



Kelly King, PT, DPT
President

ARIZONA STATE BOARD OF PHYSICAL THERAPY
1470 W. ADAMS ST., STE 2450, PHOENIX, ARIZONA 85007
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**REGULAR SESSION MEETING MINUTES via
Google Meet Video Conferencing
Virtual Attendance
March 28, 2023**

BOARD MEMBERS PRESENT: Kelly King, PT, DPT, President
Karen Bustillo, PT, DPT, CLT, Vice President
Giovanni Leone, PTA; Secretary
John Heick, PT, DPT, PhD
Joshua Greer, Public Member
Joshua Barton, Public Member

BOARD MEMBERS ABSENT:

**ASSISTANT ATTORNEY
GENERAL PRESENT:** Marc Harris, Assistant Attorney General

BOARD STAFF PRESENT: Judy Chepeus, Executive Director
Veronica Cardoza, Administrative Services Officer
Monica Crowley, Licensing Administrator
Mindy Richardson PT, Investigator

BOARD SAFF ABSENT:

- 1) **CALL TO ORDER – 8:30 A.M.;** Dr. King called the meeting to order at 8:31 A.M. (A recording of the meeting is available on the Board’s website.)
- 2) **Roll Call** – See Above. Mr. Barton was not present at this initial roll call but joined the meeting as indicated in the minutes below.
- 3) **Minutes: Review, consideration, and action:**
 - A) February 28, 2023, Regular Session

Dr. King moved, seconded by Dr. Bustillo to **Approve** the February 28, 2023 Regular Meeting Minutes. The motion passed unanimously.

Vote	Dr. King	Dr. Bustillo	Mr. Leone	Mr. Greer	Mr. Barton	Dr. Heick	VACANT
Aye	X	X	X	X		X	

Nay							
Recused							
Abstained							
Absent					X		

B) February 28, 2023 Executive Session -A

Dr. Bustillo moved, seconded by Dr. King to **Approve** the February 28, 2023 Executive Session -A Meeting Minutes. The motion passed unanimously.

Vote	Dr. King	Dr. Bustillo	Mr. Leone	Mr. Greer	Mr. Barton	Dr. Heick	VACANT
Aye	X	X	X	X		X	
Nay							
Recused							
Abstained							
Absent					X		

4) Applications for Licensure and Certification:

A) Review, consideration, and possible action on Physical Therapist applicants requesting ADA accommodations.

- 1) Christopher Anderson

The Board reviewed and discussed the above request. Mr. Anderson was present and addressed the Board.

Following review and discussion, Mr. Greer moved, seconded by Dr. Bustillo to **Approve** the request for ADA accommodations for 90 additional minutes to complete the examination. The motion passed.

Vote	Dr. King	Dr. Bustillo	Mr. Leone	Mr. Greer	Mr. Barton	Dr. Heick	VACANT
Aye	X	X		X		X	
Nay			X				
Recused							
Abstained							

Absent					X		
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5) Consent Agenda:

A) Applications recommended for approval of Physical Therapist licensure upon successful completion of the application, including receipt of transcripts and passage of the NPTE and/or AZLAW. The Board will review, discuss, and may take action on the following applicants who provided an affirmative response to application questions related to their background.

- 1) Matthew Kassir
- 2) Jennifer Torres
- 3) Thomas Dawson
- 4) Beau Duronslet

C) Cases recommended for termination of Board Order. The Board will review, discuss, and may vote to take action on the following case(s):

- 1) 23-08 Pablo Ruiz Jr., PT

F) Cases recommended for opening a complaint and offering a consent agreement related to continuing competence audit deficiency. The Board will review, discuss, and may vote to take action on the following case(s):

- 1) Tricia Keith, PTA

Mr. Leone moved, seconded by Mr. Greer to **Approve** consent agenda items 5A, 5C and 5F. The motion passed unanimously.

Vote	Dr. King	Dr. Bustillo	Mr. Leone	Mr. Greer	Mr. Barton	Dr. Heick	VACANT
Aye	X	X	X	X		X	
Nay							
Recused							
Abstained							
Absent					X		

End of Consent Agenda

9) Complaints and other disciplinary matters: review, consideration, and action.

