



KENTUCKY BOARD OF PHYSICAL THERAPY

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Andy Beshear
Governor

Scott D. Majors, Esq.
Executive Director

MINUTES OF MEETING

May 21, 2020

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

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

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, Tom Pennington, at 9:00 a.m. on Thursday, 05/21/20, via Zoom according to the guidance issued by Governor Beshear. A quorum was present.

Board Appointments

The Board welcomed Peggy Block, PT, who was appointed by Governor Andy Beshear by Executive Order. Keith Poynter, the Board's General Counsel and a notary, administered the oath of office to Ms. Block.

KPTA Liaison Report

Dr. Kuperstein reported that KPTA is actively seeking clarification on Governor Beshear's comments during his 03/18/20, news conference regarding the cessation of physical therapy and occupational therapy services. Additionally, towards the end of the meeting KPTA received a memo regarding an update on professional services with regards to the Coronavirus, and it was submitted to the Board to review.

Minutes for Previous Special Meeting

The Board reviewed the draft minutes of the 03/19/20 Board meeting.

Action taken: Following review and discussion of a proposed amendments to the draft minutes, Mr. Dobrzykowski made a motion to approve the minutes of the Board meeting of 03/19/20, as amended. The motion was seconded by Mr. Pyles, which carried.

Board Discussions, Committees and Opinion Requests

Physical Therapy Licensure Compact

The Board tabled any discussion of the Physical Therapy Licensure Compact until the May Board meeting.

Action taken: No action taken.

KBPT Practice Act Review Committee

The Board tabled any discussion of the KBPT Practice Act Review Committee until a later date.

Action taken: No action taken.

KBPT Online Applications

The Board tabled any discussion of the KBPT Online Applications until the May Board meeting.

Action taken: No action taken.

KBPT Postage Meter – Lease Renewal

Mr. Majors reported to the Board that the lease of the postage meter in the Board office is coming to an end in April. Mr. Majors reviewed with the Board a quote for \$298 per month for a replacement meter. There is a slight increase of the lease payment due to an updated system that would include a thermal printer to assist with the mass mailings of the audit and lapsed letters. This will help streamline the current mailing process with certified letters.

Action taken: Ms. Thompson made a motion to authorize staff to renew the postage meter lease with the thermal postage meter printer upgrade. The motion was seconded by Ms. Dick, which carried.

Staff Reports and Discussions

The Board reviewed the following staff reports:

- (a) KBPT staff reported that an individual who purchased a Compact privilege completed the wrong Jurisprudence Exam. The individual completed an independent course that was approved by the KPTA. Staff reported that the individual has not practiced in Kentucky on her/his Compact privilege and, when informed that she/he failed to take the KBPT Jurisprudence Exam, the individual immediately completed the correct Jurisprudence Exam.

Action taken: After discussion, Mr. Dobrzykowski made a motion for the Board to issue a Private Admonishment. The motion was seconded by Ms. Dick, which carried.

- (b) KBPT staff brought an endorsement application before the Board that was originally reviewed during the July 2019 Board meeting. The applicant had been disciplined by West Virginia regarding boundary issues. The Board voted in July to defer consideration of the application until all requirements of the applicant's Settlement Agreement from West Virginia had been completed. The applicant appeared before the Board via Skype to discuss her/his case and answer any questions from the Board. Additionally, Mr. Curley, the Board Investigator informed the Board

that all terms of the applicant's West Virginia Settlement Agreement had been completed, and that on 03/18/2020, the West Virginia Board had met and voted to reinstate the individual's license.

Action taken: After discussion, Mr. Dobrzykowski made a motion that the Board issue an Agreed Order of Conditional Grant of Application by Endorsement with specified conditions once the applicant has completed the application process. The motion was seconded by Mr. Martin, which carried.

- (c) KBPT brought a reinstatement application before the Board for review. Staff reported that the applicant failed to report two previous arrests in 1987 on her/his initial application in 1996, and failed to report on multiple occasions afterwards. The individual informed the Board that she/he thought one charge had been dismissed and the second had been expunged.

