

JANICE K. BREWER
Governor

LISA AKERS, PT, MS
President



CHARLES D. BROWN
Executive Director

ARIZONA STATE BOARD OF PHYSICAL THERAPY
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REGULAR SESSION MEETING MINUTES
June 25, 2013

MEMBERS PRESENT:

Lisa Akers, PT, MS; President
Melinda Richardson, PT, MA; Vice President
Peggy Hunter, PTA, CLT, Secretary
James E. Miller, PT, DPT; Member
Michael S. Clinton, CPA; Public Member
Fredric B. Zook, Ph.D., Public Member
Al D'Appollonio, PT, MBA, Member

OTHERS PRESENT IN PERSON:

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

CALL TO ORDER – 8:30 a.m.

Ms. Akers 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) May 21, 2013 Regular Session Meeting Minutes

A correction to Mr. D'Appollonio's title was requested. Dr. Miller noted that under case #13-10 it should state he disclosed knowing Mr. Rothblum's senior partner. Also, Dr. Miller requested the discussion in the case of Morgan Brown have first names added to distinguish better between Morgan Brown PT and Charles Brown, Executive Director. Dr. Zook motioned to approve May 21, 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	X	X
Nay							
Recused							
Abstained							
Absent							

b) May 21, 2013 2:46 pm, Executive Session Meeting Minutes

Ms. Richardson requested the heading reflect her title as Vice President. Ms. Akers moved to approve the May 21 Executive Session Meeting minutes as amended. 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	X	X
Nay							
Recused							
Abstained							
Absent							

2) COMPLAINTS, HEARINGS, INVESTIGATIONS and COMPLIANCE

- d) Review of Consent Agreement and Possible Action of Request for Termination of Board Order
 - i) Complaint #11-25; Carol Diehl, PT

Ms. Diehl was present and was not represented by legal counsel. Ms. Diehl addressed the Board and answered questions asked by the Board. Dr. Zook moved to approve early termination of Ms. Diehl's probation. 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	X	X
Nay							
Recused							
Abstained							
Absent							

3) CONSENT AGENDA: REVIEW, CONSIDERATION and ACTION

- b) Applications for Licensure and Certification
 - The Board may vote to go into Executive Session pursuant to A.R.S. §38-431.03(A)(2) for purposes of discussing confidential information or §38-431.03(A)(#) to obtain legal advice.
 - i. Review, Consideration and Approval of Applications of Physical Therapist Licensure upon Receipt of Passing Scores on the NPTE/AZLAW and Final Transcript

Alano, Emily	Albrecht, Andrew	Alfaro, Gaury	Allegro, Kelly	Anderson, Kristen
Anderson, S. Alexis	Angier, Matthew	Avakian, Jason	Ballachino, Salvatore	Berg, Kelli
Betlach, Abbey	Bieniasz, Jenna	Brooke, Trent	Campbell, Scott	Chow, Sandra
Cloud, Maribeth	Cook, Christopher	Coots, Bryan	Crowe, Daniel	Curtis, Bobby
Darban, Mahnan	Delobel, Ashley	Dichraff, Brittany	Duncan, Michael	Durante, Andrea
Elicio, Richard	Erno, Nadine	Farnsworth, Justin	Fentnor, Landa	Filip, Natalia
Fischer, Kristin	Fox, Christopher	Gengler, Jessica	Gentili, Kathleen	Getz, Matthew
Gibson, Andrew	Greco, Dana	Haglund, Kevin	Hamilton, Jordan	Harmon, Darlene
Hasquet, Lauren	Higgins, Alyssa	Hodges, Robert	Holthaus, Elizabeth	Hunt, Camille
	Idstein, Monica	Ivey, Karen	Jackson, Lyndzie	Jarvi, Justin
Jones, Amy	Kinzler, Alyson	Kuhl, Anthony	Lauriston, Graeme	Lensing, Nichole
Lish, Tricia	Long, McKenzie	Mallonga, Julio	Maroney, Sean	McKee, Lucy
McKinney, Krystal	McNinch, Casey	Meduvsky, Emily	Meyer, Christopher	Michel, Eva

Miller, Erin	Min, Daniel	Monahan, Patrick	Neff, Jenna	Nereng, TJ
Newell, Benjamin	Nguyen, Van	Odorfer, Catherine	Owen, Hannah	Parr, Aaron
Patton, Amanda	Pecora, Matthew	Peterson, Seth	Phillips, Ashley	Reed, Tennil
Richter, John	Ryer, Christopher	Ryer, Courtney	Sandvig, Katie	Sauls, Phillip
Schlichtman, Nicholas	Schock, Kathryn	Scott, Shannon	Slavin, Meghan	Smith, Matthew
Sonuparlak, Selen	Steadman, Marisa	Suddock, Breann	Tejada, Michael	Tenney, Timothy
Thomas, Jodi	Tippets, Melissa	Tjeerdsma, Jason	Turnage, Natalie	Velasco, Sara
Von Hess, Eric	Wagner, Lindsey	Walker, Jeffrey	Welsh, Patrick	Westergard, Amanda
Westergard, William	Wood, Kathryn	Wooding, Andrea	Worthington, Susan	

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

Baker, Sonja	Boyd, Lindsey	Cake, Meredith	Darr, Rhiana	DeMott, Kelsey
Duran, Cynthia	Cordova-Navarro, Amber	Farrell, Stephanie	Federico, Adam	Garcia, Mark-Jason
Gray, Benjamin	Green, Kelsey	Hall, Eric	Hartman, Wesley	Hicks, Carissa
Higdon, Tracey	Hoagland, Lacy	Hyatt, Cynthia	Immerman, Jamie	Kalas, Jennifer
Kaley, Jennifer	Keel, Lauren	Kosecki, Caitlin	LeFever, Gregory	MacGillivray, Austin
Maciulla, Joseph	Maughan, Valerie	McCraw, Robert	Myers, Alejandra	Negrete, Sara
Nelson, Michelle	Nielson, Mary	Nigbur, Brandon	Phillips, W. Arlene	Quiroga, Eduardo
Reibold, Alicia	Reyes, Jacob	Terpening, Sarah	Titus, Melissa	Toth, Amanda
Urrutia, Eduardo	Washington, James	Wevodau, Emily	Wig, Amy	

- iii. Review, Consideration and Approval of Applications for Physical Therapist Licensure with Documentation Related to Disclosure on “Personal Information” Section of the Application.

Wolken, Ryan

- iv. Review, Consideration and Approval of Applications for Physical Therapist Assistant with Documentation Related to Disclosure on “Personal Information” Section of the Application.