A) 22-17 Matt Midkiff, PT

Initial review, consideration, and possible action regarding complaint

Ms. Richardson provided a summary of the Board’s investigation.

Mr. **Midkiff** and his counsel Ms. Rita Bustos, Esq, were present and addressed the Board.

Following review and discussion, Mr. Greer moved, seconded by Dr. Heick to **Dismiss** the above case. The motion passed unanimously.

Vote	Dr. King	Dr. Bustillo	Mr. Leone	Mr. Greer	Mr. Barton	Dr. Heick	VACANT
Aye	X	X	X	X		X	
Nay							
Recused							
Abstained							
Absent					X		

B) 23-18 Jonathan Dugan, PT

Initial review, consideration, and possible action regarding complaint

Ms. Richardson provided a summary of the Board’s investigation.

Mr. **Dugan** was present and was not represented by counsel.

Following review and discussion, Dr. King moved, seconded by Mr. Leone to **offer a Consent Agreement** in accordance with the disciplinary matrix, including:

- 90 days Probation
- 3 hours of Continuing education in the area of ethics
- Take and pass Jurisprudence Examination
- \$360 Civil Penalty

If the Consent Agreement is not signed Mr. Dugan will be invited to an informal hearing. The motion passed unanimously.

Vote	Dr. King	Dr. Bustillo	Mr. Leone	Mr. Greer	Mr. Barton	Dr. Heick	VACANT
Aye	X	X	X	X		X	
Nay							
Recused							
Abstained							
Absent					X		

C) 21-17 Brelan Lane, PT

Review, consideration, and possible action regarding proposed monitoring contract

Ms. Chepeus provided a summary to the Board.

Following review and discussion, Mr. Greer moved, seconded by Mr. Leone to **Approve** Mr. Brelan Lane’s monitoring contract with Affiliated Monitors, Inc. The motion passed unanimously.

Vote	Dr. King	Dr. Bustillo	Mr. Leone	Mr. Greer	Mr. Barton	Dr. Heick	VACANT
Aye	X	X	X	X		X	
Nay							
Recused							
Abstained							
Absent					X		

D) DM

Review, consideration, and possible action regarding opening a complaint

Ms. Richardson provided a summary to the Board.

Following review and discussion, Dr. King moved, seconded by Mr. Greer to **Take No Action**. The motion passed unanimously.

Vote	Dr. King	Dr. Bustillo	Mr. Leone	Mr. Greer	Mr. Barton	Dr. Heick	VACANT
Aye	X	X	X	X		X	
Nay							
Recused							

Abstained							
Absent					X		

E) NS

Review, consideration, and possible action regarding opening a complaint

Ms. Richardson provided a summary to the Board.

NS and her counsel Mr. Flynn Carey, Esq, were present and addressed the Board.

Following review and discussion, Mr. Greer moved, seconded by Dr. Bustillo to **Take No Action**. The motion passed unanimously.

Vote	Dr. King	Dr. Bustillo	Mr. Leone	Mr. Greer	Mr. Barton	Dr. Heick	VACANT
Aye	X	X	X	X		X	
Nay							
Recused							
Abstained							
Absent					X		

F) AM

Review, consideration, and possible action regarding opening a complaint

Ms. Richardson provided a summary to the Board.

Following review and discussion, Dr. King moved, seconded by Dr. Bustillo to **Take No Action**. The motion passed unanimously.

Vote	Dr. King	Dr. Bustillo	Mr. Leone	Mr. Greer	Mr. Barton	Dr. Heick	VACANT
Aye	X	X	X	X		X	
Nay							
Recused							
Abstained							
Absent					X		

10) Board business and reports:

A) FSBPT Regulatory Workshop Update

Review and discussion regarding FSBPT Regulatory Workshop attendance March 10-12, 2023

Dr. Heick provided a summary of his experience at the FSBPT Regulatory Workshop on March 10-12, 2023

Let the record reflect Mr. Barton joined the Board Meeting at 9:50 am

B) FSBPT Alternate Approval Pathway

Review, discussion, and possible action regarding the FSBPT Alternate Approval Pathway for exam eligibility.

