



Physical Therapy Board of California

STATE AND CONSUMER SERVICES AGENCY - ARNOLD SCHWARZENEGGER, GOVERNOR

# Physical Therapy Board of California

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## PHYSICAL THERAPY BOARD OF CALIFORNIA DRAFT MEETING MINUTES

Tuesday, November 2, 2010 11:00 a.m.  
Wednesday, November 3, 2010 9:00 a.m.

Department of Consumer Affairs  
Hearing Room – S102  
1625 North Market Boulevard  
Sacramento, CA 95834

*For the sake of clarity, the meeting minutes are organized in numerical order to reflect their original order on the agenda; however, issues were taken out of order during the meeting.*

### Call to Order and Roll Call

- Dr. Sara Takii, Physical Therapist, President
- Dr. Debra J. Alviso, Physical Therapist, Vice President
- Ms. Marty Jewell, PT, Ph.D.
- Mr. James E. Turner
- Ms. Karen B. Pines, LMFT

The Physical Therapy Board of California (Board) November 2010 meeting was called to order by Dr. Takii, Physical Therapist at 11:12 a.m. All members were present and a quorum was established.

### 271. Board Meeting Protocols

Mr. Steven K. Hartzell, Executive Officer explained the Department of Consumer Affairs (DCA) is trying to maintain consistent board meeting protocols ensuring meetings are in keeping with the Bagley-Keene Open Meeting Act. Dr. Takii, Physical Therapist shared she appreciated DCA providing the hearing script and would like to see more scripts for other board meeting tasks.

### 342. Special Order of Business – Tuesday, November 2, 2010, 1:00 p.m. Hearing on Petition for Reinstatement – Suresh Ahuja

After submission of the matter, the Board convened in CLOSED SESSION to deliberate pursuant to Government Code Section 11126 (c) (3).

Disciplinary decisions will be available on the Board’s website at [www.ptbc.ca.gov](http://www.ptbc.ca.gov).

### 423. Disciplinary Decisions

The Board convened in CLOSED SESSION to deliberate on disciplinary actions pursuant to Government Code Section 1126 (c) (3).

Disciplinary decisions will be available on the Board’s website at [www.ptbc.ca.gov](http://www.ptbc.ca.gov).

### 494. Evaluation of Executive Officer

This item was considered in CLOSED SESSION pursuant to Government Code Section 11126 (a) (1).

535. **Approval of Minutes**

54

55 **(A) October 11, 2010 Teleconference Minutes**

56

57 Corrections were made to the minutes as follows:

58 Page 1, Lines 29-30

59

60 *Prior to discussion of agenda item #2, Mr. Hartzell introduced Mr. Spencer Walker as incoming legal*  
61 *counsel for the Board in the upcoming absence of Ms. Claire Yazigi.*

62

63 As written, it appeared Ms. Yazigi was absent at the meeting, but she was not.

64

65 Page 1, Lines 39-41

66

67 *Ms. Yazigi responded the FSBPT's letter does not affect the legal analysis in the Board's position letter*  
68 *because the FSBPT has not provided evidence in contrary to the Board's position that the actions taken*  
69 *in response to the security breach of the NPTE are discriminatory.*

70

71 Ms. Yazigi, Legal Counsel wanted to clarify that she explained the Federation of State Boards of  
72 Physical Therapy (FSBPT)'s response did not affect the *legal analysis* in the Board's letter, not that she  
73 explained it did not affect the Board's position because she does not have the authority to make that  
74 judgment.

75

76 Page 1, Lines 48-51

77

78 ~~*Ms. Yazigi added in looking at the demographics of the schools in which the graduates are from, no*~~  
79 ~~*further evidence is needed to prove the action taken by the FSBPT is discriminatory. The number of*~~  
80 ~~*students attending the schools of each of the four specified countries whose national origin is that of the*~~  
81 ~~*country where the school is located is an overwhelming majority.*~~

82

83 *Ms. Yazigi added in situations where you have overwhelming statistics, no further evidence is needed*  
84 *in attempts to discriminate; anything less than that would require additional evidence.*

85

86 Ms. Yazigi explained the minutes incorrectly captured what she meant, which was that if there is  
87 overwhelming statistics, nothing further is needed, otherwise, additional evidence would be required.

