



ARIZONA STATE BOARD OF PHYSICAL THERAPY
4205 NORTH 7TH AVENUE, SUITE 208 PHOENIX, ARIZONA 85013
(602) 274-0236 Fax (602) 274-1378
www.ptboard.az.gov

REGULAR SESSION MEETING MINUTES
October 22, 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
Mona Baskin, 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) September 27, 2013 Regular Session Meeting Minutes

Dr. Zook requested a change on page 3, stating a vote listed was miscounted. Dr. Miller wanted to make a change on page 2. Dr. Miller provided Mr. Brown with a copy of the paragraph he read into the record regarding Dry Needling. Ms. Akers motioned to approve September 27, 2013 as amended. 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	X	X
Nay							
Recused							
Abstained							
Absent							

b) September 27, 2013 Executive Session Meeting Minutes 9:26am to 9:36am.

Ms. Baskin wanted a change in wording. Mr. D’Appollonio wanted a change in wording. Ms. Akers moved to approve the September 27, 2013 Executive Session Meeting Minutes as amended. 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							

c) September 27, 2013 Executive Session Meeting Minutes 10:35am to 10:36am. Ms. Richardson moved to approve minutes as presented. 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) September 27, 2013 Executive Session Meeting Minutes 11:06am to 11:11am. Mr. D’Appollonio wanted a change in wording for clarification. Ms. Akers moved to approve as amended. 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							

e) September 27, 2013, Executive Session Meeting Minutes 9:06am to 9:28am. Ms. Akers moved to approve minutes as presented. Ms. Richardson seconded the motion. After review and discussion the motion carried by unanimous vote.

2) 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

Altman, Sandra	Barnes, Jeffrey	Brown, Cynthia
Calarco, Marie	Daab, Maria Cristy	Daly, Megan
Evens, Timothy	Frank, Victoria	Gaethje, Melissa

Garcia, Nallely	Germond, Kelly	Holtz, Rebecca
Hontiveros, Jessica	Kearns Legoo, Denise	Lacko, Stephanie
Lewis, Deanna	Garcia Martinez, Ricardo	Nicosia, Tonya
Pink, Shannon	Plumpe, Chaveena	Quinton, Tara
Scott, Kai	Shibeshi, Myriah	Stieren, Casey
Tran, Brooke	Tran, Michael	Trevillian, Sandra
Wadopian, Miretta	Wilkins, Shannon	Wong, Jamie

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

Brecht, Jill	DeMott, Kelsey	Henson, Valencia
Hubbel, Haydon	Keith, Cassandra	

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

Irish, Lacy

Ms. Akers moved to approve all applicants for licensure and certification upon receipt of passing scores and final transcripts. 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							

Consent Agenda Ends

3) Review, Consideration and Action on Application 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.

(1) Review of Education, Determination of Supervised Clinical Practice Period, and Possible Licensure

(a) Krishman, Aditit

Ms. Akers moved to waive Supervised Clinical Practice Period and to license upon receipt of passing scores of AZLAW. 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							

(b) Shah, Noopur

Ms. Akers moved to require Supervised Clinical Practice Period. 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							

(2) Review of Proposal for Supervised Clinical Practice Period
(a) Gaddipati, Bhargavi

Ms. Akers moved to approve Supervised Clinical Practice Period. 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							

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

(1) Reconsideration of Physical Therapist Application GMC Occurred and Reported After Application Preapproved and Possible Licensure
(a) Mallonga, Julio

Dr. Zook moved to approve for licensure. 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							

4) COMPLAINTS, HEARINGS, INVESTIGATIONS and COMPLIANCE

a) Initial Review, Discussion and Action on Complaint
i) Complaint #12-08; Jeff Carr, PT

Mr. Carr was present and was represented by Ms. Johnson-Stovall. Introductions were made for the record. Ms. Donahue summarized the complaint for the Board. Mr. Carr is accused of sexual misconduct and allegations of inadequate record keeping. Ms. Johnson-Stovall addressed the Board. Mr. Carr addressed the Board and answered questions asked of him by the Board. Dr. Miller moved to go to an informal hearing on all allegations except A.R.S. §32-2044(10). 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							

Ms. Hunter moved to open a complaint against Ms. Proctor for working under General Supervision without 2000 hours. 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) Informal Hearing and Possible Action on Complaint:
 i) Complaint #13-20; Troy Meiners, PT

Mr. Meiners was present and was represented by Susan McClellan. Introductions were made for the record. Ms. Akers swore in Ms. Donahue and Mr. Meiners. Ms. Donahue summarized the complaint for the Board. Mr. Meiners is accused of rendering substandard care and inadequate documentation. Ms. McClellan addressed the Board. Mr. Meiners addressed the Board and answered questions asked of him by the Board. Ms. Akers moved the Board adopt the following Findings of Fact:

1. Respondent 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."
 - a. Respondent's exercise flow sheet documents that 6/13 exercises completed prior to patient walking out of facility.
 - b. Respondent's response indicates that he did not engage in treatment of R.H. prior to him walking out of the facility. This evidence supports R.H.'s allegations that he performed all exercises without physical therapist supervision.
 - c. Respondent performs manual stretching to the hamstrings and quad without assessment of muscle length or strength.

d. Respondent performs STM without specifics regarding technique, duration, intensity or identification of specific tissues without documentation of assessment of these structures.

e. The initial evaluation did not contain adequate objective findings for the diagnosis.

f. The initial evaluation does not contain a plan of care that includes measureable goals or treatment plan.

