



## KENTUCKY BOARD OF PHYSICAL THERAPY

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*Matthew G. Bevin*  
Governor

*Scott D. Majors, Esq.*  
Executive Director

### MINUTES OF MEETING November 16, 2017

Board Members: Ron Barbato, PT, Chair  
Talia Weinberg, PT, Chair-Elect  
Dan Martin, PT  
Tom Pennington, PT  
Linda Pillow, 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

Board Members Absent: Troy Grubb, PT  
Jeff Vincent, Public Member

Board Guest: Greta Richards, University of Kentucky Physical Therapy Student

A meeting of the Kentucky Board of Physical Therapy was called to order by the Board's Chair, Ron Barbato, at 9:03 a.m. on Thursday, 11/16/17, at the Board office. A quorum was present.

#### **Board Appointment**

The Board welcomed Tom Pennington, PT, who was appointed by Governor Matthew Bevin by Executive Order dated 10/27/2017 to serve as a Board member until 07/15/2021. Krista Barton, the Board's Executive Secretary and a notary, administered the oath of office to Mr. Pennington.

#### **KPTA Liaison Report**

Dr. Kuperstein reported that KPTA has not had its meeting, and thus she has nothing to report at this time.

#### **Minutes for Previous Regular Meeting**

The Board reviewed the draft minutes of the 09/28/17 Board meeting.

**Action taken:** Following review and discussion of the proposed amendments to the draft minutes, Ms. Weinberg made the motion to approve the minutes of the Board meeting of 07/20/17, as amended. The motion was seconded by Mr. Martin, which carried.

## **Board Discussions, Committees and Opinion Requests**

### **FSBPT 2017 Annual Conference**

Mr. Barbato, Ms. Weinberg, Mr. Martin, Mr. Kelly, Mr. Curley and Mr. Majors recently attended the 2017 FSBPT Annual Meeting and Delegate Assembly in Santa Ana Pueblo, New Mexico. The consensus of those who were in attendance was that the Annual Meeting and Delegate Assembly was a success and, considering that Mr. Barbato, Ms. Weinberg, Mr. Kelly, Mr. Curley and Mr. Majors were all presenters at the conference, Kentucky was well represented.

**Action taken:** No action taken.

### **Physical Therapy Licensure Compact**

Mr. Majors reported that the first annual Physical Therapy Compact Commission meeting was held on 11/05/17, and the Compact is scheduled to be operational on or about 07/01/18. The salient topics discussed during this meeting were the proposed rules, bylaws, and the financial status of the Compact. Mr. Majors reported that the proposed rules and bylaws were formally approved. The rules committee and bylaws committee are to be merged into one committee going forward, and Mr. Majors has agreed to continue to serve on this committee. Also, Mr. Majors will be serving on a minutes review committee. Additionally, Mr. Majors reported on the financial aspects of the Compact. The Compact Commission accepted the \$50 state fee that Kentucky proposed and the Commission fee was set at \$45. The Commission voted to waive the membership fee for member states for 2018; however, there will most likely be a fee assessed after 2018.

**Action taken:** Mr. Pennington made a motion to have Mr. Kelly draft corresponding administrative regulations that mirror the Compact rules. The motion was seconded by Ms. Pillow, which carried.

### **Statute Amendment – Foreign Educated PTAs**

Mr. Barbato reported that currently our statute does not allow for foreign educated physical therapist assistants to become credentialed in Kentucky. Mr. Barbato explained that, respectful of the current legal climate relative to the scrutiny of professional regulatory boards, the Board may want to consider amending the statute to allow a foreign trained physical therapist assistant to become credentialed in Kentucky.

**Action taken:** After discussion, the Board agreed to revisit this topic in the near future.

### **HB 227**

Mr. Barbato reported that KPTA invited members of our Board and staff to attend the ceremonial signing of HB 227 by Governor Bevin on 10/24/17. Additionally, Mr. Barbato presented a signed copy of HB 227 to Mr. Kelly in recognition of his assistance provided to the Board to achieve enactment of this legislation. Finally, Ms. Barton reported that it would cost approximately \$100 to have a signed copy of HB 227 mounted on a wooden plaque for display in the Board.

**Action take:** The Board authorized staff to allocate funds to order this commemorative plaque.

### **KPTA Nominations for KBPT Membership**

Mr. Majors reported that KPTA has submitted the following names to the Governor for the vacant position on the Board: Margaret Blain; Edward Dobrzykowski; Karen Ogle; and Ron Pavkovich.

