



KENTUCKY BOARD OF PHYSICAL THERAPY

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Andy Beshear
Governor

Stephen Curley
Executive Director

MINUTES OF MEETING March 24, 2022

Board Members: Karen Thompson, PT, Chair
Peggy Block, PT
Mark Cook, PTA
Michael Kleinert, Public Member
Karen Ogle, PT
Stephanie Taylor, PTA

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

Board Agent: Brian Fingerson, RPh, IPTPC Director

APTA KY Liaison: Dr. Janice Kuperstein

Member Absent: Sonya Dick, PT, Chair-Elect

A meeting of the Kentucky Board of Physical Therapy was called to order by the Board's Chair, Karen Thompson, at 9:03 a.m. on Thursday, 03/24/2022, 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 01/20/22 Board meeting.

Action taken: Following review and discussion, Mr. Kleinert made a motion to approve the minutes of the Board meeting of 01/20/22, as amended. The motion was seconded by Ms. Block, which carried.

Civil Matters and Investigations

Ms. Taylor 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, Ms. Taylor 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.

BIC2019-115: The Complaint Committee reported that this case involves a credential holder who allegedly violated supervision requirements and continued to provide physical therapy services without an active plan of care. The credential holder requested to voluntarily surrender her/his credential. Board staff issued a proposed settlement agreement of voluntary surrender of certificate but has not received a signed document.

Action taken: After reviewing the facts and circumstances of this case, the Complaint Committee recommended and moved to authorize Board staff to administratively accept the proposed Settlement Agreement of Voluntary Surrender of Certificate upon receipt of a signed copy. The motion was seconded by Ms. Block, which carried.

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

2020 Complaint Committee

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 Mr. Poynter provided additional information regarding the terms of the proposed settlement agreement that the Board voted on during the January Board meeting.

Action taken: After reviewing the facts and circumstances of this case, the Complaint Committee recommended and moved to authorize Mr. Poynter to amend the terms of the proposed settlement agreement, and authorized Board staff to administratively accept the proposed settlement agreement upon receipt of a signed copy. 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.

C2021-22: The Complaint Committee reported that this case involves a credential holder who allegedly failed to document patient records appropriately. Mr. Poynter reported that he has received a counteroffer to the proposed settlement agreement from the credential holder's attorney.

Action taken: The Complaint Committee recommended and moved to authorize Mr. Poynter to draft a proposed settlement agreement with the new specified terms. The motion was seconded by Mr. Kleinert, 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 involves an individual who had a malpractice lawsuit for gross negligence filed against them.

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. Cook, which carried.

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 individual has submitted a signed copy of the Settlement Agreement of Voluntary Surrender of Certificate to Practice.

Action taken: After reviewing the facts and circumstances of this case, the Complaint Committee recommended and moved to accept the Settlement Agreement of Voluntary Surrender of Certificate to Practice and to close this case. The motion was seconded by Ms. Taylor, which carried.

C2021-45: The Complaint Committee reported that this case is ongoing

Action taken: No action taken

CE2021-48:

CE2021-55:

The Complaint Committee reported that the individuals in the two cases listed immediately above are credential holders who were deficient with the Continued Competency requirements for the random audit and at the September Board meeting were issued Private Admonishments with associated fines. The credential holders have come into compliance with their continued competency hours and have paid their respective fines.

Action taken: The Complaint Committee recommended and moved to close these two cases. The motion was seconded by Ms. Ogle, which carried.

CE2021-51:

CE2021-52:

CE2021-53:

CE2021-54:

CE2021-56:

CE2021-58:

CE2021-59:

CE2021-61:

CE2021-66:

CE2021-71:

CE2021-80:

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

Action taken: No action taken.

CE2021-81: The Complaint Committee reported that this case involves a credential holder who requested to voluntarily surrender her/his credential. The Board issued a proposed settlement agreement of voluntary surrender of certificate. Board staff reported that the credential holder has accepted and submitted the proposed Settlement Agreement of Voluntary Surrender of Certificate.

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

CE2021-95:
CE2021-106:
CE2021-131:

The Complaint Committee reported that the individuals in the three cases listed immediately above are part of the Jurisprudence Exam audit and at the September Board meeting were issued Private Admonishments with associated fines. The credential holders have come into compliance and have paid their respective fines.

Action taken: The Complaint Committee recommended and moved to close these three cases. The motion was seconded by Mr. Kleinert, which carried.

CE2021-125: The Complaint Committee reported that this case involves a credential holder who failed to take the Jurisprudence Exam during the 2019-2021 biennium and was issued a Private Admonishment with the associated fine. The credential holder requested to have the fine rescinded at the January Board meeting and the Board denied the request. The credential holder has been nonresponsive and Board staff filed a Notice of Hearing and this complaint is ongoing.