Jones, Hayden	Umhay, Casey	Walker, Kimberly
Mackin, Mathew		

Ms. Hunter pulled Ms. Umhay from the list. Ms. Akers moved to approve the consent agenda as listed, with the exception of Ms. Umhay, to take exam and to license or certify the applicants upon receipt of passing scores and official transcripts. 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	X	X
Nay							
Recused							
Abstained							
Absent							

Umhay, Casey

Ms. Hunter stated she did not feel Ms. Umhay was detailed enough in her explanation of her personal disclosure. The Board discussed the disclosure. Ms. Richardson moved to approve Ms. Umhay for testing and

when passing scores are received the Board is to grant her 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	X	X
Nay							
Recused							
Abstained							
Absent							

2) COMPLAINTS, HEARINGS, INVESTIGATIONS and COMPLIANCE

c) Initial Review, Discussion and Action on Complaint

i) Complaint #12-19; Gabriel Fonseca, PT

Mr. Fonseca was present and was not represented by legal counsel. Mr. Brown summarized the complaint. The complainant alleges that Mr. Fonseca wrote and billed for home physical therapy services on dates of service in which no treatment was provided. The Board requested a review of the records by a pediatric focused physical therapist to provide input on Mr. Fonseca's substandard of care. Mr. Fonseca made statements and answered questions asked by the Board. The Board discussed the investigation. Ms. Richardson moved for a non-disciplinary Order for continuing education totaling 12 hours including 6 hours in Pediatrics evaluation and treatment and 6 hours on documentation. Mr. Fonseca is to complete these 12 hours within a 6 month period. 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	X	X
Nay				X			
Recused							
Abstained							
Absent							

2) COMPLAINTS, HEARINGS, INVESTIGATIONS and COMPLIANCE

a) Formal Hearing; Request for Rehearing; and Possible Action

i) Time 9:00 am Complaint #12-60; Emmerson Salamat, PT

Mr. Salamat was not present and was not represented by legal counsel. Ms. Baskin was present via conference call. Introductions were made by the Board. MaryJo Foster was present to represent the Board. Ms. Baskin reiterated the totality of circumstances and explained why the discipline is warranted and appropriate. Ms. Foster presented the Board's options.

Ms. Akers moved the Board enter Executive Session for the purpose of legal advice. Ms. Richardson seconded the motion. Following 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	X	X	X
Nay							

Recused							
Abstained							
Absent							

The Board went into Executive Session at 9:24 am
The Board came out of Executive Session at 9:35 am

Ms. Foster review the response to the request for rehearing in which the State asked that #9 in the Findings of Facts be modified to include language from a letter from Mr. Salamat’s treating physician regarding his health condition and possible impairments. The State requested that #3 in the Conclusions of Law be deleted. The State’s position is for the suspension and probation to be kept intact. Ms. Hunter moved to grant rehearing, amending Finding of Fact #9 to include a letter from Dr. Salamat, detailing how his condition would impair his ability, memory, etc. and delete #3 in the Conclusions of Law and affirm the Order. Ms. Richardson seconded the motion. Restatement of the motion was made by Ms. Foster. 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	X	X
Nay							
Recused							
Abstained							
Absent							

b) Informal Hearing and Possible Action on Complaint:

i) Complaint #11-62; Tresha Baldwin, PT

Ms. Baldwin was present and was represented by legal counsel Mr. Marton. Mr. D’Appollonio recused himself and left the Board table. Ms. Baldwin was sworn in. The Board introduced themselves. Mr. Brown summarized the complaint for the Board.

The complaint alleges that you:

- Failed to adhere to the recognized standards of ethics of the physical therapy profession.”
- Charging unreasonable or fraudulent fees for services performed or not performed.”
- Made misleading, deceptive, untrue or fraudulent representations in violation of this chapter or in the practice of the profession.”

1. Ms. Baldwin’s assertion that the evidence provided by Ms. Good of potential alteration of submitted charges by utilization of the “End of Day” report is accurate. Review of the records indicated that the alternations noted in the billing per patient that was printed several days following the DOS was reflective of the immediately previous billing for the last DOS, not necessarily the DOS listed for the patient. As a result, Ms. Good’s assertion that the charges modified were not substantiated in the investigation.
2. Out of the 9 records reviewed for billing compliance, all 9 records demonstrated potential billing errors totaling 57 units.

3. Ms. Good submitted her original charges for V. H. on 11/8/11 that was printed on the same date. The billing ledger indicates that an additional 97150 Group charge was billed in addition to the submitted charges.
4. Ms. Baldwin confirms in her response: "It is theoretically possible for a person who has management level access to Raintree to manually change the note online entry."
5. 97150 Group charge for the following patients is not supported in the therapist documentation, as the total time of treatment is accounted for in direct one on one timed units of care. This indicates that the group code may be being applied after the therapist has documented and produced charges.
 - a. F. G.
 - i. DOS:
 1. 11/10/11
 2. 11/31/11
 3. 12/7/11
 - b. V. H.
 - i. DOS:
 1. 11/3/11
 2. 11/8/11
 3. 11/22/11
 4. 12/2/11
 5. 12/6/11
 6. 12/8/11
6. The computer system (Raintree) software set up by the administrator of the practice, Ms. Baldwin, pre-produced "click" sentence which was tied to the 97530 code. This combination of the "click" sentence and code being tied together may have produce improper billing on behalf of the employees who utilized the code. The "click" sentence "Patient education provided by the physical therapist regarding anatomy/physiology specific to the patient condition with a goals to assist in patient compliance, safety and a successful outcome. Education categorized as functional therapeutic activities 97530" may be an improper code given the definition provided for 97530.
7. The computer system (Raintree) software set up, by the administrator of the practice, Ms. Baldwin, pre-produced "click" sentences which was tied to the 97110 code. These two individually separate "click" sentences distinguishes between: education, demonstration and review of the HEP from the actual exercises performed as listed in the section titled "Progressive Exercises/Procedures". The policy of 360 PT is to utilize these codes separately during initial evaluations has may have been demonstrated in each of the patient records reviewed. In review of the patient records, the HEP exercises and the exercises listed as performed in the "Progressive Exercises/Procedures" section may be congruent in the patient record. If true, then the software set up and the policies of 360 PT may have produced improper billing on behalf of the employees who utilized the code in this manner for initial evaluations.
8. 97530 Reimbursement (per 2011 Medicare reimbursement) is the highest reimbursed unit of care for the codes that were reviewed at \$31.96 per unit. The tying of this code to education in the initial evaluation may have produced improper billing in which the practice benefited financially.

9. The use of the 97530 code and “click” attached sentence “Exercises performed included in the flow sheet which are categorized as functional therapeutic/Dynamic activities to improve functional performance with direct patient contact by the therapist.” does not delineate in the remaining patient record which specific activities and time were attributed to the utilization of this code. This software set up sentence and policy to use this code with the attached sentence in the documentation of daily treatment may have produced improper billing on behalf of the employees who utilized the code in this manner.

Ms. Baldwin was sworn in. Ms. Baldwin addressed the Board and answered questions asked by the Board. Cheryl Burnett is sworn in and answered questions asked by the Board. Valerie Lane was sworn in and answered questions asked by the Board. Dr. Miller moved to go into Executive Session to seek legal advice. Ms. Akers 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	X
Nay							
Recused	X						
Abstained							
Absent							

The Board went into Executive Session at 10:37 am
The Board came out of Executive Session at 10:43 am

Ms. Akers ended the testimony phase of the hearing. The Board deliberated the case. Ms. Akers moved to dismiss the complaint against Ms. Baldwin. Dr. Zook 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	X	X
Nay							
Recused	X						
Abstained							
Absent							

Mr. D'Appollonio returned to the table.

