



KENTUCKY BOARD OF PHYSICAL THERAPY

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Rebecca E. Klusch
Executive Director

MINUTES OF MEETING July 22, 2010

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

Board Staff: Rebecca E. Klusch, Executive Director

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

A meeting of the Kentucky Board of Physical Therapy, Complaint Committee, was called to order at 1:00 p.m., Wednesday, July 21, 2010, at Buckhorn State Resort Park, Buckhorn. 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 5:00 p.m. and reconvened at 9:30 p.m. and adjourned at 11:30 p.m.

A meeting of the Kentucky Board of Physical Therapy was called to order by Board Chair, Peggy Block, at 9:15 a.m., Thursday, July 21, 2010, at Buckhorn State Resort Park, Buckhorn. A quorum was present.

Motion was made by Janice Kuperstein, seconded by Margaret Blain to approve the minutes as amended of the May 20, 2010, Board Meeting. Motion carried.

Complaint Committee

C2007-08 An Order and Notice of Immediate Temporary Suspension has been filed by the Board, which was upheld after an emergency hearing held February 24, 2010. The Board has filed a Notice of Administrative Hearing and Order. Case is ongoing.

C2008-07 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to accept the Settlement Agreement negotiated in Mediation. Motion died for lack of a second. The full Board authorized additional settlement authority to Board Counsel, who will propose and will send a revised Settlement Agreement.

BIC2009-25 A Notice of Administrative Hearing and Order has been filed. Case is ongoing.

BIC2009-87 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 Janice Kuperstein. Motion carried. Complaint Committee members Ron Barbato and Troy Grubb recused from voting.

BIC2009-89 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to issue an Agreed Order of Dismissal and Settlement Agreement with a Private Admonishment for evidence of a violation of KRS 327. Board approved the recommendation, seconded by Chuck Clark. Motion carried. Complaint Committee members Ron Barbato and Troy Grubb recused from voting.

BIC2009-94 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to file a Notice of Hearing for violating an Order of the Board and Settlement Agreement. Board approved the recommendation, seconded by Janice Kuperstein. Motion carried. Complaint Committee members Ron Barbato and Troy Grubb recused from voting.

C2010-04 An Immediate Temporary Suspension and Order was approved and issued at the March Board meeting. A Notice of Administrative Hearing and Order for violations of KRS 327 has been filed. Case is ongoing.

C2010-06 A Notice of Administrative Hearing and Order for violations of KRS 327 has been filed. Case is ongoing.

C2010-08 Case is ongoing.

C2010-09 Case is ongoing.

C2010-10 Case is ongoing.

C2010-11 A Cease and Desist Affidavit has been mailed to the Respondent. No response to date. Case is ongoing.

C2010-12 Case is ongoing.

A2010-13 The Complaint Committee recommended to the full Board upon summary of the matter, with the assistance of counsel, to deny the application for a certificate to practice as a physical therapist assistant based upon a criminal conviction. The Complaint Committee also moved to grant the application upon terms and conditions to be contained in a Conditional Grant of License and Settlement Agreement. Board approved the recommendation, seconded by Chuck Clark. Motion carried. Complaint Committee members Peggy Block and Troy Grubb recused from voting.

C2010-15 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.

C2010-16 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.

C2010-17 Case is ongoing.

C2010-18 Case is ongoing.

C2010-19 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.

C2010-20 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 Troy Grubb recused from voting.

BIC2010-21 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 Margaret Blain. 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 open an investigation. Board approved the recommendation, seconded by Chuck Clark. Motion carried. Complaint Committee members Peggy Block and Troy Grubb recused from voting.

BIC2010-23 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 Troy Grubb recused from voting.

C2009-10 An Order and Notice of Immediate Temporary Suspension has been filed by the Board for a positive drug screen and for violating the Order of the Board and Settlement Agreement dated September 17, 2009. Case is ongoing.

The Board reviewed the IPTPC report submitted by Brian Fingerson. 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; Mary Beth Barcus, PT, Malton Schexneider, PT, Amy Farmer, PT and Lawrence Tatem, PT.

A motion was made by Margaret Blain, seconded by Janice Kuperstein to deny James Rick Roe's request for relief of the remainder of his monitor visits. Motion carried.

Board and Administrative Business

After a lengthy discussion from concerns submitted from the public, a motion was made by Janice Kuperstein, seconded by Troy Grubb to accept the revised amendments to 201 KAR 22:020 and 070. Motion carried.

A therapist practicing between two states inquired about the supervision of PTAs and supportive personnel. The issue presented is: "Can a Kentucky licensed physical therapist supervise four PTAs in one state and four in another state at the same time?" A motion was made by Janice Kuperstein, seconded by Margaret Blain to amend 201 KAR 22:053 Section 4(1)(a) to add "in all jurisdictions" after all work locations. Motion carried. The intent of this administrative regulation was to limit the number of supervised persons regardless of the location of those persons within or outside the jurisdiction of the Commonwealth of Kentucky.

Question from Rebecca Shaver, PT, asked if a PTA may treat a patient before a written plan of care is completed if the initial evaluation has been performed but not documented in writing. A motion was made by Margaret Blain, second by Virginia Johnson to issue a Declaratory Opinion stating if the initial evaluation and plan of care (POC) are completed per 201 KAR 22:053 Section 5(1), but written documentation is not yet complete, the PTA may initiate intervention for one visit based on verbal

communication of the POC from the physical therapist. This communication shall be documented in the treatment record by the physical therapist and physical therapist assistant. Motion carried.

Chris Fuller asked whether it is necessary to have a physician's signature for permanent impairment reports. According to KRS 327.010: "*Physical therapy includes screening or evaluations performed to determine the degree of impairment of relevant aspects such as, but not limited to, nerve and muscle function including subcutaneous bioelectrical potentials, motor development, functional capacity and respiratory or circulatory efficiency.*" a physical therapist may complete an impairment rating since that determination is within the scope of practice of the physical therapist. However it is commonly and widely accepted that for purposes of Workers Compensation benefits, Disability Insurance, and third party payers, a physician's determination is required by those entities in order for permanent impairment to be granted or denied. Thus, a collaborative approach, working with a physician is the most appropriate means of determining permanent impairment rating. But otherwise, a rating of permanent impairment is within the scope of practice of a physical therapist.

Supportive personnel task force was discussed and the Board is gathering input from the visitors from our "Road" Board meetings to bring back to the task force for further discussion.

Other Board Matters

Janice Kuperstein will make a motion at the FSBPT annual meeting to eliminate the tally count of FSBPT Board elections.

A motion was made by Troy Grubb, seconded by Virginia Johnson, to fund Margaret Blain for the FSBPT Ethics Remediation Track and Donna Sims for the Exam Security Track for licensure applicants. Troy Grubb and Ron Barbato have withdrawn their attendance. Motion carried.

A motion was made by Margaret Blain, seconded by Janice Kuperstein, to fund Mark Brengelman, Troy Grubb and Ron Barbato to attend the Annual FARB Attorney Certification Seminar in Washington D.C. Motion carried.

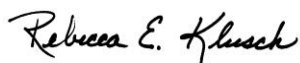
A motion was made by Janice Kuperstein, seconded by Troy Grubb, to fund Becky Kusch to attend the CLEAR Leadership Seminar and the annual Conference. Motion carried.

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 June, 2010.

A motion was made by Ron Barbato, seconded by Troy Grubb to adjourn the meeting at 5:00 p.m. Motion carried.

Respectfully submitted,



Rebecca E. Klusch
Executive Director