



KENTUCKY BOARD OF PHYSICAL THERAPY

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Andy Beshear
Governor

Stephen Curley
Executive Director

MINUTES OF MEETING November 17, 2022

Board Members: Karen Thompson, PT, Chair
Sonya Dick, PT, Chair-Elect
Peggy Block, PT
Mark Cook, PTA
Michael Kleinert, Public Member
Stephanie Lutz, PTA
Karen Ogle, 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, Karen Thompson, at 9:00 a.m. on Thursday, 11/18/22, at the Board office and via video teleconference according to the guidance issued by Governor Beshear, pursuant to KRS 61.823 and 61.826. A quorum was present.

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

Additionally, Ms. Thompson 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 09/08/22 Board meeting.

Action taken: Following review and discussion, Ms. Ogle made a motion to approve the minutes of the Board meeting of 09/08/22, as amended. The motion was seconded by Ms. Block, which carried.

Civil Matters and Investigations

Mr. Kleinert 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. Lutz, which carried.

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

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

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. Lutz, which carried.

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 July meeting to offer a proposed agreement with specified terms. Mr. Poynter reported that the credential holder has signed the proposed settlement agreement and will appear before the Board at the January Board meeting.

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

CE2021-61:

CE2021-80:

The Complaint Committee reported that the individuals in the two cases listed immediately above are part of the random audit and either have not completed their hours or paid their respective fines.

Action taken: No action taken.

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 is ongoing.

Action taken: No action taken.

C2022-09: 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 Mr. Cook, which carried.

C2022-11: The Complaint Committee reported that this case involves a credential holder who allegedly committed fraud and material deception.

Action taken: After reviewing the facts and circumstances of this case, the Complaint Committee recommended and moved to authorize Mr. Poynter to draft a settlement agreement with specified terms. The motion was seconded by Ms. Ogle, which carried.

BIC2022-12: 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. Lutz, which carried.

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

Action taken: No action taken.

BIC2022-14: The Complaint Committee reported that this case involves a credential holder who allegedly practiced without proper supervision.

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. Cook, which carried.

C2022-18: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

BIC2022-19: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

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 involves a credential holder who allegedly committed multiple boundary violations.

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

C2022-23: The Complaint Committee reported that this case involves a complaint against multiple facilities that allegedly has PTs practicing outside the scope of practice of physical therapy.

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

C2022-24: The Complaint Committee reported that this case involves a credential holder who allegedly provided substandard care.

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

C2022-25: The Complaint Committee reported that this case involves a credential holder who allegedly provided substandard care.

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

IPTPC Report

Mr. Fingerson presented the written IPTPC report dated 11/04/22. 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 Ison, 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, and Mr. Carver.

Board Discussions, Committees and Opinion Requests

CLEAR – Annual Educational Conference

Mr. Curley, Ms. Block, Mr. Cook, Mr. Kleinert, Ms. Ogle, and Mr. Poynter discussed with the Board the salient topics from the CLEAR Annual Educational Conference that they attended in September in Louisville.

Action taken. No action taken.

FSBPT – 2022 Annual Education Meeting

Mr. Curley and Ms. Thompson discussed with the Board the salient topics from the FSBPT 2022 Annual Education Meeting.

Action take: No action taken.

2025 Jurisprudence Exam Item Writer Taskforce

Mr. Curley and Dr. Kuperstein provided a list of the tentative twenty questions for the 2023-2025 Jurisprudence Exam (JE) that the Board reviewed at the September meeting for final approval.

Action taken: Following discussion, Ms. Ogle moved that the Board approve the list of twenty questions provided to serve as the 2023-2025 JE. The motion was seconded by Ms. Block, which carried.

APTA Annual Conference Presentation

Mr. Curley provided a brief report on his presentation at the APTA KY Fall Conference on 09/10/22 in Bowling Green, KY.

Action taken: No action taken.

Requirements for Board Members

Mr. Curley disseminated a copy of the information provided by APTA KY on the requirements for Board members that explains the purpose of the Board and the time commitment involved. Additionally, Dr. Kuperstein reported that APTA KY no longer depends on a voting system for potential Board members and now has implemented an interview process.

