



KENTUCKY BOARD OF PHYSICAL THERAPY NEWSLETTER

Email: KYBPT@ky.gov

Web Site: <http://pt.ky.gov>

September 2014

BOARD ADDRESS

312 Whittington Parkway, Ste 102
Louisville, KY 40222
(502) 429-7140 phone
(502) 429-7142 FAX

BOARD MEMBERS

LINDA M. PILLOW, PT
Board Chair
Bowling Green, KY
lindabell54@aol.com

KAREN CRAIG OGLE, PT
Chair-Elect
Georgetown, KY
kogle@bhsi.com

RON BARBATO, PT
Danville, KY
rbarbato@emrnc.or

CHUCK M. CLARK, Jr., PT
Louisville, KY
chuckc1971@gmail.com

TROY GRUBB, PT
Louisville, KY
tgrubb@kort.com

VIRGINIA JOHNSON
Consumer Member
virginiajohnson2virginia@aol.com

TINA L. VOLZ, PT
Louisville, KY
TVolz@bhsi.com

OFFICE STAFF

SCOTT D. MAJORS
Executive Director
ScottD.Majors@ky.gov

KRISTA A. BARTON
Executive Secretary
Krista.Barton@ky.gov

STEPHEN CURLEY
Investigative Specialist
Stephen.Curley@ky.gov

LOUIS D. KELLY, ESQ.
General Counsel
LKelly@aswdlaw.com

DONNA SIMS
Licensure Coordinator
Donna.Sims@ky.gov

Telehealth Now Available for Physical Therapy!!

Effective August 1, 2014, an administrative regulation was adopted by the Board of Physical Therapy which established procedures for physical therapists and physical therapy assistants in Kentucky to utilize telehealth or telephysical therapy in the provision of physical therapy services and in the provision of continuing education. With the adoption of this regulation, 201 KAR 22:160, Kentucky joins Alaska and Washington as the only states in the country with telehealth regulations that were specifically developed for physical therapy. Telehealth is defined in KRS 327.200(3) as the use of interactive audio, video, or other electronic media to deliver health care. It is further defined within the practice of physical therapy in 201 KAR 22:001 Section 1(25) as physical therapy between the credential holder and the patient who are not at the same physical location using interactive, secure, synchronous audio, and synchronous videoconferencing technology.

The new regulations were developed by the Telehealth Regulation Review Committee that included affected stakeholders such as the Kentucky Physical Therapy Association along with representatives from the military and education community. The regulations were also publicly vetted through the required public comment period and a public hearing in March of 2014. The Board received and considered comments and suggestions made by the public along with recommendations from the Legislative Research Commission staff. The regulations were again vetted by the Administrative Regulation Review Subcommittee and the Joint Committee on Health and Welfare.

This new telehealth regulation addresses three primary categories:

Patient Identity, Communication, and Informed Consent – Under the new regulations credential holders using telehealth to deliver physical therapy services will have to verify the identity of the patient and provide alternative means of contact. The credential holder must also ensure that personal information is not used in non-secure communication and inform the patient of potential risks and limitations of electronic communication.

Competence, Limits on Practice, and Maintenance and Retention of Records – Credential holders must ensure that their use of telehealth is limited to the area of the credential holder's competency. The credential holder must also document which physical therapy services were provided via telehealth pursuant to the record-keeping requirements of 201 KAR 22:053, Section 5. The credential holder must also ensure that any electronically stored information is protected from unauthorized personnel when the information is disposed.

Compliance with State Law – Any credential holder utilizing telehealth to deliver physical therapy services must be licensed to practice physical therapy or otherwise authorized to practice physical therapy in the location the patient is physically present.

As the APTA has recognized, telehealth is an appropriate model of service delivery for the physical therapy community when provided in a manner that respects patient privacy and consent while also meeting ethical principles and acceptable standards of practice and documentation. The Board shares APTA’s perspective, and it views telehealth to play an important role in overcoming barriers to access to services caused by distance, impaired mobility, and the absence of physical therapy providers. The Board wishes to express its deep appreciation to the members of the Telehealth Regulation Review Committee for their valuable contributions in the development of this new regulation.

Exploring a Physical Therapy Interstate Licensure Compact

At its September 2013 annual meeting, the Federation of State Boards of Physical Therapy’s (FSBPT) Delegate Assembly supported their Board of Directors in exploring mobility and portability through an interstate licensure compact.

