



KENTUCKY BOARD OF PHYSICAL THERAPY

Andy Beshear
Governor

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Executive Director

MINUTES OF SPECIAL MEETING January 14, 2021

Board Members: Edward Dobrzykowski, PT, Chair
Karen Thompson, PT, Chair-Elect
Peggy Block, PT
Larry Brown, Public Member
Sonya Dick, PT
Tom Pennington, PT
Christopher Pyles, PT

Board Staff: Scott D. Majors, Executive Director
Krista Barton, Executive Secretary
Stephen Curley, Investigator
Keith Poynter, General Counsel
Kelly Ramsey, Licensure Coordinator

Board Agent: Brian Fingerson, RPh, IPTPC Director

APTA KY Liaison: Janice Kuperstein, PT, PhD

A meeting of the Kentucky Board of Physical Therapy was called to order by the Board's Chair, Ed Dobrzykowski, at 10:05 a.m. on Thursday, 01/14/21, via video teleconference according to the guidance issued by Governor Beshear, pursuant to KRS 61.823 and 61.826. A quorum was present.

Mr. Dobrzykowski began the meeting by reading into the record that the Board's mission is public protection as it pertains to the delivery of physical therapy services throughout the Commonwealth of Kentucky. Each decision and action taken by the Board shall be in the best interest of public protection without bias and personal conflicts of interest. Mr. Dobrzykowski asked the Board members to recuse themselves from both discussion and voting on any matter in which a conflict of interest exists.

Additionally, Mr. Dobrzykowski stated the Board would operate within the defined scope of authority set forth in the Kentucky Revised Statutes and Administrative Regulations. He requested the Board's General Counsel to guide and inform the Board on any contemplated or performed actions that fall outside the parameters of the Board's legal authority.

Minutes for Previous Special Meeting

The Board reviewed the draft minutes of the 11/19/2020 special Board meeting.

Action taken: Following review and discussion, Ms. Block made a motion to approve the minutes of the Board meeting of 11/19/20 as drafted. The motion was seconded by Ms. Dick, which carried.

APTA KY Liaison Report

Dr. Kuperstein reported to the Board that APTA KY has been sending out weekly emails with information regarding renewals to APTA KY members. She also reported that APTA KY has posted a link to the document pertaining to the roles of APTA KY and the Kentucky Board of Physical Therapy.

Additionally, Dr. Kuperstein reported that APTA KY currently is undergoing several transitions. Charlie Workman is now the President of APTA KY. Lisa Volz has resigned as Executive Director of APTA KY, and is currently assisting the organization through the transitional phase on a part-time basis. Ramona Carper has resigned as Legislative Chair and is assisting Avery Schroyer who is now the current Legislative Chair.

Finally, Dr. Kuperstein reported that APTA KY submitted comments on the Athletic Trainers Bill, SB125, expressing concerns on the proposed regulations. APTA KY currently is awaiting a written response to their submitted comments.

Board Discussions, Committees and Opinion Requests

2021 KBPT Goals

Mr. Dobrzykowski briefly reviewed a draft of proposed goals for the Board to review and discuss. He explained that most of the goals included in the draft proposal are tasks that the staff are already completing. Mr. Dobrzykowski requested that staff present a comprehensive report to the Board at the end of each fiscal year. The report shall include a set of various categories regarding Board operations. Additionally, Mr. Majors disseminated a proposed draft of the report called the KPBT Data Fact sheet for the Board to review and discuss. Finally, Mr. Dobrzykowski discussed with the Board the importance of ongoing communication with stakeholders.

Action taken: Mr. Dobrzykowski requested that the Board members submit their comments or requests regarding the proposed KPBT goals to Mr. Majors by 01/28/21.

2021 KBPT Membership

Mr. Dobrzykowski briefly discussed that there will be four vacancies on the Board in 2021. He also emphasized the importance of having these vacancies filled in a timely manner.

Action taken: No action taken.

FSBPT Strategic Planning Input Request

Mr. Dobrzykowski and Mr. Majors discussed with the Board that the FSBPT has requested information from jurisdictions on how the FSBPT may assist each Board with current challenges they may be facing. The information provided will help the FSBPT prepare for the Board Strategic Planning meeting and the Leadership Issues Forum.

Action taken: Mr. Dobrzykowski requested that any suggestions the Board members may have should be submitted to Mr. Majors prior to the deadline on 01/31/21.

