



## KENTUCKY BOARD OF PHYSICAL THERAPY

312 Whittington Parkway, Suite 102

Louisville, Kentucky 40222

Phone (502) 429-7140

Fax (502) 429-7142

<http://pt.ky.gov>

*Andy Beshear*  
Governor

*Stephen Curley*  
Executive Director

### MINUTES OF MEETING November 18, 2021

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

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

Board Agent: Brian Fingerson, RPh, IPTPC Director

APTA KY Liaison Dr. Janice Kuperstein

A meeting of the Kentucky Board of Physical Therapy was called to order by the Board's Chair, Ed Dobrzykowski, at 9:00 a.m. on Thursday, 11/18/2021, 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.

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 Board Meeting

The Board reviewed the draft minutes of the 09/16/21 Board meeting.

**Action taken:** Following review and discussion, Mr. Kleinert made a motion to approve the minutes of the Board meeting of 09/16/21, as amended. The motion was seconded by Ms. Dick, which carried.

### Board Announcements

Mr. Dobrzykowski congratulated Ms. Taylor on receiving the Outstanding PTA Service Award from APTA KY., and announced that Mr. Scott Majors was nominated and appointed an honorary membership to APTA KY.

## 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. Taylor, which carried.

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

**BIC2019-110:** The Complaint Committee reported that this case involves a credential holder who allegedly continued physical therapy services without proper supervision.

**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. Dick, which carried.

Mr. Kleinert recused himself from any discussion or voting pertaining to BIC2019-110.

**BIC2019-111:** The Complaint Committee reported that this case involves a credential holder who allegedly failed to provide appropriate supervision and the Board has received a signed settlement agreement from the credential holder's attorney.

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

Mr. Kleinert recused himself from any discussion or voting pertaining to BIC2019-111.

**BIC2019-112:** The Complaint Committee reported that this case involves a credential holder who allegedly continued to practice without proper supervision and continued to provide physical therapy services without an active plan of care.

**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. Taylor, which carried.

Mr. Kleinert recused himself from any discussion or voting pertaining to BIC2019-112.

**BIC2019-113:** The Complaint Committee reported that this case involves a credential holder who allegedly continued to practice without proper supervision.

**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 Mr. Cook, which carried.

Mr. Kleinert recused himself from any discussion or voting pertaining to BIC2019-113.

**BIC2019-114:** The Complaint Committee reported that this case involves a credential holder who allegedly continued to practice without proper supervision.

**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. Taylor, which carried.

Mr. Kleinert recused himself from any discussion or voting pertaining to BIC2019-114.

**BIC2019-115:** The Complaint Committee reported that this case involves a credential holder who allegedly continued to practice without proper supervision and continued to provide physical therapy services without an active plan of care.

**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. Dick, which carried.

Mr. Kleinert recused himself from any discussion or voting pertaining to BIC2019-115.

**BIC2019-116:** The Complaint Committee reported that this case involves a credential holder who allegedly failed to provide appropriate supervision and the Board has received a signed settlement agreement from the credential holder's attorney.

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

Mr. Kleinert recused himself from any discussion or voting pertaining to BIC2019-116.

### **2020 Complaint Committee**

**C2020-15:** The Complaint Committee reported that this case involves a credential holder who allegedly committed fraud and material deception and the Board has received a signed settlement agreement from the credential holder.

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

**C2020-18:** 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.

### **2021 Complaint Committee**

**C2021-03:** The Complaint Committee reported that this case is ongoing.

**Action taken:** No action taken.

**BIC2021-06:** The Complaint Committee reported that this case involves a credential holder who allegedly continued to practice without proper supervision.

**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 Mr. Cook, which carried.

Mr. Kleinert recused himself from any discussion or voting pertaining to BIC2021-06.

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

**Action taken:** No action taken.

**C2021-11:** The Complaint Committee reported that this case is ongoing.

**Action taken:** No action taken.

**C2021-13:** The Complaint Committee reported that this case is ongoing.

**Action taken:** No action taken.

**C2021-21:** The Complaint Committee reported that this case involves a credential holder who allegedly committed a boundary violation by sending explicit photographs to a patient. The Board has received a signed Settlement Agreement of Voluntary Surrender of Certificate to Practice.

**Action taken:** The Complaint Committee recommended and moved to accept the signed Settlement Agreement of Voluntary Surrender of Certificate to Practice. The motion was seconded by Ms. Dick, which carried.