Ms. Chepeus provided a summary of the FSBPT Alternate Approval Pathway

Following review and discussion, Dr. King moved, seconded by Mr. Barton to **request a presentation from FSBPT** regarding the Alternate Approval Pathway at future meeting. The motion passed unanimously.

Vote	Dr. King	Dr. Bustillo	Mr. Leone	Mr. Greer	Mr. Barton	Dr. Heick	VACANT
Aye	X	X	X	X	X	X	
Nay							
Recused							
Abstained							
Absent							

C) Executive Director’s Report

- 1) **February 2023 financials**
Review and possible discussion

Board members reviewed the financial information for the month of February 2023.

- 2) **Licenses, Certificates, and Registrations**
Review and discussion on approvals granted in February 2023
 - a) **72 Licenses/Certificates Newly Issued**

- i. 29 Physical Therapists Endorsement
- ii. 23 Physical Therapists Examination
- iii. 3 Physical Therapist Universal Recognition
- iv. 2 Physical Therapist Foreign Educated
- v. 0 Physical Therapist Military Spouse
- vi. 4 Physical Therapist Assistants Endorsement
- vii. 11 Physical Therapist Assistants Examination
- viii. 0 Physical Therapist Assistant Universal Recognition
- ix. 0 Physical Therapist Assistant Military Spouse

b) 5 Licenses/Certificates Reinstated

- i. 1 Physical Therapists
- ii. 4 Physical Therapist Assistants

c) 10 Business Entity Registrations

- i. 10 Newly Issued
- ii. 0 Reinstated

d) 0 Interstate Telehealth Registrations

- i. 0 Newly Issued PT
- ii. 0 Newly Issued PTA

Board members reviewed the licenses, certifications, and registrations processed in the month of February 2023.

11) Future Agenda Items

- Complaint receipt and processing flow chart for discussion.

The Board Recessed from 10:02 A.M. to 10:14 A.M.

Roll call taken after returning from Recesses at 10:14 A.M. by Ms. Chepeus.

7) Informal Hearings

A) 21-31 & 22-28 Steven Kempton, PT (10:00)

Mr. Leone recused himself from the above case.

Dr. King read a summary of how the informal hearing would be conducted and reviewed the possible

outcomes of the informal hearing.

Ms. Richardson and Mr. Kempton were sworn in as witnesses.

Following review and discussion, Mr. Greer moved, seconded by Dr. Bustillo to enter into **Executive Session** to obtain legal advice. The motion passed unanimously.

Vote	Dr. King	Dr. Bustillo	Mr. Leone	Mr. Greer	Mr. Barton	Dr. Heick	VACANT
Aye	X	X		X	X	X	
Nay							
Recused			X				
Abstained							
Absent							

Executive Session -A from 10:19 A.M to 10:34 A.M

Roll call taken after returning from Executive Session at 10:34 A.M. by Ms. Chepeus.

Ms. Richardson provided a summary of the Board’s investigation.

Mr. Kempton and his attorneys Ms. Kimberly Kent, Esq and Mr. Phillip Lapointe, Esq. were present and addressed the Board.

Mr. Matthew Jacobs was sworn in as witnesses and addressed the Board.

The Board Recessed from 11:59 A.M. to 12:10 P.M.

Roll call taken after returning from Recesses at 12:10 P.M. by Ms. Chepeus.

Ms. Randi Newbern was sworn in as witnesses and addressed the Board.

Following review and discussion, Mr. Barton moved, seconded by Dr. Bustillo to enter into **Executive Session** to discuss confidential information. The motion passed unanimously.

Vote	Dr. King	Dr. Bustillo	Mr. Leone	Mr. Greer	Mr. Barton	Dr. Heick	VACANT
Aye	X	X		X	X	X	
Nay							

Recused			X				
Abstained							
Absent							

Executive Session -B from 12:53 P.M to 1:38 P.M

Roll call taken after returning from Executive Session at 1:38 P.M. by Ms. Chepeus.

Ms. Kimberly Kent, Esq and Mr. Phillip Lapointe, Esq. provided a closing statement.

The Board deliberated.