Physical Therapy Licensure Compact

Mr. Majors reported that the Executive Board of the Compact Commission had a meeting on 12/15/20. In addition, he reported there are 20 states that are actively issuing Compact Privileges. Finally, Mr. Majors reported that Vermont, New Mexico, Minnesota, Indiana, Nevada, Alabama, Arkansas, and New York may file legislation in 2021 to join the Physical Therapy Compact.

Action taken: No action taken.

KBPT Practice Act Review Committee

Mr. Dobrzykowski discussed with the Board the possibility of keeping the KBPT Practice Act review process as a standing agenda item so the Act is reviewed on a consistent basis to incorporate any

additions or revisions. Additionally, Mr. Majors discussed with the Board the possibility of allowing an applicant to sit for the NPTE/NPTAE exam prior to completing a physical therapy program.

Action taken: Mr. Majors will draft the proposed changes to the statute to review with the Board at the March meeting.

Sexual Boundary Taskforce

Mr. Majors reported that the Sexual Boundary Taskforce met on 01/11/21. He briefly mentioned the topics discussed during the Sexual Boundary Taskforce, and he informed the Board that the taskforce would need to conduct at least one additional meeting before submitting its findings to the entire Board for review. Additionally, Mr. Curley reported that it will take approximately eight weeks to create an online platform for discipline complaints.

Action taken: No action taken.

Continued Competency Hardship Requests

Mr. Dobrzykowski reviewed the policy that the Board discussed during the September meeting concerning granting a Hardship Extension to credential holders who are experiencing difficulties in completing the continued competency requirements due to COVID-19. Mr. Majors reported that the Board has received additional requests asking for additional measures to be considered by the Board.

Action taken: After a brief discussion, the Board decided that the current administrative regulation pertaining to hardship extension requests is sufficient, and no further changes are needed at this time.

APTA KY Continued Competency Proposal

Dr. Kuperstein identified three items referenced in the Continued Competency Proposal from APTA KY with the Board. APTA KY is requesting that: (a) membership to APTA KY be moved from Category II to Category I, for a total of 1 hour per year and a maximum of 2 hours per biennium; (b) credit be given for a mentoring program currently being developed by APTA KY for PT students, PTA students and new professionals; and (c) one hour of Category II continued competency be awarded per year, with a maximum of 2 hours per biennium. Finally, APTA is requesting that the completion of the Advanced Proficiency Pathway program for PTAs be credited for five hours of Category I continued competency.

Action taken: Mr. Dobrzykowski requested that the Board members review the proposed changes and be prepared to discuss these at the March Board meeting.

CAPTE Fall Decisions 2020

Mr. Majors reported on the CAPTE Fall Decisions 2020. He informed the Board that Maysville Community & Technical College in Mt. Sterling, Kentucky, is currently undertaking the accreditation process. Mr. Majors informed the Board that, if the program is accredited, it would be the sixth PTA program in Kentucky.

Action taken: No action taken.

Criminal Background Reports

Ms. Ramsey informed the Board that on 12/08/20 the Kentucky State Police transitioned to the new digital criminal background platform.

Action taken: No action taken.

KBPT 2021 Renewal Application Procedure

Mr. Curley reported that on 01/04/21 the online renewal application portal was activated. Additionally, Mr. Curley reported that there have been some technical issues with the platform, but they have not disrupted service to the public.

Action taken: No action taken.

KBPT Online Applications

Mr. Curley reported that the first round of testing of the Online Application portal is scheduled to begin in the next two weeks.

Action taken: No action taken.

Staff Reports and Discussions

The Board reviewed the following staff reports:

(a) KBPT Data Fact Sheet

Mr. Majors reported on this topic during the KBPT 2021 Goals item of the agenda.

(b) Rick Wickstrom, a physical therapist, who has appeared before the Board in July and September regarding his request that the Board issue a letter stating that the Department of Transportation Physical Exam is within the scope of practice for a licensed physical therapist in Kentucky to administer. The Board previously determined that the Department of Transportation Physical Exam was not within the scope of practice of a physical therapist in Kentucky. However, the Board allowed Mr. Wickstrom to submit additional information for the Board to review at the July and September Board meetings.

Action taken: After reviewing the information provided and upon further questioning, Mr. Pennington made a motion for Mr. Wickstrom to submit additional information regarding how the tests are administered, and to table further discussion at the March Board meeting. The motion was seconded by Ms. Block, which carried. Mr. Dobrzykowski dissented.

(c) James Escaloni, a physical therapist, who sought clarification on whether a physical therapist can administer a joint trigger point injection under the supervision of a physician.

