



## KENTUCKY BOARD OF PHYSICAL THERAPY

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Rebecca E. Klusch  
Executive Director

### MINUTES OF MEETING March 19, 2009

Board Members Present: Ron Barbato, PT, Chair  
Peggy Block, PT, Chair-elect  
Charles Clark, PT  
Margaret Blain, PT  
Janice Kuperstein, PT  
Virginia Johnson, Public Member

Board Staff: Rebecca E. Klusch, Executive Director

Board Agents: Mark Brengelman, Assistant Attorney General, Board Counsel

Others: Troy Grubb, PT  
Matt Janes, PT, KPTA Liaison  
Brian Fingerson, RPh  
Stephanie Oliver, UK Pharmacy Student

A meeting of the Kentucky Board of Physical Therapy Complaint Committee was called to order at 9:00 a.m., Wednesday, March 18, 2009, at Board Office. Motion was made by Ron Barbato to go into closed session per KRS 61.810(1) (c) and (j). Motion carried. Motion was made by Ron Barbato to come out of closed session. Motion carried. The committee meeting adjourned at 5:30 p.m.

At the completion of a new board member orientation training, a meeting of the Kentucky Board of Physical Therapy was called to order by Board Chair, Ron Barbato, at 10:10 a.m., Thursday, March 19, 2009, at the Board office. A quorum was present.

Motion was made by Janice Kuperstein, seconded by Virginia Johnson to approve the minutes as amended of the January 15, 2009, Board meeting. Motion carried.

Charles Clark was sworn in as the new board member, replacing Troy Grubb, whose term has expired.

#### Complaint Committee

*Dubin Orthopaedic Centre, P.S.C v. Kentucky Board of Physical Therapy.* The Supreme Court has granted Discretionary Review of the Court of Appeals decision to be ruled on by the Kentucky Supreme Court. The briefs have been submitted, and no oral argument is to be held.

*C2007-30 Kentucky Board of Physical Therapy v. Connie Rinckel, P.T.* The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to file a Notice of Administrative Hearing and Order. The Board approved the recommendation, seconded by Peggy Block. Motion carried. Complaint Committee member Ron Barbato recused from voting.

C2008-07 Case is ongoing.

C2008-16 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to file a Notice of Administrative Hearing and Order. Settlement authority was given to Board Counsel. The Board approved the recommendation, seconded by Virginia Johnson. Motion carried. Complaint Committee member Ron Barbato recused from voting.

BIC2008-19 Case is ongoing.

C2008-22 Case is ongoing.

C2008-24 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to close case due to insufficient evidence of a violation of KRS 327. The Board approved the recommendation, seconded by Janice Kuperstein. The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to submit the original complaint to the Board of Occupational Therapy, seconded by Margaret Blain. Motion carried. Complaint Committee member Ron Barbato recused from voting.

C2008-25 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to accept the signed affidavit from April N. Hopson, D.C., and Edwin S. Hopson, Jr., D.C. The Multicare Centre for Integrative Medicine, Louisville. The Board approved the recommendation, seconded by Janice Kuperstein. Motion carried. Complaint Committee member Ron Barbato recused from voting.

C2008-27 *Kentucky Board of Physical Therapy v. Angelene Lee Fields, P.T.A.*, The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to accept the Conditional Reinstatement of Physical Therapist Assistant certificate, seconded by Peggy Block. Motion carried. Complaint Committee member Ron Barbato recused from voting.

BIC2008-28 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to authorize counsel to issue a Cease and Desist Affidavit for a violation of KRS 327.020. The Board approved the recommendation, seconded by Margaret Blain. Motion carried. Complaint Committee member Ron Barbato recused from voting.

BIC2008-29 Case is ongoing.

C2006-15 A Verified Complaint for Injunctive Relief under KRS 327.990(3) in *Kentucky Board of Physical Therapy v. Healing Hands Chiropractic Center, P.S.C. and Tristin R. Thompson, D.C.*, has been filed with Boone Circuit Court. An *Agreed Order, Permanent Injunction and Final Judgment* has been sent to Respondent for signature.

C2009-01 Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to file a Verified Complaint for Injunctive Relief under KRS 327.990(3) in *Kentucky Board of Physical Therapy v. Robert Boardman, D.C.* Settlement authority was given to Counsel. The Board approved the recommendation, seconded by Charles Clark. Motion carried. Complaint Committee member Ron Barbato recused from voting.

C2009-02 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to open an investigation and authority given to counsel to issue a Cease and Desist Affidavit if a violation of KRS 327.020 is warranted. The Board approved the recommendation, seconded by Peggy Block. Motion carried. Complaint Committee member Ron Barbato recused from voting.

C2009-03 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to open an investigation and authority given to counsel to issue a Cease and Desist Affidavit if a violation of KRS 327.020 is warranted. The Board approved the recommendation, seconded by Peggy Block. Motion carried. Complaint Committee member Ron Barbato recused from voting.

C2009-04 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to open an investigation and authority given to counsel to issue a Cease and Desist Affidavit if a violation of KRS 327.020 is warranted. The Board approved the recommendation, seconded by Peggy Block. Motion carried. Complaint Committee member Ron Barbato recused from voting.

C2009-05 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to dismiss case because it is addressed in a prior case. The Board approved the recommendation, seconded by Margaret Blain. Motion carried. Complaint Committee member Ron Barbato recused from voting.

C2009-06 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to open an investigation and authority given to counsel to issue a Cease and Desist Affidavit if a violation of KRS 327.020 is warranted. The Board approved the recommendation, seconded by Peggy Block. Motion carried. Complaint Committee member Ron Barbato recused from voting.

