



KENTUCKY BOARD OF PHYSICAL THERAPY

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Matthew G. Bevin
Governor

Scott D. Majors, Esq.
Executive Director

MINUTES OF MEETING January 18, 2018

Board Members: Talia Barton, PT, Chair
Dan Martin, PT, Chair-Elect
Edward Dobrzykowski, PT
Ron Pavkovich, PT
Tom Pennington, PT
Linda Pillow, PT
Jeff Vincent, Public Member

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

A meeting of the Kentucky Board of Physical Therapy was called to order by the Board's Chair, Talia Barton, at 9:00 a.m. on Thursday, 01/18/18, at the Board office. A quorum was present.

Board Appointment

The Board welcomed Edward Dobrzykowski, PT; Ron Pavkovich, PT; and Jeff Vincent, Public Member who were recently appointed to the Board by Governor Matthew Bevin through executive order. Krista Barton, the Board's Executive Secretary and a notary, administered the oath of office to all three new members.

KPTA Liaison Report

Dr. Kuperstein advised the Board that KPTA submitted a letter to Governor Bevin reflecting KPTA's concern with the perceived gender imbalance of KBPT membership, as only two of KBPT's current seven members are women, while women consist of approximately 60% of the Board's credential holders.

Additionally, Dr. Kuperstein brought before the Board the following question from a PTA Program Director concerning HB 39 as it relates to counseling students with a criminal background history: would the Board be able to provide schools with specific information that more clearly defines which criminal convictions will constitute an automatic denial of a credential?

Action taken: Following discussion, the Board determined that, if HB 39 is enacted, Mr. Kelly shall draft for the Board's review a statement listing the criteria in KRS 327.070(2)(f) to be published on the FAQ section of the website, and to note that such information shall be considered by the Board on a case-by-case basis at the time the individual applies for a credential.

Minutes for Previous Regular Meeting

The Board reviewed the draft minutes of the 11/16/17 Board meeting.

Action taken: Ms. Pillow made a motion to approve the minutes of the Board meeting of 11/16/17 with no changes. The motion was seconded by Mr. Pennington, which carried.

Board Discussions, Committees and Opinion Requests

Physical Therapy Licensure Compact

Mr. Majors reported that the Physical Therapy Compact Commission intends to schedule a special meeting in the near future to discuss the status of the Colorado Board of Physical Therapy's membership in the Compact. When additional information concerning this meeting becomes available, Mr. Majors agreed to provide an update to the Board and to KPTA.

Mr. Kelly reported that staff received notification from KSP that the FBI has denied KBPTs application to obtain an ORI number. Mr. Kelly discussed with the Board the ramifications of not being able to obtain an ORI number relative to conducting national criminal background checks, and how it will impact licensing and possibly KBPTs membership in the Physical Therapy Compact.

Action taken: After a lengthy discussion, Mr. Pennington made a motion to authorize staff to file an emergency amendment changing the effective date of the criminal background check from 05/01/18, to go into effect six months after the Board obtains an ORI number from the FBI, and to simultaneously amend 201 KAR 22:040 to not require a criminal background check for renewal or for reinstatement of lapsed credentials completed within 30 days of the end of the renewal cycle. The motion was seconded by Ms. Pillow, which carried.

2017 Complaint Committee

Ms. Talia Barton discussed with the Board the possibility of appointing another Board member to the 2017 Complaint Committee to replace Mr. Barbato whose term on the Board has expired. In view of the fact that Mr. Martin, due to his membership on the 2018 Complaint Committee, will already be present at the Board's office when the 2017 Complaint Committee meetings will be held, Ms. Talia Barton proposed that Mr. Martin be appointed to serve on the 2017 Complaint Committee, as well.

Action taken: Ms. Pillow made a motion to appoint Mr. Martin to the 2017 Complaint Committee as of 01/17/18. The motion was seconded by Mr. Pavkovich, which carried.

FSBPT Appointment

Ms. Talia Barton reported that she was appointed to the FSBPT Continued Competency Committee. The next meeting of the Continued Competency Committee will take place in April of 2018.