The Board recessed at 10:52 am
The Board returned at 10:58 am

ii) Complaint #12-11; Steve Carling, PT

Mr. Carling was present and was represented by legal counsel Faren Akins. Ms. Akers recused herself and left the Board table. Ms. Richardson took over the proceedings. Mr. Carling was sworn in. The Board introduced themselves. Mr. Brown summarized the complaint for the Board. Mr. Carling's supervision procedures were in question. Mr. Carling addressed the Board and answered questions asked of him by the Board. John Naumann was sworn in. Mr. Naumann addressed the Board regarding the supervision setup between the multiple clinics during the dates in question. Mr. Naumann answered questions of the Board. David Barr was sworn in to speak on Mr. Carling's behalf. Mr. Barr made statements and answered questions asked by

the Board. Jeff Peterson was sworn in and made statements on Mr. Carling behalf and addressed the Board. Mr. Peterson answered questions asked of him by the Board. The Board questioned Mr. Peterson regarding a schedule that was submitted to the Board regarding assistive personnel and their supervising physical therapists during the period in questions. Mr. Peterson stated the schedule was created from memory and work schedules at the time the subpoena was received. Ms. Richardson reviewed the Findings of Facts. Mr. D'Appollonio moved the Board adopt the following Findings of Fact:

A. Mr. Carling failed to maintain adequate patient records:

1. The majority of the therapeutic intervention noted failed to document:
 - a. The patient's response to the therapeutic intervention
2. The patient records reviewed failed to:
 - a. Support the diagnosis
 - b. Justify the therapeutic intervention
 - c. Document results of the therapeutic intervention
 - d. Enable another physical therapist to assume the patient's care at any point in the course of therapeutic intervention.
 - e. 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.
3. Record was illegible for many DOS's
4. Patient M.F
 - a. Initial evaluation was not documented or billed
 - i. Medical history is not documented
 - ii. Interpretation of the results of the examination is not documented
 - iii. Clinical rationale for therapeutic intervention is not documented
 - iv. A plan of care that included the proposed therapeutic intervention, measureable goals, and frequency and duration of therapeutic intervention is not documented.
 - v. The patient's prognosis is not documented.
 - b. Daily therapeutic intervention note
 - i. Specifics regarding the frequency, duration, region, intensity of the interventions provided are not documented
 - c. Re-Evaluation 7/22/10
 - i. The patient is not in the facility on this date of service. The objective measurements documented are not documented in the medical prior to this report)
 - ii. Strength measurements do not identify specific muscles tested
 - d. Patient is not see for six (6) weeks between DOS 7/26/10 returning for physical therapy services on 9/13/10
 - i. Evaluation/ Re-evaluation is not documented
 - ii. POC is modified to include massage. Rational for change in POC is not documented
 - iii. Plan of care is not documented
 - iv. Assessment of current functional status is not documented
 - v. Specific therapeutic interventions provided is not documented
 - e. Discharge Summary is not documented.
5. Patient S.P (Strength measurements were not documented in the patient record for any DOS)
 - a. Initial Evaluation
 - i. ROM is not objectively documented for lumbar extension and side-bending
 - ii. Strength measurements are not documented
 - iii. Goals are not measurable

- iv. Prognosis is not documented
 - v. Patient’s medical history is not documented
 - vi. Clinical rationale for therapeutic interventions are not documented
 - b. Daily therapeutic intervention note
 - i. Specifics regarding the frequency, duration, region, intensity of the interventions provided are not documented
 - c. Re-evaluation 6/28/10
 - i. Documents worsening of symptoms specifically in lumbar extension and lack of progress in the patient’s goals. Mr. Carling does not change POC or refer back to physician
 - ii. Strength measurements were not objectively documented
 - d. Discharge Summary was not documented
6. Billing does not support the documentation specifically on DOS:
- a. M.F.
 - i. 6/25/10 Initial evaluation was not billed
 - ii. 7/9/10 Documentation does not indicate that therapeutic exercise was performed, billed 1 unit 97110
 - b. S.P.
 - i. 6/16/10 Documentation does not indicate that therapeutic exercise was performed, billed 1 unit 97110
 - ii. 6/18/10 Documentation does not indicate that therapeutic exercise was performed, billed 1 unit 97110
 - iii. 6/21/10 Documentation of exercises performed does not support the billing of one unit of 97110 or 2 units of manual therapy (97140)
 - iv. 7/9/10 Documentation of exercises performed does not support the billing of 2 units of 97110
 - v. 7/12/10 Documentation does not indicate that therapeutic exercise was performed, billed 1 unit 97110
 - vi. 7/14/10 Documentation does not indicate that therapeutic exercise was performed, billed 1 unit 97110

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	X
Nay					X		
Recused		X					
Abstained							
Absent							

Ms. Richardson reviewed Conclusion of Law. Ms. Richardson moved to accept the Conclusion of Law A.R.S 32-2044-(1) “Violating this chapter, board rules or a written board order.”; and 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”. Mr. D’Appollonio 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	X

Nay							
Recused		X					
Abstained							
Absent							

After deliberation Ms. Hunter moved the Board adopt a Board Order to consist of a 12 month probation period with a possibility of an early termination. A Board staff pre-approved 7 hour documentation course. No online courses will be accepted. This course is to be completed within a 6 month time frame. After the course is completed, there will be a random chart audit of 3 records to be reviewed by staff. Mr. Carling will incur all costs. Mr. D’Appollonio seconded the motion. After review and discussion the motion passes 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	X
Nay							
Recused		X					
Abstained							
Absent							

iii) Complaint # 12-13 Holly Boroos, PT

Mr. Boroos was present and was represented by legal counsel Sara Agne. Ms. Akers recused herself from the complaint and was not at the Board table. Ms. Richardson took over the proceedings. Mr. Brown summarized the complaint. Ms. Boroos was accused of giving sub-standard care, failing to maintain proper records, fraudulent service, and adding P.T. on signature when it should not have been. Ms. Richardson swore Ms. Boroos in. The Board introduced themselves. Ms. Boroos addressed the Board and answered questions asked by the Board. Ms. Richardson reviewed the Findings of Facts.

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

Ms. Boroos did:

- 1) Engaged in the performance of substandard care by a physical therapist due to a deliberate act or negligent act or failure to act regardless of whether actual injury to the patient is established.”
- 2) Failed to adhere to the recognized standards of ethics of the physical therapy profession.
- 3) Made misleading, deceptive, untrue or fraudulent representations in violation of this chapter or in the practice of the profession.”
 1. Ms. Boroos performed an initial evaluation on patient O.D. prior to licensure.
 2. Ms. Boroos performed an initial evaluation on patient A.C. prior to licensure.
 3. Ms. Boroos performed and initial evaluation on patient J.B. prior to licensure.
 4. Patient J.B. on August 18, 2010 there is evidence that Ms. Boroos signed a progress report on a patient that she had not treated since August 2, 2010.
 5. Ms. Boroos’s electronic signature on the evaluations indicates “PT” prior to her licensure.

4. Failed 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, and the plan of care, the treatment record, a discharge summary and sufficient information to identify the patient.

