



## KENTUCKY BOARD OF PHYSICAL THERAPY

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Governor

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Scott D. Majors, Esq.  
Executive Director

### MINUTES OF MEETING July 31, 2012

Board Members Present: Troy Grubb, PT, Chair  
Janice Kuperstein, PT  
Peggy Block, PT  
Karen Craig Ogle, PT  
Charles Clark, PT  
Linda Pillow, PT  
Virginia Johnson, Public Member

Board Staff: Rebecca E. Klusch, Executive Director  
Scott D. Majors, Executive Director

Board Agents: Mark Brengelman, Assistant Attorney General, Board Counsel  
Brian Fingerson, R Ph, IPTPC Liaison

Guests: Tony Brosky, PT, KPTA Liaison

A meeting of the Kentucky Board of Physical Therapy was called to order by Board Chair, Troy Grubb, at 9:14 a.m., Thursday, July 31, 2012, at Board office. A quorum was present.

The Board welcomed Scott Majors who will begin serving as Executive Director on September 1, 2012.

Motion was made by Linda Pillow, seconded by Peggy Block, to approve the minutes, as amended, of the board meeting of May 17, 2012, and the special board meetings of June 5, 2012, and June 14, 2012. Motion carried.

The Complaint Committee held a special meeting on June 28, 2012. A motion was made to approve the minutes for this meeting, which also carried.

#### Complaint Committee

C2010-23 The Complaint Committee noted that the Immediate Temporary Suspension conditions have not been met; thus, the credential holder will be issued a Notice of Revocation of License.

C2011-06 License is under Immediate Temporary Suspension. The Board has requested a pre-hearing conference and will seek leave from the hearing officer to file an Amended Notice of Hearing.

C2012-04 Upon summary of the matter, with the assistance of counsel, the Complaint Committee recommended to the full Board to accept the Cease and Desist Affidavit signed by Michael Ciresi, General Manager for Urban Active, for the company's use of the term "PT Cares" throughout its marketing literature. Virginia Johnson seconded the motion. Motion carried.

C2012-06 Upon summary of the matter, with the assistance of counsel, the Complaint Committee reported to the Board that, due to lack of response from applicant, a Denial of License has been issued pursuant to the prior minutes of the Board.

C2012-07 Upon summary of the matter, with the assistance of counsel, the Complaint Committee recommended to the full Board to issue a Conditional Grant of Certificate and Settlement Agreement. Motion died. Following verification of records in Ohio and after further discussion, a motion was made to again give Settlement Authority to Board Counsel to draft a proposed Conditional Grant of Certificate and Settlement Agreement. This motion was seconded by Karen Ogle. Motion carried.

C2012-08 Upon summary of the matter, with the assistance of counsel, the Complaint Committee reported that this case is ongoing and more information is expected to be available by the next meeting.

C2012-09 Upon summary of the matter, with the assistance of counsel, the Complaint Committee recommended to the full Board to open an investigation. Chuck Clark seconded the motion. Motion carried

C2012-10 Upon summary of the matter, with the assistance of counsel, the Complaint Committee recommended to the full Board to dismiss the complaint due to lack of evidence of a violation of KRS Chapter 327. Peggy Block seconded the motion. Motion carried.

At approximately 2:30 p.m., Chairman Grubb excused himself from the meeting. A motion was made by Linda Pillow, seconded by Virginia Johnson, for Janice Kuperstein to take over as Chair to replace Mr. Grubb for the remainder of the meeting.

C2012-11 Upon summary of the matter, with the assistance of counsel, the Complaint Committee recommended to the full Board to issue an Order and Notice of Immediate Temporary Suspension and settlement authority given to Board counsel. Motion was seconded by Peggy Block. Motion carried.

C2012-12 Upon summary of the matter, with the assistance of counsel, the Complaint Committee recommended to the full Board to open an investigation and issue a Cease and Desist Affidavit for the use of "PT". Virginia Johnson seconded the motion. Motion carried.

C2012-13 Upon summary of the matter, with the assistance of counsel, the Complaint Committee recommended to the full Board to open an investigation and issue a Notice of Hearing based on an Ohio disciplinary action. Settlement Authority was also given to Board counsel. Karen Ogle seconded the motion. Motion carried.

BIC2012-14 Upon summary of the matter, with the assistance of counsel, the Complaint Committee recommended to the full Board to open an investigation. Chuck Clark seconded the motion. Motion carried

A2012-15 Upon summary of the matter, the Complaint Committee reviewed documents relating to a malpractice action involving an applicant and found insufficient evidence of a violation of KRS Chapter 327. With the assistance of counsel, the Complaint Committee recommended to the full Board to issue a certificate to the endorsement applicant. Peggy Block seconded the motion. Motion carried.

