



KENTUCKY BOARD OF PHYSICAL THERAPY

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Matthew G. Bevin
Governor

Scott D. Majors, Esq.
Executive Director

MINUTES OF SPECIAL MEETING August 4, 2016

Board Members: Tina Volz, PT, Chair
Ron Barbato, PT, Chair-Elect
Troy Grubb, PT
Virginia Johnson, Public Member
Dan Martin, PT
Linda Pillow, PT
Talia Weinberg, PT

Board Staff: Scott D. Majors, Executive Director
Krista Barton, Executive Secretary
Beth Bell, Licensure Coordinator
Stephen Curley, Investigator
Louis D. Kelly, Esq., Board Counsel

Board Agents: Brian Fingerson, RPh, IPTPC Director

KPTA Liaison: Janice Kuperstein, PT, PhD, MEd

A meeting of the Kentucky Board of Physical Therapy was called to order by the Board's Chair, Tina Volz, at 9:09 a.m. on Thursday, 08/04/16, at the Board office. A quorum was present.

Welcome of New KBPT Employee

Ms. Volz introduced to the members the Board's newest employee, Elizabeth ("Beth") Bell, who was appointed on 07/01/2016 to serve as the Board's Licensure Coordinator.

Minutes for Previous Regular Meeting

The Board reviewed the minutes of the 05/19/16 Board meeting.

Action taken: Following review and discussion of amendments to the draft minutes suggested by Mr. Barbato and Ms. Pillow, Mr. Barbato made the motion to approve the minutes of the Board meeting of 05/19/16, as amended. The motion was seconded by Ms. Johnson, which carried.

Board Discussions, Committees and Opinion Requests

Proposed Physical Therapy Licensure Compact

Mr. Majors and Mr. Kelly provided a detailed account of the of the KBPT Compact Workgroup's meetings on 06/27/16 and 07/26/16 to discuss the Physical Therapy Licensure Compact ("Compact").

Action taken: Following a lengthy discussion about the Compact, Mr. Barbato made a motion that the Board continue to move forward with the original language of the Compact. The motion was seconded by Mr. Grubb, which carried.

After further discussion, Mr. Grubb made the motion that the Board's Compact Committee be given the authority to act on behalf of the Board in matters relating to Compact legislation. The motion was seconded by Ms. Weinberg, which carried.

FSBPT – Leadership Issues Forum

Mr. Barbato reported that he attended the FSBPT Leadership Issues Forum as candidate for the Board of Directors.

Ms. Weinberg reported that she attended the FSBPT Leadership Issues Forum as the Primary Voting Delegate. She advised that FSBPT has been developing an Alternative to Credentialing program which will provide assistance to member boards and which is expected to be operational in 2017.

Mr. Majors also gave an overview of the conference, emphasizing that FSBPT plans to adopt new TOEFL individual scores effective January 2018, while retaining the current cumulative scores, and FSBPT has been working with other entities to seek passage of federal legislation that would insulate board members from monetary damages in cases involving antitrust claims.

Action taken: No action taken.

FSBPT – New Member and Administration Training

Ms. Weinberg gave a brief report on her attendance of the New Member and Administrator Training she attended on 06/24/16. She discussed information relative to antitrust laws and the U.S. Supreme Case involving the North Carolina Board of Dental Examiners vs. FTC.

Action taken: No action taken.

KBPT Database Replacement

Mr. Majors reported that he, Mr. Curley, and Ms. Sims met with Bob Evancho and Carlos Luna with Kentucky Interactive ("KI") on 06/09/16 to discuss the Board's general requirements for the design of a new database. Also, Mr. Majors reported that he has designated Mr. Curley to serve as the Board's Project Manager for this initiative. Mr. Curley will be working closely with KI in the development and design of the database. The new database is scheduled to be operational in November of 2016.

Action taken: No action taken.

2017-2019 Jurisprudence Exam

Mr. Majors reported that the Jurisprudence Exam (JE) workgroup met on 06/13/16. Another meeting has been scheduled for 08/11/16 during which the appointed item writers will circulate their proposed questions within the workgroup for review. Mr. Majors anticipates having a list of questions to circulate to the Board for review at the September meeting.

Action taken: No action taken.

Scope of Practice Workgroup

The Board had a discussion regarding the suggested changes proposed by the Scope of Practice Workgroup.

Action taken: The Board requested that Mr. Kelly make the proposed changes that were discussed, to draft an executive summary, and to circulate them to the Board members, Dr. Kuperstein and Mr. Majors. Dr. Kuperstein will forward the information to the Executive Committee of the KPTA to review at the KPTA Board meeting on 09/09/16. Mr. Martin will attend the meeting as the KBPT Liaison to field any questions concerning the proposed changes to 201 KAR 22:053. Additionally, the Board discussed requesting the Jurisprudence Exam workgroup to draft several questions regarding the possible regulation changes to 201 KAR 22:053. The questions would only be included in the 2017-2019 biennium Jurisprudence Exam if the regulation change is passed.