Action taken: No action taken.

2023 Board Meeting Schedule

Following consideration of various educational conferences scheduled to be held in 2023, and in an effort to avoid conflicts with the scheduling of these conferences, the Board established the following schedule for Board meetings in 2023:

Board Meetings: 9:00 a.m. to approximately 4:00 p.m.

January 26

March 23

May 18

July 13

September 21

November 16

Action taken: Mr. Kleinert made a motion to approve the aforementioned Board meeting dates for 2023. The motion was seconded by Ms. Ogle, which carried.

2023 Board Appointments

- (1) 2023 Board Chair: Mr. Cook made a motion for Ms. Block to assume the position of Chair, effective 01/01/23, or earlier if Ms. Thompson is not reappointed to the Board prior to the end of the calendar year. The motion was seconded by Ms. Ogle, which carried.
- (2) 2023 Chair Elect: Mr. Cook made a motion that Ms. Lutz assume the position of Chair-Elect effective 01/01/23. The motion was seconded by Mr. Kleinert, which carried.
- (3) Complaint Committee Members: Mr. Kleinert made a motion to appoint Ms. Block and Ms. Lutz to replace Ms. Thompson and Ms. Dick on all the Complaint Committees. The motion was seconded by Mr. Cook, which carried.
- (4) 2023 ADA Accommodations Committee/Liaison Members: Ms. Block made a motion to reappoint Ms. Lutz and appoint Mr. Cook to serve as ADA Accommodations Liaison Members. The motion was seconded by Mr. Kleinert, which carried.

- (5) 2023 KBPT Continued Competency Liaison to APTA KY: Mr. Cook made a motion to appoint Ms. Ogle to serve as the KBPT Board Member Liaison to APTA KY, effective 01/01/2023. The motion was seconded by Mr. Kleinert, which carried.
- (6) 2023 Finance Workforce Members: Mr. Kleinert made a motion that Ms. Block and Ms. Lutz serve as the 2023 Finance Workforce Members, effective 01/01/23. The motion was seconded by Ms. Ogle, which carried.
- (7) 2023 KBPT Board Member Liaison to APTA KY: Mr. Cook made a motion to reappoint Ms. Lutz to serve as the KBPT Board Member Liaison to APTA KY. The motion was seconded by Ms. Ogle, which carried.

Executive Director Annual Review

The Board discussed at length Mr. Curley's performance during his first year as Executive Director.

Action taken: Following discussion, Mr. Kleinert made a motion to increase Mr. Curley's annual salary by 6%. The motion was seconded by Ms. Ogle, which carried unanimously.

Additionally, Ms. Thompson will be meeting with Mr. Curley later in November to discuss his annual review.

Staff Reports and Discussions

The Board reviewed the following staff reports:

- (a) William Goodman, PTA, who is currently under a settlement agreement has failed to meet the requirement of successfully completing the Ethics and Boundaries Assessment Services (EBAS) course within the allotted 90-day time frame. Board staff reported that Mr. Goodman has taken the EBAS twice and failed.

Action taken: Following discussion, Ms. Block made a motion for the Board to open a Board Initiated Complaint (BIC) BIC2022-26 and authorize Mr. Poynter to draft a proposed settlement agreement with specified terms. The motion was seconded by Mr. Kleinert, which carried.

- (b) Raina Adkins an individual who sought clarification on whether a physical therapist or a 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 authorized staff to reach out to Ms. Adkins for additional information.

APTA KY Liaison Report

Dr. Kuperstein reported that APTA KY has a Board meeting on 12/06/22.

KBPT General Counsel's Legal Report

Mr. Poynter discussed with the Board an article concerning websites for various medical boards and the fact that the websites routinely are vague and ambiguous with respect to sexual boundary complaints.

Additionally, Mr. Poynter reported on an article regarding California physicians who have sexually assaulted patients can no longer reinstate their license.

Finally, Mr. Poynter reported to the Board on his recent meeting with the University of Louisville, Southern Police Institute, Administrative Officer Course. Salient topics in the meeting included licensing for law officers and administrative law.