### **2018 Board Appointments**

Following discussion, the Board made the following appointments, effective 01/01/18 unless otherwise noted:

(1) 2018 Board Chair: Pursuant to the vote taken by the Board in May 2016, Ms. Weinberg shall assume the position of Chair, effective 01/01/2018;

(2) 2018 Board Chair-Elect: Ms. Pillow moved that Mr. Martin shall assume the position of Chair-Elect, effective 01/01/2018. The motion was seconded by Mr. Pennington, which carried;

(3) 2018 Complaint Committee Members: Ms. Weinberg moved that she and Mr. Martin be appointed to the 2018 Complaint Committee. The motion was seconded by Mr. Martin, which carried;

(4) 2018 ADA Accommodations Committee/Liaison Members: Ms. Weinberg moved that she and Ms. Pillow continue to serve as the ADA Accommodations Liaison Members. The motion was seconded by Mr. Martin, which carried.

(5) 2018 KBPT Board Member Liaison to KPTA: Ms. Weinberg moved that Mr. Pennington be appointed to serve as the KBPT Board Member Liaison to KPTA, effective 01/01/2018. The motion was seconded by Mr. Martin, which carried.

(6) 2018 Continued Competency Liaison to KPTA: Ms. Weinberg moved that Ms. Pillow be appointed to serve as the Continued Competency Liaison to KPTA, effective 01/01/2018. The motion was seconded by Mr. Martin, which carried.

(7) 2018 Finance Workgroup Members: Ms. Weinberg moved that she and Mr. Martin, Ms. Bell and Mr. Majors serve as the 2018 Finance Workgroup members, effective 01/01/2018. The motion was seconded by Mr. Martin, which carried.

(8) 2018 PET Review Committee Members: Ms. Weinberg moved that Ms. Pillow and Mr. Pennington serve as the 2018 PET Review Committee Members, effective 01/01/2018. The motion was seconded by Mr. Martin, which carried.

### **2018 Board Meeting Schedule**

Following consideration of various conferences which are expected to be held in 2018, and in an effort to avoid conflicts with the scheduling of these conferences the Board established the following schedule for its Board meetings in 2018:

Board Meetings: 9:00 a.m. to approximately 4:00 p.m.

January 18  
March 15  
May 17  
August 2  
September 20  
November 15

**Action taken:** Ms. Weinberg made a motion to approve the aforementioned Board meeting dates for 2018. The motion was seconded by Ms. Pillow, which carried.

### **KBPT Facebook Page**

Mr. Kelly briefly reported on KBPT's Facebook Page. The last post was on the ceremonial signing of HB 227. Currently, Mr. Kelly is planning on posting about the appointment of Mr. Pennington and Mr. Vincent.

**Action taken:** No action taken.

## Civil Matters and Investigations

### 2016 Complaint Committee

**C2016-16:** The credential holder in this action, Steve Shepherd, appeared before the Board, without counsel, to review the terms of his Settlement Agreement.

Mr. Barbato reviewed each term of the Settlement Agreement with Mr. Shepherd who acknowledged his understanding, assent and agreement to all terms of the agreement.

**Action taken:** After providing Mr. Shepherd the opportunity to have his questions addressed by the Board, and following discussion, Ms. Weinberg made a motion to accept the signed Settlement Agreement, as proposed. The motion was seconded by Ms. Pillow, which carried.

**C2016-22:** The credential holder in this action, Andrea Brown, appeared before the Board with her attorney, Chad Elder, Esq., to review the terms of her Settlement Agreement.

Mr. Barbato reviewed each term of the Settlement Agreement with Ms. Brown who acknowledged her understanding, assent and agreement to all terms of the agreement.

**Action taken:** After providing Ms. Brown the opportunity to have her questions addressed by the Board, and following discussion, Ms. Pillow made a motion to accept the signed Settlement Agreement, as proposed. The motion was seconded by Mr. Pennington, which carried.

Additionally, the Board discussed assigning Ms. Brown a monitor.

**Action taken:** After a brief discussion, Mr. Pennington made a motion to assign Dr. Janice Kuperstein as Ms. Brown's monitor. The motion was seconded by Mr. Martin, which carried.

### 2017 Complaint Committee

**BIC2017-05:** The Complaint Committee reported that this case is ongoing.

**Action taken:** No action taken.

**BIC2017-06:** The Complaint Committee reported that the credential holder in this case is currently under the terms of an Order of Immediate Temporary Suspension (ITS), and a disposition has been reached in the underlying criminal case.

