



KENTUCKY BOARD OF PHYSICAL THERAPY

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Matthew G. Bevin
Governor

Scott D. Majors, Esq.
Executive Director

MINUTES OF MEETING May 11, 2017

Board Members: Ron Barbato, PT, Chair
Talia Weinberg, PT, Chair-Elect
Troy Grubb, PT
Dan Martin, PT
Linda Pillow, PT
Tina Volz, 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, KPTA Liaison

Board Guests: Bob Evancho, Kentucky Interactive
Leigh Ann Thacker, KPTA Lobbyist

Board Members Absent: Virginia Johnson, Public Member

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, 5/11/17, at the Board office. A quorum was present.

Minutes for Previous Regular Meeting

The Board reviewed the draft minutes of the 03/16/17 Board meeting.

Action taken: Ms. Volz made a motion to approve the minutes of the Board meeting of 03/16/17 with no changes. The motion was seconded by Ms. Pillow, which carried.

Minutes for Special Meeting

The Board reviewed the draft minutes of the 04/17/17 Special Board Meeting.

Action taken: Ms. Pillow made a motion to approve the minutes of the Special Board meeting of 04/17/17 with no changes. The motion was seconded by Mr. Martin, which carried.

KPTA/KBPT Liaison Reports

KPTA's Liaison, Dr. Kuperstein, reported that the KPTA has fielded a number of calls recently from individuals who are confused about the differences between the KPTA and the KBPT. The KPTA requested that the KBPT assemble some educational information pertaining to the respective roles of the two organizations and possibly post this information on the KBPT website in order to reduce this confusion.

Action taken: Mr. Majors will work with KPTA in the near future to identify information to post on KBPT's website that will delineate the differences between KBPT and KPTA.

Board Discussions, Committees and Opinion Requests

Proposed Physical Therapy Licensure Compact

Mr. Majors reported that the Physical Therapy Licensure Compact Commission's first meeting will take place on 06/14/17, and the Board needs to appoint a Compact Delegate.

Action taken: Following discussion, Ms. Volz made a motion to appoint Mr. Majors as KBPT's Compact Delegate. The motion was seconded by Mr. Grubb, which carried.

Additionally, Mr. Barbato recognized the entire staff, thanking everyone who has played an integral part in passing the Physical Therapy Licensure Compact, and for their commitment to the profession; specifically, Louis Kelly, Krista Barton, Stephen Curley, Beth Bell, Brian Fingerson, Leigh Ann Thacker, Dr. Janice Kuperstein, Scott Majors and all the members of the Board over the years.

KBPT Jurisprudence Exam Audit

Mr. Curley reported to the Board several issues regarding the 2015-2017 Jurisprudence Exam audit relating to staff's ability to verify the reliability of the data for this Exam. Bob Evancho, Project Manager with Kentucky Interactive, provided an explanation for some of these issues and is working with Board staff to eliminate or at least minimize the likelihood of similar issues developing for the 2017-2019 Jurisprudence Exam audit.

Action taken: After a lengthy discussion, Mr. Grubb made the motion for KBPT to waive the fines associated with the 2015-2017 Jurisprudence Exam audit based on the information reported by staff and Mr. Evancho, and to further reimburse any credential holder who has already submitted payment for a fine for the 2015-2017 Jurisprudence Exam audit. The motion was seconded by Ms. Weinberg, which carried. Mr. Barbato dissented.

2015-2017 Audit

Mr. Majors reported that Board staff mailed the continued competency audit orders on 04/05/17. Ms. Barton briefly reported on the current status of the audit and explained that the current numbers would be subject to change after staff receive further documentation once the deficiency notices are mailed.

Action taken: Ms. Volz made a motion to delegate to staff the authority for Board Counsel to draft the complaints and for staff to continue processing the audit procedures, consistent with previously established Board policy. The motion was seconded by Ms. Pillow, which carried.

Additionally, Ms. Volz suggested that staff send out notifications to credential holders informing them of KBPT's receipt of the audit information.

KBPT Newsletter and Social Media

Mr. Majors and Mr. Kelly reported that there has been little new KBPT information to post on KBPT's Facebook page.

Action taken: Following a brief discussion, the Board approved a posting on Facebook to announce the appointment of KBPT's Compact Delegate.

2017 Offsite Board Meetings

Mr. Majors reported that he contacted Dr. Joseph A. (Tony) Brosky of Bellarmine University to discuss holding an offsite Board meeting for either the Board's September or November meeting.