1. Ms. Boroos, in her response states the following deficiencies in her documentation:
 - a. I also recognize that these initial evaluations are not complete in some respects.
 - i. A.C.
 1. In this initial evaluation, which I performed under the supervision of Jeff Petersen on July 15, 2010, past medical history and medications are not listed in the chart.
 2. I did not write in the time frame for meeting goals
 3. I did not write in a prognosis
 4. I expected my cosigner would have thoroughly reviewed my evaluation and offered critical suggestions for improvement.
 - ii. O.D.
 1. Initial evaluation performed on July 16, 2010.
 2. There are several things I would do differently in this evaluation-starting with not doing it at all.
 - a. Prognosis were not documented
 - b. Time frame for goals were not documented
 - c. The patients response to treatment were not documented
 - d. Parameters for the mobilization were not documented
 - e. Parameters for the electrical stimulation were not documented
 - iii. J.B.
 1. The initial evaluation was performed on July 26, 2012
 - a. I did not report in the treatment that soft tissue massage was done on the thoracic spine and the parameters of the electrical stimulation in the evaluation
 2. Initial evaluation for patient A.C. was not documented in the patient record.
 3. Initial evaluation for patient J.B.
 - a. Noted in the initial evaluation:
 - i. Goals do not indicate timeframe for completion
 - ii. Physical therapist's interpretation of the results of the examination are not documented
 - iii. Parameters/time of performance for manual therapy are not documented
 4. Initial evaluation for patient O.D.
 - a. The following was noted in the initial evaluation:
 - i. The patient's medical history or relevant diagnoses or conditions are not documented.
 - ii. Goals do not indicate timeframe for completion
 - iii. Physical therapist's interpretation of the results of the examination are not documented
 - iv. Prognosis was not documented
 - v. The parameters for the application of electrical stimulation was not documented
 - vi. The parameters for mobilization were not documented.
- 5) 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.

- Ms. Boroos performed three initial evaluations without being a licensed physical therapist.

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	X
Nay							
Recused		X					
Abstained							
Absent							

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

- A.R.S. §32-2044(1): “Violating this chapter, board rules or a written board order.”
- 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.”
- 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 indentify the patient”.

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	X
Nay							
Recused		X					
Abstained							
Absent							

Following deliberation Ms. Hunter motioned for a Board Order to consist of probation for one year with the possibility of early termination, a presentation to a minimum of 20 students. The presentation is to be a 30 minute lesson on the rules that govern a graduate not yet licensed. A requirement for continuing education of 5.75 hours of documentation and 6 hours on coding and billing. A 6 month time frame to complete continuing education. Credit is to be given for the classes already taken course taken after the order must be pre-approved by Board staff. A random audit of 3 records done by the Board staff. Ms. Boroos has to incur all costs. Ms. Boroos has to take and pass the jurisprudence exam. Mr. D'Appollonio seconded the motion. After review and discussion the motion failed by roll call vote.

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

Mr. Clinton moved the Board adopt the previous motion excluding the jurisprudence examination. Ms. Richardson seconded the motion. After review and discussion the motion passed by unanimous 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	X
Nay							
Recused		X					
Abstained							
Absent							

The Board recessed at 1:15 pm
The Board returned to Regular Session at 1:36 pm

iv) Complaint #12-23; David Barr, PTA

Mr. Barr is present and is not represented by legal counsel. Ms. Akers recused herself from the case and was not at the Board table. Ms. Richardson took over the proceedings. Mr. Barr is sworn in. The Board introduced themselves. Mr. Brown reviewed complaint for the Board. Mr. Barr is accused of giving substandard care, making misleading and fraudulent statements, aiding someone without a license, failing to maintain adequate records, and failing to supervise properly. Mr. Barr addressed the Board. Mr. Barr answered questions from the Board. Ms. Richardson reviewed the alleged factual findings. Ms. Richardson moved Board adopt the following Findings of Fact:

Mr. Barr did:

1. Engaged in substandard care by:

1. On July 7, 2010, Mr. Barr performs treatment for patient DH:
 - a. Mr. Barr documents:
 - i. "Reports fear of ACL graft not "taking""
 - ii. Mr. Barr does not document that he notified a physical therapist of this subjective report
 - iii. There is no documentation that the patient's complaint was evaluated.
 - iv. There is no documentation of a change in POC due to the subjective concern by the patient.
2. On October 26, 2010, Mr. Barr performs treatment for patient JB: Mr. Barr documents:
 - "Patient went to ER and was hospitalized for 6 days secondarily to back pain."
 - There is no documentation to indicate that Mr. Barr reported this finding to a physical therapist prior, during or following treatment.
3. Mr. Barr, when questioned in his interview regarding aides providing interventions to patients when no therapist is present in the facility reported the following:
 - a. PT techs were in the facility, when Megan and David were being supervised under general supervision.
 - b. Confirms that techs worked with them under general supervision
 - c. This was a "job stresser"- I was on edge about this topic. Knowing that with the therapist gone, the techs were not supervised by anyone and were not supposed to be working.
 - d. Tech do not have their own schedule

- e. There are times that I slipped up and the techs performed patient care while I was on general supervision.
 - f. The institutional policy was to use the techs as support service, meaning, if I am under general supervision, not have the tech set up the patients, but for them to get the modalities ready for the patient.
 - g. Usually, when a therapist was not there, the most techs that worked at any one time were two.
 - h. Sergio was the evening tech. Sergio did perform patient care as his job responsibility.
 - i. When under general supervision and the aides were there how did you utilize them?
 - i. I get uptight about these legal things
 - ii. I tried to have the techs get equipment out for the exercises and hot packs and cold packs.
 - iii. They would clean and do laundry for the night.
 - iv. I worked hard to do most things myself for my patients. It was hard to do the job of two people
 - v. I would see the tech strap the t-band on patients performing exercises
 - vi. When the therapist is on-site: techs perform modalities, help patient through their exercise program.
 - j. Sergio
 - i. Sergio typically worked late with David after Jeff left.
4. Mr. Barr is being supervised under general supervision in which physical therapist aides are present and provided patient care on the following dates:
- a. July 1, 2010
 - b. July 6, 2010
 - c. July 13, 2010
 - d. July 14, 2010
 - e. July 15, 2010
 - f. July 16, 2010
 - g. July 19, 2010
 - h. July 21, 2010
 - i. July 22, 2010
 - j. July 23, 2010
 - k. July 26, 2010
5. Mr. Barr performs treatment for patient O.D. on July 21, 2010 under general supervision, without direction and delegation from a physical therapist. Mr. Barr does not take notice or take action that a physical therapist has not performed the initial evaluation. Ms. Booros, graduate, not licensed performed the initial evaluation.
6. Mr. Barr self-selects who will be his supervising physical therapist on dates of service in which Mr. Petersen is not in the facility. Mr. Barr does not contact the physical therapist to provide communication regarding the patient case or current acuity or notify the therapist that they are the supervising physical therapist. This is confirmed in his interview with the following statements:
- i. Jeff did not assign for a specific time or person to be our supervisor. Megan and I had to figure it out.
 - Jeff did not assign a specific therapist for general supervision for each day that a therapist was not in the facility

- What did you do on the days in which a therapist was not in the facility and you were treating patients?
- He confirms that there were days in which a therapist was not present in the Maricopa facility
- I understood that Tony or Steve would generally supervise
- I do not know if I contact Steve at any time- I do not think I did.
- I do not think I called any therapist at any time
- Megan and I would decide who each of our supervising therapists would be at the beginning of each day.
- He cannot recall any phone conversations with the therapists in which he was under general supervision.
 - I did not call any therapist when Jeff was on vacation how did you know who was your supervising physical therapist.
 - One of the two therapists were supposed to be available
 - Megan and David would pick who the supervising therapist was each morning for each one of them.
 - When Megan and David would pick a therapist- David never informed the therapist to which they picked
 - Would Mr. Granger know that you “picked” him? No.
 - The therapist should have known that they were supposed to be generally supervising the PTA’s at the Maricopa clinic. Jeff should have told them.
 - If the PTA were making the decision in the morning, how could Jeff know which therapist?
 - I would have expected that someone (Jeff, Robin or John) would have communicated with Tony and Steve that they needed to be generally supervising.
 - I did not think that the therapist I was picking would know that I picked them on any given day. David confirms that he did not know that Steve accepted general supervision for him on July 19th.
 - David never contacted nor did the supervising therapist contact each other while under general supervision regarding patient’s POC or acuity
 - David stated that he was acting in good faith when he thought he was being supervised. He believes that Jeff told the therapists that they would be responsible for general supervision.