Action taken: After discussion, Mr. Pennington made a motion to table this discussion until the March meeting and seek additional information. The motion was seconded by Mr. Pyles, which carried.

(d) Zachary Jones, a physical therapist, who sought clarification whether performing care coordination tasks is considered engaging in the practice of physical therapy for continued competency credit under Category I.

Action taken: The Board authorized staff to respond that coordination tasks are within the practice of physical therapy.

Update on Monitoring Probations

The Board noted the following credential holders who are presently being monitored: Sabrina Pletz, PTA; Andrea Brown, PT; Nathan Yates, PTA; Karen Brooks, PT; Tara Caldwell, PT; and Alexander Love, PT. A monitor report was submitted by the Board-appointed monitor and considered by the Board for Mr. Love.

Action taken: Ms. Thompson made a motion for the Board to accept the monitoring report for Mr. Love. The motion was seconded by Mr. Pyles, which carried.

Additionally, Ms. Brooks submitted a request for early release of monitoring.

Action taken: After reviewing the early release request, Mr. Pennington made a motion that the Board deny the request, and for staff to notify the credential holder that another request may be submitted after the next monitoring session. The motion was seconded by Ms. Block, which carried.

Reports and Other Business

Legal Report

Administrative Regulations

201 KAR 22:170

Mr. Poynter reported that a public hearing for review of 201 KAR 22:170 is scheduled on 02/26/21. If the Board does not receive a notice of intent to attend the hearing within five days of the scheduled date of the public hearing, the hearing may be cancelled. Finally, the written comment period expires on 02/28/21.

Executive Director's Report

Financial Report

Mr. Majors offered a report that addressed the Board's finances at length, including the Board's annual, monthly, and quarterly FAS3 financial reports for the Board's revenues and expenditures.

Action taken: No action taken.

Staff Evaluations

Mr. Majors reported that he is scheduled to complete annual performance evaluations for all staff members by the end of January. Board members were encouraged to provide Mr. Majors any feedback they may have based upon their observations of staff performance during 2020.

HR Memorandum of Agreement

Mr. Majors reported that he is continuing to discuss opportunities for HR support with outside agencies under an arrangement the Personnel Cabinet will find acceptable. Mr. Majors shall provide the members an update at the next meeting.

Action taken: No action taken.

KBPT School Presentations

Ms. Ramsey reported that she is scheduled to conduct a school visit with Madisonville Community College on 01/26/21, Hazard Community & Technical College on 02/08/21, and Western Kentucky University on 03/05/21. All school visits will be conducted remotely via video conferencing.

Conferences and Meetings Relating to Physical Therapy

The Board reviewed the following schedule of upcoming conferences:

- a. MATRC – 2021 Mid Atlantic Telehealth Resource Center
(03/28-30/21 – Charlotte, NC)
Following discussion, Mr. Pennington made a motion for the Board to pay for the registration fee for Mr. Dobrzykowski to attend the MATRC virtual conference. The motion was seconded by Mr. Brown, which carried.
- b. 2021 FSBPT Leadership Issues Forum
(07/17-18/21 – Virtual Meeting)
- c. 2021 FSBPT Annual Meeting and Delegate Assembly
(10/22-23/21 – Virtual Meeting)
- d. 2021 Annual Meeting – Physical Therapy Licensure Compact Commission

(10/24/21 – Virtual Meeting)

New Licensee/Reinstatement/Renewal Applications

Action taken: Mr. Pyles 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 examination and reinstatement applicants. This motion was seconded by Mr. Brown, which carried. The lists are attached to these minutes.

Public Comment

Dr. Kuperstein briefly reported on the topic of Diversity. She explained that there are several jurisdictions that have been progressive in their approach to handling concerns about Diversity education and training.

New Business

Mr. Majors reported that Dan Martin inquired if the Board has given consideration whether physical therapists who have the appropriate education and training are able to assist with the administering of the COVID-19 vaccines. After discussion, the Board determined that it is not within the scope of practice of a physical therapist to administer vaccines without an Executive Order from the Governor, and they asked Mr. Majors to reach out to the Governor's Office and offer the Board's assistance with this task.

Civil Matters and Investigations

Mr. Pennington made the motion for the Board to retire into Executive Session pursuant to KRS 61.810(1)(c), (f), and (j) to discuss deliberations of judicial or quasi-judicial bodies regarding individual adjudications that may lead to the discipline of credential holders. The motion was seconded by Ms. Block, which carried.