An interstate compact is an agreement between states to enact legislation and enter into a contract for a limited purpose or to address a particular policy issue. The US Constitution guarantees the ability for states to enter into such compacts. The intent of this licensure compact is to increase consumer access to safe and competent physical therapy by eliminating licensure barriers to access to competent physical therapists and physical therapist assistants.

FSBPT established a Physical Therapy Licensure Compact Task Force in late 2013. Members of the Task Force included twenty-eight representatives from a number of U.S. physical therapy licensing boards (physical therapists, physical therapist assistants, public members and board administrators) as well as a legislator and representatives from the professional association’s board and staff. Task Force meetings were facilitated by an outside facilitator and assisted by two individuals from The Council of State Governments (CSG). The Task Force recommended that FSBPT’s Board of Directors assemble a team of individuals for the purpose of drafting language that may serve as a model compact for member boards. Seven members were selected for this “Drafting Team,” including Scott Majors, the Board’s Executive Director. The Drafting Team is scheduled to conduct two meetings in 2014 and one meeting in early 2015, and its final draft compact language will be scheduled for consideration by all member boards at FSBPT’s annual meeting in October 2015.

Overriding goals that the Drafting Team has been charged to consider include:

- The compact should be structured to assure safety of the public.
- The compact and the systems should allow licensing boards to focus on critical issues that have the most impact on public protection.
- The compact should facilitate contemporary practice models while maintaining state sovereignty.
- The compact should not be overly burdensome to licensees and should lessen the administrative burdens on licensees.
- The compact should be revenue neutral to jurisdictions.

The Kentucky Board of Physical Therapy will continue to provide updated information relative to this initiative as it becomes available.

[Portions of this article were originally published by FSBPT earlier this year and have been republished with permission.]

Goodbye to Mark Brengelman!!

Mark Brengelman's personal services contract to provide legal services to the Board expired in June of 2014. Mark served as the Board's General Counsel and Legal Advisor for over fifteen years, and his counsel to the Board throughout his service greatly assisted both the Board in its development and the advancement of our profession.

Mark became interested in law when he graduated with both Bachelor of Arts and Master's degrees in Philosophy from Emory University in Atlanta. He was conferred a Juris Doctorate degree from the University of Kentucky, College of Law. In 1995, Mark was appointed to serve as an Assistant Attorney General and he focused his practice in the area of administrative and professional regulatory law. In 2012, he also became a certified hearing officer before retiring from state government employment later that year.

In 2013, Mark was named Partner with Hazelrigg and Cox, a private law firm located in Frankfort, Kentucky, where he currently focuses on government services and consulting, continuing education, and the representation of health care practitioners before licensure boards and in professional regulatory matters. Mark also continues to serve as a national participant in continuing education, and he has presented several continuing education courses for multiple national and state organizations, including the Federation of State Boards of Physical Therapy and the Federation of Associations of Regulatory Boards.

The Board deeply appreciates Mark's counsel, judgment, expertise, and dedication to our agency throughout his many years of service. Thank you, Mark!!

The Board of Physical Therapy Welcomes New Staff Members!!



Louis Kelly was appointed to serve as General Counsel for the Board in July 2014. He holds a Bachelor of Business Administration degree in Marketing from the University of Kentucky, and he received his Juris Doctorate degree from Northern Kentucky University's Salmon P. Chase College of Law.

Louis' law practice focuses primarily on administrative law, government law, and civil litigation representing numerous clients in both state and federal court. He currently resides in Florence, KY with his wife and two children. In his free time Louis enjoys playing and teaching percussion.



Krista Barton was appointed to serve as the Board's new Executive Secretary in September of 2014. She graduated from the University of Louisville in 2001 with a Bachelor of Arts degree in Art History.

Krista was previously employed with the Kentucky Board of Embalmers and Funeral Directors from 2007 through August of 2014 as their Executive Secretary. In that role, she was responsible for the annual renewal process for licensees, funeral homes and embalming services. Krista also assisted apprentice Funeral Directors and Embalmers throughout their apprenticeship programs, and she tracked the continuing education hours for all licensees.

Krista enjoys lap swimming, reading, listening to music, art and cooking for family and friends.

Changes to Administrative Regulations Clarifies Who Can Supervise Individuals Working Under a Temporary Permit.