Action taken: No action taken.

2018 FSBPT Annual Conference Proposed Presentations

Mr. Majors discussed with the Board several proposed presentations for the 2018 FSBPT Annual Conference.

Action taken: No action taken.

2018 Offsite Board Meeting

Mr. Majors discussed the possibility of Western Kentucky University hosting a Board meeting during the fall of 2018.

Action taken: After discussion, the Board authorized Mr. Majors to contact appropriate representatives with Western Kentucky University and determine the feasibility for an offsite Board meeting to be held at that location on September 20, 2018.

KBPT Facebook Page

Mr. Kelly provided a report concerning KBPT's Facebook Page. The last post concerned the ceremonial signing of HB 227. Currently, Mr. Kelly is planning on posting about the appointment of the new Board members. Also, the Board discussed the possibility of posting articles that are pertinent to the practice of physical therapy, and Mr. Kelly requested that any members who have any ideas for articles to be posted to please contact him.

Action taken: No action taken.

Policy and Procedure Manual Amendment

Ms. Krista Barton reported that the Board's Policy and Procedure Manual is ready to be updated to include the new Performance Evaluation Tool that the Board previously approved. Also, there are a few updates to the abbreviations and acronyms page.

Action taken: Mr. Martin made the motion to update the Policy and Procedure Manual to include the new Performance Evaluation Tool and the abbreviations and acronyms page. The motion was seconded by Ms. Pillow, which carried.

Civil Matters and Investigations

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 this case is ongoing

Action taken: No action taken.

C2017-14: The Complaint Committee reported that the credential holder has accepted the Private Admonishment.

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

BIC2017-44: The Complaint Committee reported that this case involves allegations of a credential holder violating reassessment guidelines.

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

BIC2017-45: The Complaint Committee reported that this case involves allegations of a possible term protection violation.

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

C2017-46: The Complaint Committee reported that Board staff received notification of an Adverse Action report from FSBPT reflecting disciplinary action taken by another state licensing board that took place as a result of disciplinary action taken by Kentucky.

Action taken: The Complaint Committee recommended and moved to take no action. The motion was seconded by Mr. Pavkovich, which carried.

BIC2017-37: The Complaint Committee reported that, based on information provided by IPTPC Chair Brian Fingerson, the credential holder in this case has violated the terms of the subject IPTPC contract. Mr. Kelly reported that the credential holder has expressed an intent to no longer practice in Kentucky.

Action taken: The Complaint Committee recommended and moved to authorize staff to: (1) open a Board Initiated Complaint (BIC), and assign it number BIC2018-03, for failing to follow a Board Order; (2) file a Notice of Hearing and formal charges if the credential holder fails to timely respond to the BIC within twenty days; and (3) discuss a proposed Order of Voluntary Surrender with the credential holder or, alternatively, explore a possible resolution through a Settlement Agreement with specific terms. The motion was seconded by Mr. Pavkovich, which carried.

2018 Complaint Committee

2016-16: (By virtue that the original members of the 2016 Complaint Committee are no longer members of the Board, this case was reassigned to the 2018 Complaint Committee.) The Complaint Committee reported that the credential holder, Steve Shepherd, has failed to comply with the terms of his Settlement Agreement. Mr. Kelly reported that he has been in contact with Mr. Shepherd who has expressed an intent to voluntarily surrender his license. Mr. Kelly circulated a draft Order of Voluntary Surrender for the Board members to review.

Action taken: After a brief discussion, Ms. Pillow made a motion for Board Counsel to offer the proposed Order of Voluntary Surrender to Mr. Shepherd and, if Mr. Shepherd fails to enter into the proposed Order within twenty days, for the Board to authorize Counsel to file a Notice of Hearing and formal charges due to Mr. Shepherd's failure to comply with the terms of his Settlement Agreement. The motion was seconded by Mr. Pavkovich, which carried.

Additionally, the Board discussed the possibility of referring the information to the appropriate state authorities which oversee investigations relating to Medicare and Medicaid reimbursement.

