



KENTUCKY BOARD OF PHYSICAL THERAPY

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Governor

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Rebecca E. Klusch
Executive Director

MINUTES OF MEETING November 20, 2008

Board Members Present: Ron Barbato, PT, Chair
Peggy Block, PT, Chair-elect
Troy Grubb, PT
Kristie Cochrane, PT
Margaret Blain, PT
Janice Kuperstein, PT
Virginia Johnson, Public Member

Board Staff: Rebecca E. Klusch, Executive Director

Board Agents: Mark Brengelman, Assistant Attorney General, Board Counsel
Brian Fingerson, RPh

A meeting of the Kentucky Board of Physical Therapy Complaint Committee was called to order at 2:00 p.m., Wednesday, November 19, 2008, at Board Office. Motion was made by Ron Barbato to go into closed session per KRS 61.810(1) (c) and (j), seconded by Kristie Cochrane. Motion carried. Motion was made by Ron Barbato to come out of closed session, seconded by Kristie Cochrane. Motion carried. The committee meeting adjourned at 7:10 p.m.

A meeting of the Kentucky Board of Physical Therapy was called to order by Board Chair, Ron Barbato, at 9:15 a.m., Thursday, November 20, 2008, at the Board office. A quorum was present.

Motion was made by Troy Grubb, seconded by Kristie Cochrane to approve the minutes as amended of the September 25, 2008, board meeting. Motion carried.

Complaint Committee

Dubin Orthopaedic Centre, P.S.C v. Kentucky Board of Physical Therapy. The Supreme Court has granted Discretionary Review of the Court of Appeals decision to be ruled on by the Kentucky Supreme Court.

C2006-20 and C2007-01 *KBPT v. Ron Cole, P.T.* Mediation is set for January 6, 2009, at the Board office.

C2007-30 *KBPT v. Connie Rinckel, P.T.*, and Hearing is scheduled for January 15, 2009, 1:30 p.m. at the Board office.

C2008-07 Case is ongoing.

C2008-08 The Board reviewed with approval the *Agreed Order, Permanent Injunction, and Final Judgment for Commonwealth of Kentucky, Board of Physical Therapy v. Paul J. Constante, D.C., P.S.C., d/b/a Dynamic Chiropractic & Rehab, and Paul J. Constante, D.C., and Stephen J. Boutin, D.C. and Ray Uhlmansiek, D.C.* Case is closed.

BIC2008-12 Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to close case due to insufficient evidence. The Board approved the recommendation, seconded by Troy Grubb. Motion carried. Complaint Committee members Christie Cochrane and Ron Barbato recused from voting.

BIC2008-13 Case is ongoing.

C2008-14 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to file a Notice of Administrative Hearing and Order with Settlement Authority. The Board approved the recommendation, seconded by Troy Grubb. Motion carried. Complaint Committee members Kristie Cochrane and Ron Barbato recused from voting.

C2008-15 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to approve the Settlement Agreement. The Board approved the recommendation, seconded by Peggy Block. Motion carried. Complaint Committee members Kristie Cochrane and Ron Barbato recused from voting.

C2008-16 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to issue an Order of the Board to schedule an in-person interview with the investigator. The Board approved the recommendation, seconded by Virginia Johnson. Motion carried. Complaint Committee members Kristie Cochrane and Ron Barbato recused from voting.

BIC2008-19 Case is ongoing.

C2008-20 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to close case due to insufficient evidence of a violation of KRS 327 based on the Ohio continued competency violation but where the Respondent was audited and found to have complied with the applicable Kentucky requirement for continued competency. The Board approved the recommendation, seconded by Virginia Johnson. Motion carried. Complaint Committee members Kristie Cochrane and Ron Barbato recused from voting.

C2008-21 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to accept the signed affidavit from Brenda Huser-Taylor, D.C. and Emily Lane, D.C., Chiropractic Health Service. The Board approved the recommendation, seconded by Janice Kuperstein. Motion carried. Complaint Committee members Kristie Cochrane and Ron Barbato recused from voting.

C2008-22 Case is ongoing.

C2008-23 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to close case due to insufficient evidence of a violation of KRS 327. The Board approved the recommendation, seconded by Margaret Blain. Motion carried. Complaint Committee members Kristie Cochrane and Ron Barbato recused from voting.

C2008-24 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to open an investigation. The Board approved the recommendation, seconded by Margaret Blain. Motion carried. Complaint Committee members Kristie Cochrane and Ron Barbato recused from voting.

C2008-25 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to open an investigation and authority given to counsel to issue a Cease and Desist Affidavit if a violation of KRS 327.020 is warranted. The Board approved the recommendation, seconded by Peggy Block. Motion carried. Complaint Committee members Kristie Cochrane and Ron Barbato recused from voting.

C2008-26 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, recommended to issue an Order of the Board to complete a new application. A motion by Troy Grubb, seconded by Janice Kuperstein, to dismiss case due to insufficient evidence of a violation of KRS 327. Motion carried. Complaint Committee members Kristie Cochrane and Ron Barbato recused from voting.

