



KENTUCKY BOARD OF PHYSICAL THERAPY

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Andy Beshear
Governor

Stephen Curley
Executive Director

MINUTES OF MEETING May 19, 2022

Board Members: Karen Thompson, PT, Chair
Sonya Dick, PT, Chair-Elect
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

A meeting of the Kentucky Board of Physical Therapy was called to order by the Board's Chair, Karen Thompson, at 9:00 a.m. on Thursday, 05/19/2022, 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 03/24/22 Board meeting.

Action taken: Following review and discussion, Ms. Ogle made a motion to approve the minutes of the Board meeting of 03/24/22, as drafted. The motion was seconded by Mr. Kleinert, which carried.

Civil Matters and Investigations

Ms. Block 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. Taylor, which carried.

Subsequently, Ms. Taylor made the motion for the Board to come out of Executive Session. The motion was seconded by Ms. Dick, 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.

2020 Complaint Committee

C2020-18: The Complaint Committee provided a brief history that this case involves a credential holder who allegedly had a boundary violation.

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

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.

BIC2021-10: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

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

C2021-11: The Complaint Committee reported that this case involves a credential holder who allegedly provided substandard care.

Action taken: The Complaint Committee recommended and moved to authorize Mr. Poynter to draft a proposed settlement agreement with specified terms. The motion was seconded by Ms. Block, which carried.

C2021-13: The Complaint Committee reported that this case involves a credential holder who answered “yes” to question 1A of “having been convicted of, or having pending charges for any felony, misdemeanor, or any crime in the courts of this state or any other state, territory or country.”

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 Ms. Taylor, which carried.

C2021-22: The Complaint Committee reported that the physical therapist in this case, Donald Bruce Taylor, appeared before the Board with his counsel, David Kaiser, to review the terms of a proposed written settlement agreement. As Board Chair, Ms. Thompson reviewed each term of the agreement with Mr. Taylor, who acknowledged his understanding, assent, and agreement to all terms of the agreement.

Action taken: After providing Mr. Taylor an opportunity to have his questions addressed by the Board, the Complaint Committee recommended and moved to approve the proposed Settlement Agreement. The motion was seconded by Mr. Cook 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.

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 involves a credential holder who allegedly sexually harassed her/his coworker.

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

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

Action taken: No action taken

CE2021-51:
CE2021-52:
CE2021-53:
CE2021-58:
CE2021-59:
CE2021-66:
CE2021-71:

The Complaint Committee reported that the individuals in the seven 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 seven cases. The motion was seconded by Ms. Taylor, which carried.

CE2021-54:
CE2021-56:
CE2021-61:
CE2021-80:

The Complaint Committee reported that the individuals in the four 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.

CE2021-104:
CE2021-118:
CE2021-132:

The Complaint Committee reported that the individuals in the three cases listed immediately above are part of the Jurisprudence Exam audit and have not paid their respective fines. The cases will remain open.

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 has come into compliance and paid their respective fine.

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

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 requested and was sent a Voluntary Surrender of Certificate to Practice and staff is awaiting a signed copy.

Action taken: No action taken.

CE2021-146: The Complaint Committee reported that this case involves a credential holder who failed to respond to the 2021 Continued Competency Audit within a timely manner. The Board issued a Private Admonishment with an associated fine in September of 2021. The credential holder has come into compliance and paid their respective fine.

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.

C2021-147: 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.

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

Action taken: No action taken.

2022 Complaint Committee

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 and the Board voted to issue a Private Admonishment with an associated fine at the March 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.

BIC2022-05: The Complaint Committee reported that this case involves a company that allegedly had a telehealth violation by practicing physical therapy without a licensed credential holder.

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

BIC2022-06: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

BIC2022-07: The Complaint Committee reported that this case involves a credential holder who is currently under monitoring and an investigation was opened during the March Board meeting after review of their monitoring report.

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 Ms. Taylor, which carried.

C2022-08: The Complaint Committee reported that this complaint involves a credential holder who allegedly provided substandard care.

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

C2022-09: The Complaint Committee reported that this complaint involves a credential holder who allegedly provided substandard care.

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

BIC2022-10: The Complaint Committee reported that this complaint involves a credential holder who allegedly violated her/his IPTPC contract.

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. Ogle, which carried.

C2022-11: The Complaint Committee reported that this complaint involves a credential holder who allegedly committed fraud and material deception.

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

BIC2022-12: The Complaint Committee reported that this case involves a credential holder who allegedly provided substandard care.

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

IPTPC Report

Mr. Fingerson presented his written IPTPC report dated 05/06/22. 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; Taylor Ison, PT; Rebekah Green Thompson, PT; Michelle Ramsey, PT; Kendra Reynolds, PTA; Luke Carver, PTA; and Jebediah Smith, PTA. A Monitoring report was submitted by the Board-appointed monitor and considered by the Board for Michelle Ramsey, PT.

Board Discussions, Committees and Opinion Requests

Compact Commission Compact Privilege Increase

Mr. Curley reported that he had contacted Mr. TJ Cantwell with the Compact Commission and informed them that there would be an increase to the Compact privilege fee from \$50 to \$103 for the Kentucky portion of a Compact privilege per the Board vote during the March meeting. Additionally, he reported that the price increase will go into effect on 06/01/22.

Action taken: No action taken.

2025 Jurisprudence Exam Item Writer Taskforce

Mr. Curley informed the Board that Dr. Kuperstein, Debra Turner, and Troy Grubb have agreed to serve as the Item Writers for the Board's 2023-2025 Jurisprudence Exam. Mr. Curley asked the Board if a Board member would like to serve on the Jurisprudence Exam Item Writers Taskforce, and he briefly explained the process by which the Board produces and develops the Jurisprudence Exam each biennium.