Action taken: Following discussion, Mr. Dobrzykowski made a motion that the Board reinstate the applicant's credential without restrictions. The motion was seconded by Mr. Pyles, which carried.

- (d) KBPT brought a reinstatement application before the Board for review. Staff reported that the applicant failed to report an arrest for disorderly conduct. The applicant sent in an explanation on why she/he failed to disclose the information on her/his application.

Action taken: Following discussion, Mr. Dobrzykowski made a motion that the Board reinstate the applicant's credential without restrictions. The motion was seconded by Ms. Dick, which carried.

- (e) KBPT reported that a credential holder, who has recently been disciplined, requested an extension on one of the terms of her/his settlement agreement, specifically as it relates to the completion of the Ethics and Boundary course requirement.

Action taken: Following discussion, Mr. Pyles made a motion for the Board to grant an extension of 30 days to complete the required Ethics and Boundaries course. The motion was seconded by Ms. Thompson, which carried.

- (f) Jase Pinerola, who sought clarification on 201 KAR 22:053 Section 2(3)(a): "Upon receipt of a patient under an active plan of care from another physical therapist." Mr. Pinerola suggested that section (a) of this regulation implies that a new evaluation must occur when a patient's care is assumed by another physical therapist. Mr. Pinerola requested clarification related to the transition of care from one physical therapist to another.

Action taken: Following discussion, the Board instructed staff to respond that, if there is a change of facility, or if there is a change in the patient's condition, an evaluation must be performed. However, if another physical therapist treats the patient under the current plan of care, a new evaluation does not need to be completed.

Additionally, the Board instructed staff to add 201 KAR 22:053 Section 2(3)(a) as an item to be reviewed by the Practice Act Review Committee at a later date.

- (g) KBPT staff brought a reinstatement application before the Board for review. Staff reported that the applicant failed to report three arrests on the applicant's initial application and on the reinstatement application.

Action taken: After discussion, Ms. Thompson made a motion for the Board to issue a public reprimand. The motion was seconded by Mr. Pyles, which carried. Ms. Dick recused herself from any discussion or consideration of this matter.

- (h) Board staff reported that there have been numerous phone calls and emails from concerned credential holders seeking guidance regarding the issue of clinical practice as it relates to the current Coronavirus health crisis. The Board fielded questions from credential holders inquiring about Governor Beshear's press conference on 03/18/20 regarding Physical Therapy and Occupational Therapy services.

Action taken: After a lengthy discussion, the Cabinet of Health and Family Services and the Office of the Inspector General released a directive that gave more guidance to therapy professionals. Mr. Dobrzykowski made a motion that, after the Executive Director verifies the memo, Board staff send out a mass email to all credential holders and post the directive on the Board website. The motion was seconded by Mr. Martin, which carried.

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; and Alexander Love, PT. A monitor report was submitted by the Board-appointed monitor and considered by the Board for Ms. Brooks.

REPORTS AND OTHER BUSINESS

Legal Report

All items on the agenda under the Legal Report were tabled until the May Board meeting.

Executive Director's Report

Financial Report

Any discussion on the Financial Report was tabled until the May Board meeting.

Action taken: No action taken.

KBPT Office Lease

Mr. Majors reported to the Board that the lease for the Board office is set to expire in June of 2022. Mr. Majors requested permission to proactively extend the lease of the office through June of 2028 for the same price that KBPT is currently paying per square footage. Mr. Majors is currently discussing the extension of the lease with Brian Hoover with the Division of Real Properties in Frankfort, and with Sally Judah, a representative from Jefferson Development.

Action taken: Following a brief discussion, Mr. Martin made a motion for the Board to authorize Mr. Majors to extend the lease through June of 2028. The motion was seconded by Ms. Thompson, which carried.