Action taken: No action taken.

CE2021-133: The Complaint Committee reported that this case involves a credential holder who was deficient with the Continued Competency requirements and was issued a settlement agreement. The credential holder has not responded. Board staff filed a Notice of Hearing, and this complaint is ongoing.

Action taken: No action taken.

CE2021-137: The Complaint Committee reported that this case involves a credential holder who was deficient with the Continued Competency requirements and was issued a proposed settlement agreement. The credential holder has accepted and signed the proposed settlement agreement.

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

CE2021-138: The Complaint Committee reported that this case involves a credential holder who was deficient with the Continued Competency requirements and was issued a proposed settlement agreement. The credential holder has accepted and signed the proposed settlement agreement.

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

CE2021-140: The Complaint Committee reported that this case involves a credential holder who was deficient with the Continued Competency requirements and was issued a proposed settlement agreement. The credential holder has accepted and signed the proposed settlement agreement.

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

CE2021-141: The Complaint Committee reported that this case involves a credential holder who requested to voluntarily surrender her/his credential. The Board issued a proposed settlement agreement of voluntary surrender of certificate. Board staff reported that the credential holder has accepted and submitted the proposed Settlement Agreement of Voluntary Surrender of Certificate.

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

CE2021-142: The Complaint Committee reported that this case involves a credential holder who requested to voluntarily surrender her/his credential. The Board issued a proposed settlement agreement of voluntary surrender of certificate. Board staff reported that the credential holder has accepted and submitted the proposed Settlement Agreement of Voluntary Surrender of Certificate.

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

CE2021-143: The Complaint Committee reported that this case involves a credential holder who failed to submit any Continued Competency documentation and the Board voted to issue a settlement agreement during the November Board meeting. After the credential holder received the proposed settlement agreement, she/he submitted their continued competency. Board staff issued a Private Admonishment with the associated fine. The credential holder has accepted the Private Admonishment and paid the respective fine.

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

CE2021-145: The Complaint Committee reported that this case involves a credential holder who requested to voluntarily surrender her/his credential. The Board issued a proposed settlement agreement of voluntary surrender of certificate. Board staff reported that the credential holder has accepted and submitted the proposed Settlement Agreement of Voluntary Surrender of Certificate.

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

CE2021-146: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

C2021-147: The Complaint Committee reported that this case involves a credential holder who allegedly committed boundary violations.

Action taken: After reviewing the facts and circumstances of this case, the Complaint Committee recommended and moved to authorize Board Counsel and Staff to draft Formal Charges. The motion was seconded by Mr. Cook, which carried.

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

C2021-148: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

2022 Complaint Committee

BIC2022-01: The Complaint Committee reported that this case involves an individual who failed to take the Jurisprudence Exam prior to purchasing a Compact privilege and the Board voted to issue a Private Admonishment with an associated fine at the January Board meeting. The individual has accepted the Private Admonishment and paid her/his respective fine.

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

C2022-02: The Complaint Committee reported that this case allegedly involves supervision issues.

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. Cook, which carried.

BIC2022-03: The Complaint Committee reported that this case involves an individual who failed to take the Jurisprudence Exam prior to purchasing a Compact privilege.

Action taken: After discussion, the Complaint Committee recommended and moved to open a Board Initiated Complaint (BIC) and issue a Private Admonishment with a \$245 fine. The motion was seconded by Mr. Kleinert, which carried.

C2022-04: The Complaint Committee reported that this case allegedly involves substandard care.

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 Ms. Taylor, which carried.

IPTPC Report

Mr. Fingerson presented his written IPTPC report dated 03/11/22. 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; Shaun Goulbourne, PT; Taylor Ison, PT; Rebekah Green Thompson, PT; Michelle Ramsey, PT; Kendra Reynolds, PTA; Luke Carver, PTA; and Jebediah Smith, PTA. Monitoring reports were submitted by the Board-appointed monitors and considered by the Board for Shaun Goulbourne, PT, Taylor Ison, PT, and Rebekah Green Thompson, PT.

Mr. Curley discussed with the Board supervision issues that were discovered by Board monitors, Mr. Kaczmarek and Mr. Profitt regarding two credential holders currently under monitoring.

Action taken: Following discussion Ms. Block made a motion to open a Board Initiated Complaint (BIC) BIC2022-06 and BIC2022-07 relating to issues uncovered during monitoring visits. The motion was seconded by Ms. Ogle, which carried.

APTA KY Liaison Report

Dr. Kuperstein reported to the Board that APTA KY will be moving forward with Chuck Hazel in exploring imaging practice opportunities and to possibly bring a proposal before KBPT in the fall or next spring.

Additionally, Dr. Kuperstein reported to the Board that APTA KY has completed a new draft of the APTA KY bylaws and APTA KY will bring the finalized draft to the Fall conference. Additionally, to complement the revisions to the bylaws APTA KY will be drafting policies and procedures to outline the operational guidelines.

