



KENTUCKY BOARD OF PHYSICAL THERAPY

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Andy Beshear
Governor

Stephen Curley
Executive Director

MINUTES OF MEETING January 26, 2023

Board Members: Peggy Block, PT, Chair
Stephanie Lutz, Chair-Elect
Mark Cook, PTA
Sonya Dick, PT
Michael Kleinert, Public Member
Karen Ogle, PT
Karen Thompson, PT

Board Staff: Stephen Curley, Executive Director
Krista Barton, Executive Secretary
Lisa A. Turner, Licensure Coordinator
Keith Poynter, General Counsel

APTA KY Liaison: Dr. Janice Kuperstein

A meeting of the Kentucky Board of Physical Therapy was called to order by the Board's Chair, Peggy Block, at 9:00 a.m. on Thursday, 01/26/23, at the Board office and via video teleconference. A quorum was present.

Ms. Block 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. Ms. Block asked the Board members to recuse themselves from both discussion and voting on any matter in which a conflict of interest exists.

Additionally, Ms. Block stated the Board would operate within the defined scope of authority set forth in the Kentucky Revised Statutes and Administrative Regulations. She 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 Board Meeting

The Board reviewed the draft minutes of the 11/17/22 Board meeting.

Action taken: Following review and discussion, Mr. Kleinert made a motion to approve the minutes of the Board meeting of 11/17/22, as drafted. The motion was seconded by Ms. Thompson, which carried.

Civil Matters and Investigations

Ms. Ogle 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 Mr. Cook, which carried.

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

2019 Complaint Committee

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

Action taken: No action taken.

2021 Complaint Committee

BIC2021-10: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

Mr. Kleinert recused himself from any discussion or voting pertaining to C2021-10.

C2021-41: The Complaint Committee reported that this case involves a credential holder who allegedly committed fraud and material deception, and the Board voted at the November meeting to accept the proposed settlement agreement with the understanding that the credential holder would appear before the Board in January. Mr. Curley reported to the Board that the credential holder notified him that she/he would not be able to appear before the Board today to review the terms of her/his settlement agreement, and requested an extension be granted for successfully completing the EBAS course.

Action taken: The Complaint Committee recommended and moved to deny the request for an extension on completing the EBAS course but would allow the credential holder to appear before the Board at the March meeting. The motion was seconded by Ms. Thompson, which carried.

CE2021-61: The Complaint Committee reported that the credential holder in this case has completed their payment plan and submitted the requisite continued competency hours.

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

CE2021-80:

The Complaint Committee reported that the credential holder in this case failed to submit their continued competency hours and pay the requisite fine in the allotted time frame. Mr. Poynter reported that the Board received a Hearing Officer's Recommended Order of Default in this case dated 12/29/22, and the Board was required to deliberate whether to accept the Recommended Order in issuing the Board's Final Order, pursuant to KRS 13B.120.

Action taken: The Complaint Committee recommended and moved to accept the Recommended Order of the Hearing Officer and adopt it as the Board's Final Order, and to revoke Tabitha Coldiron's physical therapist assistants' certificate, number A01988. The motion was seconded by Ms. Thompson, which carried.

C2021-147: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

Ms. Thompson recused herself from any discussion or voting pertaining to C2021-147.

2022 Complaint Committee

BIC2022-06: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

C2022-08: The Complaint Committee reported that this case involves a credential holder who allegedly provided substandard care.

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

C2022-11: The Complaint Committee reported that this case involves a credential holder who allegedly committed fraud and material deception and the Board voted at the last meeting to issue a settlement agreement with specified terms. Additionally, Mr. Poynter reported that the credential holder's attorney made a counteroffer to the proposed settlement agreement.

Action taken: Following discussion, the Complaint Committee recommended and moved to reject the counteroffer and authorize Board Counsel to draft a new proposed settlement agreement with specified terms. The motion was seconded by Mr. Cook, which carried.

C2022-13: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

C2022-18: The Complaint Committee reported that this involves a credential holder who allegedly had documentation issues and provided substandard care.

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

BIC2022-19: The Complaint Committee reported that this case involves a credential holder who has been under an Immediate Temporary Suspension since 08/08/22, due to allegedly practicing physical therapy under the influence and has multiple DUI's. Mr. Fingerson reported, the credential holder has failed to submit documentation from the treatment facility and has not signed an IPTPC contract.

Action taken: After discussion, the Complaint Committee recommended and moved to issue a Notice of Hearing and Formal Charges. The motion was seconded by Mr. Kleinert, which carried.