C2008-27 –The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, recommended to deny Angelene Lee Fields Reinstatement of Certificate due to falsifying her application and her felony convictions. Seconded by Troy Grubb. Motion carried. The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to issue a Conditional Reinstatement of Physical Therapist Assistant certificate with Settlement Authority to Board Counsel. Board approved the recommendation, seconded by Virginia Johnson. Motion carried. Complaint Committee members Kristie Cochrane and Ron Barbato recused from voting.

C2008-28 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to open an investigation and authority given to counsel to issue a Cease and Desist Affidavit if a violation of KRS 327.020 is warranted. The Board approved the recommendation, seconded by Virginia Johnson. Motion carried. Complaint Committee members Kristie Cochrane and Ron Barbato recused from voting.

The Board reviewed the IPTPC report submitted by Brian Fingerson.

James Richard Roe, PT, appealed to the Board to rescind the requirement of re-examination of the NPTE since his license had not lapsed for over three years per 201 KAR 22:040 Section 3. The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel and the IPTPC, to accept his appeal and rescind the NPTE requirement and to grant the reinstatement. Board approved the recommendation, seconded by Troy Grubb. Motion carried. Complaint Committee members Kristie Cochrane and Ron Barbato recused from voting. Ron Barbato has been appointed as monitor.

Christy Guhy, PTA – The Complaint committee recommended to the full Board upon summary of the matter, with the assistance of counsel and the IPTPC, to approve the signed *Conditional Reinstatement of Physical Therapist Assistant Certificate* and Order of the Board to complete the Conditional Reinstatement no later than 180 days. Board approved the recommendation, seconded by Janice Kuperstein. Motion carried. Complaint Committee members Kristie Cochrane and Ron Barbato recused from voting.

Jessica Reynolds, PT, requested Reinstatement of physical therapist license that expired in 1999 with no current license from any jurisdiction since 2004. A motion was made by Peggy Block, seconded by Troy Grubb to require the FSBPT Practice Review Tool, submit the results along with a mediation plan for any area of deficiency identified for board approval and 480 hours of onsite supervision by an approved physical therapist. Motion carried.

Update on Monitoring Probations

Update on monitoring probations was given for the following with approval: Mark Portaro, PT, Matt Jones PT and April Coldiron, PT.

A motion was made by Ron Barbato, seconded by Kristie Cochrane, that the board interprets Mark Portaro's Final Order, paragraph one and two on pages 8 and 9 to read that Mark Portaro is subject to four monitoring visits upon his return to the practice of physical therapy in Kentucky. To date, Mr. Portaro has completed one monitoring visit. Failure to comply with the Board's Final Order may result in further disciplinary action by the Board. All in favor.

Board and Administrative Business

Troy Grubb made a motion, seconded by Janice Kuperstein, to revise 201 KAR 22:053 Section 5(4) Discharge summary as: A discharge summary shall be written within 30 days of the end of the current plan of care when no subsequent plan of care has been established and to revise the application and renewal forms incorporated by law.

Amy Martin, requested information regarding First Steps policies. The Executive Director will reply to her specific questions according to KRS 327.

Gus Jacobs, PT, wrote the Board asking if "diet plans/exercise programs" is within the physical therapy scope of practice. Exercise program are within the scope of practice but "diet plan" is not within the scope unless you can show competency in your practice of physical therapy.

Teresa Selby Scherffius, PT, requested interpretation if a massage therapist may practice under a licensed physical therapist and bill for those services. 201 KAR 22:001 Section 1(16) "Supportive personnel" means a person assisting in the provision of direct physical therapy patient care who is not credentialed by the board. If the plan of care includes manual therapy a massage therapist may be utilized as supportive personnel only with on-site supervision.

Shelley Hunt, Brown Physical Therapy Services questioned Anthem Blue Cross and Blue Shield's decision to their patient to charge physical therapy benefits to chiropractic services. After discussion, Janice Kuperstein made motion, seconded by Virginia Johnson, public member, to file a Cease and Desist Affidavit to Anthem Blue Cross and Blue Shield. Motion carried.

The Board will continue working on ideas and questions for the 2009-11 Jurisprudence Exam. Peggy Block and Janice Kuperstein have volunteered to write the Exam.

Other Board Matters

The Board approved the 2009 meeting dates as January 15, March 19, May 21, July 16, September 17 and November 19.

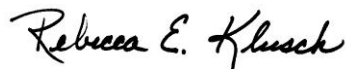
CAPTASA is scheduled for January 23-25, 2009, in Lexington, Kentucky.

Board members reviewed 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 ending October 31, 2008.

A motion was made by Kristie Cochrane, seconded by Margaret Blain to adjourn the meeting at 4:30 p.m. Motion carried.

Respectfully submitted,



Rebecca E. Klusch
Executive Director