Action taken: After discussion, Mr. Kleinert made a motion to accept the proposed Item Writers and to appoint Ms. Taylor as an Item Writer for the 2023-2025 Jurisprudence Exam. The motion was seconded by Ms. Block, which carried.

Continued Competency Liaison to APTA KY

Ms. Dick requested that she be replaced on the Continued Competency Liaison to APTA KY committee due to her increased duties as Chair-elect.

Action taken: After discussion, Ms. Dick made a motion to have Ms. Block serve as the new Continued Competency Liaison to APTA KY. The motion was seconded by Ms. Ogle, which carried.

Supervision Across State Lines FAQ

Mr. Curley provided a draft for the Board to review of the FAQ pertaining to supervision across state lines.

Action taken: After discussion, Mr. Cook made a motion to approve the amended FAQ and to have Board staff post it on the website. The motion was seconded by Ms. Taylor, which carried.

Staff Reports and Discussions

The Board reviewed the following staff reports:

- (a) 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. The Board requested additional information from Ms. Terry at the March Board meeting and Ms. Terry sent in the information requested for the Board to review.

Action taken: After discussion, the Board requested Board staff reach out to Ms. Terry and have her attend the July Board meeting via Zoom to discuss her request for clarification and answer questions from the Board.

- (b) Erika Jacob, a physical therapist who sought clarification on whether a physical therapy clinic can have Narcan in the facility and if a physical therapist can administer if appropriate.

Action taken: After discussion, the Board authorized staff to respond to Ms. Jacob that there is nothing in the Practice Act that prohibits a physical therapist from administering Narcan to a patient as long as the physical therapist has the proper training, education, and expertise to administer the prescription. Additionally, the Board is unable to assist with information in acquiring Narcan and nothing that the Board says would prevent any potential issue with the Board of Pharmacy or any other Board in the Commonwealth of Kentucky.

APTA KY Liaison Report

Dr. Kuperstein reported that APTA KY had an intentionally silent legislative session this year, and areas that APTA KY will focus payment and imaging in the next legislative session.

Additionally, Dr. Kuperstein reported that the APTA KY bylaws draft has been completed and will be reviewed by the APTA KY Board during the June meeting.

Finally, Dr. Kuperstein reported that APTA KY and Statewide Opioid Stewardship have partnered in a 4-part series to promote Choose PT for addressing the opioid crisis.

Reports and Other Business

Legal Report

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

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 fourth quarter of the 2022 FY.

Action taken: No action taken.

Board Photos

Mr. Curley discussed with the Board the quotes he received from multiple photographers for professional photos for the Board members.

Action taken: After discussion, the Board decided to have Mr. Curley take headshots of each Board member at the next meeting.

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

Mr. Curley reported to the Board that the Administrative Regulation Review Subcommittee reviewed 201 KAR 22:001 and 201 KAR 22:053 on 04/11/22 and the regulations will go into effect on 08/03/22.

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 reviewed 201 KAR 22:020, 201 KAR 22:070, and 201 KAR 22:170 on 05/10/22 and the regulations will go into effect on 08/30/22.

Action taken: No action taken.

Conferences and Meetings Relating to Physical Therapy

The Board reviewed the following schedule of upcoming conferences:

- a. FSBPT – 2022 Regulatory Training for Members & Board Staff
(05/20-22/22 – Alexandria, VA)
- b. FSBPT – 2022 Leadership Issue Forum (LIF)
(07/23-24/22 – Alexandria, VA)
Stephen Curley and Karen Thompson to serve as KBPT's authorized representatives.
- c. FSBPT – Annual Meeting & Delegate Assembly
(10/27-29/22 – Orange County, CA)
- d. CLEAR – Annual Educational Conference
(09/14-17/22 – Louisville)
Ms. Block, Mr. Cook, Mr. Kleinert, Ms. Ogle, Mr. Poynter, and Mr. Curley to serve as KBPT's authorized representatives.

New Business

United Healthcare

Mr. Curley discussed with the Board a news article on United Healthcare that Mr. Chuck Clark submitted to the Board to inquire whether their business plan violates the Practice Act.

Action taken: After discussion, the Board determined that United Healthcare is not violating the Practice Act because they are not providing physical therapy services in the Commonwealth of Kentucky at this time with the current platform reviewed by the Board.

CAPTE

Mr. Curley reported that Spalding University's application for pre-accreditation has been denied.

Action taken: No action taken

201 KAR 22:053

Mr. Curley discussed with the Board the possibility of amending 201 KAR 22:053 Section 1 to include a regulation that would address the issue of credentials holders being dishonest with an agent of the Board.

Action taken: After discussion, the Board authorize staff to draft language for a regulation amendment to 201 KAR 22:053 and bring back before the Board at the July meeting.

Continued Competency Documentation Course

Mr. Curley discussed with the Board the possibility of creating a continued competency course that would address a variety of current issues and review the Board's roles as it pertains to public protection that the Board could offer to skilled nursing facilities, hospitals and outpatient clinics.

Action taken: After discussion, the Board authorized Mr. Curley to partner with APTA KY to draft a presentation and bring back before the Board to review at the July meeting.

Offsite Board Meeting

Mr. Curley discussed with the Board on holding an offsite Board meeting in Madisonville.

Action taken: The Board decided to wait until 2023 before holding an offsite Board meeting.

New Licensee/Reinstatement/Renewal Applications

Action taken: Ms. Block 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.

Board Member Per Diems and Expenses

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

Adjournment

Ms. Ogle made the motion to adjourn the meeting at 1:08 p.m., seconded by Ms. Taylor, which carried.

Respectfully submitted,



Stephen Curley
Executive Director