BIC2022-20: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

BIC2022-21: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

C2022-22: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

C2022-23: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

C2022-24: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

C2022-25: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

C2022-26: The Complaint Committee reported that this case involves a credential holder who violated one of the terms of their settlement agreement by failing to successfully complete the Ethics and Boundaries Assessment Services (EBAS) course within the required timeframe. The Board voted at the November meeting to open a Board Initiated Complaint (BIC) and authorized Mr. Poynter to draft a proposed settlement agreement with specified terms. Board staff reported that the credential holder has signed the proposed settlement agreement.

Action taken: The Complaint Committee recommended and moved to accept the proposed settlement agreement. The motion was seconded by Ms. Thompson, which carried.

C2022-27: 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 Ms. Ogle, which carried.

IPTPC Report

Mr. Fingerson presented the written IPTPC report dated 01/18/23. IPTPC cases that 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: Sabrina Pletz, PTA; Andrea Brown, PT; Taylor Preece, PT; Rebekah Green Thompson, PT; Michelle Ramsey, PT; Kendra Reynolds, PTA; Luke Carver, PTA; Jebediah Smith, PTA; and Donald Bruce Taylor, PT. Monitoring reports were submitted by the Board-appointed monitors and considered by the Board for Ms. Thompson, Ms. Reynolds, Mr. Carver, Ms. Preece, Ms. Ramsey, Mr. Smith, and Mr. Cooper.

Additionally, Ms. Preece submitted a request to be released from monitoring. Mr. Profitt, her Board appointed monitor submitted documentation in support of Ms. Preece's request for early release from monitoring.

Action taken: After discussion, Ms. Ogle made a motion to grant an early release from the monitoring requirement of Ms. Preece's settlement agreement. The motion was seconded by Mr. Cook, which carried.

Finally, Ms. Thompson submitted a request to be released from monitoring. Mr. Kaczmarek, her Board appointed monitor submitted documentation in support of Ms. Thompson's request for early release from monitoring.

Action taken: After discussion, Ms. Thompson made a motion to grant an early release from the monitoring requirement of Ms. Thompson's settlement agreement. The motion was seconded by Ms. Ogle, which carried.

Board Discussions, Committees and Opinion Requests

FSBPT – Committees and Appointments

Mr. Curley reported that he has been appointed to the Boundary Violation Taskforce, the Physical Therapy Compact Rules and Bylaws Committee, and to the Physical Therapy Compact Compliance Committee.

Additionally, Mr. Curley discussed with the Board the upcoming Leadership Issues Forum (LIF) meeting in Arlington, Virginia on 07/15-16/23. He asked for the Board to decide who would be appointed as the Voting Delegate and the Alternate Voting Delegate.

Action taken: After discussion, Ms. Thompson made a motion for the Board to nominate Ms. Block as the Voting Delegate and Ms. Lutz as the Alternate Voting Delegate. The motion was seconded by Mr. Cook, which carried.

Hardship Extensions

Mr. Curley discussed with Board members the possibility of Board staff reviewing Hardship Extension Requests rather than Board members reviewing each request during the Board meeting. This policy was adopted in 2021 to address the high volume of Hardship Extension Requests due to the Pandemic and the fact that credential holders have until April 30th to file a Hardship Extension Request. This policy shortens the response time to credential holders regarding the status of their Hardship Extension Requests.

Action taken: After discussion, Mr. Kleinert made a motion that the Board delegate the authority to Board staff to review Hardship Extension Requests and grant extensions. The motion was seconded by Ms. Thompson, which carried.

Staff Reports and Discussions

The Board reviewed the following staff reports:

- (a) Dr. Rebecca Webster, PhD., met with the Board via Zoom to clarify a few questions that the Board members had regarding an inquiry pertaining to whether a physical therapist or physical therapist assistant would need to be licensed in Kentucky to "set up a customer" located in Kentucky and train the individual on how to use a Functional Electrical Stimulation (FES) device for gait.

Action taken: Following discussion, the Board informed Dr. Webster that the Board does not have an issue with this and that it does not fall under the purview of the Practice Act.

- (b) Simon Hoehn, a physical therapist who sought clarification on whether the use of ultrasound guided dry needling is within the scope of practice of a physical therapist in Kentucky.

Action taken: Following discussion, the Board authorized staff to respond that there is nothing that prohibits the use of ultrasound guided dry needling as long as the credential holder has the proper training, education and expertise and it is used for assistive purposes rather than diagnostic purposes.

- (c) Beth Cooper an individual who sought clarification on whether a physical therapist is authorized to perform and interpret an Electromyography (EMG).