Board Discussions, Committees and Opinion Requests

SB 150

Mr. Curley reported that SB 150, outlining the Commonwealth of Kentucky's COVID-19 State of Emergency, was reinstated by the state legislature in January 2022.

Action taken: No action taken.

Website Review Committee

Mr. Curley reported that the Website Review Committee met on 03/03/22, and there have been some updates to web links and additions to make the website easier to navigate. Additionally, there are some structural issues that Board staff are working through. Finally, Mr. Curley discussed with the Board the possibility of hiring a professional photographer to take pictures of the Board members to post on the Board website.

Action taken: No action taken.

Professional Licensing Report

Mr. Curley discussed with the Board the Professional Licensing Report, an online periodical that has a plethora of articles relevant to licensing and regulatory trends. He asked the Board to approve a subscription for one year.

Action taken: After discussion, Ms. Taylor made a motion to approve a one-year subscription to the Professional Licensing Report. The motion was seconded by Mr. Kleinert, which carried.

Hinge Health

Mr. Curley reported that the Commonwealth of Kentucky has a new program available to all state employees from Hinge Health that seems to be promoting telehealth services for physical therapy.

Action taken: After discussion, Mr. Cook made a motion for the Board to open a Board Initiated Complaint (BIC) and investigation BIC2022-05 to determine if Hinge Health has any Kentucky licensed physical therapists.

CAPTASA

Mr. Cook, Mr. Kleinert, Ms. Taylor, Mr. Poynter, and Ms. Turner recently attended the 2022 CAPTASA Conference in January. They briefly reported on their experiences and expressed how much they learned from the presenters.

Action taken: No action taken.

FSBPT Voting & Alternate Delegate

The Board discussed the FSBPT Annual Conference and Delegate Assembly meeting scheduled for October in Orange County, California.

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

Staff Reports and Discussions

The Board reviewed the following staff reports:

- (a) Kay Tasso, a physical therapist licensed in Florida sought clarification on whether an individual would need to be licensed in Kentucky to teach in a DPT program?

Action taken: After discussion, the Board authorized staff to respond that in order to teach any clinical content in a DPT program in Kentucky an individual must hold a Kentucky Physical Therapist credential.

- (b) Scott Fuller, a physical therapist assistant who sought clarification on whether a physical therapist graduate who has a certification for dry needling and has a temporary permit may practice dry needling?

Action taken: After discussion, the Board authorized staff to respond that a physical therapist under a temporary permit may not perform dry needling.

- (c) Tracy Hutchins Hilliard, a physical therapist assistant who is currently under a lifetime IPTPC contract has requested that she be released from IPTPC. Mr. Fingerson reported that Ms. Hilliard has shown 12 years of compliance and that he has no issues with Ms. Hilliard's request for release from IPTPC.

Action taken: After discussion, Mr. Kleinert made a motion to authorize Board staff to draft an amendment to Ms. Hilliard's settlement agreement to remove the lifetime participation in IPTPC requirement, and authorized Board staff to administratively accept the amended settlement agreement upon receipt of a signed copy. The motion was seconded by Mr. Cook, which carried.

- (d) Chad Shannon, a previously licensed physical therapist, requested to have his license reinstated by the Board. Mr. Fingerson reported that Mr. Shannon has complied with all the terms set forth in his Settlement Agreement of Voluntary Surrender of License to Practice for reinstatement.

Action taken: After discussion, Mr. Cook made a motion to authorize Board staff to draft a Conditional Grant of License and Settlement Agreement with specified terms, and authorized staff to administratively accept and reinstate Mr. Shannon upon receipt of a signed copy. The motion was seconded by Mr. Kleinert, which carried.

- (e) KBPT staff brought an endorsement application before the Board to review. Staff reported that the applicant had a disciplinary action in Tennessee regarding a continued competency violation.

Action taken: After discussion, Ms. Block made a motion to authorize staff to issue a credential with no restrictions. The motion was seconded by Ms. Taylor, which carried.

- (f) KBPT staff brought a Practice Exam and Assessment Tool (PEAT) before the Board to review for Nadia Brassell. Ms. Brassell was asked to complete the PEAT as part of the reinstatement process since her credential lapsed on 03/31/2013.

Action taken: After discussion, Ms. Taylor made a motion to authorize Board staff to conditionally grant her certificate to practice with specified terms. The motion was seconded by Mr. Kleinert, which carried.

- (g) Jo Ann Terry, a physical therapist who sought clarification on whether a position as a Wellness Coordinator with the local Fire Department would cross over into the practice of physical therapy.

Action taken: After discussion, the Board requested Board staff reach out to Ms. Terry for additional information and tabled the discussion until the May Board meeting.

