



KENTUCKY BOARD OF PHYSICAL THERAPY

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Andy Beshear
Governor

Stephen Curley
Executive Director

MINUTES OF MEETING July 28, 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

APTA KY Liaison: Dr. Janice Kuperstein

Board Guests: Charlie Workman
Casie Saxion

A meeting of the Kentucky Board of Physical Therapy was called to order by the Board's Chair, Karen Thompson, at 9:01 a.m. on Thursday, 07/28/2022, 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 05/19/22 Board meeting.

Action taken: Following review and discussion, Ms. Block made a motion to approve the minutes of the Board meeting of 05/19/22, as drafted. The motion was seconded by Ms. Ogle, which carried.

Civil Matters and Investigations

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

BIC2020-23: The Complaint Committee reported that this case involves an exam applicant who reported criminal convictions on their exam application. Additionally, the Complaint Committee reported that the exam candidate's application has expired.

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

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, and the Board voted at the previous meeting to offer a proposed agreement

with specified terms. Mr. Poynter reported that we are awaiting a signed copy of the proposed settlement agreement.

Action taken: No action taken.

C2021-23: 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 due to insufficient evidence of a violation of KRS Chapter 327. The motion was seconded by Ms. Block, which carried.

C2021-37: The Complaint Committee reported that this case involves a credential holder who allegedly committed fraud and material deception and provided substandard care.

Action taken: After reviewing the facts and circumstances of this case, the Complaint Committee recommended and moved to take no action due to insufficient evidence of a violation of KRS Chapter 327. The motion was seconded by Mr. Cook, which carried.

C2021-41: 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 authorize Mr. Poynter to draft a settlement with specified terms. The motion was seconded by Mr. Cook, which carried.

BIC2021-42: The Complaint Committee reported that this case involves a credential holder who allegedly failed to evaluate a patient or properly supervise a physical therapist student.

Action taken: After reviewing the facts and circumstances of this case, the Complaint Committee recommended and moved to take no action due to insufficient evidence of a violation of KRS Chapter 327. The motion was seconded by Ms. Taylor, which carried.

BIC2021-43: The Complaint Committee reported that this case involves a credential holder who allegedly sexually harassed a coworker. The Board voted at the May Board meeting to offer a proposed settlement agreement. Mr. Poynter reported that the credential holder has signed the proposed settlement agreement and will appear before the Board at the September Board meeting.

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

C2021-45: The Complaint Committee reported that this case involves a credential holder who allegedly had multiple violations pertaining to supervision, documentation, and fraud and material deception.

Action taken: After reviewing the facts and circumstances of this case, the Complaint Committee recommended and moved to take no action due to insufficient evidence of a violation of KRS Chapter 327. The motion was seconded by Ms. Taylor, which carried.

CE2021-54

CE2021-56

The Complaint Committee reported that the individuals in the two cases listed immediately above are credential holders who were deficient with the Continued Competency requirements for the random audit and at the September 2021 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 two cases. The motion was seconded by Mr. Kleinert, which carried.

CE2021-61:

CE2021-80:

The Complaint Committee reported that the individuals in the two cases listed immediately above are part of the random audit and either have not completed their hours or paid their respective fines.

Action taken: The Complaint Committee recommended and moved to issue a Notice of Hearing on the two cases listed immediately above if the credential holders do not come into compliance and pay their respective fines by the established deadline. The motion was seconded by Mr. Kleinert, which carried.

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 they have paid their respective fines.

Action taken: The Complaint Committee recommended and moved to close these three cases. The motion was seconded by Mr. Kleinert, which carried.

CE2021-133: The Complaint Committee reported that this case involves a credential holder who requested to voluntarily surrender her/his credential. The Board issues a proposed settlement agreement of voluntary surrender of certificate. Board staff reported that the credential holder has accepted and submitted the proposed Settlement Agreement of Voluntary Surrender of Certificate.

Action taken: The Complaint Committee recommended and moved to accept the proposed Settlement Agreement of Voluntary Surrender of Certificate. 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.

C2021-148: 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 due to insufficient evidence of a violation of KRS Chapter 327. The motion was seconded by Mr. Cook, which carried.

2022 Complaint Committee

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

Action taken: No action taken.

C2022-08: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

C2022-09 The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

C2022-11: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

BIC2022-12: The Complaint Committee reported that this case is ongoing.

Action taken: No action taken.

C2022-13: The Complaint Committee reported that this case involves an individual who allegedly practiced in Kentucky without a credential.

