



## KENTUCKY BOARD OF PHYSICAL THERAPY

Andy Beshear  
Governor

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Scott D. Majors, Esq.  
Executive Director

### MINUTES OF SPECIAL MEETING November 19, 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 special 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, 11/19/20, via video teleconference according to the guidance issued by Governor Beshear, pursuant to KRS 61.823 and 61.826. A quorum was present.

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

Additionally, Mr. Pennington 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 Attorney 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 09/17/20 special Board meeting.

**Action taken:** Following review and discussion of a proposed amendment to the draft minutes, Mr. Dobrzykowski made a motion to approve the minutes of the Board meeting of 09/17/20, as amended. The motion was seconded by Mr. Pyles, which carried.

### **APTA KY Liaison Report**

Dr. Kuperstein reported to the Board that the Athletic Trainers Bill, SB125, was passed last session, and APTA KY continues to have concerns relating to the proposed regulations; specifically, the issue whether any continued education courses taken would be considered in the scope of practice of an athletic trainer, including dry needling. Dr. Kuperstein asked whether it would be appropriate for the Board to express concern to the Kentucky Board of Medical Licensure when viewed from a public protection perspective. Mr. Poynter advised Board members that they could express concern as a physical therapist, but not as a member of the Board of Physical Therapy.

Additionally, Dr. Kuperstein reported that during the Council of Chapter of Presidents meeting there was a request made to all the chapters to sign a letter from APTA to FSBPT regarding the development of standards for international physical therapists who are credentialed in one state to standardize licensure by endorsement. Dr. Kuperstein informed the Board that Dr. Beth Ennis requested Board's review of the letter prior to APTA KY signing.

Finally, Dr. Kuperstein inquired whether the Board would be interested in collaborating with APTA KY on ethics issues. Mr. Pennington agreed that the topic of ethics is timely and relevant.

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

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

Mr. Pennington and Mr. Majors reported that the KBPT Practice Act Review Committee had its seventh meeting on 11/10/2020. Mr. Pennington thanked all the members of the KBPT Practice Act Review Committee for their diligence and efforts in creating a document that reflects changes the Board would support if another entity opens the Act during a future legislative session. Additionally, Mr. Majors provided a detailed overview of the proposed changes to the Kentucky Physical Therapy Practice Act, and answered any questions or concerns from the Board members and KBPT staff.

**Action taken:** After careful consideration and review, Ms. Block made a motion for the Board to accept the proposed document from the Practice Act Review Committee as a working document to allow the Board to move forward in the future with any changes to the Practice Act. The motion was seconded by Mr. Brown, which carried.

#### **2021-2023 Jurisprudence Exam Item Writers**

Mr. Majors reported that the 2021-2023 Jurisprudence Exam (JE) Item Writers' Task Force, consisting of Debra Turner, Janice Kuperstein, and Troy Grubb, had several meetings to examine the potential questions for the next JE. Dr. Kuperstein briefly reviewed with the Board members the item writers' list of twenty-four proposed questions.

**Action taken:** Following discussion, Ms. Dick moved that the Board approve a set of twenty of these questions to serve as the 2021-2023 JE with any editorial changes yet to be defined. The motion was seconded by Ms. Block, which carried.

#### **2021 Board Appointments**

- (1) 2021 Board Chair: Pursuant to the vote taken by the Board in November 2019, Mr. Dobrzykowski shall assume the position of Chair, effective 01/01/21;
- (2) 2021 Chair-Elect: Mr. Brown moved that Ms. Thompson assume the position of Chair-Elect, effective 01/01/21. The motion was seconded by Ms. Thompson, which carried;
- (3) 2019 Complaint Committee Members: Mr. Brown moved that Ms. Thompson be appointed to the 2019 Complaint Committee to replace Mr. Pennington. The motion was seconded by Ms. Thompson, which carried;