**C2021-22:** The Complaint Committee reported that this case involves a credential holder who allegedly failed to document patient records appropriately. During the September Board meeting, the Board authorized Mr. Poynter to draft a proposed settlement agreement with specified terms. Mr. Poynter reported the credential holder has not signed the proposed settlement agreement.

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

**C2021-23:** The Complaint Committee reported that this case is ongoing.

**Action taken:** No action taken.

**C2021-37:** The Complaint Committee reported that this case is ongoing.

**Action taken:** No action taken.

**BIC2021-40:** The Complaint Committee reported that this case is ongoing.

**Action taken:** No action taken.

**C2021-41:** The Complaint Committee reported that this case is ongoing.

**Action taken:** No action taken.

**BIC2021-42:** The Complaint Committee reported that this case is ongoing.

**Action taken:** No action taken.

**BIC2021-43:** The Complaint Committee reported that this case is ongoing.

**Action taken:** No action taken.

**BIC2021-44:** The Complaint Committee reported that this case involves a credential holder who violated her/his IPTPC contract. The credential holder requested a Settlement Agreement of Voluntary Surrender of Certificate to Practice, however, failed to sign the Settlement Agreement within the allotted timeframe. Board staff issued a Notice of Hearing and Formal Charges and the Complaint Committee reported this case is ongoing.

**Action taken:** No action taken.

**C2021-45:** The Complaint Committee reported that this case involves a credential holder who allegedly has multiple violations pertaining to supervision, documentation, and fraud and material deception.

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

**C2021-46:** The Complaint Committee reported that this case involves an endorsement applicant who answered "yes" to several questions on Part VII of the application.

**Action taken:** The Board decided to take not action at this time pending further information.

**C2021-47:** The Complaint Committee reported that this case involves a possible term protection violation.

**Action taken:** After reviewing the facts and circumstances of this case, the Complaint Committee recommended and moved to take no action. The motion was seconded by Mr. Kleinert, which carried.

**CE2021-48-132:** The Complaint Committee reported that all of these cases involve credential holders who were deficient with the Continued Competency requirements.

**Action taken:** The Complaint Committee recommended and moved to authorize the Board staff to draft Private Admonishments consistent with the Board's procedure as established in the 2013-2015 CE Audit process, and as affirmed by the Board for the 2019-2021 CE Audit process. The motion was seconded by Ms. Taylor, which carried.

**CE2021-133-145:** The Complaint Committee reported that all of these cases involve credential holders who were deficient with their Continued Competency requirements.

**Action taken:** The Complaint Committee recommended and moved to authorize Board staff to draft Settlement Agreements consistent with the Board's procedure as established in the 2013-2015 CE Audit process, and as affirmed by the Board for the 2019-2021 CE Audit process. The motion was seconded by Ms. Taylor, which carried.

**CE2021-146:** The Complaint Committee reported that this case involves a credential holder who failed to respond to the Board Order for the Continued Competency Audit prior to the deadline.

**Action taken:** The Complaint Committee recommended and moved to issue the credential holder a Private Admonishment consistent with the Board's procedure established in 2017-2019 CE Audit process, and as affirmed by the Board for the 2019-2021 CE Audit process. The motion was seconded by Ms. Taylor, which carried.

**C2021-147:** 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. Dick, which carried.

**C2021-148:** The Complaint Committee reported that this case involves a credential holder who allegedly provided substandard care. The motion was seconded by Mr. Kleinert, which carried.

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

### **IPTPC Report**

Mr. Fingerson presented his written IPTPC report dated 11/08/21. IPTPC cases that previously have come to the attention of the Board or were discussed at length during the Complaint Committees' reports were reviewed.

### **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; and Shaun Goulbourne, PT.

**Action taken:** Mr. Kleinert made a motion that the Board authorize staff to select monitors for the individuals whose settlement agreements required monitoring. The motion was seconded by Ms. Thompson, which carried.

### **APTA KY Liaison Report**

Dr. Kuperstein reported to the Board that on 11/16/2021, APTA KY submitted a letter to the Governor's office with proposed nominees for position to be vacated by Mr. Dobrzykowski.

Additionally, Dr. Kuperstein reported that the APTA KY Board has decided to "rest" with regards to the Athletic Trainers Regulation.

Finally, Dr. Kuperstein noted appreciation for the hard work of the Testing Accommodation Review Committee and the decision of the Board to retain the responsibility of reviewing ADA requests rather than deferring to the FSBPT process.