2. Made misleading, deceptive, untrue or fraudulent representations

1. Mr. Barr documented progress notes and utilized an electronic signature, other than his own to sign the document on two occasions.
 - a. Patient S.H (July 14, 2010)
 - i. Mr. Barr places an addendum at the end of the note, following his signature, that states “seen under general supervision of Jeff Petersen, PT (1295) who wasn’t contacted during treatment”
 - ii. There is no documentation that communication occurred between Mr. Barr and Mr. Petersen on this date of service.
 - iii. Progress note was documented with Mr. Petersen’s signature on July 14, 2010.

1. There is no documentation that Mr. Petersen has treated this patient since the initial evaluation on 6/28/10.
 2. Progress note indicates that last date of service was 7/13/10.
 3. S.H. was not scheduled, billed or documented as being provided treatment on 7/14/10.
 4. The objective tests and measurements noted in the progress report are not documented in the daily notes. Who performed the tests and measurements are not identified in the document.
- b. Patient J.B. (August 17 and 18, 2010)
- i. August 17, 2010
 1. Mr. Barr, PTA documents that he provided all components of treatment on this date of service.
 2. Mr. Barr documents a variety of objective tests and measurements.
 - ii. August 18, 2010
 1. There is evidence to support that Ms. Boroos did not produce the progress note on August 18, 2010.
 - a. Documentation of a Progress note with Ms. Boroos signature affixed to the document.
 - b. Ms. Boroos does not sign her regulatory designation of "PT" following her name in the electronic signature
 - c. Ms. Boroos has not re-evaluated or treated the patient since August 2, 2012.
 - d. The progress report mirrors the findings of Mr. Barr as documented on August 17, 2010.
 - e. Ms. Boroos documents on 8/24/10 that she documents a Progress note.
 - f. The content and objective tests and measures are different for the progress note dated 8/18/10 and the one completed 6 days later on 8/24/10.
 - g. Ms. Boroos does not document objective findings of tests or measures in the daily note dated 8/24/10. The patient is billed for treatment, however the daily note does not indicate that treatment was provided. Flow sheet indicates that exercises were performed.
 - h. The evidence establishes that Mr. Barr inappropriately produced the progress report on 8/18/10 and utilized Ms. Boroos electronic signature.
 - i. Re-evaluation is not billed for either date of service
 2. Mr. Barr failed to document the correct supervising physical therapist while under general supervision on the following dates:
 - a. July 15, 2010; Patient JN. Mr. Barr identifies Mr. Granger as providing general supervision. Mr. Granger denies that he was aware he was providing general supervision. Mr. Petersen confirms in the supervision log that he was providing general supervision to the Maricopa Office on this date.
 - b. July 19, 2010; Patient JN. Mr. Barr documents and identifies Mr. Granger, PT as his supervising physical therapist under general

supervision. Mr. Carling and Mr. Petersen confirm that Mr. Carling was the supervising physical therapist. Mr. Granger denies that he was the supervising physical therapist on this date of service.

- c. July 21, 2010; Patient O.D. Mr. Barr, PTA documents this date of service. Mr. Barr indicates that Mr. Granger, PT is providing general supervision. There is no documentation that Mr. Barr communicated with his supervising physical therapist with the statement: "Seen under general supervision of Tony Granger, PT who wasn't contacted during tx's". Mr. Granger denies that he was aware that he was providing general supervision to Mr. Barr.
- d. July 22, 2010, Patient S.H. Mr. Barr indicates that he is under the general supervision of Tony Granger; PT. Mr. Granger denies that he was supervising Mr. Barr on this date of service. Mr. Petersen confirms that he was providing general supervision of Mr. Barr on this date of service per the supervision log. There is no documentation that Mr. Barr communicated with a physical therapist on this date.

3. Aiding and abetting a person who is not licensed or certified in this state and who directly or indirectly performs activities requiring a license or certificate

1. Mr. Barr is being supervised under general supervision in which physical therapist aides are present and provided patient care on the following dates:

- a. July 1, 2010
- b. July 6, 2010
- c. July 13, 2010
- d. July 14, 2010
- e. July 15, 2010
- f. July 16, 2010
- g. July 19, 2010
- h. July 21, 2010
- i. July 22, 2010
- j. July 23, 2010
- k. July 26, 2010

4. Failure to report to the Board any direct knowledge of an unprofessional, incompetent or illegal act

Mr. Barr knowingly enabled physical therapist aides to perform interventions on patients when a physical therapist was not present in the facility for the above-mentioned dates of service.

i. Mr. Barr understood that delegating interventions to physical therapist aides, when a physical therapist was not in the facility was illegal as reported in his interview:

a. Confirms that techs worked with them under general supervision.

This was a "job stressor"- I was on edge about this topic. Knowing that with the therapist gone, the techs were not supervised by anyone and were not supposed to be working.

- b. “There are times that I slipped up and the techs performed patient care while I was on general supervision.”
- c. “Usually, when a therapist was not there, the most techs that worked at any one time was two.

5. Mr. Barr was aware that he was not being delegated patient care, under general supervision, for each patient on each date of service.

a. Mr. Barr documents in each patient record, in which he identifies a supervising physical therapist, while under general supervision: “who wasn’t contacted during treatment”

b. Mr. Barr in his interview reported:

i. Who is your general supervisor?

- Normally if the therapist just left the building, then that is the person I document is my supervisor
- Therapist states to “call me if you need something”. I understand that is what I am supposed to do.
- The primary therapist, Jeff Petersen was the primary supervising physical therapist
- Jeff would leave at the end of the day and say “call me if you need something”. I understood that he was my supervising physical therapist and if I had a problem, I was to call him.
- Confirms that patients arrived after Jeff left the facility. We normally would not talk about the patients prior to him leaving. I had the POC and exercise flow sheet and I know what I was supposed to do.

ii. How would you know what to do?

- In my experience working in outpatient, the therapist I was working with (Jeff) would allow me to, within reason, add new exercises. I would do that without calling.
- If something major was going on, I was conservative with making the call to the therapist.
- If there was a technique, I did not know, like strain-counter strain, I would call the therapist to tell me how to do it.
- Would you add in modalities? The only situation I would do that if the POC already had the modality checked. That mostly consisted of ice packs.
- I get direction from the POC that is located on the typed doctor report

6. Failed to maintain adequate patient records

Mr. Barr produced inadequate patient records on the following dates of service:

a) July 9, 2010; Patient D.H.

i. Mr. Barr’s daily notes does not contain:

- 1. The name and license number of his supervising physical therapist under general supervision

2. Any change in the plan of care due to patient’s complaint of ACL not “taking”.

b) July 12, 2010; Patient P.I.