Action taken: After discussion, the Board decided to table this matter until the July Board meeting.

FSBPT Alternate Approval Pathway

Mr. Majors reported that he recently received a proposed agreement regarding the Alternate Approval Pathway, a service that is being provided by FSBPT with no associated costs to the jurisdictions or the applicants. This service would take over the NPTE registration process for exam candidates while respecting each jurisdiction's eligibility requirements.

Action taken: Following discussion, Ms. Volz made a motion for KBPT to move forward with the Alternate Approval Pathway, and for Mr. Majors to sign the proposed AAP Agreement on behalf of KBPT. The motion was seconded by Ms. Pillow, which carried.

Commonwealth's Reorganization: Department of Occupations and Professions

Mr. Barbato and Mr. Majors discussed with the Board a meeting held on 05/01/17 with David Dickerson, Secretary of the Public Protection Cabinet; Barry Dunn, General Counsel for the Public Protection Cabinet; Larry Brown, Commissioner with the Department of Professional Licensing; and representatives with several other licensing boards relative to the Governor's reorganization plan for state licensing boards and agencies.

Action taken: Following discussion, Mr. Barbato will draft a letter on behalf of KBPT members to be sent to Secretary Dickerson, Mr. Dunn and Mr. Brown supporting a decision to retain current Board staff within the reorganization framework.

KBPT Membership & Staff

Mr. Majors reported that Ms. Barton recently received a Recognition of Achievement Award signed by Governor Bevin for her ten years of dedicated public service to the Commonwealth of Kentucky.

Action taken: No action taken.

Opinion Requests

The Board reviewed the following opinion requests from:

(1) J.A., PT, who submitted a request for hardship extension for the 2017 Continued Competency audit for the Board's review. The credential holder did not complete the Jurisprudence Exam within the previous biennium.

Action taken: Following review, Mr. Grubb made a motion to deny the hardship extension, and authorize staff to notify the credential holder that no fine would be assessed due to a technical issue regarding the Jurisprudence Exam audit. The motion was seconded by Ms. Weinberg, which carried.

(2) C.E., PT, who submitted a request for hardship extension for the 2017 Continued Competency audit for the Board's review.

Action taken: Following review, Ms. Volz made a motion to grant a three month extension to complete the continued competency requirements. The motion was seconded by Ms. Weinberg, which carried. Mr. Grubb abstained.

(3) W.T., PTA, who submitted a request for hardship extension for the 2017 Continued Competency audit for the Board's review.

Action taken: Following review, Ms. Volz made a motion to grant a hardship extension based on the facts of this case. The motion was seconded by Ms. Weinberg, which carried.

(4) M.D., PT, who submitted a request for hardship extension for the 2017 Continued Competency audit for the Board's review.

Action taken: Following review, Ms. Volz made a motion to grant a three month extension to complete the continued competency requirements. The motion was seconded by Mr. Martin, which carried.

(5) A.P., PT, who submitted a request for hardship extension for the 2017 Continued Competency audit for the Board's review.

Action taken: Following review, Ms. Volz made a motion to grant a three month extension to complete the continued competency requirements. The motion was seconded by Ms. Pillow, which carried.

(6) M.O., PT, who submitted a request for hardship extension for the 2017 Continued Competency audit for the Board's review.

Action taken: Following review, Ms. Weinberg made a motion to grant a six month extension to complete the continued competency requirements. The motion was seconded by Ms. Volz, which carried.

(7) S.S., PTA, who submitted a request for hardship extension for the 2017 Continued Competency audit for the Board's review.

Action taken: Following review, Mr. Grubb made a motion to grant a six month extension to complete the continued competency requirements. The motion was seconded by Ms. Volz, which carried.

(8) Mr. Majors brought a renewal application before the Board for review. The credential holder answered "yes" to question 1a, involving a misdemeanor charge for trespassing in the 1st degree.

Action taken: No action taken.

(9) Mr. Majors brought a renewal application before the Board for review. The credential holder answered "yes" to question 1a, involving a misdemeanor charge for disorderly conduct in the 2nd degree.

Action taken: No action taken.

(10) During the Special Meeting on 04/17/17, a renewal application was brought before the Board for review. The credential holder answered "yes" to question 1a, involving pending misdemeanor or felony charges for a possible DUI. The Board voted to have staff contact the credential holder and offer him/her voluntary participation in IPTPC. Mr. Fingerson reported that the credential holder had been sent information regarding the IPTPC program. Additionally, Board staff reported that the credential holder submitted a letter regarding questions and concerns with the IPTPC program.

