



KENTUCKY BOARD OF PHYSICAL THERAPY

Steve L. Beshear
Governor

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Rebecca E. Klusch
Executive Director

MINUTES OF MEETING July 21, 2011

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

Board Staff: Rebecca E. Klusch, Executive Director

Board Agents: Mark Brengelman, Assistant Attorney General, Board Counsel

Guests: Lisa Volz,

A meeting of the Kentucky Board of Physical Therapy, Complaint Committee 1, was called to order at 9:00 a.m., Wednesday, July 20, 2011, at the Board office. Motion was made by Troy Grubb to go into closed session per KRS 61.810(1) (c) and (j), seconded by Peggy Block. Motion carried. Motion was made by Peggy Block to come out of closed session, seconded by Troy Grubb. Motion carried. The committee meeting adjourned at 2:00 p.m.

A meeting of the Kentucky Board of Physical Therapy, Complaint Committee 2, was called to order at 3:15 p.m., Wednesday, July 20, 2011, at the Board office. Motion was made by Janice Kuperstein to go into closed session per KRS 61.810(1) (c) and (j), seconded by Peggy Block. Motion carried. Motion was made by Peggy Block to come out of closed session, seconded by Janice Kuperstein. Motion carried. The committee meeting adjourned at 6:30 p.m.

A meeting of the Kentucky Board of Physical Therapy was called to order by Board Chair, Janice Kuperstein, at 9:00 a.m., Thursday, July 21, 2011, at Board office. A quorum was present.

Motion was made by Chuck Clark, seconded by Virginia Johnson to approve the minutes as amended of the May 19, 2011 Board meeting. Motion carried.

Motion was made by Troy Grubb, seconded by Linda Pillow to approve the minutes of the June 7, 2011, Complaint Committee Meeting. Motion carried.

Complaint Committee

BIC2009-94 Malton Schexneider appeared before the Board. Peggy Block made a motion to go into closed session per KRS 61.810(1) (c) and (j), seconded by Linda Pillow. Motion carried. Chuck Clark and Troy Grubb recused and left the room. Motion was made by Peggy Block to come out of closed session, seconded by Troy Grubb. Motion carried. Virginia Johnson made a motion, seconded by Peggy Block to reject the Amended 2001 and 2009 Order and Settlement Agreement. Ron Barbato, Chuck Clark and

Troy Grubb recused from voting. Motion carried. Additional settlement authority was given to Board Counsel.

C2010-08 Amanda Mattingly, PTA, appeared before the Board with counsel as a condition of the Order of the Board and Settlement Agreement approved on May 19, 2011.

C2010-17 Case is ongoing.

C2010-18 The Complaint Committee recommended to the full Board to issue a Private Admonishment for a violation of KRS 327. Board approved the recommendation, seconded by Ron Barbato. Motion carried. Complaint Committee members Peggy Block and Troy Grubb recused from voting.

C2010-23 Steve Barton, PT appeared before the Board. The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to accept the signed *Conditional Reinstatement of License and Settlement Agreement*. Board approved the recommendation, seconded by Linda Pillow. Motion carried. Complaint Committee members Peggy Block and Troy Grubb recused from voting.

C2010-24 Notice of Administrative Hearing and Order has been filed. Case is ongoing.

BIC2011-04 Notice of Administrative Hearing and Order has been filed. Case is ongoing.

C2011-05 Notice of Administrative Hearing and Order has been filed. Case is ongoing.

C2011-06 License is under Immediate Temporary Suspension.

BIC2011-07 Notice of Administrative Hearing and Order has been filed. Case is ongoing.

C2011-08 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to dismiss case due to insufficient evidence. Board approved the recommendation, seconded by Chuck Clark. Motion carried. Complaint Committee members Peggy Block and Janice Kuperstein recused from voting.

C2011-09 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. Board approved the recommendation, seconded by Virginia Johnson. Motion carried. Settlement authority was given to counsel. Complaint Committee members Peggy Block and Janice Kuperstein recused from voting.

BIC 2011-10 Case is ongoing

C2011-12 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to dismiss case due to insufficient evidence. Board approved the recommendation, seconded by Linda Pillow. Motion carried. Ron Barbato recused from voting. Complaint Committee members Peggy Block and Janice Kuperstein recused from voting.

BIC2011-13 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to issue a Private Admonishment for a violation of 201 KAR 22:053(3)(8). Board approved the recommendation, seconded by Virginia Johnson. Motion carried. Complaint Committee members Janice Kuperstein and Peggy Block recused from voting.

BIC2011-14 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. Board approved the recommendation, seconded Chuck Clark. Motion carried. Settlement authority was given to counsel. Complaint Committee members Janice Kuperstein and Peggy Block recused from voting.

R2011-20 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to accept the signed Settlement Agreement. Board approved the recommendation, seconded by Ron Barbato. Motion carried. Complaint Committee members Janice Kuperstein and Peggy Block recused from voting.

C2011-21 The Complaint Committee opened an investigation at its Special Complaint Committee meeting on June 7, 2011. The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to dismiss investigation due to insufficient evidence of a violation of KRS 327. Board approved the recommendation, seconded by Chuck Clark. Motion carried. Complaint Committee members Janice Kuperstein and Peggy Block recused from voting.

C2011-22 The Complaint Committee opened an investigation at its Special Complaint Committee meeting on June 7, 2011. The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to dismiss investigation due to insufficient evidence of a violation of KRS 327. Board approved the recommendation, seconded by Ron Barbato. Motion carried. Complaint Committee members Janice Kuperstein and Peggy Block recused from voting.