By Louis D. Kelly, General Counsel

Earlier this year, the Kentucky Board of Physical Therapy approved amendments to its administrative regulations relating to supervision of individuals with temporary permits and candidates for application by endorsement. After the required public hearing and comment period the proposed amendments were approved and went into effect on June 6, 2014.

The amendments provide greater clarity in defining who is eligible to supervise an individual who practices with a temporary permit. Under the new language, a supervising physical therapist must be “currently engaged in the practice of physical therapy in Kentucky” and must have practiced in Kentucky for more than one year. Thus, the change dictates that a supervisor must not only be licensed, but actually practicing within the Commonwealth to be a supervisor. For example, a physical therapist who maintains an active license in Kentucky but whose office is in Indiana could not supervise someone with a temporary Kentucky permit outside of the Commonwealth.

All amendments to administrative regulations must be reviewed and approved by the Legislative Research Commission and the General Assembly’s Administrative Regulations Review Subcommittee and Interim Joint Committee for Health and Welfare. The Board also presents all proposed amendments to interested stakeholders including the Kentucky Physical Therapy Association.

Mark R. Brengelman contributed to this article.

Don’t Forget - Recent Amendments to Regulations Make Compliance with Continued Competency Easier.

By Louis D. Kelly, General Counsel

When asked to describe his theory of relativity, Albert Einstein was quoted as saying, “When you are courting a nice girl an hour seems like a second. When you sit on a red-hot cinder a second seems like an hour. That’s relativity.” As an attorney subject to annual continuing legal education requirements, I have attended seminars and programs where I listened with rapt attention, and others that felt similar to the aforementioned cinder.

Regardless of your personal experience, prior to September 18, 2013, credential holders subject to the Kentucky Board of Physical Therapy were only allowed to acquire Category 1 contact hours in increments of at least three hours. However, recent amendments have changed this requirement and now credential holders can obtain Category 1 contact hours in less than three hours as long as the program is produced and developed by the American Physical Therapy Association or its state chapters and sections, which includes the Kentucky Physical Therapy Association.

This amendment provides much more flexibility in how credential holders obtain their Category 1 hours.

It should be noted that this amendment does not reduce the total amount of Category 1 hours required or the time frame in which they must be received pursuant to 201 KAR 22:045. In fact, this amendment creates additional flexibility and freedom for credential holders to schedule continuing competency seminars and programs in a manner that is most convenient to them and their individual practices.

Mark R. Brengelman contributed to this article.

Don't Be Late! Find Out When Your HIV/AIDS Course is due.

Credential holders can now find out when their HIV/AIDS course is due by accessing the Board's website at <http://pt.ky.gov>. The due date is located under "Details" whenever you perform a License Search. If your course is due by March 31, 2015, you must complete an approved course of 2 contact hours or greater and submit a copy of the course certificate to the Board office. You can submit the certificate via fax, mail, or email. You are not required to submit proof of any other continued competency records to the Board unless specifically requested pursuant to 201 KAR 22:045 Section 2(4).

Only courses approved by the Cabinet for Health and Family Services are acceptable for the HIV/AIDS requirement. A link for approved courses is posted on the Board's web site. Completion of the HIV/AIDS course counts for 2.0 contact hours of Category 2 continued competency per 201 KAR 22:045, Section 2(3)(i).

Renewal of License and Continued Competency

March 31, 2015 is the magic date...all active PT licenses and PTA certificates will expire on that date if not renewed. Our credential holders have 3 months in which to renew their credential; renewal will begin the first business day in January 2015 and run through March 31. Again in 2015, our credential holders may renew conveniently online.

Are you prepared for renewal of your license? Have you taken the Jurisprudence Exam for this biennium? Have you completed or are you working on the continued competency requirement for renewal? Review 201 KAR 22:045 for the continued competency requirements.

Facts regarding continued competency for renewal of license in 2015:

- Continued competency credits must be earned from April 1, 2013 through March 31, 2015.
- All credential holders must complete the current Jurisprudence Exam for biennium ending March 31, 2015 (2 contact hours).
- Submit a copy of your HIV/AIDS course certificate if due by 3/31/2015 (2 contact hours).
- Graduates of accredited PT/PTA programs in 2013 and 2014 have met the continued competency requirement (201 KAR 22:045 Section 2(2)(c), provided they have completed the current Jurisprudence Examination.
- Physical Therapists must complete 30 contact hours.
- Physical Therapist Assistants must complete 20 contact hours.
- Review the maximum and minimum requirements of contact hours for Category 1 and Category 2 (201 KAR 22:045 Section 1 (a) and (b)).
- A licensee on active military duty shall be granted an exemption from continued competency requirements as established in KRS 12.355.

