



KENTUCKY BOARD OF PHYSICAL THERAPY

Steve L. Beshear
Governor

312 Whittington Parkway, Suite 102
Louisville, Kentucky 40222
Phone (502) 429-7140
Fax (502) 429-7142
<http://pt.ky.gov>

Rebecca E. Klusch
Executive Director

MINUTES OF MEETING May 19, 2011

Board Members Present: Janice Kuperstein, PT, Chair
Peggy Block, PT
Ron Barbato, PT
Charles Clark, PT
Linda Pillow, PT
Troy Grubb, PT
Virginia Johnson, Public Member

Board Staff: Rebecca E. Klusch, Executive Director

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

Guests: Mike Muscarella, KPTA President elect
Tony Brosky, PT, KPTA Liaison, Bellarmine University
Tony English, PT, University of Kentucky
Peri Jacobson, PT, Bellarmine University
Charlie Workman, KPTA

A meeting of the Kentucky Board of Physical Therapy, Complaint Committee, was called to order at 9:00 a.m., Wednesday, May 18, 2011, at the Board office. Motion was made by Troy Grubb to go into closed session per KRS 61.810(1) (c) and (j), seconded by Peggy Block. Motion carried. Motion was made by Peggy Block to come out of closed session, seconded by Troy Grubb. Motion carried. The committee meeting adjourned at 2:30 p.m.

A meeting of the Kentucky Board of Physical Therapy, Complaint Committee, was called to order at 3:15 p.m., Wednesday, May 18, 2011, at the Board office. Motion was made by Janice Kuperstein to go into closed session per KRS 61.810(1) (c) and (j), seconded by Peggy Block. Motion carried. Motion was made by Peggy Block to come out of closed session, seconded by Janice Kuperstein. Motion carried. The committee meeting adjourned at 7:30 p.m.

A meeting of the Kentucky Board of Physical Therapy was called to order by Board Chair, Janice Kuperstein, at 9:10 a.m., Thursday, May 19, 2011, at Board office. A quorum was present.

Motion was made by Chuck Clark, seconded by Virginia Johnson to approve the minutes as amended of the March 17, 2011, and May 13, 2011, Board Meetings. Motion carried.

Complaint Committee

BIC2009-94 Mediation is scheduled for June 29, 2011.

C2010-08 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to accept the signed Settlement Agreement. Board approved the recommendation, seconded by Virginia Johnson. Motion carried. Complaint Committee members Peggy

Block and Troy Grubb recused from voting. Executive Director is authorized to contact several physical therapists to arrange for monitoring.

C2010-12 Kim Crossman, PT appeared before the Board. The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to accept the signed Settlement Agreement. Board approved the recommendation, seconded by Linda Pillow. Motion carried. Complaint Committee members Peggy Block and Troy Grubb recused from voting. Executive Director is authorized to contact several physical therapists to arrange for monitoring.

C2010-17 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. Board approved the recommendation, seconded by Ron Barbato. Motion carried. Settlement authority given to counsel. Complaint Committee members Peggy Block and Troy Grubb recused from voting.

C2010-18 Case is ongoing.

C2010-20 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. Board approved the recommendation, seconded by Ron Barbato. Motion carried. Complaint Committee members Peggy Block and Troy Grubb recused from voting.

C2010-22 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. Board approved the recommendation, seconded by Linda Pillow. Motion carried. Complaint Committee members Peggy Block and Troy Grubb recused from voting.

C2010-08 Steve Barton, PT, appeared before the Board as a condition of the Order of the Board and Settlement Agreement signed and approved on January 20, 2011.

C2010-24 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. Board approved the recommendation, seconded by Linda Pillow. Motion carried. Settlement authority given to counsel. Complaint Committee members Peggy Block and Troy Grubb recused from voting.

BIC2011-04 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. Board approved the recommendation, seconded by Virginia Johnson. Motion carried. Settlement authority given to counsel. Complaint Committee members Janice Kuperstein, Peggy Block and Troy Grubb recused from voting.

C2011-05 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to file a Private Admonishment. After discussion, the Board rejected the recommendation and Ron Barbato, seconded by Troy Grubb, made a motion to file a Notice of Administrative Hearing. Motion carried. Settlement authority given to counsel. Complaint Committee members Peggy Block and Janice Kuperstein recused from voting.

C2011-06 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. Board approved the recommendation, seconded by Virginia Johnson. Motion carried. Complaint Committee members Peggy Block and Janice Kuperstein recused from voting.

BIC2011-07 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. Settlement authority given to counsel. Board approved the recommendation, seconded by Linda Pillow. Motion carried. Complaint Committee members Peggy Block and Janice Kuperstein recused from voting.

C2011-08 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 Chuck Clark. Motion carried. Complaint Committee members Peggy Block and Janice Kuperstein recused from voting.

C2011-09 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 Chuck Clark. Motion carried. Complaint Committee members Peggy Block and Janice Kuperstein recused from voting.

BIC 2011-10 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 Ron Barbato. Motion carried. Complaint Committee members Peggy Block and Troy Grubb recused from voting.

BIC2011-11 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to Deny application of Certificate and Settlement Authority with a Conditional Grant of Certificate to Board Counsel. Board approved the recommendation, seconded by Linda Pillow. Motion carried. Complaint Committee members Peggy Block and Janice Kuperstein recused from voting.