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

BIC2022-14: The Complaint Committee reported that this case involves a credential holder who allegedly practiced without proper supervision.

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

BIC2022-15: The Complaint reported that this case involves a credential holder who has an adverse action in another jurisdiction regarding continued competency compliance.

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

BIC2022-16: The Complaint Committee reported that this case involves a credential holder who has an adverse action in another jurisdiction regarding continued competency compliance.

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

C2022-17: 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 take no action. The motion was seconded by Ms. Taylor, which carried.

C2022-18: The Complaint Committee reported that this case involves a credential holder who allegedly has multiple violations pertaining to substandard care and documentation.

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

IPTPC Report

Mr. Curley presented the written IPTPC report dated 07/12/22. 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; Jebediah Smith, PTA; and Donald Bruce Taylor, PT. A Monitoring report was submitted by the Board-appointed monitor and considered by the Board for Luke Carver, PTA.

Board Discussions, Committees and Opinion Requests

FSBPT – 2022 Leadership Issues Forum (LIF)

Ms. Thompson and Mr. Curley reported that they both attended the Leadership Issues Forum in Alexandria, VA on 07/22-24/22. They both discussed presentations relative to Boundary Issues, Reentry to Practice, Telehealth, the Application Programming Interface, and the upcoming changes to the NPTE and NPATAE.

Mr. Curley reminded the Board that the Boundary Taskforce was still in existence and he would like to schedule a meeting to discuss changes to the Board website to include resources on Boundary Issues and report back to the Board at the September meeting.

Also, the Board briefly discussed creating a Reentry to Practice Taskforce to create a plan for credential holders who are reentering the profession to determine clinical competency.

Action take: After discussion, Ms. Dick made a motion for the Board to appoint Ms. Block, Ms. Taylor, and Board staff to the Reentry to Practice Taskforce and report back to the Board at the next meeting. The motion was seconded by Mr. Cook, which carried.

Additionally, the Board briefly discussed creating a Continued Competency Taskforce to review and possibly amend 201 KAR 22:045 to streamline the continued competency requirements and procedures.

Action taken: After discussion, Ms. Block made a motion for the Board to appoint Ms. Ogle, Mr. Cook, two APTA KY members, and Board staff to the Continued Competency Taskforce. The motion was seconded by Ms. Taylor, which carried.

Finally, the Board briefly discussed creating a Telehealth Review Taskforce to possibly amend 201 KAR 22:160 the Telehealth and telephysical therapy regulation.

Action taken: After discussion, Mr. Cook made a motion for the Board to appoint Ms. Thompson, Mr. Kleinert, Ms. Block, one member from APTA KY, and Board staff to the Telehealth Review Taskforce. The motion was seconded by Ms. Taylor, which carried.

2025 Jurisprudence Exam Item Writer Taskforce

Mr. Curley reported that the 2025 Jurisprudence Exam Item Writer Taskforce has met several times since the last Board meeting and questions for the 2023-2025 Jurisprudence Exam will be presented at the September meeting for the Board to review.

Action taken: No action taken.

Continued Competency Documentation Course

Mr. Curley reported that he will be presenting at the APTA KY Fall Conference on 09/10/22 in Bowling Green, KY.

Action taken: No action taken.

201 KAR 22:053 Amendment

Mr. Curley disseminated a draft amendment to 201 KAR 22:053 to include language to address individuals who are not being truthful or cooperating with investigations and investigators of the Board.

Action taken: After review, Ms. Dick made a motion for the Board to approve the draft language and to authorize Mr. Curley to submit a regulation change to the LRC to amend 201 KAR 22:053. The motion was seconded by Mr. Cook, which carried.

TOEFL Home Test

Mr. Curley disseminated information regarding the TOEFL Home Test for individuals that have been educated outside the United States. He reviewed the process of the TOEFL Home Test and asked the Board to determine if they would accept the test results for individuals who are required to submit TOEFL scores as part of the application process.

Action taken: After discussion, Ms. Block made a motion for the Board to accept scores from the TOEFL Home Test. The motion was seconded by Ms. Taylor, which carried.

2023 Renewal Application

Mr. Curley discussed with the Board the possibility of adding language to our renewal application for the 2023 renewal cycle that would provide information to each credential holder on whether she/he has taken the Jurisprudence Exam and to include a reminder about renewing Compact Privileges in other jurisdictions.