- i. Parameters of the electrical stimulation are not documented.
- ii. Mr. Barr documents “STM to left SI region”. No description of specifics of mobilization are documented.

c) July 14, 2010; Patient S.H.

- i. Mr. Barr does not document:
 - a. The parameters of the electrical stimulation
 - b. The parameters of the STM performed to the cervical spine
 - c. The parameters of the mobilization performed to the cervical spine
 - d. The parameters of the manual traction performed to the cervical spine

d) July 21, 2010 and July 23, 2010; Patient S.B.

- i. Mr. Barr does not document:
 - 1. Patient’s subjective report
 - 2. Parameters for electrical stimulation

e) July 23, 2010; Patient D.H.

- i. There is no documentation of a daily note.
 - 1. The exercise flow sheet indicates that treatment started at 5:29pm, exercise start time at 5:50pm and conclusion of care at 6:31pm. The only person in the facility at 6:31pm is Mr. David Barr. Mr. Barr did not document the daily note on this date.
 - 2. There is no indication who documented the exercise flow sheet on this date.
 - 3. There is no documentation of any communication between the individual performing the treatment and a physical therapist.

f) Failed to document supervising physical therapist under general supervision

- i. Mr. Barr does not identify his supervising physical therapist or license number, while under general supervision for the following patient dates of service:
 - a. July 9, 2010; Patient D.H.
 - b. July 12, 2010; Patient S.H.
 - c. July 14, 2010; Patient S.H.
 - d. July 23, 2010; Patient D.H.

Mr. D’Appollonio 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	X
Nay							
Recused		X					

Abstained							
Absent							

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

1. A.R.S. §32-2044(1) “Violating this chapter, board rules or a written board order.”
2. A.R.S. §32-2044(5) “Engaging in the performance of substandard care by a physical therapist assistant due to a deliberate or negligent act or failure to act regardless of whether actual injury to the patient is established.”
3. A.R.S. §32-2044(14) “Making misleading, deceptive, untrue or fraudulent representations in violation of this chapter or in the practice of the profession.”
4. A.R.S. §32-2044(16) “Aiding and abetting a person who is not licensed or certified in this state and who directly or indirectly performs activities requiring a license or certificate.”
5. A.R.S. §32-2044(17) “Failing to report to the board any direct knowledge of an unprofessional, incompetent or illegal act that appears to be in violation of this chapter and board rules.”
6. 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 an evaluation of objective findings, a diagnosis, and the plan of care, the treatment record, a discharge summary and sufficient information to identify the patient.”
 - a. R4-24-304 (G) “A physical therapist assistant who provides a selected treatment intervention under general supervision shall document in the patient record:
 - i. The name and license number of the supervising physical therapist
 - ii. The name of the patient to whom selected treatment intervention is provided
 - iii. The date on which the selected treatment intervention is provided
 - iv. The selected treatment intervention provided
 - v. Whether the physical therapist assistant consulted with the supervising physical therapist during the course of the selected treatment intervention and if so, the subject of the consultation and any decision made.

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	X
Nay							

Recused		X					
Abstained							
Absent							

Following deliberation Ms. Richardson moved for a Board Order to include a 2 year period, a presentation to a minimum of 20 physical therapist assistant students to be done within 1 year on the topic of supervision and delegation for physical therapist assistants, a Board staff pre-approved 1-2 hour continuing education class on supervision/delegation and a Board staff pre-approved 6 hour continuing education class on documentation and a requirement for a minimum of one audit of Mr. Barr's patient records to consist of three randomly selected records. The Order shall not include the standard tolling language. Ms. Hunter seconded the motion. After review and discussion the motion passed unanimously with 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	X
Nay							
Recused		X					
Abstained							
Absent							

Ms. Akers returned to the board table.

v) Complaint #12-42; Melissa Zuercher-Binkered, PTA

Ms. Zuercher-Binkered was present and was not represented by legal counsel. The Board introduced themselves. Ms. Zuercher-Binkered was sworn in. Mr. Brown reviewed complaint for the Board. Ms. Zuercher-Binkered was accused of giving substandard care. Ms. Zuercher-Binkered addressed the Board and answered questions asked of her by the Board. Ms. Akers reviewed the Factual Allegations. Ms. Akers moved the Board adopt the following Findings of Fact:

Ms. Zuercher-Binkered did:

- A. Engaged in the performance of substandard care by a physical therapist assistant, including exceeding the authority to perform tasks selected and delegated by the supervising licensee regardless of whether actual injury to the patient is established.
 1. Ms. Binkerd reports that Mr. Whalen did not provide her any communication or written instructions for treatment of patients that the Southeast Arizona Regional Medical Center from August 20, 2012 until August 31, 2012, yet, Ms. Binkerd independently engaged in providing interventions to patients.
 2. Mr. Whalen failed to document any treatment provided prior to August 20, 2012 with the exception of the initial evaluation. Ms. Binkerd, having received copies of the patient record, did not have any information regarding current status and interventions provided to the patient, yet, Ms. Binkerd independently engaged in providing interventions to patients.
 3. Ms. Binkerd does not follow the treatment listed in the POC of the evaluation. She confirms that she provided treatment to patients based upon "what the patient told me they did and my years of experience." Due to the evidence that suggests that Ms. Binkerd did not have sufficient information regarding treatment previously provided and did not receive delegation of care by a physical

therapist on each date of service, Ms. Binkerd independently engaged in providing interventions to patients.

4. Ms. Binkerd selects interventions independent of supervision or delegation by a physical therapist.
 - a. Documented on 8/20/12 “Pt quite concerned regarding inferior patella pain and loss of extension.” Did you notify a physical therapist of this finding? Answer: “No, good question. Lack of a person to contact.
 - b. She states that she did not have any communication with a physical therapist with the exception of Max on the last Friday (August 31, 2012). “I did not know who my supervising physical therapist was during that time. Max did not provide supervision for her patient load.”
5. Ms. Binkerd selection of interventions for treatment of Mr. J.O. was inappropriate for the DX and acuity.
 - a. Mr. Whalen states in his interview: “Mr. J. O. sustained a tibial plateau fracture that got infected. I had been very cautious with him due to the softness of the bone due to the infection. The infection was bad. I told my office staff: Look, in particular, I want all cautions taken with Mr. J.O.”
 - b. (Investigator)The initial assessment and plan did not include the treatment you provided. Do you have an explanation? Answer: “None of what I did was in the treatment plan. That is not what the patient told me he did.”
 - c. (Investigator)If you did not have any therapist to contact, why did you decide to perform treatment? Answer: “I guess I felt comfortable enough to perform treatment.” (Investigator) Even if what you state you performed in your response is not documented in the POC or the patient record. Answer: “I felt the PROM was within acceptable parameter.”
6. Ms. Binkerd, in her interview answered the following question: How on each date of service did you determine what to do for each patient? Answer:
 - o “Just from reading the information that was given to me off the computerized charting.”
 - Ms. Binkerd did not have any information regarding treatment provided, patient’s response to prior treatment, nor plan of care indicating current treatment when she independently made the decision to provide physical therapy interventions to Mr. O.
7. Ms. Binkerd discharged patient J.O. from physical therapy services.
 - a. Documentation in the patient record on 8/29/12
No documentation of treatment performed. No billing produced.
 - i. “Patient past allotted visits per his health care plan. Patient switched to wellness program.”
 - b. Ms. Binkerd states in her response that she informed Mr. J.O. that he could not continue with physical therapy. The patient’s insurance is AHCCCS
 - i. “He was not discharged, I placed him on hold.”
 - ii. “I told him that he needed to talk to Tim.”
 - iii. “I told him they only pay for 15 visits; if you go beyond that you will have to pay.”
 - iv. “I informed Mr. J.O. that he could not continue with physical therapy. I did not feel comfortable continuing treatment due to him not being covered.”
 - v. “I told him what his options were. I told him I would not treat him on August 29, 2012.”
 - vi. “I did not contact Tim prior to placing the patient on hold.”

