



## KENTUCKY BOARD OF PHYSICAL THERAPY

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*Andy Beshear*  
Governor

*Scott D. Majors, Esq.*  
Executive Director

### MINUTES OF BOARD MEETING March 18, 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

Board Guest: Andrea O'Leary, Agentis

A meeting of the Kentucky Board of Physical Therapy was called to order by the Board's Chair, Ed Dobrzykowski, at 9:01 a.m. on Thursday, 03/18/21, 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 01/14/2021 Board meeting.

**Action taken:** Following review and discussion, Mr. Pennington made a motion to approve the minutes of the Board meeting of 01/14/21 as drafted. The motion was seconded by Mr. Brown, which carried.

#### **APTA KY Liaison Report**

Dr. Kuperstein reported to the Board that APTA KY has officially partnered with Agentis Management Group. The transition will take place throughout the month of March, and Andrea O'Leary will be the primary contact with Agentis Management Group.

Additionally, Dr. Kuperstein reported that the Athletic Trainers' regulations were rescinded due to comments that were submitted during the comment period. Thus, there are currently no regulations for the Athletic Trainers Bill, SB 125.

### **Board Discussions, Committees and Opinion Requests**

#### **2021 KBPT Goals**

Mr. Dobrzykowski briefly reviewed the 2021 KBPT Goals list with the Board members. He thanked those Board members who submitted written comments, and he explained that staff will present a comprehensive report to the Board at the end of each fiscal year at the July Board meeting.

**Action taken:** No action taken.

#### **2021 KBPT Membership**

Mr. Dobrzykowski briefly discussed that there will be four members whose terms on the Board are scheduled to expire in 2021. Mr. Dobrzykowski briefly inquired if any additional information was available from APTA KY on the process and timeline of the submission of names to the Governor's office. Dr. Kuperstein informed the Board that APTA KY is reviewing its current process and determining whether any changes need to be made to the process.

**Action taken:** No action taken.

#### **KBPT Practice Act Review Committee**

Mr. Majors reviewed with the Board members proposed changes to KRS 327.050 that would allow examination applicants to sit for the NPTE and NPTE prior to completing a physical therapy program. A credential would only be issued if an applicant has successfully passed the exam and the Board receives verification that all clinical and didactic aspects of a CAPTE accredited physical therapy program have been completed. Additionally, Mr. Majors reviewed a draft addition to KRS 327.015. Finally, Mr. Majors discussed with the Board a possible addition to KRS 327.070 that would address patient abandonment.

**Action taken:** Mr. Pennington made a motion for the Board to accept the suggested draft language and changes regarding KRS 327.050 and KRS 327.015. The motion was seconded by Ms. Block, which carried.

Additionally, the Board authorized Mr. Majors to draft language that would address patient abandonment for the Board to consider at the May meeting.

#### **Physical Therapy Licensure Compact**

Mr. Majors briefly reviewed with the Board members the Physical Therapy Licensure Compact newsletter. Additionally, Mr. Majors reported that a new Compliance Committee of the Compact Commission has been created, and he has been appointed to the committee. Mr. Majors explained that the Compliance Committee will address and prioritize areas in which Compact states need to comply with the Compact requirements.

**Action taken:** No action taken.

### **Policy & Procedure Manual Updates**

Ms. Ramsey reviewed with the Board members proposed changes to Section 18 of the Policy and Procedure Manual pertaining to the Criminal Background Check Protocol. The proposed changes reflect the recent transition of the Kentucky State Police using electronic digital fingerprints. Additionally, Mr. Majors reviewed a proposed addition to Section 11 of the Manual to include a policy that was originally voted on during the May 2013 Board meeting pertaining to lapsed credential holders. Mr. Majors proposed that an official policy be added to the Manual that would alleviate the need to seek Board authorization to handle lapsed credential holders who practice on an expired credential.

**Action taken:** Ms. Thompson made a motion to approve the updates to the Manual, as proposed by staff. The motion was seconded by Mr. Brown, which carried.

### **KBPT Presentation – NPTE and Licensing Overview for Students**

Mr. Majors and Ms. Ramsey discussed with the Board the NPTE Licensing Overview for Students training video that Ms. Ramsey created to help students from schools that do not offer the Board NPTE presentation. The Board discussed the importance of school presentations and tabled this discussion for the May Board meeting. Mr. Brown suggested that the Board provide a disclosure that states the video is a training tool and that the specifics for the licensing process can be found in the Practice Act.