Action taken: After a brief discussion, Mr. Pennington made the motion to refer the aforementioned case to appropriate state authorities for investigation. The motion was seconded by, Ms. Pillow, which carried.

C2018-01: The Complaint Committee reported that this case involves a possible violation of KRS 327.070 (2)(k) by failing to obey an administrative regulation of the Board, 201 KAR 22:053 Section 1(1)(b), which requires a credential holder to practice within the scope of the credential holder's training, expertise and experience – in this instance, dry needling.

Action taken: After reviewing the facts and circumstances of this case, the Complaint Committee recommended and moved to take no action due to insufficient evidence of a violation of KRS Chapter 327. The motion was seconded by Mr. Dobrzykowski, which carried.

Additionally, the Board discussed revising the FAQ page on the website to include information clarifying the criteria for physical therapist assistants to perform dry needling; specifically, that there is nothing in KRS Chapter 327 to prohibit a physical therapist assistant from performing dry needling as long as he/she has the requisite training, expertise, and experience to perform this function, and is supervised by a physical therapist with the requisite training, expertise and experience.

Action taken: Mr. Pennington made a motion for Board staff to revise the FAQ page on the Board website consistent with the discussion. The motion was seconded by Ms. Pillow, which carried.

C2018-02: The Complaint Committee reported that this case involves a credential holder who was convicted of misdemeanors for wanton endangerment in the 2nd degree, and harassment.

Action taken: After reviewing the facts and circumstances of this case, the Complaint Committee recommended and moved to close this case due to insufficient evidence of a violation of KRS Chapter 327. The motion was seconded by Mr. Pavkovich, which carried.

IPTPC Report

Mr. Fingerson presented his written IPTPC report dated 01/05/18. 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; Sabrina Pletz, PTA; and Donald Bruce Taylor, PT. Monitoring reports were submitted by the Board-appointed monitors for Ms. Bentley and Mr. Taylor and considered by the Board.

Additionally, Mr. Majors reported that Ms. Bentley has completed her monitoring requirements under the terms of her Settlement Agreement.

Action taken: Mr. Pennington made a motion for staff to draft a letter releasing Ms. Bentley from her monitoring requirements once she submits payment for her last monitoring visit. The motion was seconded by Mr. Martin, which carried.

REPORTS AND OTHER BUSINESS

Legal Report

Administrative Regulation – 201 KAR 22:170

Mr. Kelly reported to the Board on the status of the proposed new administrative regulation, 201 KAR 22:170, which incorporates the Rules implemented by the Physical Therapy Compact Commission.

Action taken: No action taken.

Articles

Mr. Kelly also updated the board on two recent news articles. The first article dealt with the increasing presence of telehealth practice and laws. The second article referenced proposed legislation in Pennsylvania to allow APRN-CNPs to practice independently after 3 years and 3,600 hours of practice.

Action taken: No action taken.

Finally, Mr. Kelly updated the Board on several bills filed during the General Assembly's 2018 legislative session that relate to or impact professional licensing. The Board took all discussion under advisement.

FSBPT Director's Report

Due to Mr. Barbato's absence, Ms. Talia Barton provided a summary of Mr. Barbato's FSBPT Director's report.

Military Education Resource

Ms. Talia Barton reported that the Military Education Resource is now available on the FSBPT website. The resource contains excellent information for those individuals who are trained as a physical therapist or physical therapist assistant within the military.

ProCert Reviews

Ms. Talia Barton reported that the FSBPT is currently seeking volunteers to conduct education offering reviews. Individuals who are interested are to contact the FSBPT.

Jurisdiction/Committee Liaisons

Ms. Talia Barton reported that FSBPT's Jurisdiction and Committee Liaisons have been updated and are available online.

In addition, the FSBPT has published a Primer for Board Members and Administrators regarding foreign education and non-CAPTE accredited 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 2018 Finance Workgroup met on 01/17/18

to discuss in greater detail the Board's revenue, personnel and operating expenses, quarterly allotments and annual appropriations. Finally, Mr. Majors and Ms. Bell also identified particular areas of the Board's capital structure and physical operations which may warrant improvement through financial investment.

