



KENTUCKY BOARD OF PHYSICAL THERAPY

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Andy Beshear
Governor

Stephen Curley
Executive Director

MINUTES OF MEETING March 21, 2024

Board Members: Stephanie Lutz, PTA, Chair
Karen Ogle, PT, Chair-Elect
Ramona Carper, PT
Mark Cook, PTA
Michael Kleinert, Public Member
Karen Ogle, PT
Brad Profitt, PT
Karen Thompson, 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, Stephanie Lutz, at 9:33 a.m. on Thursday, 03/21/24, at the Board office and via video teleconference. A quorum was present.

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

Additionally, Ms. Lutz 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.

The Board welcomed Ramona Carper, PT who was appointed by Governor Andy Beshear by Executive Order. Mr. Poynter administered the oath of office to Ms. Carper.

Minutes for Previous Board Meeting

The Board reviewed the draft minutes of the 01/11/24 Board meeting.

Action taken: Following review and discussion, Mr. Kleinert made a motion to approve the minutes of the Board meeting of 01/11/24, as drafted. The motion was seconded by Ms. Ogle, which carried.

Civil Matters and Investigations

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

2022 Complaint Committee

BIC2022-19: The Complaint Committee reported that this case involves a credential holder who has multiple DUI's and is currently under an Immediate Temporary Suspension (ITS). Additionally, Mr. Fingerson reported that the credential holder has violated the terms of their IPTPC agreement.

Action taken: Following discussion, the Complaint Committee recommended and moved to authorize Board Counsel to draft a settlement agreement with specified terms. The motion was seconded by Ms. Carper, which carried.

C2022-22: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

2023 Complaint Committee

C2023-01: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

BIC2023-10: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

R2023-12: The Complaint Committee reported that this case involves a credential holder who practiced on a lapsed credential.

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

BIC2023-14: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

BIC2023-16: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

BIC2023-17: The Complaint Committee reported that this case involves a credential who was convicted of a misdemeanor of theft by unlawful taking.

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

BIC2023-18: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

Ms. Lutz recused herself from any discussion or voting pertaining to BIC2023-18.

BIC2023-20: The Complaint Committee reported that this case involves a credential holder who allegedly committed a boundary violation.

Action taken: After reviewing the facts and circumstances of this case, the Complaint Committee recommended and moved to close this case due to insufficient evidence of a violation of KRS Chapter 327. The motion was seconded by Ms. Carper, which carried.

BIC2023-21: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

C2023-23: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

C2023-24: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

C2023-27: The Complaint Committee reported that this case involves a credential holder who allegedly failed to respect the rights and dignity of a patient.

Action taken: After reviewing the facts and circumstances of this case, the Complaint Committee recommended and moved to close this case due to insufficient evidence of a violation of KRS Chapter 327. The motion was seconded by Mr. Kleinert, which carried.

BIC2023-28: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

Ms. Lutz recused herself from any discussion or voting pertaining to BIC2023-28.

CE2023-34
CE2023-64
CE2023-66
CE2023-70
CE2023-74

CE2023-78

CE2023-89

CE2023-90

CE2023-91: The Complaint Committee reported that these nine cases involve credential holders who were deficient with their Continued Competency requirements and were issued a proposed settlement agreement after the January Board meeting and all have come into compliance and have signed their respective settlement agreements.

Action taken: The Complaint Committee recommended and moved to accept the signed settlement agreements, as proposed and close these cases. The motion was seconded by Mr. Cook, which carried.

Additionally, the Complaint Committee recommended and moved to issue a Notice of Hearing to anyone who was issued a settlement agreement or a private admonishment who has not responded by 4/15/2024. The motion was seconded by Mr. Kleinert, which carried.

CE2023-33

CE2023-36

CE2023-37

CE2023-38

CE2023-40

CE2023-41

CE2023-42

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CE2023-96

CE2023-99

CE2023-101

CE2023-103

CE2023-105

CE2023-106

CE2023-108: The Complaint Committee reported that these cases involve credential holders who were deficient in either the random audit or they failed to take their Jurisprudence Exam during the 2021-2023 biennium and at the January Board meeting were issued Private Admonishments with associated fines.