2. Respondent failed to adhere to the recognized standards of ethics of the physical therapy profession.

a. A review of R.H.'s medical record does not indicate that communication with the referring physician occurred after the initial evaluation.

b. Respondent does not document a plan of care that includes goals or the proposed treatment interventions.

c. Respondent, in his written response, confirms that he willingly discussed R.H.'s confidential medical information with his colleague to who did not have any involvement in R.H.'s care and without consent from R.H.

3. Respondent failed to maintain patient confidentiality without prior written consent of the patient or unless otherwise required by law. Respondent confirms in his e-mail to R.H. and in his written response that he discussed R.H.s medical condition with a third party without prior written consent. Respondent 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.

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

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

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

a. 2.3 (A) Information relating to the physical therapist/patient relationship is confidential and may not be communicated to a third party not involved in that patient’s care without prior consent of the patient.

b. 4.1 (A) A physical therapist shall make professional judgments that are in the patient’s/ clients best interests.

c. 4.1 (E) A physical therapist shall establish the plan of care and shall provide and/or supervise and direct the appropriate interventions.

d. 4.1 (G) When a patient has been referred from another practitioner, the physical therapist shall communicate pertinent findings and or information to the referring practitioner.

4. The conduct and circumstances explained in the Findings of Fact above constitute a violation of A.R.S. §32-2044(19) “Failing to maintain patient confidentiality without prior written consent of the patient or unless otherwise required by law.”

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

Dr. Zook 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 discussed disciplinary options. After each member discussed disciplinary considerations; Ms. Akers moved the Board issued an order of 1 year probation, a 6 hour documentation course to be done within 6 months, no online course are acceptable, a chart review of 3 random charts to be done 30 days after completion of documentation course, with the possibility of early termination when all terms are met. Ms. Hunter seconded the motion. After review and discussion the motion carried 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	X
Nay							
Recused							
Abstained							
Absent							

The Board recessed for a break at 11:05am
The Board returned from break at 11:27am

ii) Complaint #13-21; Larios Pacheco, PTA

Mr. Pacheco was not present and was not represented by legal counsel. Ms. Donahue summarized the complaint for the Board. Ms. Richardson moved for a Non-disciplinary order for continuing education consisting of 6 hour documentation course, a 3 hour delegation/supervision course to be completed within a year. Also to be included in the letter is a reminder to report address 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							

iii) Complaint #13-22: Jarod Bowen, PT

Mr. Bowen was not present and was not represented by legal counsel. Ms. Donahue summarized the complaint for the Board. Ms. Richardson moved for a Consent Agreement to include a 6 hour course in delegation/supervision of support personnel, a 6 hour documentation course, a 6 month probation period with possibility of early termination when all terms are met. If Mr. Bowen does not accept this Consent Agreement it will go to an informal hearing. 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							

c) Review, Discussion, and Action on Approval of Consent Agreement

i) Complaint #10-20; Adi Halili, PT

Mr. Halili was not present and was not represented by legal counsel. Mr. Brown summarized complaint for the Board. Mr. Brown informed the Board that Mr. Halili signed his consent agreement to extend his probation to allow for additional audits and needs the Boards approval. Ms. Akers moved to approve. 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							

5) BOARD BUSINESS AND REPORTS

a) Executive Director's Report

Mr. Brown provided the Board with a review of the written report on the following areas. No action was taken or required by the Board.

- i) Financial Report
- ii) Board Staff Activities
- iii) Legislation
- iv) Rule Activity

v) FSBT- Dr. Miller and Mr. D'Appollonio provided a summary of the FSBPT Annual Meeting and the Delegate Assembly motions that passed to include the forwarding of the Arizona motion to the Board of Director's for further research, which will be reported on in 2014. Dr. Miller reported on the testing changes to include a maximum life time limit on testing to six attempts, a limit of 2 scores at or below the scale score of 400, requirements for English proficiency to test if the applicant graduated from a program outside the United States, and a requirement an applicant's education meet current substantial equivalency if the applicant graduated from a non-accredited program outside the United States. In addition, the FSBPT will be completing research into a national uniform application, a credential verification service, and State licensure compacts and reporting to the Delegate Assembly in 2014 and 2015.