**Action taken:** After discussion with the full Board and the IPTPC Chair, the Complaint Committee recommended and moved to authorize Board Counsel to offer a Settlement Agreement with specific terms, as authorized by the Board, and if the credential holder fails to enter into the proposed Settlement Agreement within twenty days, for the Board to authorize Counsel to file a Notice of Hearing and Formal Charges. The motion was seconded by Ms. Pillow, which carried.

**C2017-14:** The Complaint Committee reported that this case involves a credential holder who failed to discontinue services when a reassessment had not been completed.

**Action taken:** The Complaint Committee recommended and moved to issue a Private Admonishment. The motion was seconded by Mr. Pennington, which carried.

**C2017-15:** The Complaint Committee reported that this case is ongoing.

**Action taken:** No action taken.

**C2017-41:** The Complaint Committee reported that this case is ongoing.

**Action taken:** No action taken.

Ms. Weinberg recused herself and left the room during the discussion of this case.

**C2017-42:** The Complaint Committee reported that this case is ongoing.

**Action taken:** No action taken.

**C2017-43:** The Complaint Committee reported that this case involves allegations of a credential holder failing to complete an evaluation.

**Action taken:** After reviewing the facts and circumstances of this case, the Complaint Committee recommended and moved to dismiss this case due to insufficient evidence. The motion was seconded by Mr. Pennington, which carried.

**BIC2017-44:** The Complaint Committee reported that this case is ongoing.

**Action taken:** No action taken.

### **IPTPC Report**

Mr. Fingerson presented his written IPTPC report dated 11/07/17. 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, at the September meeting the Board voted to administratively reinstate Mr. Garry Tucker's license, and invited him to appear before the Board at the November meeting. Mr. Tucker appeared before the Board to discuss his reinstatement and provide a brief update of his progress with the IPTPC program.

**Action taken:** No action taken.

### **Update on Monitoring Probations**

The Board noted the following credential holders who are presently being monitored: Tiffiney S. Bentley, PT; Sabrina Pletz, PTA; and Donald Bruce Taylor, PT. A Monitor report was submitted by the Board-appointed monitor for Ms. Bentley.

Additionally, Mr. Majors reported that Mr. Troy Grubb expressed his willingness to serve as a Board monitor for the Jefferson and Oldham County area.

## **REPORTS AND OTHER BUSINESS**

### **Legal Report**

#### **Criminal Background Checks**

Ms. Bell and Mr. Kelly reported to the Board that staff is currently awaiting information from KSP concerning the ORI number. Ms. Bell disseminated a draft for the criminal background check section of the policy and procedure manual. The draft procedures are based on the Federal Bureau of Investigation criminal history record information proper access, use and dissemination procedures. Additionally, Ms. Bell informed the Board that an instruction sheet for applicants has already been drafted, and during upcoming school visits she plans to discuss in detail criminal background checks with students.

**Action taken:** The Board asked that Ms. Bell disseminate the criminal background check instructions to Dr. Kuperstein to make sure the schools can make suggestions to the draft instructions.

**Administrative Regulations – 201 KAR 22:020, KAR 22:040 and KAR 22:070**

Mr. Kelly reported that the Health and Welfare Committee recently approved the amendments to 201 KAR 22:020, 22:040, and 22:070 that added requirements for the FBI criminal background checks in compliance with the newly enacted KRS 327.310 relating to the Physical Therapy Licensure Compact.

**Articles**

Mr. Kelly provided brief summaries of articles relating to a sunset review of administrative regulations in Colorado and a study regarding professional licensure conducted by Northwestern University.

**Veterans E-Health and Telemedicine Support Act of 2017**

Mr. Kelly also advised the Board of proposed federal and state legislation regarding professional licensure. Specifically, he discussed the Veterans E-Health and Telemedicine Support Act of 2017 and BR 193 filed by State Representative Jason Nemes.

**FSBPT Director's Report**

**Risk Aversion**

Mr. Barbato led a Board discussion that addressed what initiatives, if any, the Board could undertake to proactively mitigate several common causes of disciplinary actions, such as chemical dependency, boundary violations and documentation.

**FSBPT Funding Research**

Mr. Barbato reported that FSBPT has research grants available to jurisdictions for projects that demonstrate a benefit to physical therapy licensing boards. The funding cannot go directly to the Board but can be used to hire consultants and/or companies that can assist in the development of programs.