Action taken: The Complaint Committee recommended and moved to close the cases in which the credential holder has accepted and paid their associated fines and come into compliance with their continued competency hours. The motion was seconded by Mr. Profitt, which carried.

Additionally, the cases in which the credential holder has not paid their associated fine will remain open.

CE2023-58: The Complaint Committee reported that this case involves a credential who was deficient with their Continued Competency requirements and were issued a settlement agreement after the January Board meeting. The credential holder has requested that the Board reconsider the fine associated with their settlement agreement.

Action taken: The Complaint Committee recommended and moved to deny the credential holder's request. The motion was seconded by Mr. Profitt, which carried.

2024 Complaint Committee

BIC2024-01: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

BIC2024-02: The Complaint Committee reported that this case involves a credential holder who allegedly committed fraud and material deception.

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

C2024-03: The Complaint Committee reported that this case involves a company that failed to provide patient records to a patient. Additionally, Mr. Curley reported that he contacted the company, and they have since complied with providing the patient records.

Action taken: The Complaint Committee recommended and moved to take no action. The motion was seconded by Mr. Kleinert, which carried.

BIC2024-04: The Complaint Committee reported that this case involves health care company that may have individuals practicing physical therapy without a Kentucky credential.

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

BIC2024-05: The Complaint Committee reported that this case involves a credential holder who allegedly practiced physical therapy without an evaluation and failed to disclose a financial benefit.

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

BIC2024-06: The Complaint Committee reported that this case involves a credential holder who allegedly failed to disclose a financial benefit.

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. Thompson, which carried.

BIC2024-07: The Complaint Committee reported that this case involves a credential holder who has an Adverse Action in another jurisdiction for a continued competency 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 Ms. Carper, which carried.

IPTPC Report

Mr. Fingerson presented the written IPTPC report dated 03/19/24. IPTPC cases that previously have come to the attention of the Board or were discussed at length during the Complaint Committees' reports were reviewed.

Additionally, Mr. Fingerson discussed with the Board the individual in C2019-18 who has previously been revoked and is inquiring about reinstating their credential. There was a term in the Recommended Order of Revocation that the individual obtain a favorable fitness to practice evaluation from a Kentucky licensed medical doctor. Board staff requested that the term be amended to remove the requirement that the medical doctor be licensed in Kentucky, but rather be a licensed medical doctor in the home state of the credential holder who is approved by Mr. Fingerson.

Action taken: After discussion, the Board authorized Board Counsel to amend the term as part of a Conditional Reinstatement.

Finally, Mr. Fingerson discussed with the Board a credential holder who has multiple violations of their voluntary IPTPC agreement.

Action taken: After discussion, Ms. Lutz made a motion for the Board to open a Board Initiated Complaint, BIC2024-08, and authorize staff to issue a Board Order that the credential holder enter a new IPTPC agreement for one (1) year and sign the agreement within thirty (30) days. The motion was seconded by Mr. Kleinert, which carried.

Update on Monitoring Probations

The Board noted the following credential holders who are presently being monitored: Sabrina Pletz, PTA; Andrea Brown, PT; Donald Bruce Taylor, PT; Bryon Cooper, PTA; and Johnnie Caldwell, PT. Monitoring reports were submitted by the Board-appointed monitors and considered by the Board for Ms. Caldwell, and Mr. Cooper.

Board Discussions, Committees and Opinion Requests

Practice Act Review Committee

Mr. Curley reported that the deadline to complete all the updates to the statutes is 04/12/24. He would like to schedule two more meetings of the Practice Act Review Committee dedicating one meeting to review the finalized updates and the other to primarily focus on imaging.

Action taken: No action taken.

CAPTASA 2024 Conference

Ms. Lutz, Mr. Cook, Mr. Profitt, and Mr. Poynter recently attended the 2024 CAPTASA Conference in January. They briefly reported on their experiences and expressed how much they learned from the presenters.

Action taken: No action taken.

Sunset Review Regulations

Mr. Curley and Mr. Poynter led a discussion with the Board over the existing regulations contained in 201 KAR Chapter 22 for purposes of a sunset review as required under KRS 13A.3102 and KRS 13A.3104.