**Action taken:** Ms. Dick made a motion to, first, authorize staff to post the NPTE and Licensing Overview for Students video on the Board website and to send it to the schools that currently do not offer the NPTE Board presentation as part of their curriculum and, second, to include the disclosure at the beginning and end of the video. The motion was seconded by Ms. Block, which carried.

### **NIC Continued Competency Portal**

Mr. Majors and Mr. Curley discussed a proposal from NIC (formally known as Kentucky Interactive) to provide a continued competency portal to utilize during the 2021 Audit Cycle that would allow credential holders who have been audited to upload their continued competency through a portal application. Mr. Curley briefly provided a test site as an example of a possible Continued Competency Portal.

**Action taken:** Mr. Brown made a motion to approve the Board's adoption of the Continued Competency Portal for the 2021 CE Audit, subject to further revisions in the application to be reviewed by the Board Chair and Board staff prior to implementation. The motion was seconded by Ms. Block, which carried.

### **KBPT Online Applications and Complaint Form**

Mr. Curley reported that testing is ongoing for the Online Application portal, and he provided a brief update on the Complaint Form portal.

**Action taken:** No action taken.

### **Administrative Regulation – Standards for Documentation 201 KAR 22:053**

Mr. Curley discussed a proposed addition to 201 KAR 22:053 Standards for Documentation that would require ongoing documentation to be completed every 14 days in a skilled nursing facility by the supervising physical therapist.

**Action taken:** After discussion, the Board decided to keep this item on the agenda and discuss at a later date.

### **COVID-19 Vaccinations**

Mr. Dobrzykowski informed the Board that he would like to create a taskforce to handle the topic of Physical Therapists being authorized to administer COVID-19 vaccinations, and for the taskforce to submit a report to the Board at the July meeting.

**Action taken:** Ms. Thompson made a motion to appoint herself, Ms. Block, and Mr. Pennington to the COVID-19 Vaccination taskforce. The motion was seconded by Mr. Pennington, which carried.

**Administrative Regulation – APTA-KY Continued Competency Proposal**

Dr. Kuperstein reviewed with the Board the requested changes to 201 KAR 22:045 referenced in APTA KY's Continued Competency Proposal. 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 -- one hour of Category II continued competency be awarded per year, with a maximum of 2 hours per biennium; and (c) the completion of the Advanced Proficiency Pathway program for PTAs be credited for ten hours of Category I continued competency.

**Action taken:** The Board authorized Mr. Majors to draft the proposed changes to 201 KAR 22:045, as requested by APTA KY, for the Board's consideration at the May meeting.

**Sexual Boundary Taskforce**

Mr. Majors reported that another meeting for the Sexual Boundary Taskforce will take place before the May Board meeting, and the taskforce should have a draft recommendation for the full Board to review.

**Action taken:** No action taken.

**FSBPT Webinar: Promoting Prevention through Practice Advice**

Mr. Pennington informed the Board that he is presenting a FSBPT webinar on 04/07/21 with Kathy Arney, ED for the North Carolina Board of Physical Therapy, and Harvey Aikman, Chair of the Texas Board of Physical Therapy, on Promoting Prevention through Practice Advice: A Proactive Approach to Regulation.

**Action taken:** No action taken.

**November Board Meeting Schedule**

Mr. Dobrzykowski discussed the possibility of rescheduling the November Board meeting.

**Action taken:** After discussion, the Board decided to not reschedule the November Board meeting date.

**Staff Reports and Discussions**

The Board reviewed the following staff reports:

- (a) KBPT Data Fact Sheet

Mr. Majors provided an updated report to the Board on the items referenced in the Data Fact Sheet.

**Action taken:** No action taken.

- (b) Rick Wickstrom, a physical therapist, who previously has appeared before the Board to 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. Mr. Wickstrom summarized additional written resources he provided to the Board for its consideration.

**Action taken:** After reviewing the information provided, and upon further questioning, Mr. Pennington made a motion to approve Mr. Wickstrom's request and authorized staff to draft a letter, to be approved by the Board Chair, stating that the Department of Transportation Exam is within the scope of practice for a licensed physical therapist in Kentucky to administer. The motion was seconded by Ms. Block, which carried.

- (c) KBPT staff brought before the Board an endorsement application from J.M., a foreign educated applicant, who requested the Board waive the supervised clinical practice requirement for licensure.