More information will be posted on our website as we near the renewal period.

Disciplinary Actions

December 2013 – August 2014



The following is a summary of disciplinary actions taken by the Board since the last Newsletter was published. It is intended as a summary for informational purposes only. All information is believed to be accurate. However, complete terms of each disciplinary action are contained in the Board's records. Monetary amounts paid to the Board may reflect the investigative costs and not necessarily the scope and severity of the violation(s).

Brandy Renee DeCoursey, PTA

Date: 1/16/2014

Final Action: Active Suspension of Certificate and Settlement Agreement – Two Counts of KRS 327.070(2)(f) for the conviction of a felony and a violation of KRS 327.070(2)(f) for the conviction of a misdemeanor which affects her ability to practice. Six month suspension, two years probation, \$750.00 administrative costs, IPTPC, personal appearance, and shall comply with all court orders in her criminal convictions.

Randall Scott Taylor, PT

Date: 5/15/2014

Final Action: Order and Settlement Agreement – reciprocal discipline. One violation of KRS 327.070(2)(k) by failing or refusing to obey any administrative regulation of the Board and one violation of KRS 327.070(2) by engaging in fraud or material deception in the delivery of professional services. Reprimand and \$250.00 fine.

Karen Wheatley, PTA

Date: 5/15/2014

Final Action: Final Order- allegations of a violation of KRS 327.070(2)(k) by failing or refusing to obey any order or administrative regulation of the Board. Ms. Wheatley was found in default and her certificate to practice was Revoked.

Patrick Meeker, PT

Date: 5/15/2014

Final Action: Final Order- allegations of a violation of KRS 327.070(2)(k) by failing or refusing to obey any order or administrative regulation of the Board. Mr. Meeker was found in default and his license to practice was Revoked.

Immediate and Temporary Suspension:

Shayne Ferguson, PT

Date: 7/17/2014

Violation: KRS 327.070(2)(a)

Action: Immediate Temporary Suspension, effective 7/18/2014

James Richard Roe, PT

Date: 7/17/2014

Violation: KRS 327.070(2)(a)

Action: Immediate Temporary Suspension, effective 7/18/2014

Brandy Renee DeCoursey, PTA

Date: 9/2/2014

Violation: KRS 327.070(2)(k)

Action: Immediate Temporary Suspension, effective 9/2/2014

Term Protection Violations
December 2013 – August 2014

The following is a list of violations of KRS 327.020(3) *“It shall be unlawful for any person, or for any business entity, its employees, agents, or representatives to use in connection with his or its name or business activity the words “physical therapy,” “physical therapist,” “physiotherapy,” “physiotherapist,” “registered physical therapist,” the letters “P.T.,” “L.P.T.” or any other words, letters, abbreviations or insignia indicating or implying directly or indirectly that physical therapy is provided or supplied or to bill for physical therapy unless such physical therapy is provided by or under the supervision of a physical therapist licensed and practicing in accordance with this chapter.”*

Agreed Orders

Bing Crosby, D.C., Crosby Chiropractic Center Inc., Louisville, an Agreed Order was signed regarding the unlawful use of the words “Physical Therapy” in an advertisement and on their website.

Letter of Agreement and Affidavit

Michelle Haman, Equi-Librium Therapy LLC , Versailles, a Letter of Agreement was signed regarding the unlawful use of the words “Physical Therapy” in an advertisement.

Brandon Meade, D.C., Meade Chiropractic, LLC., Florence, a Letter of Agreement was signed regarding the unlawful use of the words “Physical Therapy” on their website.

Dan Sipples, D.C., Sipples Chiropractic Health Care., Berea, Unlawful use of the words “Physical Therapy” on their website. An attorney’s letter ensuring that his client would comply with KRS 327.020(3) was accepted by the Board.

Darryl Shaw, Manager, BluePearl Kentucky, LLC, Louisville, a Letter of Agreement was signed regarding the unlawful use of the words “Physical Therapy” on their website and in advertisements.