Action taken: Following discussion, the Board authorized staff to respond that there is nothing that prohibits a physical therapist to perform an EMG and document the results of the EMG as long as they have the proper training, education and expertise, but a physical therapist cannot interpret to diagnose with an EMG.

- (d) KBPT staff brought documentation pertaining to Nadia Brassell's voluntary supervised practice before the Board for review. Ms. Brassell is a credential holder who was reinstated after her credential had been lapsed for ten years.

Action taken: No action taken.

- (e) KBPT staff brought a request from a foreign-educated applicant before the Board for review. The applicant requested that the supervised clinical practice requirement be waived because she/he has completed a transitional education program and is currently working as a physical therapist in another jurisdiction.

Action taken: After discussion, Mr. Kleinert made a motion to deny waiving the clinical supervised practice requirement. The motion was seconded by Ms. Ogle, which carried.

APTA KY Liaison Report

Dr. Kuperstein reported that APTA KY would like to continue moving forward with the Imaging Taskforce.

Action taken: After discussion, Mr. Curley will contact committee members and schedule an Imaging Taskforce meeting.

KBPT General Counsel's Legal Report

Mr. Poynter discussed with the Board SB 131 from Ohio, where the state has enacted a law that allows the reciprocity for other licensed professionals to work in Ohio with minimal regulation.

Additionally, Mr. Poynter discussed with the Board that Nebraska has extended their emergency order related to licensure for health care providers. The order was initially instituted due to the pandemic and has been extended due to a shortage of health care providers.

Finally, Mr. Poynter discussed an article related to the relaxation of standardized testing scores for teaching certificate applicants in Kentucky.

Reports and Other Business

Executive Director's Report

Re-Entry Taskforce

Mr. Curley disseminated a draft of the proposed guidelines for the Policy and Procedure Manual pertaining to Re-Entry to practice for the Board to review.

Action taken: After discussion, Ms. Block made a motion to approve the draft of guidelines with the amended changes. The motion was seconded by Ms. Thompson, which carried.

Financial Report

Mr. Curley offered a report that addressed the Board's finances for the second quarter of the 2023 FY.

Action taken: No action taken.

Administrative Regulation – 201 KAR 22:053

Mr. Curley reported to the Board that the Administrative Regulation 201 KAR 22:053 passed the final review of the Senate Standing Committee on Health Services and went into effect on 01/12/23.

Action taken: No action taken

Administrative Regulation – 201 KAR 22:170

Mr. Curley reported to the Board that a hearing is scheduled on 02/23/23, and 201 KAR 22:170 is moving through the Legislative Research Committee process.

Action taken: No action taken.

Conferences and Meetings Relating to Physical Therapy

The Board reviewed the following schedule of upcoming conferences:

- a. CAPTASA Annual Conference
(01/27-28/23 – Lexington, KY)
(Ms. Block, Ms. Lutz, Ms. Ogle, Mr. Poynter and Ms. Turner - KBPT representatives)
- b. FSBPT – Leadership Issues Forum (LIF)
(07/15-16/23 – Arlington, VA)
(Ms. Block and Stephen Curley – KBPT representatives)
- c. FSBPT – Annual Meeting & Delegate Assembly
(10/19-22/23 – Jacksonville, FL)
(Ms. Block, Ms. Lutz, and Stephen Curley – KBPT representatives)

New Licensee/Reinstatement/Renewal Applications

Action taken: Ms. Ogle 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. Kleinert, which carried. The lists are attached to these minutes.

New Business

Mr. Curley reported that he went to Bellarmine University on 01/25/23, for a school visit to discuss the licensing process with students. Additionally, he reported to the Board that he has upcoming school visits scheduled with Madisonville Community College and Somerset Community College.

Action taken: No action taken.

Additionally, Mr. Curley discussed with the Board the possibility of scheduling an offsite Board meeting at a PT or PTA school during 2023. Previously, the Board would have one meeting a year at a school in order for students to understand what the Board’s role is and how the Board conducts business.

Action taken: After discussion, the Board decided to have Mr. Curley schedule a Board meeting at the University of Kentucky.

Board Member Per Diems and Expenses

Mr. Cook made a motion to approve per diems for Board members. The motion was seconded by Mr. Kleinert, which carried.

Adjournment

Ms. Ogle made the motion to adjourn the meeting at 1:01 p.m., seconded by Mr. Kleinert, which carried.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'S. Curley', with a large, stylized flourish at the end.

Stephen Curley
Executive Director