**Action taken:** After reviewing the documentation provided, Mr. Pennington made a motion to decline the request because the Board lacks the legal authority under the statutes and regulations to waive the requirement. The motion was seconded by Mr. Brown, which carried. Mr. Dobrzykowski dissented.

- (d) KBPT staff brought before the Board an endorsement application from J.S., a foreign educated applicant, who requested the Board waive the supervised clinical practice requirement for licensure.

**Action taken:** After reviewing the documentation provided, Mr. Pennington made a motion to decline the request because the Board lacks the legal authority under the statutes and regulations to waive the requirement. The motion was seconded by Mr. Brown, which carried. Mr. Dobrzykowski dissented.

### **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. Monitor reports were submitted by the Board-appointed monitors and considered by the Board for Ms. Brooks, Mr. Love, and Ms. Caldwell.

Additionally, Mr. Love submitted a request for early release of monitoring.

**Action taken:** After reviewing the early release request, Mr. Brown made a motion that the Board approve the request for early release. The motion was seconded by Ms. Thompson, which carried.

## **Reports and Other Business**

### **Legal Report**

#### **Administrative Regulations**

##### **201 KAR 22:170**

Mr. Poynter reported that he represented the Board at a public hearing conducted by the Administrative Regulation Review Subcommittee on March 8, 2021, concerning a review of the proposed amendment to 201 KAR 22:170. No issues with the Board's proposed amendment were identified at the hearing, and the amendment is now scheduled to be considered by a second legislative review committee in the month of April.

**Action taken:** No action taken.

### **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.

### **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 remote school visit via video conferencing with Somerset Community College on 3/26/21.

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

The Board reviewed the following schedule of upcoming conferences:

- a. FSBPT – Exploring Unconscious Bias  
(03/23/21 – Webinar)
- b. MATRC – 2021 Mid Atlantic Telehealth Resource Center  
(03/28-31/21 – Virtual Meeting)  
Mr. Dobrzykowski to serve as KBPT's representative.
- c. FSBPT – Promoting Prevention through Practice Advice: A Proactive Approach to Regulation  
(04/07/21 – Webinar)
- d. 2021 FSBPT Leadership Issues Forum  
(07/17-18/21 – Virtual Meeting)
- e. 2021 FSBPT Annual Meeting and Delegate Assembly  
(10/22-23/21 – Virtual Meeting)  
Mr. Pennington made a motion to designate Mr. Dobrzykowski as KBPT's 2021 Primary Voting Delegate, and Ms. Thompson as KBPT's 2021 Alternate Voting Delegate. The motion was seconded by Mr. Brown, which carried.
- f. 2021 Annual Meeting – Physical Therapy Licensure Compact Commission  
(10/24/21 – Virtual Meeting)  
Mr. Majors shall serve as the Board's Delegate.

### **New Licensee/Reinstatement/Renewal Applications**

**Action taken:** Mr. Brown 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. Pennington, which carried. The lists are attached to these minutes.

### **Civil Matters and Investigations**

Ms. Thompson 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. Dick, which carried.

Subsequently, Mr. Brown made the motion for the Board to come out of Executive Session. The motion was seconded by Ms. Block, 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.

**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 has signed a Voluntary Surrender of Certificate to Practice.

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

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

**Action taken:** No action taken.

**BIC2019-110:** The Complaint Committee provided a brief history that this case involves a credential holder who allegedly committed fraud and material deception.

**Action taken:** The Complaint Committee recommended and moved to file a Notice of Hearing and Formal Charges. The motion was seconded by Mr. Brown, which carried.

**BIC2019-111:** The Complaint Committee provided a brief history that this case involves a credential holder who allegedly violated supervision requirements.

**Action taken:** The Complaint Committee recommended and moved to file a Notice of Hearing and Formal Charges. The motion was seconded by Mr. Brown, which carried.

**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 provided a brief history that this case involves a credential holder who allegedly violated supervision requirements.

**Action taken:** The Complaint Committee recommended and moved to file a Notice of Hearing and Formal Charges. The motion was seconded by Ms. Block, which carried.

## 2020 Complaint Committee

**C2020-04:** The Complaint Committee provided a brief history that this case involves a credential holder who allegedly failed to follow reassessment requirements, and that she/he has signed the proposed Settlement Agreement.