**KBPT Executive Director's Report**

**Financial Report**

The Board reviewed monthly, quarterly and FY 2018 FAS3 financial reports addressing the Board's revenues and expenditures. Mr. Majors also reported that the 2017 Finance Workgroup met on 11/15/17 to discuss in greater detail the Board's revenue, personnel and operating expenses, quarterly allotments and annual appropriations. Ms. Bell also discussed in detail KBPT's proposed budget for FY18-20, noting that KBPT is still awaiting approval from the Office of the State Budget Director. Ms. Bell and Mr. Majors also discussed the latest revised projected increases in the Board's mandatory staff retirement contributions as well as the state Budget Director's projections for a budget shortfall in FY 2018, resulting in a projected budget reduction to be applied to all state cabinets. Finally, Mr. Barbato noted that, once KBPT's FY18-20 budget is approved, KBPT may want to examine its financial status in detail to determine whether operational changes are necessary to further reduce the Board's expenses and, possibly, whether additional revenue mechanisms should be identified and examined.

**CBT Comment Survey and Candidate Satisfaction Survey Report**

Mr. Majors reported the results of the latest CBT comment survey and satisfaction survey report.

**CAPTE**

Mr. Majors circulated copies of the most recent report which summarized accreditation actions taken by the Commission on Accreditation in Physical Therapy Education (CAPTE) at its Commission meeting held on 10/25/17.

### **Occupational Licensing Policy Study**

Mr. Majors provided a brief update concerning Kentucky's anticipated participation over the next three years in the Occupational Licensing Policy Consortium sponsored by The National Conference of State Legislatures; The National Governors Association Center for Best Practices, and The Council of State Governments.

### **PPC's Reorganization of Licensing Boards**

Mr. Majors reported that, while the proposed reorganization of licensing boards from the General Government Cabinet to the Public Protection Cabinet remains in abeyance, new information concerning the proposed reorganization may be available to discuss with the Board at its next regularly scheduled meeting in January.

### **KBPT School Presentations**

Ms. Bell reported that there are school visits scheduled for Somerset Community College, Western Kentucky University, and the University of Kentucky, and that similar visits are tentatively scheduled for Jefferson Community & Technical College and Western Kentucky Community & Technical College.

### **Conferences and Meetings Relating to Physical Therapy**

The Board reviewed the following schedule of upcoming conferences

- a. CAPTASA  
(01/26-27/18 – Lexington, KY)  
Ms. Weinberg made a motion for the Board to pay for registration and associated travel costs for Mr. Pennington and Mr. Vincent to attend the CAPTASA Conference Workshop. The motion was seconded by Mr. Martin, which carried.
- b. Regulatory Training for Members and Board Staff  
(Dates – To Be Determined, but likely early to mid-June 2018 – Alexandria, VA)
- c. FSBPT's Leadership Issues Forum ("LIF")  
(07/14-15/18 – Alexandria, VA)
- d. FSBPT's 2018 Annual Meeting and Delegate Assembly  
(10/25-27/18 – Reston, VA)

### **New Business**

Mr. Pennington brought before the Board several ideas for discussion regarding mandatory proof of compliance with continued competency requirements prior to the renewal of credentials; reviewing supervised practice requirements for foreign educated physical therapists; professional development for Board staff; and the development of a strategic planning to develop long term goals for expanding and improving Board functionality. Additionally, Mr. Pennington asked if the Executive Director is evaluated annually. Finally, Mr. Pennington inquired in general terms whether the Board was comfortable having a credential holder with a previous disciplinary action serve as a monitor. After brief discussion, the consensus of the Board was that, if the Board's enabling statute, specifically, KRS 327.030, permits a credential holder with previous discipline to serve as a Board member, the same public policy should permit a credential holder with previous discipline to serve as a Board-appointed monitor.

**Action taken:** No action taken.

### **Public Comment**

Dr. Kuperstein advised the Board that the fitness for practice assessment has long been utilized and vetted by the legal department at the University of Kentucky.

Dr. Kuperstein, serving in her role as KPTA Liaison, clarified that Mr. Martin has been removed from the roster for any KPTA announcements at the Board's request.

Dr. Kuperstein reminded the Board that there are resources available at each DPT program within the state that could assist in the development of proactive risk aversion education programs.

### **New Licensee/Reinstatement/Renewal Applications**

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

Mr. Martin made the motion to adjourn the meeting at 3:20 p.m., seconded by Ms. Weinberg, which 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