Action taken: After discussion, Mr. Grubb made a motion to authorize Counsel to draft a letter addressing the credential holder's concerns and again offer him/her voluntary participation in IPTPC. The motion was second by Ms. Pillow, which carried.

(11) KBPT staff brought an examination application before the Board for review. The examination applicant failed to disclose that he/she had been charged with two DUI offenses in the past. The applicant was contacted by Board staff and asked to provide a letter of explanation. Mr. Fingerson reviewed the application and letter of explanation and did not recommend IPTPC participation at this time.

Action taken: No action taken.

Civil Matters and Investigations

2015 Complaint Committee

C2015-11: The Complaint Committee reported that the credential holder did not renew his/her credential for the 2015-2017 biennium.

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

BIC2015-13: The Complaint Committee reported that the credential holder did not renew his/her credential for the 2015-2017 biennium. The Hearing Officer recommended that the Administrative Complaint be dismissed as moot. The Complaint Committee recommended and moved to accept the Hearing Officer's recommendation and issue a Final Order consistent therewith. The motion was seconded by Ms. Weinberg, which carried. Ms. Volz recused.

2016 Complaint Committee

C2016-16: The Complaint Committee reported that the complaint is ongoing.

Action taken: No action taken.

C2016-22: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

BIC2016-23: The Complaint Committee reported this case is ongoing.

Action taken: No action taken.

2017 Complaint Committee

BIC2017-03: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

BIC2017-04: The Complaint Committee reported that this case involves allegations of substandard care. The credential holder is represented by an attorney who has reached out to Board Counsel requesting a Settlement Agreement.

Action taken: The Complaint Committee recommended and moved to authorize Board Counsel to prepare a proposed Settlement Agreement with the following terms; (a) thirty day suspension probated for two years; (b) monitoring for two years, thus supplanting the previous monitoring requirement and extending the monitoring period in the settlement agreement currently in effect by one year; (c) maintain the restriction of home health practice; and (d) file a Notice of Hearing if the Settlement Agreement is not signed within twenty days. The motion was seconded by Ms. Volz, which carried.

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 is under an Immediate Temporary Suspension (ITS) and Board staff has received no further contact.

Action taken: No action taken.

C2017-09-R: The Complaint Committee reported that the credential holder contacted Board staff on 04/27/17 and self-reported that he/she practiced an additional day than originally reported.

Action taken: No action taken.

C2017-10-R: The Complaint Committee reported that the credential holder practiced on a lapsed credential, and also submitted information in writing and through telephone conversations with staff in an effort to mitigate a potential fine assessment.

Action taken: Following discussion, the Complaint Committee recommended and moved to adhere to and impose the same fine structure as established by the Board in the 2013-2015 biennium for those who work/practice on a lapsed credential, but to grant this credential holder a period of ninety days in which to satisfy the fine. The motion was seconded by Ms. Pillow, which carried.

C2017-11: The Complaint Committee reported that this case involves allegations of substandard care.

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

C2017-12: The Complaint Committee reported that this case involves allegations of failure to respect the rights and dignity of a patient.

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

C2017-13: The Complaint Committee reported that this case involves allegations of failure to respect the rights and dignity of a patient.

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

IPTPC Report

Mr. Fingerson presented his written IPTPC report dated 05/01/17. IPTPC cases which previously have come to the attention of the Board or were discussed at length during the Complaint Committees' reports were reviewed.

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. A monitor report was submitted for Ms. Bentley by Ms. Jill Dixon, the Board-appointed monitor, which was considered by the Board. Additionally, Board staff reported that Ms. Bentley submitted a request for early release from monitoring.

Action taken: Following review and discussion, Ms. Pillow made the motion to deny Ms. Bentley's request. The motion was seconded by Ms. Volz, which carried.

Additionally, the Board staff reported that Ms. Sabrina Pletz has notified Board staff of her intention to return to work in June.

Action taken: Following discussion, Mr. Grubb made the motion to approve Margaret Blaine to serve as a monitor to Ms. Pletz. The motion was seconded by Ms. Pillow, which carried.