Action taken: After discussion, Ms. Dick made a motion to approve language regarding the Jurisprudence Exam and Compact Privilege renewal on the 2023 Renewal Application. The motion was seconded by Ms. Ogle, which carried.

APTA Kentucky - Imaging

A presentation was made by Charlie Workman and Casie Saxion from APTAKY regarding diagnostic imaging. APTAKY asked the Board for a formal interpretation of the current Practice Act language regarding imaging ordering privileges for physical therapists in the state of Kentucky.

Action taken: After discussion, Ms. Block made a motion to appoint Ms. Dick, Mr. Kleinert, Ms. Ogle, APTA members, and Board staff to the Imaging Taskforce. 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 was asked to appear before the Board via Zoom to address questions from the Board members to clarify her role.

Action taken: After discussion, the Board authorized staff to respond that there is nothing in the Practice Act that prohibits Ms. Terry from performing the role of a Wellness Coordinator as long as her role is clearly defined within her contract and with the participants of the program. Also, if Ms. Terry receives any compensation from referrals or business investments, she must disclose the information to participants in the program in accordance with 201 KAR 22:053. Additionally, the Board suggested that Ms. Terry document interactions with the participants of the program in case her interactions cross over into the practice of physical therapy and to follow all documentation requirements under 201 KAR 22:053. Finally, the Board suggested that Ms. Terry contact legal counsel to ensure that she is legally protected.

- (b) Mark Cook, a physical therapist assistant who sought clarification on whether a physical therapist assistant could treat a patient who was evaluated in another state.

Action take: After discussion, the Board determined that a physical therapist assistant would need to have a supervising physical therapist either complete another evaluation or establish that the evaluation is complete per the Practice Act and confirm the plan of care.

- (c) Monica Rosa, a physical therapist who sought clarification on physical therapists using class 3B lasers in Kentucky.

Action taken: After discussion, the Board authorized staff to respond to Ms. Rosa that the use of 3B lasers is within the scope of practice of physical therapy. Any physical therapist or physical therapist assistant using a 3B laser would be required to have the requisite training, expertise, and experience to perform these procedures as part of an established plan of care.

APTA KY Liaison Report

Dr. Kuperstein presented a website from HRSA the Area Health Resources Files and the Board discussed diversity within the physical therapy profession.

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 and that he would be reposting the position.

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.

Executive Director Annual Review

Mr. Curley briefly discussed the previous process of the Executive Director's Annual Review and informed the Board that on 08/24/22, it will be one year since he was hired as the Executive Director.

Action taken: After discussion, the Board decided that they would discuss the format of Mr. Curley's review at the September Board 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 07/20/22 and the regulations went into effect the same day.

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 07/20/22 and the regulations went into effect on the same day.

Action taken: No action taken.

Conferences and Meetings Relating to Physical Therapy

The Board reviewed the following schedule of upcoming conferences:

- a. 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. Additionally, Mr. Curley reported that the CLEAR Conference has an Executive Leadership Program for Regulators scheduled for 09/12-14/22 that he would like to attend.

Action taken: Ms. Dick made a motion for the Board to pay for the registration fee for Mr. Curley to attend the Executive Leadership Program for Regulators. The motion was seconded by Mr. Cook, which carried.

- b. FSBPT – Annual Meeting & Delegate Assembly
(10/27-29/22 – Orange County, CA)

New Business

Mr. Curley discussed with the Board a new complaint that the Board recently received regarding a credential holder who has multiple DUI's.

Action taken: After discussion, the Complaint Committee recommended and moved to open a Board Initiated Complaint BIC2022-19, and upon the recommendation of Mr. Fingerson offer the credential holder a voluntary IPTPC contract and if the credential holder refuses to order an evaluation to determine whether the credential holder has a substance abuse disorder.

Ms. Thompson and Ms. Ogle recused themselves from any discussion or voting pertaining to BIC2022-19.

Mr. Curley disseminated a question from Renee Morris, a physical therapist who sought clarification on whether physical therapists and physical therapist assistants who are licensed in another state can practice on patients in Kentucky while attending a continued competency course.

Action taken: After discussion, the Board requested that Ms. Morris submit additional information for the Board to review at the September 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 Ms. Taylor, which carried. The lists are attached to these minutes.

Board Member Per Diems and Expenses

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

Adjournment

Ms. Thompson made the motion to adjourn the meeting at 2:29 p.m., seconded by Ms. Dick, which carried.

Respectfully submitted,



Stephen Curley
Executive Director