Subsequently, Ms. Thompson made the motion for the Board to come out of Executive Session. The motion was seconded by Mr. Pyles, which carried. The Board returned to open session and voted on the following cases:

2019 Complaint Committee

C2019-04: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

BIC2019-07: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

C2019-18: The Complaint Committee reported that this case involves a credential holder who notified the Board during the 2019 renewal cycle that she/he entered a drug and alcohol program. The credential holder entered into an IPTPC contract, but failed to comply with the program. Additionally, the credential holder failed to submit the required continued competency during the 2019 audit cycle. The Board filed a Notice of Hearing and Formal charges, and the credential holder failed to respond. The hearing officer filed Findings of Fact, Conclusions of Law, and a Recommended Order of Default.

Action taken: The Complaint Committee recommended and moved to accept and adopt the Recommended Order of Default and issue its Final Order. The motion was seconded by Mr. Pennington, which carried.

BIC2019-101: The Complaint Committee reported that this case involves a credential holder who has been under an Immediate Temporary Suspension for violating her/his IPTPC by testing positive for

alcohol consumption. The credential holder indicated that she/he is no longer interested in pursuing a career in physical therapy. The Board voted to authorize Board Counsel to offer the credential holder a Voluntary Surrender. The credential holder has failed to respond.

Action taken: The Complaint Committee recommended and moved to issue a Notice of Hearing and file formal charges. The motion was seconded by Ms. Dick, which carried.

BIC2019-109: The Complaint Committee reported that the case is ongoing.

Action taken: No action taken.

BIC2019-110: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

BIC2019-111: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

BIC2019-112: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

BIC2019-113: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

BIC2019-114: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

BIC2019-115: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

BIC2019-116: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

2020 Complaint Committee

C2020-03: The Complaint Committee gave a brief history that this case involves a credential holder who allegedly committed fraud and deception.

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, and to authorize staff to include additional language in the Board's correspondence to encourage further improvement in the credential holder's practice. The motion was seconded by Ms. Block, which carried. Mr. Dobrzykowski recused himself from any discussion or voting pertaining to C2020-03 by excusing himself from the meeting.

C2020-04: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

C2020-09: The Complaint Committee reported that this case involves a credential holder who allegedly committed boundary violations.

Action taken: The Complaint Committee recommended and moved to authorize Board Counsel to draft a settlement agreement with specified terms. The motion was seconded by Mr. Pyles, which carried. Mr. Pennington recused himself from any discussion or voting pertaining to C2020-09 by excusing himself from the meeting.

C2020-15: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

C2020-17: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

C2020-18: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

BIC2020-19: The Complaint Committee reported that the credential holder allegedly violated her/his Settlement Agreement by failing to comply with the terms of her/his IPTPC contract. The credential holder has tested positive for amphetamines and methamphetamines. Board Counsel reported that the credential holder has been offered an Agreed Order of Voluntary Surrender, and the credential holder has signed the Agreed Order of Voluntary Surrender.

Action taken: The Complaint Committee recommended and moved to accept the signed Agreed Order of Voluntary Surrender. The motion was seconded by Mr. Brown, which carried.

Additionally, the individual involved in BIC2020-19 asked whether the Board would deem her/him to have engaged in the unauthorized practice of physical therapy without a credential if she/he entered into a Rehab Science Doctorate Program or clinical research program?

Action taken: Following discussion, the consensus of the Board was that the individual is no longer under the Board's jurisdiction. The Board instructed staff to advise the individual to report the status of her/his license to any program that she/he applies to in the future. Also, the individual should be encouraged to be mindful that there may be actions taken during the course of research that cross over into the practice of physical therapy, but the Board cannot determine what a future Board would conclude with respect to discipline.

BIC2020-21: The Complaint Committee reported that the credential holder has accepted the Private Admonishment, but has not completed the Board approved documentation course. Additionally, the Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

BIC2020-22: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

BIC2020-23: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

BIC2020-24: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

BIC2020-25: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

BIC2020-26: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

BIC2020-27: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

BIC2020-28: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

BIC2020-29: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

BIC2020-30: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

BIC2020-31: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

BIC2020-32: The Complaint Committee reported that this case involves a credential holder who allegedly performed substandard care.

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

IPTPC Report

Mr. Fingerson presented his written IPTPC report dated 01/07/21. IPTPC cases that previously have come to the attention of the Board or were discussed at length during the Complaint Committees' reports were reviewed.

Ms. Block made the motion to adjourn the meeting at 2:15 p.m., seconded by Mr. Brown, which carried.

Respectfully submitted,



Scott D. Majors
Executive Director