



## KENTUCKY BOARD OF PHYSICAL THERAPY

312 Whittington Parkway, Suite 102

Louisville, Kentucky 40222

Phone (502) 429-7140

Fax (502) 429-7142

<http://pt.ky.gov>

*Matthew G. Bevin*  
Governor

*Scott D. Majors, Esq.*  
Executive Director

### MINUTES OF MEETING September 28, 2017

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

Board Staff: Scott D. Majors, Executive Director  
Krista Barton, Executive Secretary  
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  
Virginia Johnson, Public Member  
Tina Volz, PT

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, 09/28/17, at Bellarmine University in Louisville, Kentucky. A quorum was present.

#### **KPTA Liaison Report**

Dr. Kuperstein reported that the KPTA held its 2017 Annual Conference in Bowling Green on 09/08/17. She informed the Board that KPTA has made a donation to the North Carolina Physical Therapy Association to assist with legal costs due to the current legal challenge to dry needling. Additionally, Dr. Kuperstein reported that the Board Executive Committee will be working with Dr. Chuck Hazel to develop a long term action plan to allow physical therapists to order imaging in Kentucky. Finally, Dr. Kuperstein reported that KPTA has been following the development of the Physical Therapy Licensure Compact by reading the minutes of the Rules Task Force meetings and Dr. Beth Ennis has been attending the webinars.

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

The Board reviewed the draft minutes of the 07/20/17 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 Ms. Pillow, which carried.

## Board Discussions, Committees and Opinion Requests

### KBPT Liaison to KPTA Duties

Mr. Barbato discussed with the Board the role of the KBPT Liaison to the KPTA, currently performed by Mr. Martin. Mr. Barbato explained that, respectful of the current legal climate relative to the scrutiny of professional regulatory boards, a distinct separation between both parties is warranted, specifically with respect to how KBPT interacts and communicates with KPTA.

**Action taken:** After a brief discussion, the Board decided that the role of the KBPT Liaison to KPTA would be altered so that the KBPT Liaison would no longer attend KPTA meetings but would still be available as the point of contact. Also, the Board instructed staff to review the Policy and Procedure Manual as it relates to the KBPT and KPTA Liaisons to determine if a revision is necessary.

### FSBPT Leadership Issues Forum

Ms. Weinberg offered a report to the Board concerning her attendance at the Leadership Issues Forum (LIF) in July. She discussed presentations relative to model disciplinary guidelines, continued competency, and clinical education.

### 2017 FSBPT Delegate Assembly Agenda

The Board discussed the qualifications of the candidates who are running for the positions of Director #2, Director #3, and a membership position on FSBPT's Nominating Committee.

The Board reviewed the information regarding the two candidates for the Director #2 position, Mr. Charles Brown from Arizona and Ms. Robin Jenkins from the District of Columbia.

**Action taken:** After a brief discussion, Ms. Weinberg made the motion for the Board to authorize her, as the Board's voting delegate, to cast her vote in favor of Mr. Brown, for Director #2. The motion was seconded by Mr. Martin, which carried.

The Board reviewed the information regarding the two candidates for the Director #3 position, Ms. Joni Kalis from Oregon and Mr. Phillip Palmer from Texas.

**Action taken:** After a brief discussion, Ms. Weinberg made the motion for the Board to authorize her, as the Board's voting delegate, to cast her vote in favor of Mr. Palmer, for Director #3. The motion was seconded by Ms. Pillow, which carried.

The Board reviewed the information regarding the two candidates for the Nominating Committee Member position, Mr. James Clahane from Pennsylvania and Mr. Timothy Vidale from the District of Columbia.

**Action taken:** After a brief discussion, Ms. Weinberg made the motion for the Board to authorize her, as the Board's voting delegate, to cast her vote in favor of Mr. Vidale for the Nominating Committee Member. The motion was seconded by Mr. Martin, which carried.

Additionally, Ms. Weinberg made the motion for the Board to authorize her, as the Board's voting delegate, to exercise her discretion with her vote if any candidates withdraw their name from the elections. The motion was seconded by Mr. Martin, which carried.