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

### **2021 FSBPT Annual Meeting & Delegate Assembly**

Mr. Dobrzykowski gave a brief report to the Board concerning the 2021 FSBPT Annual Meeting & Delegate Assembly he attended virtually in October. He discussed information relative to the support of the Physical Therapy Compact, strengthening the Exam Licensure and Disciplinary Database (ELDD), the continuation of providing resources to jurisdictions, and Telehealth. Additionally, Mr. Dobrzykowski reported that the four candidates the Board voted on in September won their elections during the Delegate Assembly.

### **2021 Compact Commission Meeting**

Mr. Curley reported on the Compact Commission meeting. He discussed information relative to the financial status of the Compact Commission. He informed the Board that the Compact Commission has embarked on a marketing plan to help promote the Physical Therapy Compact. Additionally, Mr. Curley disseminated a letter from the Compact Commission requesting the use of credential holders email addresses for marketing purposes. Mr. Curley informed the Board that there is an opinion from the Attorney General stating that email addresses are considered as protected information.

**Action taken:** After discussion, Mr. Kleinert made a motion to deny the request from the Physical Therapy Compact Commission for the use of credential holder's emails. The motion was seconded by Mr. Cook, which carried.

Finally, Mr. Curley briefly discussed with the Board the possibility of KBPT raising the fee for a Compact privilege to practice in Kentucky in the future.

**Action taken:** No action taken.

### **ADA Accommodations for Licensure Committee**

Mr. Curley reported to the Board that the ADA Accommodations Committee had met twice since the last Board meeting. He disseminated the updated ADA application for the Board to review and discuss. Mr. Curley and Ms. Block explained that some information was removed due to being outdated while other sections were updated, and one section was added to gather additional information. Additionally, Mr. Curley reviewed the draft language for the Policy and Procedure manual regarding ADA Accommodation requests.

**Action taken:** After discussion, Ms. Block made a motion for the Board to: (a) approve the updated application for ADA accommodations, (b) authorize Mr. Curley and Mr. Poynter to file the updated ADA accommodations application with the LRC, and (c) approve the draft language for the Policy & Procedure manual. The motion was seconded by Ms. Dick, which carried.

### **Boundary Task Force**

Mr. Curley reported to the Board that the Boundary Task Force had met twice since the last meeting. He disseminated the draft of the proposed changes to 201 KAR 22.001 which included two new definitions on sexual harassment and sexual misconduct. Additionally, he reviewed changes to 201 KAR 22.053 Section 1 that would include language relating to sexual misconduct and sexual harassment pertaining to patients.

**Action taken:** After discussion, Ms. Thompson made a motion for the Board to accept the proposed draft changes to 201 KAR 22.001, and to authorize Board staff to begin the process of filing the amendment to 201 KAR 22.001 with LRC. The motion was seconded by Ms. Taylor, which carried.

**Action taken:** After discussion, Mr. Kleinert made a motion for the Board to accept the proposed draft changes to 201 KAR 22.053, and to authorize Board staff to begin the process of filing the amendment to 201 KAR 22.053 with LRC. The motion was seconded by Ms. Dick, which carried.

### **2021 Board Meeting Schedule**

Following consideration of various educational conferences scheduled to be held in 2022, and in an effort to avoid conflicts with the scheduling of these conferences, the Board established the following schedule for Board meetings in 2022:

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

January 20  
March 24  
May 19  
July 28  
September 15  
November 17

### **2022 Board Appointments**

- (1) 2022 Board Chair: Pursuant to the vote taken by the Board in November 2020 and in July 2021, Ms. Thompson shall assume the position of Chair, effective 01/01/22, or earlier if Mr. Dobrzykowski is replaced prior to the end of the calendar year.
- (2) 2022 Chair Elect: Mr. Cook moved that Ms. Dick assume the position of Chair-Elect effective 01/01/22. The motion was seconded by Ms. Block, which carried.
- (3) Complaint Committee Members: Mr. Kleinert made a motion to appoint Ms. Dick to replace Mr. Dobrzykowski on all the Complaint Committees. The motion was seconded by Ms. Taylor, which carried.
- (4) 2022 ADA Accommodations Committee/Liaison Members: Ms. Dick made a motion to reappoint both Ms. Block and Ms. Taylor to serve as ADA Accommodations Liaison Members. The motion was seconded by Ms. Thompson, which carried.
- (5) 2022 KBPT Continued Competency Liaison to APTA KY: Mr. Kleinert made a motion to appoint Mr. Cook to serve as the KBPT Board Member Liaison to APTA KY, effective 01/01/2022. The motion was seconded by Ms. Thompson, which carried.
- (6) 2022 Finance Workforce Members: Ms. Taylor made a motion that Ms. Thompson and Ms. Dick serve as the 2022 Finance Workforce Members, effective 01/01/22. The motion was seconded by Mr. Cook, which carried.
- (7) 2022 KBPT Board Member Liaison to APTA KY: Mr. Cook made a motion that Ms. Taylor serve as the KBPT Board Member Liaison to APTA KY. The motion was seconded by Mr. Kleinert, which carried.