REPORTS AND OTHER BUSINESS

Legal Report

Administrative Regulations – 201 KAR 22:020, 201 KAR 22:053 and 201 KAR 22:070

Mr. Kelly advised the Board as to the status of the proposed amendments to 201 KAR 22:020, 201 KAR 22:053, and 201 KAR 22:070. He noted that the amendments to 201 KAR 22:053 were approved by the Administrative Regulatory Review Subcommittee and were waiting approval from the Joint Interim Health and Welfare Committee. Additionally, Mr. Majors reported on the changes to the TOEFL scores in 201 KAR 22:070, consistent with FSBPTs proposed new standard. While there would be no change to the overall TOEFL score of 89, there are changes in several individual categories.

Action take: Following discussion, Ms. Volz made a motion to ratify the changes regarding the TOEFL score amendments within 201 KAR 22:070. The motion was seconded by Ms. Weinberg, which carried.

Articles

Mr. Kelly briefly updated the Board on recent efforts by the State of Mississippi to address concerns raised in the North Carolina Dental case. Also, Mr. Kelly gave an update on an article written in the latest FARB newsletter addressing the role of licensing boards relative to professional associations, and he counseled the Board to keep those distinctions in mind.

FSBPT Director's Report

Relative to the proposed reorganization to Kentucky's licensing boards, Mr. Barbato reported that the FSBPT will continue to work with Kentucky Governor Matthew Bevin and his Administration to help support KBPT's continued operations within the proposed reorganized structure. The FSBPT is currently financially supporting federal legislation that would help protect members of licensing boards concerning potential antitrust liability. Mr. Barbato further reported that the United States Citizenship and Immigration Services (USCIS) has reauthorized FCCPT's ability to issue Healthcare Workers Certification Visas. Finally, Mr. Barbato reported briefly on the following topics: the Compact Commission; a new 501(c)(3) organization created by the FSBPT for healthcare regulation research; the DPT designation in regards to degree vs. professional designation; PTA exam statistics, and a resource tool being developed for board staff and members related to disciplinary guidelines for jurisdictions.

KBPT Executive Director's Report

Financial Report

The Board reviewed monthly, quarterly and FY 2017 FAS3 financial reports addressing the Board's revenues and expenditures. Mr. Majors also distributed a financial worksheet highlighting in greater detail the Board's revenue, personnel and operating expenses, quarterly allotments and annual appropriations.

Action taken: No action taken.

Department of Insurance

Mr. Majors circulated copies of the quarterly malpractice report submitted by the Department of Insurance Public Protection Cabinet concerning health care providers with settlement and/or judgments, dated 04/07/17 covering the period from 01/01/17 through 03/31/17.

Action taken: No action taken.

CBT Comment Summary and Candidate Satisfaction Report

Mr. Majors reported the results of the latest CBT comment survey and satisfaction survey report. This report listed an overall satisfaction rating of 89.60% for all jurisdictions, while the overall satisfaction rating for Kentucky was listed at 93.1% in the first quarter of 2017.

Action taken: No action taken.

KBPT School Presentations

Mr. Majors provided a report concerning school presentations conducted, and scheduled to be conducted, by Board staff relating to initial license application and the administration of the Jurisprudence Examination.

Action taken: No action taken.

Conferences and Meetings Relating to Physical Therapy

The Board reviewed the following schedule of upcoming conferences

- a. FSBPT Regulatory Training for Members and Board Staff
(06/09-11/17 – Alexandria, VA)
(Mr. Martin shall serve as KBPT's authorized representative.)
- b. Leadership Issues Forum (LIF)
(07/29-30/17 – Alexandria, VA)
(2017 KBPT Voting Delegate (Ms. Weinberg) shall serve as KBPT's authorized representative.)
- c. CLEAR – 2017 Annual Education Conference
(09/13-16/17 – Denver, CO)
- d. FARB – 2017 Regulatory Law Seminar
(10/05-08/17 – Savannah, GA)
- e. FSBPT – 2017 Annual Meeting, Conference and Delegate Assembly
(11/02-04/17 – Santa Ana Pueblo, NM)
(Louis Kelly and Stephen Curley shall serve as KBPT co-presenters fully funded by FSBPT.)

New Licensee/Reinstatement/Renewal Applications

Action taken: Ms. Volz 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. Pillow, which carried. The lists are attached to these minutes.

Mr. Grubb made the motion to adjourn the meeting at 2:48 p.m., seconded by Mr. Martin, which carried.

Respectfully submitted,



Scott D. Majors
Executive Director