The Board recessed for a lunch break at 12:10pm

The Board returned from lunch at 1:00pm

b) Review, Discussion, and Action on the Use of Dry Needling by Arizona Licensed Physical Therapists; Adoption of Official Position and Possible Future Actions

Ms. Akers opened the discussion by reading a statement.

On May 22, 2012, the Arizona Board of Physical Therapy reviewed three complaints alleging the illegal use of a service called "Dry Needling" by licensed physical therapists in Arizona. After adjudicating these complaints, the Board set a course for further reviewing the matter of physical therapist performing the treatment known as Dry Needling. The Board's collection and review included statewide stakeholder meetings, numerous periods of collecting written comments, input from select physical therapists and acupuncturists, and a review of all material by this Board. Now, 17 months after beginning this process the Board is meeting with the intent of setting its final position on this matter within the current statutes and rules it has jurisdiction to interpret and enforce.

Ms. Akers reviewed the process the Board would follow for hearing public comment before entering into discussion. Ms. Akers called the following persons to come forward and make comment for three minutes each;

Melissa Fletcher

Roopali Desai for CAAS

Catherine Niemiec

Jonathan Lindsey- Mr. Lindsey declined comment and stated his statements were previously made.

Patricia Martin

John Rhodes

Alissa Stockton

Rik Ehmann

Ms. Akers closed the period of public comment after no persons came forward to make further comment. The Board entered discussion. Mr. Clinton commented on his concern that there is a lack of specific required training standards for physical therapists that wish to use the technique Dry Needling. Ms. Hunter commented on her review of physical therapists education and the fact that all therapists have a responsibility to ensure competence in all techniques they use and that it is clear that it is the therapist's responsibility to ensure they are safe to perform treatment techniques before offering the treatment. Mr. D'Appollonio commented on the letters from patients he found in the Board's review material. He stated he felt the Dry Needling technique is within the statutory definition of the practice of physical therapy; however, as with all techniques the individual physical therapist must seek out a level of training and education that ensures their competence in performing a technique. Mr. D'Appollonio referenced a letter from a malpractice carrier CNA that identified only six claims against physical therapists related to Dry Needling out of five thousand claims. There is no identified trend in claims. Mr. D'Appollonio referenced further documentation to the Board on research of adverse effects which produced no significant adverse events.

Ms. Richardson stated that while she felt the treatment technique Dry Needling meet the statutory definition of what a physical therapist may use for treatment interventions she stated it is not a basic skill and the professional must seek additional education. All treatment requires a physical therapist to access the risk of a treatment technique for patients. Ms. Richardson also acknowledged that while there are comments provided about the concern related to the invasiveness of the technique Dry Needling is not the only invasive technique physical therapist use and that the Board has always reviewed such matters on a case by case basis taking into consideration the physical therapists education and training for a particular technique. Ms. Akers acknowledged that physical therapists may do other invasive techniques to include Needle EMG, Dry needling, and debridement and wound care.

Dr. Miller read a paragraph from the FSBPT Dry Needling Research Paper which outlined why Dry Needling is a technique that falls within a physical therapists education. Dr. Miller noted that 33 states allow physical therapists to perform the treatment technique as well as thirteen countries. Dr. Zook asked the Board members why the technique was called Dry Needling. Dr. Miller discussed the history of Dry Needling and the treatment of trigger points. He noted that treatment interventions have long overlapped between professions. Dr. Zook stated that if multiple professions have overlapping treatment techniques but is qualified to provide the treatment then the public will determine which provider better serves their needs and seek care from the provider of their choice.

The Board members continued their discussions on the treatment technique Dry Needling. No Board members expressed need for further comment.

Ms. Akers moved the Board interpret the treatment technique Dry needling falls within the definition of the "practice of Physical Therapy". 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	X	X

Nay							
Recused							
Abstained							
Absent							

Dr. Zook moved that staff work on a draft statement summarizing the Board’s discussion and position on the treatment technique and present the draft to the Board at the November 19, 2013 Board meeting. 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							

Mr. D’Appollonio instructed Board staff to compile information on any jurisdiction that allows Dry Needling or any other treatment technique that may be considered advanced, and has some level of specific training requirements. Staff is to report the information to the Board at the November 19, 2103 Board meeting. Dr. Zook thanked all persons present for their input on this matter.

6) CALL TO THE PUBLIC

Patricia Martin addressed the Board regarding Dry Needling provided by physical therapists.
 Lloyd G. Wright addressed the Board regarding Dry Needling provided by physical therapists.
 Deborah Malone addressed the Board regarding Dry Needling provided by physical therapists.
 Sean Flannagan addressed the Board encouraging the Board set a minimum standard for physical therapists education to perform Dry Needling.

No other person came forward to address the Board. The Board provided no comment on the statements provided under the Call to the Public and no action was taken.

Ms. Hunter moved to adjourn the meeting. Dr. Zook 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							

Meeting adjourned at 2:35pm