Monitoring Procedures and Requirements

Mr. Majors discussed with the Board the benefits and shortcomings of creating an in-house training program for the Electronic Monitoring Spreadsheet versus contracting with Mr. Dale Atkinson and FARB. Also, Mr. Majors informed the Board that he is scheduled to appear before the FARB Board of Directors in September to present a proposal that would discuss options of financing the development of the program with either the approval or recommendation of support from Mr. Atkinson.

Action taken: Following discussion, Mr. Grubb made the motion that Mr. Majors continue negotiations with Mr. Atkinson and FARB in the development of a monitoring training program. The motion was seconded by Ms. Pillow, which carried.

CLEAR Webinar

Mr. Kelly gave a brief report to the Board concerning his attendance of a CLEAR webinar on 07/21/16 relative to the evolution of marijuana. He informed the Board that there is currently a movement to remove marijuana from the Schedule 1 Controlled Substance list, and that twenty four jurisdictions have enacted medical marijuana laws. He also briefly discussed how these jurisdictions are responding to these changes.

Action taken: No action taken.

Civil Matters and Investigations

2015 Complaint Committee

C2015-11: The Complaint Committee reported that as of 07/28/16, the Board's General Counsel has not been contacted by the credential holder. There will be a status update provided at the September Board meeting.

Action taken: No action taken.

BIC2015-12: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

C2015-35: The Complaint Committee reported that Mr. Curley has attempted on numerous occasions to contact the credential holder, without success, in order to schedule an interview to complete the investigation process.

Action taken: The Complaint Committee recommended and moved that the Board:

- (a) file an order requiring the credential holder to contact Mr. Curley and complete the interview process within twenty days;
- (b) delegate to Mr. Majors the authority to sign the Board order in lieu of Ms. Volz; and
- (c) authorize the Board's General Counsel to file a Notice of Hearing and Formal Charges if the credential holder fails to comply within the twenty day timeframe.

The motion was seconded by Ms. Pillow, which carried.

C2015-103: The Complaint Committee reported that this case involves allegations of fraud and material deception.

Action taken: The Complaint Committee recommended and moved to authorize Board Counsel to prepare a proposed Settlement Agreement with the following terms; the credential holder shall receive a public reprimand, pay a fine in the amount of \$250, and appear before the Board at the September meeting to review terms of the proposed Settlement Agreement. The motion was seconded by Ms. Pillow, which carried.

CE2015-37: The Complaint Committee reported that the credential holder has completed the required continued competency, paid his/her fine, and signed the proposed Settlement Agreement. Additionally, Board Counsel intends to promptly file a Notice of Dismissal with the hearing officer, and the Board will then review the Recommended Order of Dismissal at the September meeting.

Action taken: No action taken.

CE2015-86: Mr. Kelly reported that the credential holder has paid his/her her fine and accepted the proposed private admonishment.

Action taken: The Complaint Committee recommended and moved to accept the Recommended Order of Dismissal, enter a Final Order of Dismissal, and close this case. The motion was seconded by Mr. Martin, which carried.

2016 Complaint Committee

BIC2016-03: The Complaint Committee reported that the credential holder has submitted the required continued competency.

Action taken: The Complaint Committee recommended and moved to accept the Recommended Order of Dismissal, enter a Final Order of Dismissal, and close this case. The motion was seconded by Ms. Johnson, which carried.

BIC2016-04: The Complaint Committee reported that this case involves allegations of fraud and material deception.

Action taken: The Complaint Committee recommended and moved to authorize Board Counsel to offer a Settlement Agreement that must be signed within twenty days with the following terms; a two year suspension fully probated, quarterly monitoring, payment of a fine in the amount of \$500, completion of a Board approved ethics course within six months, and appear before the Board at the September meeting to review terms of the proposed Settlement Agreement. Additionally, if the credential holder fails to enter into the Settlement Agreement within twenty days, the Board authorize Counsel to file a Notice of Hearing and Formal Charges. The motion was seconded by Ms. Weinberg, which carried.

BIC2016-05: The Complaint Committee gave a brief history that this case involves allegations of attempting to obtain a license or certificate by fraud or material misrepresentation. The Complaint Committee reported that the credential holder has signed the proposed Settlement Agreement.

Action taken: The Complaint Committee recommended and moved to accept the signed Settlement Agreement. The motion was seconded by Ms. Weinberg, which carried.

BIC2016-06: The Complaint Committee reported that the credential holder has signed an IPTPC contract; however, the credential holder has failed to comply with the terms of the contract.