- (4) 2020 Complaint Committee Members: Mr. Brown moved that Ms. Thompson be appointed to the 2020 Complaint Committee to serve with Mr. Dobrzykowski. The motion was seconded by Ms. Thompson, which carried;
- (5) 2021 Complaint Committee Members: Mr. Brown moved that Ms. Thompson be appointed to the 2021 Complaint Committee to serve with Mr. Dobrzykowski. The motion was seconded by Ms. Thompson, which carried;
- (6) 2021 ADA Accommodations Committee/Liaison Members: Mr. Brown moved that Ms. Block be reappointed and Mr. Pyles be appointed to serve as ADA Accommodations Liaison Members. The motion was seconded by Ms. Thompson, which carried;
- (7) 2021 KBPT Board Member Liaison to APTA KY: Mr. Brown moved that Ms. Dick be appointed to serve as the KBPT Board Member Liaison to APTA KY, effective 01/01/2021. The motion was seconded by Ms. Thompson, which carried;
- (8) 2021 KBPT Continued Competency Liaison to APTA KY: Mr. Brown moved that Mr. Pyles be appointed to serve as the KBPT Board Member Liaison to APTA KY, effective 01/01/2021. The motion was seconded by Ms. Thompson, which carried;
- (9) 2021 Finance Workforce Members: Mr. Brown moved that Mr. Dobrzykowski and Ms. Thompson serve as the 2021 Finance Workforce Members, effective 01/01/21. The motion was seconded by Ms. Thompson, which carried; and
- (10) 2021 PET Review Committee: Mr. Brown moved that Ms. Block and Mr. Pennington serve as the 2021 PET Review Committee Members, effective 01/01/21. The motion was seconded by Ms. Thompson, which carried.

### **2021 Board Meeting Schedule**

Following consideration of various educational conferences scheduled to be held in 2021, and in an effort to avoid conflicts with the scheduling of these conferences, the Board established the following schedule for Board meetings in 2021:

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

January 14  
March 18  
May 20  
July 15  
September 16  
November 18

### **2020 FSBPT Annual Meeting and Delegate Assembly**

Mr. Pennington, Ms. Dick and Mr. Majors reported that they virtually attended the 2020 FSBPT Annual Meeting and Delegate Assembly on 10/24/20. Additionally, Mr. Majors reported that the 2021 FSBPT Annual Meeting and Delegate Assembly would be held virtually.

**Action taken:** No action taken.

### **2020 Annual Meeting Physical Therapy Licensure Compact Commission**

Mr. Majors briefly reported on the 2020 Physical Therapy Licensure Compact Commission, noting 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. Additionally, Mr. Majors reported that he has been elected to another three-year term on the Executive Board and appointed to an additional year on the Rules and Bylaws Committee.

**Action taken:** Mr. Dobrzykowski made a motion that the Board authorize Mr. Majors and Mr. Poynter to file changes to 201 KAR 22:170 to reflect the Compact Commission's rule changes. The motion was seconded by Mr. Brown, which carried.

#### **Personnel Cabinet -- Business Continuity Plan**

Mr. Majors briefly reviewed the proposed draft of KBPT's Business Continuity Plan with Board members and staff.

**Action taken:** Following review and discussion of a proposed amendment to the draft Business Continuity Plan, Mr. Dobrzykowski made a motion to approve the Business Continuity Plan, and submit to the Personnel Cabinet and include in KBPT's Policy and Procedure Manual. The motion was seconded by Ms. Thompson, which carried.

#### **Website Updates – Sexual Boundaries**

Mr. Pennington reported that at the September Board meeting there was discussion on creating a system to allow the public to report to the Board sexual harassment and/or sexual assault complaints. Mr. Pennington informed the Board that this is a topic that many boards are deficient with their resources and policies. Mr. Majors circulated the information that he provided in the Board packet that included resources for victims of sexual boundary violations.

**Action taken:** Following discussion, Mr. Majors asked to create a taskforce that would create a system that would allow for the easy access of information and reporting for sexual harassment and/or sexual assault complaints. The members of the taskforce will included Mr. Pennington, Mr. Brown, Ms. Thompson, Mr. Majors, and Mr. Curley.

#### **Criminal Background Reports**

Ms. Ramsey informed the Board that she continues to receive updates from the Kentucky State Police regarding the new digital criminal background check and is tentatively scheduled to be implemented in December of 2020.

**Action taken:** No action taken.

#### **Staff Reports and Discussions**

The Board reviewed the following staff reports:

- (a) KBPT staff brought an endorsement application before the Board for review. Staff reported the applicant has been disciplined in Arizona on a continued competency violation. The individual surrendered her/his credential after complying with the continue competency requirements.

**Action taken:** After discussion, Ms. Block made a motion for the Board to issue a credential with no restrictions. The motion was seconded by Mr. Dobrzykowski, which carried.

- (b) KBPT staff brought a reinstatement application before the Board for review. Staff reported the applicant failed to report a misdemeanor conviction.

**Action taken:** After discussion, Mr. Dobrzykowski made a motion for the Board to issue a credential with no restrictions. The motion was seconded by Ms. Dick, 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; Tara Caldwell, PT; and Alexander Love, PT. A monitor report was submitted by the Board-appointed monitor and considered by the Board for Ms. Brooks.