Reports and Other Business

Executive Director's Report

Imaging Taskforce

Mr. Curley reported that the Imaging Taskforce met in October and discussed the growing trend in several jurisdictions of physical therapists ordering diagnostic imaging. Additionally, Mr. Curley reported that he will schedule another meeting with members of the Imaging Taskforce in the near future and report back to the Board at the January meeting.

Re-Entry Taskforce

Mr. Curley reported that the Re-Entry Taskforce met in October to discuss requirements for reinstatement applicants who have a lapsed credential over three years and who no longer have a current credential in another jurisdiction.

Action taken: Mr. Curley and members of the Re-Entry Taskforce will provide a proposed draft of potential guidelines for the Policy and Procedure Manual for the Board to review at the January meeting.

Boundary Taskforce

Mr. Curley reported that the Boundary Taskforce met in September to discuss the possibility of adding resources to the Board's website.

Action taken: No action taken.

Telehealth Taskforce

Mr. Curley reported that the Telehealth Taskforce met in September and discussed a potential regulation change to 201 KAR 22:160 and the possibility of creating a Telehealth FAQ page for the Board's website.

Action taken: No action taken.

Continued Competency Taskforce

Mr. Curley reported that the Continued Competency Taskforce met in October to review and discuss 201 KAR 22:045. Additionally, Mr. Curley reported that the Continued Competency Taskforce is scheduled to meet on 12/02/22 and he will provide a draft of proposed changes to 201 KAR 22:045 at the January meeting.

Action taken: No action taken.

Contractor Advisory Committee

Mr. Curley disseminated information he received from APTA KY regarding the Contractor Advisory Committee for the Board to review and discuss.

Action taken: No action taken.

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 was reviewed and approved by the Administrative Regulation Review Subcommittee and he will provide an update at the January Board meeting.

Action taken: No action taken

Administrative Regulation – 201 KAR 22:170

Mr. Curley reported to the Board that there have been changes made to the Rules and Bylaws of the Compact Commission and that the Board would need to update its regulation to incorporate the changes.

Action taken: Mr. Kleinert made a motion that the Board authorize Mr. Curley to file changes to 201 KAR 22:170 to reflect the Compact Commission's rule changes. The motion was seconded by Ms. Ogle, which carried.

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)

Action taken: After discussion, Mr. Kleinert made a motion for the Board to pay for the registration fees and associated travel costs for up to five members of Board staff and Board members to attend the CAPTASA workshop. The motion was seconded by Ms. Lutz, which carried.

- b. FSBPT – Annual Meeting & Delegate Assembly
(10/19-22/23 – Jacksonville, FL)

New Licensee/Reinstatement/Renewal Applications

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

New Business

Mr. Curley reported that FSBPT has created a new taskforce to address burnout within the physical therapy profession. They have created a Healthy Practice Self Reflective Resource Survey that they have requested individual's beta test and provide feedback regarding the survey. Mr. Curley asked Board members if they would be interested in participating with beta testing the survey.

Action taken: Following discussion, Mr. Curley will disseminate the Healthy Practice Self Reflective Resource Survey to current and previous Board members and additionally send the survey to APTA KY.

PTA Foreign Educated Applicant

Mr. Curley reported that the office has received an inquiry from a former foreign educated applicant who initially began the application process for a physical therapist credential in 2018 and completed an education credential evaluation using Coursework Tool 4 (CWT4) from FCCPT. The applicant then decided to seek a physical therapist assistant credential in New York. The individual has returned to Kentucky and would like to apply for a physical therapist assistant credential and use the CWT4, however, after review of 201 KAR 22:070, a foreign educated physical therapist applicant must use the appropriate Coursework Evaluation Tool. Mr. Curley reported that the appropriate Coursework Evaluation Tool for a PTA foreign-educated applicant is PTA Coursework Tool 2.

Action taken: After discussion, the Board advised Board staff that the applicant must use the appropriate Coursework Evaluation Tool for PTAs.

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 2:58 p.m., seconded by Mr. Cook, which carried.

Respectfully submitted,



Stephen Curley
Executive Director