BIC2009-07 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to file a Board initiated complaint and open an investigation. The Board approved the recommendation, seconded by Virginia Johnson. Motion carried. Complaint Committee member Ron Barbato recused from voting.

C2009-08 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to open an investigation. Board approved the recommendation, seconded by Margaret Blain. Motion carried. Complaint Committee member Ron Barbato recused from voting.

C2009-09a, b The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to open an investigation and authority given to counsel to issue a Cease and Desist Affidavit if a violation of KRS 327.020 is warranted against the Chiropractor and insurance company. The Board approved the recommendation, seconded by Charles Clark. Motion carried. Complaint Committee member Ron Barbato recused from voting.

C2009-10 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to issue an Order and Notice of Immediate and Temporary Suspension of Kentucky PTA certificate and to open an investigation. The Board approved the recommendation, seconded by Janice Kuperstein. Motion carried. Complaint Committee member Ron Barbato recused from voting.

BIC2009-11 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to file a Board initiated complaint and open an investigation. The Board approved the recommendation, seconded by Peggy Block. Motion carried. Complaint Committee member Ron Barbato recused from voting.

BIC2009-12 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to file a Board initiated complaint and open an investigation. The Board approved the recommendation, seconded by Peggy Block. Motion carried. Complaint Committee member Ron Barbato recused from voting.

BIC2009-13 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to file a Board initiated complaint and open an investigation. The Board approved the recommendation, seconded by Peggy Block. Motion carried. Complaint Committee member Ron Barbato recused from voting.

BIC2009-14 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to file a Board initiated complaint and open an investigation. The Board approved the recommendation, seconded by Peggy Block. Motion carried. Complaint Committee member Ron Barbato recused from voting.

C2009-15 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to file a Notice of Administrative Hearing and Order. Settlement authority was given to Board Counsel. The Board approved the recommendation, seconded by Virginia Johnson. Motion carried. Complaint Committee member Ron Barbato recused from voting.

The Board reviewed with approval the IPTPC report submitted by Brian Fingerson.

Humera Bashir requested credentialing by examination as a Physical Therapist. Her education has met the guidelines of the Coursework Evaluation Tool. A motion was made by Janice Kuperstein, seconded by Charles Clark to approve her eligibility to take the National Physical Therapy Examination. Motion carried.

Malton Schexneider, PT, requested reinstatement of his physical therapy license that lapsed March 31 2007. The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to Deny the application for Reinstatement of Malton Schexneider. The Board approved the recommendation, seconded by Virginia Johnson. Motion carried. Settlement Authority was given to Counsel. Complaint Committee member Ron Barbato recused from voting.

### **Update on Monitoring Probations**

Update on monitoring probations was given for the following with approval: Mark Portaro, PT, Matt Jones, PT, April Coldiron, PT, James Rick Roe, PT, and Mary Beth Barcus, PT.

Troy Grubb made a recommendation to the Board that Mark Portaro has fulfilled the terms of his Final Order and to terminate the monitoring visits. The Board accepted Troy Grubb's recommendation.

### **Board and Administrative Business**

The 2009-11 Jurisprudence Exam was presented to the Board by Peggy Block and Janice Kuperstein. The Board members will review the exam and return next board meeting for discussion and approval.

Janice Kuperstein made a motion, seconded by Margaret Blain, to approve Ramont Bolander's request for a temporary hardship exemption for an extension until March 31, 2011, to show continued competency for 2009 renewal except for the 2007-2009 Jurisprudence Exam due by March 31, 2009. Motion carried.

201 KAR 22:070 Section 2 will go before the Legislative Review Subcommittee on Tuesday, April 14, 2009.

Georganna Flynn, PTA, requested a determination by the Board whether working as a lab assistant in a PTA program would qualify as 201 KAR 22:045 Section 2 (2)(e). Because this is considered a primary employment, these hours would not qualify under (e) but may qualify for 201 KAR 22:045 Section 2 (2)(h) if over 1000 hours.

A motion was made by Margaret Blain, seconded by Charles Clark to amend 201 KAR 22:045 Section 2 (2) as follows: Instructing in a CAPTE accredited physical therapist or physical therapist assistant program at least 1000 hours per biennium. Five (5) contact hours shall be awarded per biennium. Motion carried.

The Board voted on the continued competency auditing process for the 2007-2009 renewal cycle.

A motion by Peggy Block, seconded by Janice Kuperstein, to appoint Margaret Blain to the complaint committee and Ron Barbato to extend the office of chair until December 31, 2009. Motion carried.

A motion was made by Chuck Clark, seconded by Virginia Johnson, to revise the State Agency Records Retention Schedule Series 00944 to "Destroy an incomplete application one year after date of initial application date. Motion carried.

### **Other Board Matters**

FSBPT Annual Meeting in San Diego, CA October 1-4, 2009. Peggy Block made a motion, seconded by Virginia Johnson to fund Margaret Blain as delegate, Janice Kuperstein as alternate-delegate, Charles Clark attendee and Becky Klusch as administrator, to attend. Motion carried.

Executive Director reported on the FARB conference in Tampa, Florida on January 23-25, 2009.

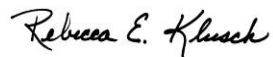
Peggy Block made a motion, seconded by Margaret Blain, to send Janice Kuperstein, Peggy Block, Virginia Johnson and Margaret Blain to the NCIT Investigative Training June 1-3, 2009, held in Louisville. Motion carried.

Board members reviewed the lists of persons issued a license, certificate as well as examinees and reinstatements since the last meeting. Lists are attached to these minutes.

The Board reviewed the financial statement ending February 28, 2009.

A motion was made by Virginia Johnson, seconded by Charles Clark to adjourn the meeting at 4:40 p.m. Motion carried.

Respectfully submitted,



Rebecca E. Klusch  
Executive Director