The Board reviewed the IPTPC report submitted by Brian Fingerson, R.Ph. Cases that are involved in the IPTPC previously have come to the attention of the Board.

### **Update on Monitoring Probations**

Update on monitoring probations was given for the following: Malton Schexneider, PT; James Rick Roe, PT; Ron Cole, PT; Lawrence Tatem, PT; Tiffney Bentley, PT; Amanda Mattingly, PTA; Jon-

Mark French, PTA; Jeremy Kruger, PT; Shannon Snyder, PT; Karen Snyder, PT; Barack Jonkers, PTA; Art Nitz, PT; and Michael Harris, PTA.

BIC2012-16 and 17: Based on the monitoring report, Peggy Block made a motion, seconded by Chuck Clark, to open a Board initiated complaint. Motion carried.

BIC2012-18 and 19: Based on the monitoring report, Peggy Block made a motion, seconded by Chuck Clark, to open a Board initiated complaint. Motion carried.

### **Board and Administrative Business**

Steve Marcum requested the Board's opinion on a Humana policy of not allowing physical therapists to contract with a chiropractor. Upon consideration of the matter, the Board decided to refer this matter to KPTA/APTA.

The Board reviewed an opinion request from Krista Shake whether it is acceptable to revise computerized progress notes at a later date. 201 KAR 22:053, Section 2 (6) states the physical therapist shall "be responsible for the physical therapy record of each patient." The Board suggested that Ms. Shake contact her IT department to determine how to track changes made to the record.

The Board reviewed an opinion request from Karen Walden, PT concerning First Step's IFFP plan in determining the frequency of visits before an evaluation is completed. It is the Board's opinion that the frequency of visits and plan of care cannot be determined until an evaluation is completed. Chairman Grubb agreed to draft a letter in response, with copy to First Steps.

The Board reviewed an opinion request from Beth Woeste, PT, concerning what certifications are required to perform rehabilitative ultrasound in an outpatient clinic. Following discussion, the Board will respond by indicating that KRS Chapter 327 is silent on the issue of certification of procedures, and refer to 201 KAR 22:053 Sections 2 (7) and 4 (2).

The Board reviewed a request for clarification from John K. Deibler pertaining to the transfer of patients from one facility to another. Following discussion, the Board will respond by noting that the request is addressed by 201 KAR 22:053 Section 2 (3) which allows the transfer of patients if in compliance with the regulation.

Ms. Klusch advised that the Board received public comment on the proposed amendment to 201 KAR 22:053. A motion was made by Linda Pillow, seconded by Virginia Johnson to file a Statement of Consideration and amend 201 KAR 22:053. Motion carried.

The retirement of Board Counsel, Mark Brengelman, is scheduled to take effect on August 1, 2012. Ryan Halloran, Mr. Brengelman's supervisor with the Office of the Attorney General ("AG"), addressed the Board's options concerning legal representation provided by the AG. Mr. Halloran opined that, while the Board was free to bid this service on contract without advance notice provided to the AG and to retain legal counsel on this basis, the AG has assigned James Grawe, an Assistant AG, on a temporary basis to replace Mr. Brengelman. Mr. Halloran also reported that the AG was actively seeking to hire a permanent replacement for Mr. Brengelman, and the AG desires to continue its professional relationship with the Board by providing legal services. Mr. Halloran then excused himself from the meeting. Mr. Brengelman addressed the Board on other options available. Mr. Brengelman then excused himself from the meeting. Following discussion, a motion was made by Linda Pillow, seconded by Virginia Johnson, to file an RFP for legal counsel on the criteria of cost, experience, and scope of work. This motion carried by a vote of 6 – 1, with Ms. Kuperstein abstaining.

A motion was made by Peggy Block, seconded by Janice Kuperstein to fund Scott Majors to attend the FARB Attorney Certification Seminar in Atlantic Beach, Florida October 5-7, 2012. Motion carried.

It was noted that all Board members and appropriate staff are planning on attending FSBPT annual meeting in Indianapolis September 21-23, 2012.

An FSBPT motion was finalized to go forward to the General Assembly in September.

Board members reviewed and approved the lists of persons issued a license, certificate as well as examinees and reinstatements since the last meeting. Lists are attached to these minutes.

The Board reviewed the financial statement for fiscal year ending April 30, 2012.

A motion was made by Virginia, seconded by Karen Ogle to adjourn the meeting at 6:00 p.m.  
Motion carried.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Scott D. Majors', with a stylized flourish at the end.

Scott D. Majors  
Executive Director