**Action taken:** The Complaint Committee recommended and moved to authorize the Board to accept the proposed Settlement Agreement. The motion was seconded by Mr. Pennington, which carried.

Additionally, Board staff discussed assigning a monitor to the credential holder in C2020-04.

**Action taken:** Mr. Pyles made a motion for the Board to authorize Board staff to assign a monitor to the credential holder. The motion was seconded by Mr. Brown, which carried.

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

**Action taken:** After reviewing the facts and circumstances of this case, the Complaint Committee recommended and moved to reconsider the action authorized in January and to close this case. The motion was seconded by Mr. Brown, 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.

**BIC2020-21:** The Complaint Committee reported that the credential holder has accepted the Private Admonishment, and that she/he has completed the Board approved documentation course.

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

**BIC2020-22:** The Complaint Committee provided a brief history that this case involves a credential holder who allegedly failed to properly screen patients.

**Action taken:** The Complaint Committee recommended and moved to authorize Mr. Poynter to draft a proposed settlement agreement with specified terms, and concurrently file a Notice of Hearing and Formal Chargers. The motion was seconded by Ms. Block, which carried.

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

**Action taken:** No action taken.

**BIC2020-24:** The Complaint Committee provided a brief history that this case involves a credential holder who allegedly made harassing comments to a coworker.



**Action taken:** The Complaint Committee recommended and moved to authorize Mr. Poynter to draft a proposed settlement agreement with specified terms. The motion was seconded by Mr. Brown, which carried.

**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 close this case. The motion was seconded by Mr. Brown, which carried.

### **2021 Complaint Committee**

**BIC2021-01:** The Complaint Committee reported that this case involves an individual who failed to take the Jurisprudence Exam prior to purchasing a Compact Privilege.

**Action taken:** The Complaint Committee recommended and moved to open a case, and to issue a Private Admonishment with a \$250 fine. The motion was seconded by Ms. Dick, which carried.

**C2021-02:** The Complaint Committee reported that this case involves a credential holder who allegedly has been charged with harassment.

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

**C2021-03:** The Complaint Committee reported that this case involves a credential holder involved in a malpractice lawsuit.

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

**C2021-04:** The Complaint Committee reported that this case involves a credential holder who allegedly is charged with theft.

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

**C2021-05:** The Complaint Committee reported that this case involves a credential holder who allegedly was issuing cold checks.

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

**BIC2021-06:** The Complaint Committee reported that this case involves a credential holder who allegedly violated supervision requirements.

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

**BIC2021-07:** The Complaint Committee reported that this case involves a credential holder who allegedly failed to properly screen patients.

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

**BIC2021-08:** The Complaint Committee reported that this case involves a credential holder who allegedly failed to properly screen patients.

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

**BIC2021-09:** The Complaint Committee reported that this case involves a credential holder who allegedly failed to properly screen patients.

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

**BIC2021-10:** The Complaint Committee reported that this case involves a credential holder who allegedly violated supervision requirements.

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

### **IPTPC Report**

Mr. Fingerson presented his written IPTPC report dated 03/10/21. IPTPC cases that previously have come to the attention of the Board or were discussed at length during the Complaint Committees' reports were reviewed.

Additionally, Mr. Fingerson reported to the Board that the credential holder in C2019-15 has petitioned to be released from her/his IPTPC agreement. Mr. Fingerson informed the Board that neither he or Ms. Caporal had any reservations of the credential holder being released.

**Action taken:** After a brief discussion, Ms. Thompson made a motion to grant the credential holder release from her/his IPTPT agreement. The motion was seconded by Mr. Brown, which carried.

Finally, Mr. Fingerson reported to the Board that a credential holder self-reported in January and has completed a 28-day treatment program. The credential holder has been asked to sign the customary 5-year IPTPC agreement, however, she/he has refused to sign the agreement. Subsequently, a 3 year IPTPC agreement was offered, but the credential holder still has not signed.

**Action taken:** After discussion, Mr. Brown made a motion to authorize Mr. Fingerson to contact the credential holder and explain that she/he can sign the voluntary IPTPC contract in lieu of formal Board action. The motion was seconded by Ms. Thompson which carried.

Ms. Thompson made the motion to adjourn the meeting at 2:41 p.m., seconded by Mr. Pennington, which carried.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Scott D. Majors', with a stylized flourish extending to the right.

Scott D. Majors  
Executive Director