



KENTUCKY BOARD OF PHYSICAL THERAPY

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Andy Beshear
Governor

Stephen Curley
Executive Director

MINUTES OF MEETING May 23, 2024

Board Members: Stephanie Lutz, PTA, Chair
Karen Ogle, PT, Chair-Elect
Ramona Carper, PT
Mark Cook, PTA
Michael Kleinert, Public Member
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 9:00 a.m. on Thursday, 05/23/24, 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.

Minutes for Previous Board Meeting

The Board reviewed the draft minutes of the 03/21/24 Board meeting.

Action taken: Following review and discussion, Mr. Cook made a motion to approve the minutes of the Board meeting of 03/21/24, as amended. The motion was seconded by Ms. Thompson, which carried.

Civil Matters and Investigations

Ms. Thompson 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. Kleinert, which carried.

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

Action taken: No action taken.

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.

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 is ongoing.

Action taken: No action taken.

BIC2023-18: The Complaint Committee reported that this case involves a credential holder who practiced physical therapy without an evaluation.

Action taken: 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.

Additionally, the Complaint Committee recommended and moved to open investigations on other credential holders working within the company. The motion was seconded by Ms. Thompson, which carried.

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

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.

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.

CE2023-58

CE2023-68

CE2023-97

CE2023-98: The Complaint Committee reported that these four 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 Ms. Thompson, which carried.

CE2023-65

CE2023-125: Mr. Curley discussed with the Board that two credential holders who were issued a Notice of Hearing because they failed to respond to the settlement agreement previously issued by the Board.

Action taken: After discussion, the Complaint Committee recommended and moved to rescind the proposed settlement agreements. 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.

Finally, the Complaint Committee recommended and moved to authorize Board Counsel to negotiate and draft settlement agreements with specified terms to those two credential holders whose settlement agreements were rescinded. The motion was seconded by Ms. Carper, which carried.

CE2023-39

CE2023-47
CE2023-52
CE2023-53
CE2023-55
CE2023-76

CE2023-82: 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 Ms. Carper, which carried.

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

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 is ongoing.

Action taken: No action taken.

BIC2024-04: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

BIC2024-05: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

BIC2024-08: The Complaint Committee reported that this case involves a credential holder who had multiple violations to their IPTPC agreement. During the March Board meeting the Board voted to issue a Board Order to extend the credential holders IPTC contract for one year. Board staff reported that the credential holder has signed a new IPTPC agreement.

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

BIC2024-09: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

IPTPC Report

Mr. Fingerson presented the written IPTPC report dated 05/16/24. IPTPC cases that previously have come to the attention of the Board or were discussed at length during the Complaint Committees' reports were reviewed.

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; and Bryon Cooper, PTA.

Board Discussions, Committees and Opinion Requests

Practice Act Review Committee

Mr. Curley disseminated the updated draft of the Practice Act for the Board members to review. Additionally, Mr. Curley discussed with the Board to include two additional changes that he would like to include in the Practice Act. Finally, Mr. Curley discussed the timeline of contacting stake holders to discuss the proposed changes to the Practice Act.

Action taken: After discussion. Mr. Kleinert made a motion for the Board to accept the draft Practice Act with the additional changes. The motion was seconded by Mr. Cook, which carried.

Lease Modification/Office Renovations

Mr. Curley disseminated the quotes he received from Jefferson Development to modify the existing Lease Agreement to include security upgrades, a mail slot, the addition of a vestibule, and new paint and carpeting for the Board office.

Action taken: After discussion, Ms. Thompson made a motion to authorize Mr. Curley to move forward with the modification to the existing Lease Agreement to include the requested office renovations. The motion was seconded by Mr. Cook, which carried.

2025-2027 Jurisprudence Exam Item Writer Taskforce

Mr. Curley discussed with the Board the need to appoint Item Writers to the 2025-2027 Item Writers Taskforce for the 2025-2027 Jurisprudence Exam.

Action taken: After discussion, Mr. Cook made a motion to appoint Dr. Kuperstein, Debra Turner, Stephanie Lutz, and Ramona Carper to the 2025-2027 Jurisprudence Exam Item Writer Taskforce. The motion was seconded by Ms. Ogle, which carried.

Staff Reports and Discussions

The Board reviewed the following staff reports:

- (a) David Brown, a physical therapist who submitted a question to the Board at the March Board meeting was asked to appear before the Board to answer questions pertaining to his inquiry on whether a physical therapist can perform manipulations on a patient who is under anesthesia in an outpatient clinic setting.

Action taken: After a lengthy discussion, Mr. Cook made a motion for the Board to authorize Board staff to respond to Mr. Brown that a physical therapist performing manipulations on a patient who is under anesthesia is not within the scope of practice of a physical therapist. The motion was seconded by Ms. Carper, which carried.

- (b) KBPT staff brought a request from a foreign-educated applicant before the Board to review. The applicant requested that they be exempt from having a passing score on the TOEFL.

Action taken: After discussion, Mr. Kleinert made a motion to deny waiving the TOEFL requirement for licensure. The motion was seconded by Ms. Ogle, which carried.

- (c) Joanna Ferri, a physical therapist who sought clarification on whether a physical therapist may perform a pulmonary function test on individuals as part of pre op testing for spine surgery.

Action taken: After discussion, the Board authorized staff to respond that a physical therapist may perform a pulmonary function test if the patient is under their caseload and is presenting with difficulty breathing. A physical therapist could not perform the test without an evaluation and the physical therapist cannot complete an evaluation for the sole purpose to administer a pulmonary function test.

APTA KY Liaison Report

Dr. Kuperstein reported that APTA-KY Fall Conference will be held at the University of Kentucky on 09/27-28/24. Additionally, Dr. Kuperstein reported that APTA-KY and APTA-IN are hosting the 2024 Views and Brews at Bellarmine on 06/25/24.

KBPT General Counsel's Legal Report

Mr. Poynter reported to the Board that letters have been drafted for all existing regulations contained in 201 KAR Chapter 22 for purposes of a sunset review as required under KRS 13A.3102 and KRS 13A.3104.

Additionally, Mr. Poynter discussed articles on the Federal Trade Commission (FTC) and the reciprocity of credentials for active duty military and their spouses.

Reports and Other Business

Executive Director's Report

Financial Report

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

Action taken: No action taken.

Staff Compensation

Mr. Curley discussed with the Board a potential raise for Ms. Barton and Ms. Turner.

Action taken: After discussion, Mr. Profitt made a motion to approve a salary increase of 3% of Ms. Barton's and Ms. Turner's current salary in addition to the 3% raise that takes effect on July 1st. The motion was seconded by Mr. Kleinert, which carried.

FSBPT Board of Directors

Mr. Curley informed the Board that he has been asked to run for a position on FSBPT's Board of Directors. He requested that the Board approve him to accept the position if he is elected at the Annual Conference.

Action taken: After a brief discussion, the Board approved Mr. Curley to accept a position on FSBPT's Board of Directors if he is elected at the Annual Conference.

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)
Mr. Kleinert made a motion for the Board to pay for the registration fees and associated travel costs for one additional Board member to attend the FSBPT Annual Meeting & Delegate Assembly in Cedar Rapids, Iowa. The motion was seconded by Mr. Cook, which carried.

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. Cook, which carried. The lists are attached to these minutes.

Board Member Per Diems and Expenses

Ms. Ogle made a motion to approve per diems for Board members. The motion was seconded by Ms. Thompson, which carried.

Adjournment

Ms. Ogle made the motion to adjourn the meeting at 12:26 p.m., seconded by Mr. Kleinert, which carried.

Respectfully submitted,



Stephen Curley
Executive Director