Action taken: After discussion, Mr. Pennington made a motion for the Board to authorize the Executive Director, upon review and approval provided by the Chair, to invest in capital needs, equipment needs, staff development training, monitoring, and any other categories deemed appropriate with a limit of \$25,000. The motion was seconded by Mr. Pavkovich, which carried. Mr. Dobrzykowski dissented.

CBT Comment Survey and Candidate Satisfaction Survey Report

Mr. Majors reported the results of the latest CBT comment survey and satisfaction survey report, dated 01/09/18.

Occupational Licensing Policy Study

Mr. Majors provided the Board a report concerning Kentucky's scheduled 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 provided the Board a report concerning Kentucky's proposed reorganization of licensing boards from the General Government Cabinet to the Public Protection Cabinet. Mr. Majors advised that a bill is expected to be filed during the 2018 legislative session that outlines the framework for this reorganization.

KBPT School Presentations

Ms. Bell briefly reported on the school visit to Western Kentucky University in Bowling Green on 11/29/17. Also, in light of Ms. Bell's resignation, the Board discussed the upcoming scheduled school visits and the possibility of Board members and Dr. Kuperstein being able to assist staff with school visits.

Conferences and Meetings Relating to Physical Therapy

The Board reviewed the following schedule of upcoming conferences

- a. CAPTASA
(01/26-27/18 – Lexington, KY)
Mr. Martin made a motion for the Board to pay for registration and associated travel costs for Mr. Dobrzykowski to attend the CAPTASA Conference Workshop. The motion was seconded by Mr. Pavkovich, which carried.
- b. Regulatory Training for Members and Board Staff
(06/08-10/18 – Alexandria, VA)
Ms. Pillow made a motion to authorize Mr. Dobrzykowski, Mr. Pennington, and Mr. Vincent to serve as KPBT's representatives. FSBPT will fully fund two members and, contingent on FSBPT's approval for KBPT to send three representatives, the third member will be funded by the Board. The motion was seconded by Mr. Martin, which carried.
- c. FSBPT's Leadership Issues Forum ("LIF")
(07/14-15/18 – Alexandria, VA)
Subject to Board approval authorized at its next meeting, Mr. Martin will serve as the Primary Voting Delegate. The Alternate Voting Delegate will be determined at the Board's next meeting, as well.

- d. FSBPT's 2018 Annual Meeting and Delegate Assembly
(10/25-27/18 – Reston, VA)

New Business

Staff Developments

Mr. Majors reported that Ms. Bell, KBPT's Licensure Coordinator, has tendered her resignation effective 01/26/18. Mr. Majors also reported that the Request for Merit Hiring Action form was signed by Ms. Talia Barton and filed with the Personnel Cabinet for competitive merit hiring status.

Action taken: Following a brief discussion, Mr. Pennington made the motion for the Board to authorize Mr. Majors to take action he deems necessary to hire Ms. Bell's replacement, consistent with established employment processes and procedures approved by the Personnel Cabinet. The motion was seconded by Mr. Pavkovich, which carried.

Minutes

Mr. Majors asked the Board to consider granting an extension of the deadline for the completion of the draft January minutes due to Ms. Bell's resignation and the impact this staffing change will have on the workload for current Board staff.

Action taken: The Board granted an additional two weeks to complete the January draft minutes.

Memorial

Mr. Majors reported that Richard McDougal, a former Board member and Board Investigator had passed away. The Board members discussed making a donation in his name to the MacDougal Endowed Student Scholarship at the University of Kentucky.

Public Comment

Dr. Kuperstein shared with the Board an idea for an article for the Board's Facebook page that would include information on lymphedema.

New Licensee/Reinstatement/Renewal Applications

Action taken: Mr. Dobrzykowski 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. Pavkovich, which carried. The lists are attached to these minutes.

Mr. Martin made the motion to adjourn the meeting at 3:46 p.m., seconded by Mr. Vincent, which carried.

Respectfully submitted,



Scott D. Majors
Executive Director