Following review and discussion, Mr. Greer moved, seconded by Dr. Bustillo to **Offer Disciplinary Consent Agreement to include:**

- 2-year probation without possibility of early termination
- continued requirement to abide by all recommendations in the Psychosexual evaluation as outlined in the Amended Interim Consent Agreement
- completion of the ProBe course or a similar offering
- chart review services of a monitor for purposes of performing a practice audit if concerns are raised, engage in monitoring for a longer term; monitoring should include records of initial evaluation and treatment through discharge for multiple body parts to review charting over time as well as practice management

Following review and discussion, both Mr. Greer and Dr. Bustillo withdrew their motion and second.

Let the record reflect Ms. Veronica Cardoza left the Board meeting at 2:03 P.M

Mr. Greer moved, seconded by Dr. Bustillo to **Adopt** all Finding of Facts and Conclusions of Law as set forth in the investigative reports for 21-31 and 22-28. The motion passed unanimously.

Vote	Dr. King	Dr. Bustillo	Mr. Leone	Mr. Greer	Mr. Barton	Dr. Heick	VACANT
Aye	X	X		X	X	X	
Nay							
Recused			X				

Abstained							
Absent							

The Board reviewed and discussed Mr. Kempton’s previous disciplinary actions.

Dr. King moved to offer a consent agreement for voluntary surrender of Mr. Kempton’s license. The motion was not seconded.

Following review and discussion, Mr. Barton moved, seconded by Dr. King to enter into **Executive Session** to obtain legal advice. The motion passed unanimously.

Vote	Dr. King	Dr. Bustillo	Mr. Leone	Mr. Greer	Mr. Barton	Dr. Heick	VACANT
Aye	X	X		X	X	X	
Nay							
Recused			X				
Abstained							
Absent							

Executive Session -C from 2:29 P.M to 2:47 P.M

Roll call taken after returning from Executive Session at 2:47 P.M. by Ms. Chepeus.

Dr. King rescinded her motion.

Following review and discussion, Dr. King moved, seconded by Dr. Bustillo to **offer a Consent Agreement** to include the following terms:

- Order of revocation but stay the revocation subject to Mr. Kempton’s continued compliance with the Consent Agreement
- Probation for 5 years with opportunity for early termination after 2 years
- A Chaperone with all female patients as a permanent practice restriction
- Adopting the terms of the Interim Consent Agreement into the final Consent Agreement
- Practice monitoring for 5 years to include initial intake through billing and discharge. Monitoring to occur every 2 weeks for the first 6 months and include a minimum of 5 records with at least

3 records of female patients, frequency adjusts to monthly for the next 18 months, and then quarterly for the remainder of the probationary period.

- ProBe / PBI to be completed within 3 months
- Continuing education to be completed within 6 months, through in-person coursework, in the following areas. Continuing education does not count toward renewal requirements
 - Spinal evaluation & treatment for a minimum of 8 hours
 - Peripheral joint evaluation & treatment for a minimum of 8 hours
- After two years, if Mr. Kempton ever requests early termination, he must undergo another psychosexual evaluation and both his practice monitor and his behavioral health professional must submit reports opining on his request. Early termination is at the sole discretion of the Board.

If the Consent Agreement is not signed within 10 days of receipt, the matter will be remanded to a Formal Hearing.

The motion passed unanimously.

Vote	Dr. King	Dr. Bustillo	Mr. Leone	Mr. Greer	Mr. Barton	Dr. Heick	VACANT
Aye	X	X		X	X	X	
Nay							
Recused			X				
Abstained							
Absent							

12) Adjournment

Mr. Barton moved, seconded by Dr. Bustillo, to **Adjourn**. The motion passed unanimously.

Vote	Dr. King	Dr. Bustillo	Mr. Leone	Mr. Greer	Mr. Barton	Dr. Heick	VACANT
Aye	X	X	X	X	X	X	
Nay							
Recused							

Board Meeting 3/28/23

Abstained							
Absent							

Meeting adjourned at 3:15 P.M.

Prepared by,

Monica Crowley
Licensing Administrator

Approved by,

Giovanni Leone, PTA
Secretary