**Action taken:** No action taken.

## REPORTS AND OTHER BUSINESS

### 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. He also reviewed a financial worksheet highlighting in detail the Board's revenue, personnel and operating expenses, quarterly allotments and annual appropriations.

**Action taken:** No action taken.

#### CBT Comment Survey

Mr. Majors distributed to the Board members a copy of the latest CBT comment survey and satisfaction survey report, effective through 09/30/2020. This report listed a satisfaction rating of 96.3% for the Kentucky Board of Physical Therapy compared to a national average of 83.0% for all other state jurisdictions.

**Action taken:** No action taken.

#### KBN Memorandum of Agreement

Mr. Majors reported that, following consultation, Kentucky's Personnel Cabinet and Board of Nursing have agreed in principle for HR support for the Board of Physical Therapy to be transitioned from the Personnel Cabinet to the Board of Nursing pursuant to a Memorandum of Agreement. Mr. Majors shall provide a full report at the next meeting.

**Action taken:** No action taken.

#### New Licensee/Reinstatement/Renewal Applications

**Action taken:** Mr. Pyles 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. Thompson, 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 Mr. Dobrzykowski, which carried.

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

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

**Action taken:** No action taken.

**BIC2019-101:** The Complaint Committee reported that this case is ongoing.

**Action taken:** No action taken.

**BIC2019-109:** The Complaint Committee reported that the credential holder, who is currently under an Immediate Temporary Suspension (ITS), has failed to comply with the Board Order issued after the September Board meeting requiring the credential holder to register for an IPTPC-approved comprehensive professional evaluation within 30 days to determine if the individual has a substance abuse disorder.

**Action taken:** Following discussion, the Complaint Committee recommended and moved to file formal charges and a Notice of Hearing. The motion was seconded by Mr. Brown, 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.

### **2020 Complaint Committee**

**C2020-03:** The Complaint Committee reported that this case is ongoing.

**Action taken:** No action taken. Mr. Dobrzykowski recused himself from any discussion or voting pertaining to C2020-03 by excusing himself from the meeting.

**C2020-04:** The Complaint Committee reported that this case is ongoing.

**Action taken:** No action taken.

**C2020-09:** The Complaint Committee reported that this case is ongoing.

**Action taken:** No action taken. Mr. Pennington recused himself from any discussion or voting pertaining to C2020-09 by excusing himself from the meeting.

**C2020-12:** The Complaint Committee reported that this case involves a credential holder who allegedly violated the scope of practice for physical therapists.

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

**C2020-14:** The Complaint Committee reported that this case involves a possible term protection violation, and Mr. Poynter has received an executed Letter of Agreement.

**Action taken:** The Complaint Committee recommended and moved to accept the Letter of Agreement and to close this case. The motion was seconded by Mr. Pyles, which carried.

**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.

**BIC2020-19:** The Complaint Committee reported that the credential holder allegedly has violated her/his Settlement Agreement by failing to comply with the terms of her/his IPTPC contract. The credential holder has tested positive for amphetamines and methamphetamines. Mr. Curley reported that the credential holder complied with all steps of reinstatement set forth by the Board at the September Board meeting prior to the Board issuing an Immediate Temporary Suspension.

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

**BIC2020-20:** The Complaint Committee reported that his case allegedly involves a credential holder who practiced on a temporary permit without supervision while she/he was an exam applicant.

**Action taken:** The Complaint Committee recommended and moved to close this case and instructed staff to send a letter to the credential holder explaining the temporary permit regulations and requirements, and copy all the physical therapist supervisors listed on the temporary permit application. The motion was seconded by Mr. Brown, which carried.

**BIC2020-21:** The Complaint Committee reported that this case allegedly involves a credential holder who continued to provide physical therapy services without a reassessment.

**Action taken:** The Complaint Committee recommended and moved to issue a Private Admonishment and require the individual to complete a Board approved documentation course. The motion was seconded by Ms. Thompson, which carried.

**BIC2020-22:** The Complaint Committee reported that this case involves credential holders allegedly practicing without an evaluation.

**Action taken:** The Complaint Committee recommended and moved to open an investigation on the credential holders listed in the complaint. The motion was seconded by Mr. Pyles, which carried.

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

**Action taken:** No action taken.

**BIC2020-24:** The Complaint Committee reported that this case involves a credential holder allegedly making harassing comments to a coworker.

**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 11/13/20. IPTPC cases that previously have come to the attention of the Board or were discussed at length during the Complaint Committees' reports were reviewed.

Mr. Brown made the motion to adjourn the meeting at 1:21 p.m., seconded by Ms. Dick, which carried.

Respectfully submitted,



Scott D. Majors  
Executive Director