The Board discussed 2017 FSBPT Motion DEL-17-01, which is to adopt the Areas of Focus as they currently read:

1. Examinations: Ensure the ongoing excellence, reliability, defensibility, security and validity of the NPTE and related examinations.

2. Membership: Enhance the Federation's value to its membership by developing and maintaining programs and services responsive to membership needs.
3. States' Rights, States' Responsibilities and Professional Standards: Identify and promote effective regulation in physical therapy that ensures the delivery of safe and competent physical therapy care, while respecting states' rights and responsibilities.
4. Education: Provide and promote educational programs and products for board members, administrators, the public and other stakeholders.
5. Leadership: Broaden the Federation's leadership role and recognition within regulatory, professional and related communities.
6. Organizational and Financial Stability: Ensure the long-term organizational and financial stability and viability of the Federation.

**Action taken:** Following discussion, Ms. Weinberg moved that the Board authorize her as its voting delegate to cast her vote on behalf of the Board in favor of 2017 FSBPT Motion DEL-17-01. The motion was seconded by Ms. Pillow, which carried.

Mr. Barbato refrained from offering any comment or contributing to the discussion relating to how the KBPT Voting Delegate's votes should be cast at the 2017 FSBPT Delegate Assembly due to his position of FSBPT Director.

#### **Board Administrator**

Mr. Barbato discussed with the Board the necessity to have an alternate Board Administrator pre-determined by the Board in case Mr. Majors is no longer able to represent the Board in that capacity at the FSBPT 2017 Annual Conference.

**Action taken:** After discussion, Ms. Weinberg made the motion that Ms. Beth Bell be appointed as the alternate Board Administrator. The motion was seconded by Ms. Pillow, which carried.

#### **Presentations**

Mr. Barbato reported that several Board members and staff are presenting at the 2017 FSBPT Annual Conference. He reviewed the topics of each presentation with the Board. Ms. Weinberg briefly discussed information on her presentation on Kentucky's experience with aPTitude. Mr. Curley and Mr. Kelly presented an abridged version of their presentation on Best Practices of Disciplinary Investigations, and Mr. Majors reviewed his panel presentation on Telehealth.

**Action taken:** No action taken.

#### **Physical Therapy Licensure Compact -- State Fee Structure**

Mr. Majors reported that the Compact is tentatively scheduled to become operational between February and May of 2018; therefore, the Board presently needs to decide on whether to charge a state fee for the privilege to practice in Kentucky via the Compact.

**Action taken:** After reviewing information regarding fees associated with licensure from Kentucky's seven contiguous states, Ms. Pillow made the motion to move forward with a \$50 state fee, contingent on the Compact Commission fee being established at no more than \$45. The motion was seconded by Ms. Weinberg, which carried.

#### **Military Exemptions**

Mr. Majors reviewed with the Board information regarding KRS 12.355 which requires professional licensing boards to grant and recognize special status for those individuals under active military duty. Currently, the Board does not require individuals who are on active military duty to complete continuing education or pay a renewal fee each biennium.

**Action taken:** After discussion, Ms. Weinberg made the motion to waive the state fee for active military duty licensees seeking to practice in Kentucky via the Compact privilege. The motion was seconded by Mr. Martin, which carried.

### **Compact Privilege/Completion of Jurisprudence Exam**

Mr. Majors discussed with the Board two options regarding the completion of the Jurisprudence Exam for applicants seeking the privilege to practice in Kentucky via the Compact. First, whether the Board would require completion of the Jurisprudence Exam prior to issuing the privilege to practice. Second, whether the Board would issue the privilege to practice and allow a grace period to complete the Jurisprudence Exam.

**Action taken:** After a brief discussion, Ms. Weinberg made the motion to require completion of the Jurisprudence Exam prior to issuing the privilege to practice via the Compact. The motion was seconded by Ms. Pillow, which carried.

### **PTLC Rules Task Force**

Mr. Majors reported there have been three meetings of the Compact Commission's Rules Task Force held since the July meeting. Mr. Majors informed the Board that the final draft rules will be posted on the Board's website on 10/05/17. In addition, the final draft rules will be disseminated to KPTA and to the physical therapy and physical therapist assistant school programs in Kentucky. Finally, the first annual meeting of the Compact Commission will take place in November in conjunction with the FSBPT Annual Conference where the final rules will be presented and possibly approved by the Commission.