Reports and Other Business

Legal Report

Mr. Poynter discussed with the Board an article concerning a lawsuit in Washington D.C. where a counselor has sued stating that providing counseling was not subject to regulation, because counselors are only speaking. The argument was that to restrict who could engage in this profession was an infringement of the person's right to free speech.

Additionally, Mr. Poynter discussed with the Board an article concerning the use of personal phones and emails to conduct official board business. Previously the Attorney General's Office offered an opinion that individuals could not have their personal phones or emails accounts accessed, pursuant to open records requests. In the article reviewed, the Circuit Court in Franklin County ruled that personal phones and email accounts are subject to open records requests.

Lastly, Mr. Poynter reviewed an article about conscious sedation in dental offices. In the case presented, a physician in North Carolina died while undergoing a dental procedure wherein he was put under general anesthesia. The physician's widow was seeking the North Carolina Board of Dentistry input on regulating the use of sedation in dental offices.

Executive Director's Report

Staffing Update

Mr. Curley gave a brief staffing update on the vacant position in the office.

Action taken: No action taken.

Financial Report

Mr. Curley offered a report that addressed the Board's finances for the third quarter of the 2022 FY. Additionally, Mr. Curley asked the Board to approve a state issued cell phone from the Commonwealth Office of Technology (COT) to conduct Board business.

Action taken: Ms. Block made a motion for the Board to approve a state issued cell phone for Mr. Curley. The motion was seconded by Mr. Kleinert, which carried.

Finally, Mr. Curley discussed with the Board the possibility of increasing the fee for a Compact privilege in the state of Kentucky.

Action taken: After discussion, Mr. Kleinert made a motion for the Board to approve to increase the cost of a Compact privilege to \$103. The motion was seconded by Ms. Taylor, which carried.

Document Library Update

Mr. Curley gave a brief update on the new public Document Library with NIC.

Action taken: No action taken

Continued Competency Program West Kentucky

Mr. Curley reported on the Continued Competency Program at West Kentucky on 02/19/22. He discussed with the Board several questions raised during the program.

Action taken: After discussion, the Board authorized Mr. Curley to draft an FAQ for the Board website on supervision across state lines and to bring back before the Board at the May meeting for review.

Administrative Regulations – 201 KAR 22:001 & 201 KAR 22:053

Mr. Curley reported to the Board that the Administrative Regulation Review Subcommittee is set to review 201 KAR 22:001 and 201 KAR 22:053 on 04/11/22.

Action taken: No action taken

Administrative Regulations – 201 KAR 22:020, 201 KAR 22:070 & 201 KAR 22:170

Mr. Curley reported to the Board that the Administrative Regulation Review Subcommittee is set to review 201 KAR 22:020, 201 KAR 22:070, and 201 KAR 22:170 on 05/10/22.

Action taken: No action taken.

Administrative Regulation – 201 KAR 22:045

Mr. Curley reported to the Board that the spelling error in 201 KAR 22:045 has been corrected.

Action taken: No action taken.

Conferences and Meetings Relating to Physical Therapy

The Board reviewed the following schedule of upcoming conferences:

- a. KAAA Annual Conference
(05/13/22 – Frankfort)
Action taken: Ms. Block made a motion for the Board to pay for the registration fees for two people to attend the Kentucky Association of Administrative Adjudicators Annual Conference. The motion was seconded by Mr. Cook, which carried.
- b. FSBPT – 2022 Regulatory Training for Members & Board Staff
(05/20-22/22 – Alexandria, VA)
- c. FSBPT – 2022 Leadership Issue Forum (LIF)
(07/23-24/22 – Alexandria, VA)
Stephen Curley and Karen Thompson to serve as KBPT’s authorized representatives.
- d. FSBPT – Annual Meeting & Delegate Assembly
(10/27/29/22 – Orange County, CA)
- e. CLEAR – Annual Educational Conference
(09/14-17/22 – Louisville)
Mr. Curley discussed with the Board the Clear Annual Educational Conference in Louisville. He asked the Board members to check their availability. Additionally, Mr. Curley asked to move the September Board meeting because it conflicts with the Clear Annual Educational Conference.

Action taken: Mr. Cook made a motion to move the regularly scheduled Board meeting in September to a Special Meeting on 09/08/22. The motion was seconded by Mr. Kleinert, which carried.

New Licensee/Reinstatement/Renewal Applications

Action taken: Mr. Kleinert 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.

Board Member Per Diems and Expenses

Ms. Thompson made a motion to approve per diems for Board members. The motion was seconded by Ms. Block, which carried.

Adjournment

Mr. Kleinert made the motion to adjourn the meeting at 1:41 p.m., seconded by Ms. Ogle, which carried.

Respectfully submitted,



Stephen Curley
Executive Director