B. Failed to report to the board any direct knowledge of an unprofessional, incompetent or illegal act that appears to be in violation of this chapter or board rules.”

1. Ms. Binkerd failed to report that she was not being supervised or delegated to on a daily basis by a licensed physical therapist.
2. Ms. Binkerd failed to report that Mr. Whalen did not produce adequate patient documentation.

C. Failed 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 an evaluation of objective findings, a diagnosis, the plan of care, the treatment record, a discharge summary and sufficient information to identify the patient”

1. Ms. Binkerd failed to document the following for each date of service provided to patient J.O.

a. 8/20/2012

- i. Ms. Binkerd failed to document:
 - o The therapeutic intervention provided
 - o The patients response to the therapeutic intervention
 - o The name and license number of the supervising physical therapist
- ii. Ms. Binkerd did not contact a physical therapist following the patient’s change in acuity.
- iii. Ms. Binkerd did not receive delegation of treatment on this DOS from a physical therapist.

b. 8/22/2012

- i. Ms. Binkerd failed to document:
 1. The therapeutic intervention provided
 2. The name and license number of the supervising physical therapist
- ii. Ms. Binkerd did not receive delegation of treatment on this DOS from a physical therapist.

c. 8/27 /2012

- i. Ms. Binkerd failed to document:
 - o The therapeutic intervention provided
 - o The name and license number of the supervising physical therapist
- ii. Ms. Binkerd did not receive delegation of treatment on this DOS from a physical therapist.

Ms. Hunter 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	X	X
Nay							
Recused							
Abstained							
Absent							

Ms. Akers moved the Board adopt the following Conclusions of Law:

1. A.R.S. §32-2044(1): “Violating this chapter, board rules or a written board order.”

2. A.R.S. §32-2044(5): “Engaging in the performance of substandard care by a physical therapist assistant, including exceeding the authority to perform tasks selected and delegated by the supervising licensee regardless of whether actual injury to the patient is established.”
3. A.R.S. §32-2044(17): “Failing to report to the board any direct knowledge of an unprofessional, incompetent or illegal act that appears to be in violation of this chapter or board rules.”
4. 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 indentify the patient”.
5. 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.
 - 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. 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	X	X
Nay							
Recused							
Abstained							
Absent							

Following deliberation Ms. Hunter moved for a Board Order to consist of a 1 year probation, 6 hours of continuing education on documentation, 4 hours of continuing education in Ethics, to be completed within 4 months, cannot practice under general supervision for 1 year, a random audit to be done by the Board on 3

records, all costs are to be incurred by licensee. Ms. Akers seconded the motion. Mr. D’Appollonio asked for a friendly amendment to add a presentation to be given at an Arizona Physical Therapy Association District meeting on general supervision which has to be pre-approved by Board staff and remove the restriction of not working under general supervision. Ms. Hunter agreed to the amendment. After review and discussion the amended motion carried by a unanimous 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	X	X
Nay							
Recused							
Abstained							
Absent							

vi) Complaint #12-53; Raquel Lines, PT

Ms. Lines was present and was represented by legal counsel Mark Lines. Ms. Lines was sworn in. The Board introduces themselves. Mr. Brown reviewed complaint for the Board. Ms. Lines was accused of working while on administrative suspension. Mr. Lines addressed the Board with an opening statement. Dr. Miller moved to go into Executive Session for legal advice. Mr. D’Appollonio 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	X	X
Nay							
Recused							
Abstained							
Absent							

The Board went into Executive Session at 3:30 pm
The Board came out of Executive Session at 3:44 pm

Ms. Lines and Mr. Lines made closing statements to the Board, which included asking the Board to use its discretion to not order a disciplinary action and consider a non-disciplinary action.

The Board deliberated on the case. Ms. Akers moved to adopt the following Findings of Facts.

Ms. Lines did:

1. Apply to renew/reinstate your license to practice physical therapy on October 29, 2012.
2. Stated in your renewal application that you treated patients on 22 dates between September 1, 2012 and October 29, 2012 while your license was administratively suspended for failure to renew your license.

Mr. D’Appollonio 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	X	X
Nay							

Recused							
Abstained							
Absent							

Ms. Akers moved the Board adopt the following Conclusions of Law:

1. **A.R.S. §32-2027, License or certificate renewal:** “A licensee or certificate holder shall renew the license or certificate pursuant to board rules. A licensee or certificate holder who fails to renew the license or certificate on or before its expiration date shall not practice as a physical therapist or work as a physical therapist assistant in this state.
2. **A.R.S. §32-2044(1)** “Violating this chapter, Board rules, or a written order of the Board.”
3. **A.A.C. §R4-24-208(A)** “A licensee or certificate-holder shall submit a renewal application packet to the Board on or before August 31 of an even-numbered year...”

Ms. Richardson 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	X	X
Nay							
Recused							
Abstained							
Absent							

Following deliberation Ms. Akers moved to implement the following Board Order:

1. **Probation:** The Arizona Board of Physical Therapy hereby orders that Respondent, holder of License No. 5231, be placed on probation for a period of **ninety (90) days** to commence upon the Board’s the effective date of this Order. The probation may be extended or other enforcement actions taken, after notice and an opportunity for a hearing, in the event Respondent violates this Order or violates the Arizona Physical Therapy Practice Act. Respondent may petition the Board for early termination of probation following completion of all terms of probation. Early termination is at the sole discretion of the Board. The Board orders Respondent to comply with the following terms and conditions of probation:

A. **Civil Penalty:** Respondent shall pay a civil penalty of \$150 dollars within 90 days of the effective date of this order.

B. **Jurisprudence Examination:** Respondent shall take and pass the Board’s Jurisprudence Examination within the probation period.

C. **Notification to Employer(s), Patients and Third-Party Payers:** Respondent shall submit evidence of having notified his employer(s) of the lapse of his license for the period of time listed in the Findings of Fact. Respondent shall submit evidence of having notified all patients treated during the period of unlawful practice of the lapse of his license for the period of time listed in the Findings of Fact. Respondent shall submit evidence of having notified all third-party payers of those patients of the lapse of his license. The evidence of complying with this term of the probation include at a minimum copies of letters sent by certified mail to patients and third party payors. Employers will be notified in writing and a copy of the communication must be provided to Board staff within the period of probation.

2. **Costs:** Respondent shall be responsible for any and all costs associated with his compliance with this Order. If Respondent fails to timely comply with any of the provisions of this Order, the Board may direct that the matter proceed to a noncompliance hearing for revocation of Respondent’s license.

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

This Order shall be effective as of the date of entry below.