### **KBPT Compact Delegate**

Mr. Barbato discussed with the Board the necessity to have an alternate KBPT Compact Delegate in case Mr. Majors is no longer able to represent the Board in that capacity at the FSBPT 2017 Annual Conference.

**Action taken:** After discussion, Ms. Weinberg made the motion that Ms. Bell be appointed as the alternate Compact Delegate. The motion was seconded by Ms. Pillow, which carried.

### **Board Appointments**

Mr. Majors reported that KPTA has submitted the following names to the Governor for one of the vacant positions on the Board: Mr. Edward Dobrzykowski; Ms. Karen Ogle; and Mr. Thomas Pennington.

**Action taken:** No action taken.

### **Alternative Approval Pathway**

During the July meeting the Board reviewed information regarding FSBPT's current system and how it was unable to accommodate KBPT's lifetime limit on exams per its administrative regulation 201 KAR 22:020. During the September meeting Mr. Barbato discussed with the Board the prospect of amending 201 KAR 22:020 in order to allow KBPT to participate in the Alternative Approval Pathway.

**Action taken:** After discussion, the Board decided not to amend 201 KAR 22:020; however, if the Board agreed to revisit the topic in the future, if further discussion is indicated.

### **Defining Supervised Practice**

During the July Board meeting there was discussion related to supervised practice as it pertains to foreign educated individuals as referenced in 201 KAR 22:070. At the September meeting, Mr. Barbato discussed with the Board whether supervised clinical practice in this particular setting needs to be further clarified, consistent with the Board's intent, to ensure that foreign educated applicants are actually satisfying clinical requirements. During discussion, Mr. Martin referenced the new Performance Evaluation Tool (PET) for foreign educated applicants, which was recently adopted and approved for use by the Board.

**Action taken:** The Board briefly reviewed the PET and determined that a foreign-educated applicant would not be able to complete the PET without their clinical practice skills being adequately assessed. Additionally, Ms. Weinberg made the motion to create a committee to review the results of the PET, and for Mr. Barbato and Ms. Pillow to review all completed supervised practice results prior to staff issuing a license. The motion was seconded by Mr. Martin, which carried.

#### **2015-2017 Audit**

Ms. Barton reported that the 2017 audit is officially completed, and payments for all fees assessed by private admonishments and settlement agreements have been received. She briefly reviewed historical data regarding the 2015 audit and compared the results to the 2017 audit cycle. Additionally, Mr. Majors reported that staff would conduct a post-audit analysis and submit any suggested changes to the audit process to the Board for review at a later date.

**Action taken:** No action taken.

#### **ADA Committee**

Mr. Barbato discussed with the Board the need to replace Mr. Grubb on the ADA Committee. Currently, Ms. Weinberg is serving on the ADA Committee.

**Action taken:** After a brief discussion, Mr. Martin made the motion for Ms. Pillow to serve on the ADA Committee with Ms. Weinberg. The motion was seconded by Ms. Weinberg, which carried.

### **Civil Matters and Investigations**

In view of the fact that three Board members were not present for this meeting, the Board announced the need to depart from its policy and procedures relating to the recusal of current members of the 2016 and 2017 Complaint Committees during the Board's consideration of the reports from these Committees and the votes cast by the Board relating to these reports.

#### **2016 Complaint Committee**

**C2016-16:** The Complaint Committee reported that this complaint involves allegations of fraud and theft by material deception.

**Action taken:** The Complaint Committee recommended and moved to authorize Board Counsel to offer a Settlement Agreement including 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 Mr. Martin, which carried.

**C2016-22:** The Complaint Committee reported that the credential holder has signed a Settlement Agreement and will appear before the Board at the November meeting.

**Action taken:** No action taken.

#### **2017 Complaint Committee**

**BIC2017-03:** The Complaint Committee reported that the credential holder has accepted the Private Admonishment and has paid his/her respective fine.

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

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

**Action taken:** No action taken.

**BIC2017-06:** The Complaint Committee reported this case is ongoing.

**Action taken:** No action taken.

**C2017-10-R:** The Complaint Committee provided a brief history that this credential holder failed to renew his/her credential before the 03/31/17 renewal deadline and (s)he continued to practice on a lapsed credential. The credential holder has accepted the Private Admonishment that was offered after the May Board meeting and has paid his/her respective fine.