Action taken: The Complaint Committee recommended and moved to authorize Counsel to file a Notice of Hearing and Formal Charges. The motion was seconded by Ms. Pillow, which carried.

C2016-07: The Complaint Committee reported that this case involves alleged substandard care.

Action taken: The Complaint Committee reported that this case is ongoing.

C2016-08: The Complaint Committee reported that the credential holder in this case failed to timely abide by the terms of the Board Order that was filed after the May Board meeting. The Complaint Committee informed the Board that the individual has been under an Immediate Temporary Suspension (ITS) since 06/27/16.

Action taken: The Complaint Committee recommended and moved to authorize Counsel to file a Notice of Hearing for failure to follow an order of the Board. The motion was seconded by Ms. Johnson, which carried.

BIC2016-09: The Complaint Committee reported that the credential holder recently passed away.

Action taken: The Complaint Committee recommended and moved to close this case. The motion was seconded by Ms. Pillow, which carried.

C2016-10: The Complaint Committee reported that this case involves a possible adverse action in West Virginia regarding falsification of a renewal application, and the case is currently ongoing.

Action taken: No action taken.

C2016-11: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

C2016-12: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

C2016-13: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

C2016-14: The Complaint Committee reported that this case involves a possible impairment by reason of mental, physical, or other condition of a credential holder.

Action taken: The Complaint Committee recommended and moved to open an investigation. The motion was seconded by Ms. Pillow, which carried.

C2016-15: The Complaint Committee reported that this case involves possible fraud and material deception.

Action taken: After discussion, the consensus of the Board was to take no action.

C2016-16: The Complaint Committee reported that this case involves possible violations of documentation and supervision.

Action taken: The Complaint Committee recommended and moved to open an investigation. The motion was seconded by Ms. Johnson, which carried.

C2016-17: The Complaint Committee reported that this case involves alleged substandard care.

Action taken: The Complaint Committee recommended and moved to open an investigation. The motion was seconded by Mr. Martin, which carried.

C2016-18: The Complaint Committee reported that this case involves possible treatment of patients without a reassessment.

Action taken: The Complaint Committee recommended and moved to open an investigation. The motion was seconded by Ms. Pillow, which carried.

C2016-19: The Complaint Committee reported that this case involves possible treatment of patients without a reassessment.

Action taken: The Complaint Committee recommended and moved to open an investigation. The motion was seconded by Ms. Weinberg, which carried.

IPTPC Report

Mr. Fingerson presented the IPTPC report dated 07/25/16. IPTPC cases which previously have come to the attention of the Board, or were discussed at length during the Complaint Committees' reports, were reviewed.

Additionally, Mr. Fingerson reported to the Board that the credential holder in BIC2015-13, who previously had not filed his/her monthly reports required by the IPTPC agreement, had contacted him to discuss the case.

Action taken: Considering this information, the Complaint Committee recommended and moved that the credential holder must submit his/her reports to Mr. Fingerson no later than 08/15/16 for review. Additionally, if Mr. Fingerson, Ms. Volz and Mr. Majors find the reports to be in violation of the IPTPC agreement, staff is to be delegated the authority to administratively issue an ITS. The motion was seconded by Ms. Weinberg, which carried.

Update on Monitoring Probations

The Board noted the following credential holders who are presently being monitored: Tiffiney S. Bentley, PT and Donald Bruce Taylor, PT. Monitor reports were submitted by the Board-appointed monitors and considered by the Board. The Board addressed at length with Dr. Kuperstein several of her concerns with Mr. Taylor's practice which she identified during her most recent monitoring visit and which were referenced in her monitoring report.

Action taken: Following discussion, the Board elected to take no action at this time.

REPORTS AND OTHER BUSINESS

Legal Report

Administrative Regulation – 201 KAR 22:045

Mr. Kelly advised the Board that he filed the approved changes to 201 KAR 22:045 regarding the hardship extension.

Action taken: No action taken.

Group Insurance Policy – Antitrust

Mr. Kelly and Mr. Majors discussed the efficacy of the Board may procure professional liability insurance to protect its members and staff from antitrust litigation. Staff is currently monitoring proposed federal legislation that may address the issue.

Action taken: No action taken.

**Ohio Board of Nursing
Texas State Board of Educator Certification
Antitrust Lawsuits and Medical Licensure Boards**

Mr. Kelly advised the Board on recent articles and cases in Ohio and Texas dealing with professional licensure issues.

Action taken: No action taken.

KBPT and KPTA Liaison Reports

Dr. Kuperstein and Mr. Martin provided an update concerning KPTA and its lobbyist, and they emphasized the need for the Board to maintain open communication with KPTA's lobbyist to help enhance the feasibility of legislative support for the Compact.