KBPT Executive Director Evaluation

Mr. Majors reminded the Board that his annual evaluation is due in April, and he will send a template to Mr. Pennington that the Board has used in the past to circulate amongst the Board members for their input.

KBPT School Presentations

Mr. Majors reported that Ms. Ramsey was scheduled to conduct an in person school visit with Somerset Community College on 03/27/20; however, this meeting has been canceled. Ms. Ramsey has sent all the materials to Somerset Community College.

Action taken: No action taken.

Conferences and Meetings Relating to Physical Therapy

The Board reviewed the following schedule of upcoming conferences:

- a. Administrative Hearing Officer Training
(03/20/20 – Frankfort, KY)
(Rescheduled to 06/12/20 due to COVID-19)
(Keith Poynter and Scott Majors to serve as KBPT representatives)
- b. FSBPT Workshop – Trauma's Impact on Boundary Violation Investigations
(03/26/20-27/20 – Arlington, VA)
(This training is now available free to any KBPT representatives via live-streaming)
- c. FSBPT's Leadership Issues Forum
(07/18-19/20 – Alexandria, VA)
- d. FSBPT's Regulatory Training for Board Members and Administrators
(Tentative: 08/13-15/20 – Alexandria, VA)
(Currently, Mr. Brown is to serve as KBPT representative)
- e. 2020 FSBPT Annual Meeting and Delegate Assembly
(10/22-24/20 – Orange County, CA)'s primary voting delegate.
(KBPT Chair Tom Pennington to serve as KBPT)
- f. 2020 Annual Meeting – Physical Therapy Licensure Compact Commission
(10/25/20 – Orange County, CA)
(Scott Majors to serve as KBPT's delegate and Executive Board member)

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 examination and reinstatement applicants. This motion was seconded by Mr. Martin, which carried. The lists are attached to these minutes.

Civil Matters and Investigations

Mr. Dobrzykowski made the motion for the Board to retire into Executive Session pursuant to KRS 61.810(1)(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 Mr. Martin, which carried.

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

C2019-17: The Complaint Committee provided a brief history that this case involves allegations of fraud and material deception.

Action taken: The Complaint Committee recommended and moved to authorize Board Counsel to draft a proposed Settlement Agreement with specified terms. The motion was seconded by Mr. Martin, which carried.

C2019-18: The Complaint Committee reported this case is ongoing.

Action taken: No action taken.

CE2019-95: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

BIC2019-105: The Complaint Committee reported that the credential holder counteroffered the proposed Conditional Reinstatement Agreement concerning two conditions.

Action taken: The Complaint Committee recommended and moved to deny the request for modifications to the proposed Conditional Reinstatement Agreement. The motion was seconded by Ms. Dick, which carried.

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.

BIC2019-117: The Complaint Committee reported that this case is ongoing.

BIC2019-118: The Complaint Committee reported that this case is ongoing.

BIC2019-119: The Complaint Committee reported that this case involves a credential holder who allegedly committed substandard care.

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 Ms. Thompson, which carried.

2020 Complaint Committee

BIC2020-02: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

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

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

C2020-04: The Complaint Committee reported that this case involves a credential who allegedly failed to reassess patients.

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

Mr. Pennington recused himself from any discussion or consideration of **C2020-04**.

C2020-05: The Complaint Committee reported that this case involves a credential holder who allegedly is discharging patients too early.

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

IPTPC Report

Mr. Fingerson presented his written IPTPC report dated 03/11/20. 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 on C2019-101, the credential holder was sent an updated IPTPC agreement once her/his treatment was completed. Thus far, the credential holder has not submitted a signed copy of the updated IPTPC agreement.

Action taken: The Board authorized Board Counsel to send a letter to the credential holder as a reminder that she/he must submit a signed copy of the updated IPTPC agreement immediately.

Mr. Martin made the motion to adjourn the meeting at 5:34 p.m., seconded by Mr. Dobrzykowski, which carried.

Respectfully submitted,



Scott D. Majors
Executive Director