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

**C2017-14:** The Complaint Committee reported that this case is ongoing.

**Action taken:** No action taken.

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

**Action taken:** No action taken.

**CE2017 16-33:** The Complaint Committee reported all the credential holders in the listed cases have accepted their Private Admonishments and have paid their respective fines.

**Action taken:** The Complaint Committee recommended and moved to close these cases. The motion was seconded by Mr. Martin, which carried.

**CE2017 34-36:** The Complaint Committee reported that all the credential holders in the listed cases have signed their proposed Settlement Agreements and have paid their respective fines.

**Action taken:** The Complaint Committee recommended and moved to accept the signed Settlement Agreements and close these cases. The motion was seconded by Ms. Pillow, which carried.

**BIC2017-37:** The Complaint Committee gave a brief history that this individual was flagged during the 2017-2019 renewal cycle for a possible DUI. During the July meeting the Board voted to issue a Board Order requiring the credential holder to enter into a two year mandatory IPTPC agreement. Additionally, the Complaint Committee reported that the credential holder has complied with the Board Order.

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

**BIC2017-38:** The Complaint Committee gave a brief history that this individual has been charged with two DUI offenses in the past ten years. The individual has passed his/her NPTE, but has not been issued a credential. During the July meeting, the Board voted to issue an Order requiring the applicant to sign an IPTPC agreement within twenty days. The applicant did not sign the agreement within the allotted time, and Board staff denied issuing a credential.

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

**C2017-39:** The Complaint Committee reported that this new case involves allegations of possible negligence and substandard care.

**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 Ms. Pillow, which carried.

**C2017-40:** The Complaint Committee reported that this new case involves an adverse action report from New York for failure to disclose a settlement agreement in another jurisdiction.

**Action taken:** The Board will address any issues if the credential returns to practice in Kentucky. No action taken.

**C2017-41:** The Complaint Committee reported that this new case involves allegations of a credential holder who failed to follow proper reassessment and documentation guidelines.

**Action taken:** The Complaint Committee recommended and moved for the Board to authorize an investigation be opened. The motion was seconded by Mr. Martin, which carried.

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

**C2017-42:** The Complaint Committee reported that this new case involves allegations of a credential holder who treated a patient without following proper reassessment guidelines.

**Action taken:** The Complaint Committee recommended and moved for the Board to authorize an investigation be opened. The motion was seconded by Ms. Pillow, which carried.

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

**Action taken:** The Complaint Committee recommended and moved for the Board to authorize an investigation be opened. The motion was seconded by Ms. Pillow, which carried.

### **IPTPC Report**

Mr. Fingerson presented his written IPTPC report dated 09/21/17. 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, staff informed the Board that the credential holder in BIC2016-06 had contacted the Board office to inquire about reinstating his license. This credential holder has submitted his/her reinstatement application with the Board office. Both Mr. Curley and Mr. Fingerson gave a brief history on this credential holder's case. Finally, Mr. Fingerson reported that this credential holder has signed a five year IPTPC agreement and is in compliance.

**Action taken:** After reviewing the history of this case Ms. Pillow made the motion to have staff administratively reinstate this credential holder's license and have him/her appear before the Board at the November meeting. 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; Sabrina Pletz, PTA; and Donald Bruce Taylor, PT. Monitor reports were submitted by the Board-appointed monitor for Ms. Pletz and Mr. Taylor.

Sabrina Pletz, PTA: A monitor report was submitted by Margaret Blaine, PT, the Board-appointed monitor and considered by the Board.

**Action taken:** Based on the results of the monitoring report submitted by Ms. Blaine, Ms. Pillow made the motion to open a Board Initiated Complaint (BIC) concerning possible violations of

reassessment guidelines that may have been performed by other employees at Ms. Pletz's employment facility.

Additionally, Mr. Majors reported that Mr. Timothy Jones, PTA completed his probation on 09/25/2017.