Director's Report

Financial Report

The Board reviewed monthly, quarterly and FY 2017 FAS3 financial reports addressing the Board's revenues and expenditures.

Action taken: No action taken.

FSBPT Excellence in Regulation Award

Mr. Majors circulated a copy of the documentation he filed in support of his nomination that the Kentucky Board of Physical Therapy receive FSBPT's Excellence in Regulation Award at this year's Annual Conference in Columbus, Ohio.

Action taken: No action taken.

Office Security

Mr. Majors circulated a quote for installation of video surveillance equipment at the Board office. The Board also identified various options for staff to be notified when visitors arrive at the Board office and are awaiting entrance.

Action taken: No action taken.

KBPT Offices/Commonwealth Office of Technology (COT)

Mr. Majors reported that the four year leases recently expired for three of the staff's desktop computer systems, and new four year leases had been executed for replacement systems for the same monthly charge as the previous systems. Mr. Majors also reported that the new systems are able to access applications and software at an appreciably faster speed resulting in increased staff productivity.

Action taken: No action taken.

School Visits

Mr. Majors reported that on 05/25/16 he and Donna Sims conducted a school visit for the students at the University of Kentucky's Physical Therapy program.

Action taken: No action taken.

CAPTE Accreditation Actions

Mr. Majors provided the Board members with a copy of the CAPTE accreditation actions taken during the

06/03/16 meeting. Ms. Volz noted that Western Kentucky University's Physical Therapy program has received full CAPTE accreditation.

Action taken: No action taken.

Professional Boundaries

Mr. Majors circulated several brochures published by Professional Boundaries, Inc., that outline its remediation program. Ms. Volz encouraged staff to maintain a central library for such resources if the Board finds future reference to these materials to be useful.

Action taken: No action taken.

Department of Insurance

Mr. Majors provided the members with a copy of the Department of Insurance Public Protection Cabinet's report of health care providers with settlement and/or judgments, dated 07/05/16 covering the period from 04/01/16 through 06/30/16 in which no credential holders of the Board were listed.

Action taken: No action taken.

FSBPT CBA Forum Report

Mr. Majors circulated a copy of the CBA Forum Report he filed with FSBPT which will be discussed by the CBA at the FSBPT Annual Conference in Columbus, Ohio.

Action taken: No action taken.

KBPT Approval Request: Bar Dues

Mr. Majors requested the Board to authorize payment of his dues with the Kentucky Bar Association ("KBA").

Action taken: Ms. Pillow made the motion for the Board to approve payment for Mr. Majors' KBA Dues. The motion was seconded by Ms. Johnson, which carried.

CBT Comment Summary and Candidate Satisfaction Survey

Mr. Majors circulated for Board review a copy of the latest NPTE Comment and Summary and Candidate Satisfaction Survey Report which reflected that KBPT received the highest possible satisfaction rating of 100%.

Action taken: No action taken.

Dress Code

Mr. Majors reported that Kentucky's Personnel Cabinet ("Personnel") recently notified all state agencies that dress codes for their agencies had to be submitted for review and formal approval. Mr. Majors circulated a copy of a draft dress code prepared by Mr. Kelly that was recently filed with Personnel. Once approved, Mr. Majors suggested that the Board may elect to formally incorporate this dress code into its Policy and Procedure Manual.

Action taken: No action taken.

Conferences Relating to Physical Therapy

The Board reviewed the following schedule of upcoming conferences

- a. CLEAR – 2016 Annual Educational Conference
(09/15-17/16)
- b. FARB – 2016 Regulatory Law Seminar

(09/29-10/2/16 – Chicago, IL)

Scott Majors to serve as KBPT's authorized representative.

- c. FSBPT – 2016 Annual Meeting, Conference and Delegate Assembly
(11/04-06/16 – Columbus, OH)

Talia Weinberg to serve as KBPT's authorized Primary Voting Delegate;

Troy Grubb to serve as KBPT's authorized Alternate Voting Delegate;

Scott Majors to serve as FSBPT's fully-funded administrator;

Ron Barbato to serve as FSBPT's fully-funded Resolutions Committee member; and Tina Volz, Virginia Johnson, Dan Martin and Linda Pillow to serve as KBPT's fully-funded and authorized representatives.

- d. CAPTASA – 2017 Conference Workshop
(01/27-28/17 – Lexington, KY)

New licensees/reinstatements/renewal applications

Action taken: Ms. Pillow made the motion to review, approve and ratify the lists of persons issued licenses and certificates since the last meeting, as well as a list of examinees and reinstatements. This motion was seconded by Ms. Johnson, which carried. The lists are attached to these minutes.

A motion was made by Ms. Johnson to adjourn the meeting at 2:28 p.m. The motion was seconded by Mr. Martin, which carried.

Respectfully submitted,



Scott D. Majors
Executive Director