C2011-12 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to open an investigation and issue a Cease and Desist if warranted. Board approved the recommendation, seconded by Chuck Clark. Motion carried. Complaint Committee members Peggy Block and Janice Kuperstein recused from voting.

BIC2011-13 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 Ron Barbato. Motion carried. Settlement authority given to counsel. Complaint Committee members Peggy Block and Janice Kuperstein recused from voting.

BIC2011-14 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 Ron Barbato. Motion carried. Settlement authority given to counsel. Complaint Committee members Peggy Block and Janice Kuperstein recused from voting.

Five late renewals that practiced without a license – The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to issue a Private Admonishment with a fine of \$250.00 and \$70.00 per day for PTA and \$100.00 per day for PT. Board approved the recommendation, seconded by Virginia Johnson. Motion carried.

Second offense late renewal who practiced without a license - 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. Settlement authority given to counsel. Board approved the recommendation, seconded by Chuck Clark. Motion carried. Complaint Committee members Peggy Block and Janice Kuperstein recused from voting.

The Board reviewed the IPTPC report submitted by Brian Fingerson, R.Ph. Cases that are involved in the IPTPC have come to the attention of the Board.

Update on Monitoring Probations

Update on monitoring probations was given for the following: James Rick Roe, PT; Ron Cole, PT, Malton Schexneider, PT, Amy Farmer, PT, Lawrence Tatem, PT, Tiffney Bentley, PT and William Kyle Clark, PTA.

Ron Barbato has been reappointed as James Rick Roe's monitor because any alleged conflict of interest has resolved.

Board and Administrative Business

Chuck Clark made a motion, seconded by Peggy Block to approve ADA accommodations for LS and KW. Motion carried.

A motion was made by Linda Pillow, seconded by Chuck Clark to approve the Remediation Plans for JB, SM and KW and not to approve the Remediation Plan for RF due to insufficient remedial intervention. Motion carried.

A motion was made by Ron Barbato, seconded by Virginia Johnson to approve conditionally the revised 2013 Jurisprudence Exam for new applicants and the current biennium renewals upon finalization of one remaining question. Motion carried.

A motion was made by Ron Barbato, seconded by Troy Grubb to file an Emergency Regulation of 201 KAR 22:020 allowing applicants to be approved to schedule the NPTE within 90 days of anticipated date of completion of a CAPTE accredited physical therapy program. Motion carried.

A motion was made by Linda Pillow, seconded by Peggy Block to amend 201 KAR 22:020 to add Section 6: PT applicants who meet the qualifications for PT licensure by examination may become special candidates for PTA certification by applying for certification by exam and successfully completing that examination. Also, after six failed attempts at either examination or combination thereof, an applicant shall not be eligible to register for any additional physical therapist or physical therapist assistant examination. Motion carried.

A motion was made by Ron Barbato, seconded by Peggy Block to approve conditionally in amending 201 KAR 22:045 to add FSBPT to approved providers and add the exemption for active duty military personnel as mandated by the new law in KRS Chapter 12. Motion carried.

A motion was made by Chuck Clark, seconded by Linda Pillow to approve conditionally in amending 201 KAR 22:053 regarding the evaluation when transferring patients from one facility to another. Motion carried.

Supportive Personnel - A committee has been formed with the KPTA to study and bring back recommendations for a regulation amendment to define the duties of supportive personnel. Peggy Block, Linda Pillow, and Chuck Clark were appointed to the committee.

A letter was drafted by the Board to respond to Larry Benz's inquiry about continuing competency categories.

Talia Leezer inquired about physical therapy peer reviews. KRS 327 does not address peer review. Her second question was regarding selling a Tempur-Pedic mattress or pillow to patients. 201 KAR 22:053 Section 2(9) states: *Disclose in writing to each patient any financial interest, compensation, or other value to be received by the referral source;... (c) for other services the physical therapist may recommend for the patient.*

The Board noted the new section to KRS 367 on Solicitation of Services.

A motion was made by Ron Barbato, seconded by Troy Grubb to begin posting Final Orders on the Board's website. This will include any existing Final Orders that have a provision for such posting included in the Order. A provision for posting will be included in all future Final Orders. Motion carried.

The Governor's Office has requested that all government agencies request a five per cent decrease in hourly rates of all contract providers. The Board has two investigative personal service contracts and one personal service contract for IPTPC. After discussion, a motion was made by Chuck Clark, seconded by Peggy Block to not request the three contract providers to take a five per cent decrease in fees in the next fiscal year. Motion carried.

Other Board Matters

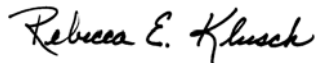
A motion was made by Peggy Block, seconded by Troy Grubb to appoint Chuck Clark, delegate and Linda Pillow, alternate delegate and fund Janice Kuperstein to the FSBPT annual meeting September 22-25, 2011 in Charlotte, North Carolina. Motion carried.

Board members reviewed and approved 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 for fiscal year ending April 30, 2011.

A motion was made by Ron Barbato, seconded by Troy Grubb to adjourn the meeting at 6:35 p.m. Motion carried.

Respectfully submitted,



Rebecca E. Klusch
Executive Director