## **REPORTS AND OTHER BUSINESS**

### **Legal Report**

#### **Criminal Background Checks**

Mr. Kelly updated the Board concerning the progress made by staff in obtaining an ORI number in order to conduct criminal background checks in compliance with the Physical Therapy Compact and KRS 327.310. Additionally, Ms. Barton informed the Board that staff currently completes background checks on all applicants using the AOC court records program, and staff is prepared to continue this process which will save the applicant approximately \$20.

**Action taken:** No action taken.

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

Mr. Kelly updated the Board on the status of the proposed revisions.

**Action taken:** Ms. Weinberg made a motion to have staff consult with LRC to determine whether a change to the language of the proposed amendment through the suggested amendment process is warranted to avoid confusion with regards to KAR 201 22:020, and to ratify the change in effective date for these proposed amendments from January 1, 2018 to May 1, 2018, as currently drafted. The motion was seconded by Mr. Martin, which carried.

#### **HB50**

Mr. Kelly updated the Board on the recently enacted HB 50 which requires boards to review administrative regulations once every seven years. Mr. Kelly suggested that the Board conduct a review of all administrative regulations next year in order to ensure that all regulations would be on the same timeline.

#### **Articles**

Mr. Kelly shared with the Board recent news articles regarding Arizona and Mississippi and the efforts to reorganize professional licensing boards following the North Carolina dental case.

#### **North Carolina Physical Therapy Association**

Mr. Kelly updated the Board on pending litigation in North Carolina regarding dry needling.

#### **Strauss v. KBML**

Mr. Kelly updated the Board on a recent Kentucky Court of Appeals case involving the Kentucky Board of Medical Licensure (KBML). KBML invited KBPT to submit an amicus brief on behalf of KBML.

**Action taken:** After discussion, the Board decided to respectfully decline KBML's invitation at this time.

### **FSBPT Director's Report**

#### **Passing Rates - NPTE PT/PTA**

Mr. Barbato informed the Board that FSBPT has made changes to the NPTE with regards to passing rates for both the PTs and PTAs. The changes will require a small increase in the number of correct answers required to pass the exam, which will impact approximately 4% of first time exam applicants who have graduated from a CAPTE accredited school.

#### **Academy of Advanced Writers**

Mr. Barbato informed the Board that the criteria an individual must have completed to become a member of the Academy of Advanced Writers has changed. The expanded criteria include attending at least one FSBPT workshop on item writing; fulfilling content area assignments during the writing workshop; and serving on a NPTE committee or taskforce.

#### **Restoring Board Immunity Act**

Mr. Barbato informed the Board that on 07/27/17 the Restoring Board Immunity Act was introduced as a bill by Sen. Mike Lee (R-UT), Ted Cruz (R-TX), Ben Sasse (R-NE), and Rep. Darrell Issa (R-CA), which bill was specifically intended to help states reform their occupational licensing regulations. Mr. Barbato advised that, following discussion, FSBPT and APTA have decided to oppose this proposed legislation as unnecessarily cumbersome, especially in comparison to the state-based approach adopted by the proposed one-page amendment to the Local Government Antitrust Act of 1984.

#### **NPTE Fee Increase**

Mr. Barbato informed the Board that FSBPT does not currently plan to increase the NPTE fee to \$485 at the beginning of 2018, as previously proposed. The fee now will remain at \$400 at least until the beginning of 2019. The reasoning behind the postponement of fee increase is unexpected market gains, increased revenue from other sources, and decreasing expenditures.

### **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 he met with the members of the 2017 Finance Workgroup on 09/27/17 to discuss in greater detail the Board's revenue, personnel and operating expenses, quarterly allotments and annual appropriations. Mr. Majors also discussed the latest 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.

**Action taken:** The Board asked the members of the 2017 Finance Workgroup and Board staff to examine the Board's expenditures in detail to determine whether specific services may be identified and refined to obtain additional cost savings, and for this Workgroup to provide the Board a report at the November meeting.

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

Mr. Majors reported the results of the latest CBT comment survey and satisfaction survey report. This report listed an overall satisfaction rating of 89.5% for all jurisdictions, while the overall satisfaction rating for Kentucky was listed at 93.1% in the first quarter of 2017 and 100.0% in the second quarter of 2017.