Ms. Hunter seconded the motion. After review and discussion the motion carried 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	X	X
Nay							
Recused							
Abstained							
Absent							

vii) Complaint # 12-66; Max Allred, PT

Mr. Allred was present and was not represented by legal counsel. Mr. Allred was sworn in. The Board introduced themselves. Mr. Brown summarized complaint for the Board. Mr. Allred was accused of substandard care, inadequate records, and failing to supervise. Mr. Allred addressed the Board and answered questions asked by the Board.

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

Mr. Allred did:

- A. Engaged 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.”
 - 1. Mr. Allred does not document treatment or write a POC as indicated in the review of records that would enable another physical therapist to assume the patient’s care.
- B. Failed to adhere to the recognized standards of ethics of the physical therapy profession.
 - 1. Mr. Allred failed to demonstrate professional judgment and responsibility when he failed to document a POC and treatment that would enable another therapist to assume the patient’s care.
- C. Failed to maintain adequate patient records.

Ms. Richardson 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	X
Nay	X			X			
Recused							
Abstained							

Absent							
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Ms. Akers moved the Board adopt the following Conclusions of Law:

1. A.R.S. §32-2044(1): “Violating this chapter, board rules or a written board order.”
2. A.R.S. §32-2044(12) “Failing to adhere to the recognized standards of ethics of the physical therapy profession.”
 - i. 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 that care consistent with accepted professional standards.”
 - ii. 4.1(E) “Upon accepting a patient/client for physical therapy services, a physical therapist shall be responsible for: the examination, evaluation, and diagnosis of that individual; the prognosis and intervention; re-examination and modification of the plan of care; and the maintenance of adequate records, including progress reports. A physical therapist shall establish the plan of care and shall provide and/or supervise and direct the appropriate interventions.”
3. 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 indentify the patient”.
 - i. 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: 4. Ensure that the patient's physical therapy record is complete and accurate; and 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

Ms. Richardson seconded the motion. After review and discussion the motion carried.

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

Following deliberation Ms. Richardson moved for a Board Order to consist of a one year probation with the possibility for early termination. Board staff pre-approved 6 hour continuing education class on documentation and an minimum of one audit of three randomly select patient records conducted by Board staff to be completed within a 6 month time frame. After review and discussion the motion carried 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	X			X			
Recused							
Abstained							
Absent							

Dr. Miller left table at 4:35 pm

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

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

ii) Physical Therapist Assistant Application for Possible Certification.

(2) Sandifer, Heath

Mr. Sandifer was present and was not represented by legal counsel. Mr. Brown reviewed the matter for the Board. Mr. Sandifer addressed the Board and answered questions asked by the Board. Dr. Zook moved to allow to take exam and certify upon receipt of passing scores. 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	X	X
Nay							
Recused							
Abstained							
Absent							

(1) Montesclaros, Leopoldo

Mr. Montesclaros is present and is not represented by legal counsel. Mr. Brown reviewed the matter for Board. Mr. Montesclaros addressed the Board and answered questions asked by the Board. Ms. Hunter moved to allow Mr. Montesclaros to take the AZLAW exam and certify upon receipt of passing scores. 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	X
Nay							
Recused							
Abstained							
Absent					X		

Dr. Miller returns to the table at 4:45 pm

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, SCPP Proposal and Possible Licensure

(1) Choubal, Mitalee

Ms. Choubal was not present and was not represented by legal counsel. Ms. Richardson moved to accept SCPP proposal, find the applicant’s education substantially equivalent to a U.S. Graduate and not require secondary transcripts for education taken to meet deficiencies in the applicant’s first professional degree education. Mr. D’Appollonio 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	X	X
Nay							
Recused							
Abstained							
Absent							

ii) Review and Determination of Proposal for a Supervised Clinical Practice Period

(1) Llanos, Abigail France

Ms. Llanos was not present and was not represented by legal counsel. Ms. Richardson moved for Ms. Llanos to take AZLAW and the Proposal would be accepted. Ms. Hunter 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	X	X
Nay							
Recused							
Abstained							
Absent							

(2) Oliveros, Mirko

Mr. Oliveros was not present and was not represented by legal counsel. Ms. Richardson moved to approve SCPP proposal. 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	X	X
Nay							
Recused							
Abstained							
Absent							

b) Review and Determination of Proposal for a Supervised Clinical Practice Period

i) Becker, Erin

Ms. Becker was not present and was not represented by legal counsel. Ms. Richardson moved to approve SCPP proposal. 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	X	X
Nay							
Recused							
Abstained							
Absent							

ii) LaJoy, Peter

Mr. LaJoy was not present and was not represented by legal counsel. Ms. Richardson moved to approve new supervisor upon staff review of resume of the supervisor’s resume, and it is to be unrestricted. Ms. Hunter 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	X	X
Nay							
Recused							
Abstained							
Absent							

c) Review and Determination of Previously Licensed Physical Therapist
i) Lazo, Albert

Mr. Lazo was not present and was not represented by legal counsel. Ms. Richardson moved to license at passing of AZLAW and providing documentation of 16 hours of continuing competence credits. Ms. Akers 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	X	X
Nay							
Recused							
Abstained							
Absent							

d) Review and Determination of Previously Certified Physical Therapist Assistant
i) Sweum, Eleanor

Ms. Sweum was not present and was not represented by legal counsel. Ms. Richardson moved to certify upon receipt of passing scores of AZLAW. Ms. Akers 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	X	X
Nay							
Recused							
Abstained							
Absent							

e) 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 Possible Licensure

(1) Smalling, Matthew

Mr. Smalling was not present and was not represented by legal counsel. Ms. Akers moved to license upon receipt of passing scores. 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	X	x
Nay							
Recused							
Abstained							
Absent							

f) Substantive Review of Documentation Related to Non-Disclosure of Previous Medical Related Certificate
i) Hunter, Megan

Ms. Megan Hunter was not present and was not represented by legal counsel. Ms. Akers moved to approve to take exam and license upon receipt of passing scores. 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	x	x
Nay							
Recused							
Abstained							
Absent							

5) BOARD BUSINESS AND REPORTS

a) Executive Director's Report

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

ii) Board Staff Activities- No action was taken or required.

iii) Legislation- No action was taken or required.

iv) Rule Activity- No action was taken or required. The Board asked Mr. Brown to give a status update at the July 16, 2013 meeting regarding the AzPTA continuing competence task force.

v) FSBPT- No action was taken or required.

b) Review, Discussion, and Approval on Staff Delegation for Approving Testing for Applicants and Creation of a Good Moral Character Consent Agenda

Ms. Akers moves to approve the policy with no changes. Ms. Hunter 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	X	X
Nay							
Recused							
Abstained							
Absent							

c) Review, Discussion, and Approval of Business Entity Mailer

The Board discussed the mailer presented by Mr. Brown no change to the mailer was requested. However, the Board instructed Mr. Brown to ensure the envelopes are addressed to facility management with a title to be selected by Board staff.

6) CALL TO THE PUBLIC

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

Ms. Akers moved to adjourn the meeting. Ms. Hunter 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	X	X
Nay							
Recused							
Abstained							
Absent							

The meeting adjourned at approximately 5:23 pm

Prepared by,

Charles D. Brown
Executive Director

Approved by,

Peggy Hunter, PTA, CLT
Secretary