C2011-23 The Complaint Committee opened an investigation at its Special Complaint Committee meeting on June 7, 2011. The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to file a Cease and Desist Affidavit for a violation of KRS 327.020(3). Board approved the recommendation, seconded by Linda Pillow. Motion carried. Complaint Committee members Janice Kuperstein and Peggy Block recused from voting.

BIC2011-24 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to open a BIC on a licensee that may have submitted an altered certificate for license renewal. Board approved the recommendation, seconded by Ron Barbato. Motion carried. Complaint Committee members Janice Kuperstein and Peggy Block recused from voting.

CEU Violations: A motion was made by Troy Grub, seconded by Chuck Clark to issue Private Admonishments to first time offenders for continuing competency violations with the following criteria:

Jurisprudence Exam - Fine of \$100.00 and cost of \$60.00 for each credit hour (2)

HIV/AIDS – completed wrong course – Fine of \$100.00

HIV/AIDS – Fine of \$100.00 and cost of \$60.00 per credit hour (2)

Continuing Competency Credits – Fine of \$100.00 and cost of \$60.00 per credit hour

A motion was made by Troy Grubb, seconded by Chuck Clark to file a Notice of Administrative Hearing to first time offenders with three continuing competency violations with a Public Reprimand and Settlement Agreement of a \$300.00 fine and \$60.00 for each credit hour missing or taken after the March 31, 2011 deadline.

A motion was made by Troy Grubb, seconded by Chuck Clark to file a Notice of Administrative Hearing to second time offenders with any continuing competency violations with a Public Reprimand and Settlement Agreement of a fine of \$500.00 and \$60.00 for each credit hour missing or taken after the March 31, 2011 deadline.

The Power of Attorney for Philip Canton requested retirement of Kentucky physical therapy license that was renewed in error. The Complaint Committee recommended to the full Board to grant the request effective July 21, 2011. Board approved the recommendation, seconded by Troy Grubb. Motion carried.

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

Update on Monitoring Probations

Update on monitoring probations was given for the following: James Rick Roe, PT; Ron Cole, PT, Malton Schexneider, PT, Amy Farmer, PT, Lawrence Tatem, PT, Tiffiney Bentley, PT and William Kyle Clark, PTA, Kim Crossman, PT, and Amanda Mattingly, PTA.

Tiffiney Bentley, PT, requested relief from the requirement of no Home Health due to the McKesson computerized system. The Board needs more information and documentation about the system and how it improves accurate visits before making an informed decision as to whether it meets the requirements of the Settlement Agreement.

Board and Administrative Business

Chuck Clark made a motion, seconded by Ron Barbato to approve ADA accommodations for JD. Motion carried.

A motion was made by Ron Barbato, seconded by Peggy Block to approve the Remediation Plans for ML, RT and AM and deny the Remediation Plans for RF and OAO due to insufficient remedial intervention. Motion carried.

The Board noted its proposed emergency regulation 201 KAR 22:020 was withdrawn upon review on June 1, 2011, by the Office of the Governor and the Legislative Research Commission. A motion was made by Ron Barbato, seconded by Chuck Clark to accept the revised application. The Board will withdraw the 201 KAR 22:020 Amendment from the Legislative Review Committee and submit the approved revision and incorporate the revised application. Motion carried.

Other Board Matters

It is noted the Board discussed the email regarding Direct Access for Inpatient Environments and the response by Janice Kuperstein. The Board had no additional information to provide for the licensee. The licensee will be notified.

The Board discussed the request from Becky Hall regarding using the 97110 code as requested by the Cabinet for Health and Family Services. A letter will be written by the Board to the Cabinet for Health and Family Services, copy to Ms. Hall and the KPTA stating the Board's position.

Roger Whitlock inquired about the CMS ruling: "instructed all of its Medicare contractors not to evaluate or enforce the supervision requirements for therapeutic services provided to outpatients in Critical Access Hospitals." The licensee was notified that the supervision requirements in 201 KAR 22:053 are irrespective of billing.

Supportive Personnel Committee - Lisa Volz will get information from APTA and begin discussions with the committee.

The Board voted to meet via WebEx on August 11 at 6:00 p.m. to review the changes to KRS 327. The Board will present the changes at the KPTA September Fall Meeting.

Due to the fixed dated NPTE and the graduating physical therapists delay in taking the NPTE, the Board discussed options such as the Temporary License and revisions to KRS 327.050. The Board approved a survey to be sent out to jurisdictions either by FSBPT or the CBA listserv.

Chuck Clark has declined attending the FSBPT Annual Meeting and Janice Kuperstein was appointed as Delegate, Linda Pillow as Alternate Delegate. The Board shall authorize one other Board member to attend the meeting to be designated by the Executive Director based on availability.

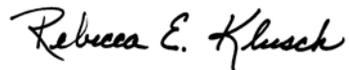
A motion was made by Ron Barbato, seconded by Virginia Johnson to fund Mark Brengelman to attend the FARB Attorney Certification Seminar on September 30-October 2, 2011 in Park City, Utah. Motion carried.

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 June 30, 2011.

A motion was made by Ron Barbato, seconded by Troy Grubb to adjourn the meeting at 6:35 p.m. Motion carried.

Respectfully submitted,

A handwritten signature in black ink that reads "Rebecca E. Klusch". The signature is written in a cursive, flowing style.

Rebecca E. Klusch
Executive Director