### **Board Chair Remarks**

Mr. Dobrzykowski briefly addressed the Board members and staff and thanked them all for their hard work during his time on the Board.

### **Staff Reports and Discussions**

The Board reviewed the following staff reports:



- (a) Kevin Bryant, a physical therapist who sought clarification on whether a physical therapist can administer injections for musculoskeletal injuries as it relates to RMSK certification.

**Action taken:** The Board authorized staff to contact Mr. Bryant for additional information.

(b) **2021 CE Audit**

Mr. Curley gave a brief presentation on the conclusion of the 2021 Continued Competency Audit. He discussed the total number deficiencies and compliance percentages.

## **Reports and Other Business**

### **Legal Report**

#### **Administrative Regulations**

##### **201 KAR 22:045**

Mr. Poynter reported that 201 KAR 22:045 is set to go before the committee next week. Also, he reported that there have been no public comments, and he did not expect any issues with the passage of the amended regulation.

##### **Open Records Transparency**

Mr. Poynter discussed with the Board members an article pertaining to Attorney General Cameron's position that state work related communication, captured on private phones or email devices, is protected from the Kentucky Open Records Act. While Mr. Poynter indicated that this is the position of the Attorney General, he strongly cautioned Board members and staff against using private email services, or conducting Board business on personal cell phones as these communications are likely going to be discoverable if litigation were involved.

##### **Tennessee Board of Medical Examiners**

Mr. Poynter discussed an article pertaining to the Tennessee Board of Medical Examiners that indicated they will take disciplinary action against licensees that spread misinformation and disinformation concerning COVID-19. Mr. Poynter felt that this is not an approach that he felt comfortable with because of the hazards of limiting speech based on content and the first amendment challenges that could possibly result from disciplinary actions taken in accordance with this rule.

##### **Kentucky Bar Association**

Mr. Poynter discussed an article pertaining to a former Kentucky attorney who was disbarred but has continued to practice law.

### **Executive Director's Report**

#### **Staffing Update – Personal Service Contract**

Mr. Curley reported that the Personal Service Contract for Investigative Services has been completed Scanlan Associates will begin on December 1, 2021.

**Action taken:** No action taken.

### **Financial Report**

Mr. Curley offered a report that addressed the Board's finances for the second quarter of the 2022 FY.

**Action taken:** No action taken.

### **Budget**

Mr. Curley provided a copy of the Budget for FY 23-24 for the Board to review.

**Action taken:** No action taken.

### **Document Library Update**

Mr. Curley discussed with the Board KBPTs SharePoint Document Libraries used to post Board information and public documents. He reported that he has been in contact with both NIC and the Commonwealth of Technology (COT) to create a new platform to house public and protected Board documents. Mr. Curley will provide an update to the Board at the January meeting.

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

The Board reviewed the following schedule of upcoming conferences:

- a. FARB – Forum  
(1/27-29,2022 Fort Worth, TX)
- b. CAPTASA  
(01/28-29/22 – Lexington, KY)
- c. CLEAR – Investigative Reports of Sexual Misconduct  
(04/28/22 – Austin, TX)

**Action taken:** After discussion, Ms. Dick made a motion for the Board to pay for the registration fees for up to four individuals from the Board staff or Complaint Committee members to attend the virtual conference on Investigative Reports of Sexual Misconduct. The motion was seconded by Ms. Thompson, which carried.

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

**Action taken:** Mr. Dick 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.

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

### **Adjournment**

Mr. Cook made the motion to adjourn the meeting at 1:57 p.m., seconded by Mr. Kleinert, which carried.

Respectfully submitted,



Stephen Curley  
Executive Director