Action taken: Mr. Kleinert made a motion to authorize Board staff to sign and send certification letters concerning its existing regulations to the LRC staff. The motion was seconded by Ms. Ogle, which carried.

Lease Modification

Mr. Curley reported to the Board that he has been in contact with Real Properties to inquire about modifications to the current Lease Agreement with Jefferson Development to include security upgrades, a mail slot, the addition of a vestibule, and new paint and carpeting for the office.

Action taken: After discussion, the Board authorized Mr. Curley to move forward with the quotes for the upgrades and present to the Board at the May meeting.

Offsite Board Meeting

Mr. Curley and Dr. Kuperstein reported that the September Board meeting will be held at the University of Kentucky College of Health Sciences.

Action taken: No action taken.

Staff Reports and Discussions

The Board reviewed the following staff reports:

- (a) Amanda Olsen, a physical therapist who sought clarification on whether a physical therapist can prescribe vaginal dilators.

Action taken: The Board authorized staff to respond that physical therapists do not have prescriptive authority.

- (b) David Brown, a physical therapist who sought clarification on whether a physical therapist can perform manipulations on a patient who is under anesthesia in an outpatient clinic setting.

Action taken: The Board tabled this discussion and requested that Board staff invite Mr. Brown to appear before the Board at the May meeting for further discussion.

- (c) KBPT staff brought before the Board an endorsement application to be reviewed because the applicant answered "yes" to having a disciplinary action by another licensing authority. The applicant failed to meet their continued competency requirements in 2009 in Arizona.

Action taken: After review, Ms. Thompson made a motion for the Board to approve the application and authorized Board staff to issue a credential. The motion was seconded by Ms. Ogle, which carried.

- (d) Tina Jones, a physical therapist assistant who sought clarification on whether it is within the scope of practice for a physical therapist or a physical therapist assistant to swab for UTI's and document lung and bowel sounds.

Action taken: After discussion, the Board authorized staff to respond that there is nothing that prohibits a physical therapist or physical therapist assistant from performing the aforementioned tasks as long as they have the education, training, and expertise.

Additionally, these tasks must not interfere with physical therapist or physical therapist assistant being able to complete the plan of care.

APTA KY Liaison Report

Dr. Kuperstein reported that APTA-KY has been working on a new strategic plan that will go before the APTA-KY Board on 03/25/24. Additionally, Dr. Kuperstein briefly discussed a letter that APTA-KY received from the Centers for Medicare & Medicaid Services.

KBPT General Counsel's Legal Report

Mr. Poynter discussed with the Board two articles from various states that highlighted trends in professional licensing and litigation and how these trends may impact the Board.

Reports and Other Business

Executive Director's Report

Financial Report

Mr. Curley offered a report that addressed the Board's finances for the third quarter of the 2024 FY.

Action taken: No action taken.

Administrative Regulation – 201 KAR 22:053

Mr. Curley reported to the Board that update to 201 KAR 22:053 went into effect in January.

Action taken: No action taken.

Conferences and Meetings Relating to Physical Therapy

The Board reviewed the following schedule of upcoming conferences:

- (a) Leadership Issues Forum (LIF)
(07/13-14/24 – Arlington, VA)
(Ms. Lutz and Mr. Curley – KBPT representatives)
- (b) FSBPT – Annual Meeting & Delegate Assembly
(10/29-11/1/24 – Cedar Rapids, IA)
(Ms. Lutz, Ms. Ogle, and Mr. Curley – KBPT representatives)

New Licensee/Reinstatement/Renewal Applications

Action taken: Ms. Thompson 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.

New Business

Mr. Curley brought before the Board additional questions pertaining to a health care company requiring additional documentation to be performed by physical therapists and physical therapist assistants and whether this inhibits the physical therapist or physical therapist assistant's ability to adequately meet the plan of care.

Action taken: After discussion, Ms. Ogle made a motion for the Board to open a Board Initiated Complaint BIC2024-09. The motion was seconded by Mr. Cook, which carried.

Board Member Per Diems and Expenses

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

Adjournment

Mr. Profitt made the motion to adjourn the meeting at 1:45 p.m., seconded by Mr. Kleinert, which carried.

Respectfully submitted,



Stephen Curley
Executive Director