



## KENTUCKY BOARD OF PHYSICAL THERAPY

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*Andy Beshear*  
Governor

*Stephen Curley*  
Executive Director

### MINUTES OF MEETING March 23, 2023

Board Members: Peggy Block, PT, Chair  
Stephanie Lutz, Chair-Elect  
Mark Cook, PTA  
Michael Kleinert, Public Member  
Karen Ogle, 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

Board Members Absent: Sonya Dick, PT

A meeting of the Kentucky Board of Physical Therapy was called to order by the Board's Chair, Peggy Block, at 9:09 a.m. on Thursday, 03/23/23, at the Board office and via video teleconference. A quorum was present.

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

Additionally, Ms. Block 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 01/26/23 Board meeting.

**Action taken:** Following review and discussion, Ms. Ogle made a motion to approve the minutes of the Board meeting of 01/26/23, as amended. The motion was seconded by Mr. Kleinert, which carried.

The Board reviewed the draft minutes of the 02/22/23 Special Board meeting.

**Action taken:** Following review and discussion, Ms. Ogle made a motion to approve the minutes of the Special Board meeting of 02/22/23, as drafted. The motion was seconded by Mr. Kleinert, 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 Ms. Lutz, which carried.

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

#### **2021 Complaint Committee**

**BIC2021-10:** The Complaint Committee reported that this case involves a credential holder who allegedly failed to provide appropriate supervision.

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

Mr. Kleinert recused himself from any discussion or voting pertaining to C2021-10.

**C2021-41:** The Complaint Committee reported that this case involves a credential holder who allegedly committed fraud and material deception, and the Board voted at the November meeting to accept the proposed settlement agreement with the understanding that the credential holder would appear before the Board at the January Board meeting to review the terms of their settlement agreement. During the January Board meeting Mr. Curley reported that the credential holder would not appear and that the credential holder requested an extension regarding the successful completion of the EBAS course. The Board voted to deny an extension for the successful completion of the EBAS course but would allow the credential holder to appear before the Board at the March meeting. Additionally, Mr. Poynter reported that the credential holder would not appear before the Board, however, the credential holder signed a proposed Voluntary Surrender of Certificate to Practice.

**Action taken:** The Complaint Committee recommended and moved to accept the proposed Voluntary Surrender of Certificate to Practice. The motion was seconded by Mr. Kleinert, which carried.

**C2021-147:** The Complaint Committee reported that this case is ongoing.

**Action taken:** No action taken.

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

## 2022 Complaint Committee

**BIC2022-06:** The Complaint Committee reported that this case originated from a monitoring report regarding potential supervision issues.

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

**C2022-11:** The Complaint Committee reported that this case involves a credential holder who allegedly committed fraud and material deception and the Board voted at the last meeting to issue a settlement agreement with specified terms. Additionally, Mr. Poynter reported that the credential holder has signed the proposed Settlement Agreement.

**Action taken:** Following discussion, the Complaint Committee recommended and moved to accept the proposed Settlement Agreement. The motion was seconded by Mr. Kleinert, which carried.

**C2022-13:** The Complaint Committee reported that this case involves an individual from another jurisdiction practicing physical therapy without a Kentucky license or compact privilege.

**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. Ogle, which carried.

**BIC2022-19:** The Complaint Committee reported that this case is ongoing.

**Action taken:** No action taken.

**C2022-20:** The Complaint Committee reported that this case is ongoing.

**Action taken:** No action taken.

**BIC2022-21:** The Complaint Committee reported that this case is ongoing.

**Action taken:** No action taken.

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

**Action taken:** No action taken.

**C2022-23:** The Complaint Committee reported that this case is ongoing.

**Action taken:** No action taken.

**C2022-24:** The Complaint Committee reported that this case is ongoing.

**Action taken:** No action taken.

**C2022-25:** The Complaint Committee reported that this case is ongoing.

**Action taken:** No action taken.

**C2022-27:** The Complaint Committee reported that this case involves a credential holder who allegedly committed fraud and material deception.

**Action taken:** After reviewing the facts and circumstances of this case the Complaint Committee recommended and moved to close this case since the alleged violation took place in another jurisdiction. The motion was seconded by Mr. Kleinert, which carried.

### **2023 Complaint Committee**

**C2023-01:** The Complaint Committee reported that this case involves a credential holder who self-reported a boundary violation. During the February Special Board meeting, the Board voted to issue an Immediate Temporary Suspension (ITS) that went into effect on 03/1/2023.

**Action taken:** After discussion, the Complaint Committee recommended and moved to authorize Board Counsel to file a Notice of Hearing and Formal Charges. The motion was seconded by Ms. Thompson, which carried.

**BIC2023-02:** The Complaint Committee reported that this case involves a credential holder who allegedly provided 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 Mr. Kleinert, which carried.

**BIC2023-03:** The Complaint Committee reported that this case involves a credential holder who answered “yes” to question 1a on her/his renewal application.

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

Ms. Lutz recused herself from any discussion or voting pertaining to BIC2023-03.

**BIC2023-04:** The Complaint Committee reported that this case involves a credential holder who has an adverse action in another jurisdiction.

**Action taken:** After discussion, the Complaint Committee recommended and moved to open an investigation. The motion was seconded by Ms. Ogle, which carried.

### **IPTPC Report**

Mr. Fingerson presented the written IPTPC report dated 03/14/23. 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; Michelle Ramsey, PT; Kendra Reynolds, PTA; Luke Carver, PTA; Jebediah Smith, PTA; Donald Bruce Taylor, PT; and Bryon Cooper, PTA. Monitoring reports were submitted by the Board-appointed monitors and considered by the Board for Ms. Reynolds, Mr. Carver, Ms. Ramsey, and Mr. Smith.

