter or in the practice of this profession.

Mr. Clinton seconded the motion. After review and discussion the motion passed by unanimous vote.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye			X	X	X	X	X
Nay							
Recused							
Abstained							
Absent	X	X					

Dr. Zook moved to revoke license #3145 issued to Angel Kennedy. Ms. Richardson seconded the motion. After review and discussion the motion passed unanimously by a roll call vote.

Vote	Mr.	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
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	D'Appollonio						
Aye			X	X	X	X	X
Nay							
Recused							
Abstained							
Absent	X	X					

5) BOARD BUSINESS AND REPORTS

a) Executive Director's Report

i) Financial Report- No action was taken or required.

ii) Board Staff Activities- The Board rescheduled the July meeting to July 16, 2013.

iii) Legislation- No action was taken or required.

iv) Rule Activity- No action was taken or required. The Board instructed Mr. Brown to contact the AzPTA regarding their continuing competence taskforce and report the status to the Board.

v) FSBPT- No action was taken or required.

c) Review, Discussion and Action on Preliminary Performance Audit and Sunset Review Report from the Auditor General, Agency Response

Dr. Zook moved the Board enter Executive Session pursuant to A.R.S. §38-431.03(A)(2) for purposes of discussing confidential information which is confidential under A.R.S. §41-1279.04 and 41-1279.05. Mr. Clinton seconded the motion. The motion carried by unanimous vote.

The Board entered Executive Session at 2:20 pm
 The Board reentered Regular Session at 2:46 pm

d) Review and Discussion on Supervision of Assistive Personnel

The Board discussed the current interpretation of the definition of Assistive Personnel and the inclusion of persons taking part in training or observation in the supervision ratio. The Board took no action on the matter.

6) CALL TO THE PUBLIC

No person came forward to address the Board. No discussion took place and no action was taken.

Ms. Richardson moved to adjourn the meeting. Dr. Miller seconded the motion. After review and discussion the motion carried by unanimous vote.

Vote	Mr. D'Appollonio	Ms. Akers	Ms. Hunter	Dr. Zook	Dr. Miller	Ms. Richardson	Mr. Clinton
Aye			X	X	X	X	X
Nay							
Recused							
Abstained							
Absent	X	X					

Regular Session Meeting
May 21, 2013

The meeting adjourned at approximately 2:50 pm

Prepared by,

Charles D. Brown
Executive Director

Approved by,

Peggy Hunter, PTA, CLT
Secretary