**Action taken:** No action taken.

#### **Occupational Licensing Policy Study**

Mr. Majors reported that Kentucky was one of 11 states recently selected to participate in a peer learning consortium focused on occupational licensing policy. The consortium is being sponsored by The National Conference of State Legislatures; The National Governors Association Center for Best Practices, and The Council of State Governments. As a member of the consortium, Kentucky will learn about occupational licensing best practices in other states and begin implementing actions to remove barriers to labor market entry and improve portability and reciprocity.

## **CAPTE**

Mr. Majors circulated copies of the most recent CAPTE report which listed pre-accreditation decisions on developing PT and PTA programs.

## **KBPT School Presentations**

Ms. Barton reported that a school presentation is scheduled at Somerset Community College on 05/04/18.

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

The Board reviewed the following schedule of upcoming conferences

- a. FARB – 2017 Regulatory Law Seminar  
(10/05-08/17 – Savannah, GA)
- b. FSBPT – 2017 Annual Meeting, Conference and Delegate Assembly  
(11/02-04/17 – Santa Ana Pueblo, NM)  
(Talia Weinberg and Dan Martin to serve as KBPT Delegate and Alternate Delegate. Ron Barbato, Talia Weinberg, Scott Majors, Louis Kelly and Stephen Curley shall serve as KBPT co-presenters fully funded by FSBPT.)
- c. CAPTASA – 2018 Annual Conference  
(01/26-27/18 – Lexington, KY)

## **Public Comment**

Dr. Beth Ennis of Bellarmine University informed the Board that several members have received a request from the Chair of the Occupational Therapy Board to define spinal manipulation and adjustments. She brought this to the attention of the Board because a similar request likely would be sent to KBPT. Mr. Majors informed Dr. Ennis that KBPT had received the opinion request.

**Action taken:** After discussion, the Board authorized Mr. Kelly to respond by explaining that it is not up to KBPT to discern if an OT is able to perform spinal manipulation, and to recommend that the OT Board Chair consult the applicable statutes and regulations relating to Occupational Therapy.

A Bellarmine student asked the question whether the Board would intervene on behalf of physical therapists and physical therapist assistants with third party payers regarding billing issues and lawsuits. The Board explained that the only time the Board would become involved with billing issues is when it would involve fraudulent billing. The Board explained that the primary duty of the Board is to protect the public, and that the professional association (i.e., KPTA) would be the appropriate entity to act on behalf of the professions. Dr. Kuperstein added that KPTA had intervened and filed suit against CMS regarding electrical stimulation for wound care.

Dr. Kuperstein clarified that APTA is not recommending tiered licensure. This idea came about from a subcommittee of APTA in response to a board directive. This topic will be discussed in length in October.

Dr. Kuperstein requested clarification on the public member appointment. In July she reported back to KPTA that an individual had been selected for the public member. Mr. Majors explained that in July there was an individual that had been identified to fill the public member seat on the Board; however, since that time he has received information that the individual would not be appointed. Mr. Majors further explained that he has reached out on several different occasions to inquire about the vacant positions on the Board.

Dr. Kuperstein requested clarification whether reinstatement applicants would be required to submit a criminal background check. Mr. Majors and Mr. Kelly informed Dr. Kuperstein that the criminal background checks would apply to initial exam applicants, reinstatement applicants, and foreign educated

applicants. Additionally, Dr. Kuperstein inquired if individuals renewing their credentials would be required to submit a criminal background check. Mr. Majors explained that the Board does not envision criminal background checks to be a requirement for individuals renewing their credentials, and that the Board will try to take the necessary steps to amend the regulation prior to the 2019 renewal period. Finally, Dr. Kuperstein sought clarification about the six-month timeline on background checks; specifically, whether an exam applicant will be required to submit a second criminal background check if the applicant does not pass the exam on their first attempt. Mr. Kelly explained that the six-month time period for the criminal background check is tied to the submittal date of the exam application, while the application is good for one year. Thus, the exam applicant would not have to submit another criminal background check with this scenario.

### **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 Ms. Pillow, which carried. The lists are attached to these minutes.

Ms. Weinberg made the motion to adjourn the meeting at 4:33 p.m., seconded by Mr. Martin, which carried.

Respectfully submitted,



Scott D. Majors  
Executive Director