## Board Discussions, Committees and Opinion Requests

### Imaging Taskforce

Mr. Curley reported that there will be another meeting scheduled with the Imaging Taskforce in April.

**Action taken:** No action taken.

### Boundary Taskforce

Mr. Curley reported that he is awaiting information from the FSBPT Boundary Committee and would like to postpone any Boundary Taskforce meetings until later this year.

**Action taken:** No action taken.

### CEU Taskforce

Mr. Curley disseminated a draft of the proposed changes to 201 KAR 22:045 for the Board to review.

**Action taken:** After review and discussion, Mr. Kleinert made a motion for the Board to approve the proposed changes to 201 KAR 22:045 with the amended changes. The motion was seconded by Ms. Block, which carried.

### Website Analytics

Mr. Curley reported that the Boundary Taskforce was interested in individual page and site traffic to KBPT's website, and he initiated website analytics with Kentucky.gov.

**Action taken:** No action taken.

### Staff Reports and Discussions

The Board reviewed the following staff reports:

- (a) Thuan Tran, a physical therapist who sought clarification on whether a hospital could require a physical therapist to remove or not report discharge planning from a physical therapist record.

**Action taken:** Following discussion, the Board authorized staff to respond that a physical therapist is responsible for the patient record and while discharge summaries are no longer required as part of the physical therapy record a physical therapist must use their clinical determination to decide whether to recommend potential post discharge treatments or services.

- (b) KBPT staff brought a reinstatement application before the Board for review. Staff reported that the applicant's credential lapsed on 03/31/2017.

**Action taken:** Following discussion, Ms. Block made a motion that the applicant: (a) complete the Practice Exam and Assessment Tool (PEAT) from FSBPT; (b) complete continued competency courses to address any deficiencies from the PEAT; (c) authorize staff to administratively reinstate the applicant once the aforementioned requirements are completed; and (d) complete 1 year of supervised clinical practice. The motion was seconded by Ms. Lutz, which carried.

### APTA KY Liaison Report

Dr. Kuperstein briefly reported on the Imaging Taskforce. Additionally, Dr. Kuperstein discussed with the Board the possibility of revisiting the Practice Act Review Committee in the near future.

**Action taken:** After discussion, Mr. Curley will contact the Practice Act Review Committee members and schedule a meeting later this year.

### **KBPT General Counsel's Legal Report**

Mr. Poynter discussed with the Board an article concerning "room scans" for remote testing that have been found to be an unreasonable search as defined by the Fourth Amendment. The article was discussed because it has been done in the past by various testing services that offer remote testing for the Board.

Additionally, Mr. Poynter discussed with the Board an article concerning a ruling by a Minnesota court that "immoral conduct" was too vague as to be applied by a school board seeking to restrict licensure for a substitute teacher who was fired from their previous employment as a police officer. Mr. Poynter reiterated that the Board should steer away from vague and ambiguous language as the article highlighted the rationale for that advice.

## **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 2023 FY.

**Action taken:** No action taken.

#### **Administrative Regulation – 201 KAR 22:053**

Mr. Curley reported to the Board that the Administrative Regulation 201 KAR 22:053 passed the final review of the Senate Standing Committee on Health Services and went into effect on 01/12/23.

**Action taken:** No action taken

#### **Administrative Regulation – 201 KAR 22:170**

Mr. Curley reported to the Board that 201 KAR 22:170 is still moving through the Legislative Research Committee process.

**Action taken:** No action taken.

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

The Board reviewed the following schedule of upcoming conferences:

- (a) FSBPT – Leadership Issues Forum (LIF)  
(07/15-16/23 – Arlington, VA)

Mr. Curley reported that the FSBPT is hosting a Model Practice Act Workshop immediately following the Leadership Issues Forum on 07/17/23. The FSBPT is fully funding two representatives from each jurisdiction and has extended an invitation to APTA state chapter representatives. Due to a schedule conflict Ms. Block who is currently the Voting Delegate is unable to attend the Model Practice Act Workshop and asked that Ms. Lutz take her place as the Voting Delegate this year.

**Action taken:** Ms. Ogle made a motion for the Board to appoint Ms. Lutz as the Voting Delegate and Ms. Block as the Alternate Voting Delegate. The motion was seconded by Mr. Cook, which carried.

Additionally, Dr. Kuperstein reported that representatives from APTA Kentucky will be attending the Model Practice Act Workshop.

(b) CLEAR 2023 Annual Educational Conference  
(09/27-30/23 – Salt Lake City, UT)

Mr. Curley reported that he and Mr. Poynter submitted a proposal to present a course at the CLEAR 2023 Annual Educational Conference and the proposal was accepted by CLEAR. Mr. Curley requested that the Board fund registration fees and any associated travel costs for the CLEAR 2023 Annual Educational Conference for himself and Mr. Poynter.

**Action taken:** Mr. Kleinert made a motion for the Board to pay the registration fees and associated travel costs for Mr. Curley and Mr. Poynter to present at the CLEAR 2023 Annual Educational Conference. The motion was seconded by Ms. Block, which carried.

(c) FSBPT – Annual Meeting & Delegate Assembly  
(10/19-22/23 – Jacksonville, FL)  
(Ms. Lutz, Ms. Block, and Stephen Curley – KBPT representatives)

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

**Action taken:** Ms. Ogle 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 discussed with the Board the possibility of reducing the Board meeting frequency in 2024 by one meeting.

**Action taken:** After discussion, the Board decided to table this topic until a later date.

### **Board Member Per Diems and Expenses**

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

### **Adjournment**

Ms. Ogle made the motion to adjourn the meeting at 12:48 p.m., seconded by Mr. Kleinert, which carried.

Respectfully submitted,



Stephen Curley  
Executive Director