88

89 **MOTION: To adopt the draft minutes from the October 11, 2010 teleconference as**  
90 **amended.**

91

92 **MOVED: Dr. Alviso, Physical Therapist**

93

94 **SECOND: Ms. Pines, LMFT**

95

96 **VOTE: 5-0 Motion carried**

97

98

99 **(B) July 28, 2010 Board Meeting Minutes**

100

101 Corrections were made to the minutes as follows:

102

103 Page 1, Lines 34-36

104

105 *BreZE is a new computer system ~~the~~ that will replace three of DCA's current computer systems: CAS,*  
106 *ATS, and iLicensing.*

107

108 Page 6, Lines 297-299

109

110 ***Due to additional consideration, and the recommendations provided by Mr. Hartzell, Ms. Jewell,***  
111 ***PT, Ph.D. withdrew the motion to adopt 1399.15 and Mr. Turner withdrew the second to that***  
112 ***motion.***

113  
114 Dr. Alviso, Physical Therapist recommended to bold this section for ease of reading, making it clear the  
115 motion was withdrawn. In addition to making the font bold, a note should be added the motion was  
116 withdrawn.

117  
118 **MOTION: To adopt the draft minutes from the July 28, 2010 meeting as amended.**

119  
120 **MOVED: Mr. Turner**

121  
122 **SECOND: Dr. Alviso, Physical Therapist**

123  
124 **VOTE: 5-0 Motion carried**

125  
126 **(C) January 28 & 29, 2010 Board Meeting Minutes**

127  
128 Corrections were made to the minutes as follows:

129  
130 Page 6, Lines 277-280

131  
132 *AB 1152: The bill put forward by ~~that podiatrist and~~ physical therapists would be added to under the list*  
133 *of who can be employed: a shareholder, director, or employee of a ~~podiatrist~~ podiatric, medical, or*  
134 *chiropractic corporation. The bill died in the Senate Business, Professions and Economic Development*  
135 *Committee, though reconsideration may be granted.*

136  
137 The minutes incorrectly reflected the subject of the bill. The bill would add physical therapists to the list  
138 of who can hold certain positions within a podiatric, medical, or chiropractic corporation, not that  
139 physical therapists brought forth the bill.

140  
141 **MOTION: To adopt the draft minutes from the January 28 & 29, 2010 meeting as**  
142 **amended.**

143  
144 **MOVED: Ms. Jewell, PT, Ph.D.**

145  
146 **SECOND: Dr. Alviso, Physical Therapist**

147  
148 **VOTE: 5-0 Motion carried**

149  
150 **1506. President's Report – Dr. Sara Takii, Physical Therapist**

151  
152 **(A) 2011 PTBC Meeting Dates**

153  
154 Dr. Takii, Physical Therapist congratulated Dr. Alviso, Physical Therapist on receiving the Outstanding  
155 Service Award at the 2010 FSBPT Annual Meeting for all of her contributions to the FSBPT. The Board  
156 reviewed the proposed 2011 meeting calendar. Mr. Hartzell stated that the Board will have the  
157 opportunity to sit with an Administrative Law Judge (ALJ) during a hearing on January 20, 2011 and  
158 assist in writing a proposed decision, which normally the members receive from the ALJ after the  
159 hearing. The hearing will be noticed; however, no Board business will take place except for possible  
160 closed session items.

161  
162 **1627. Executive Officer's Report – Steven K. Hartzell**

163  
164 **(A) Update on PTBC Staffing**

165  
166 Minutes on agenda item 7 (A) and 7 (B) have been combined; see item 7 (B).

167 **(B) FY 2010-2011 Budget**

168  
169 Mr. Hartzell explained the hiring freeze Governor Schwarzenegger implemented applies to staff and the  
170 appointment of new board members and will continue through the end of Governor Schwarzenegger's  
171 term. The Board was scheduled to receive several positions associated with DCA's Consumer  
172 Protection Enforcement Initiative (CPEI) which included an analyst, non-sworn peace officer and a  
173 manager position; however, the positions were not filled prior to the hiring freeze. Normally, if a  
174 position has been vacant for six months or longer the position is eliminated; however, Mr. Hartzell said  
175 the Department of Finance may allow the Board to renew the positions. A Budget Change Proposal  
176 (BCP) was submitted for one analyst and one clerical position for the workload associated with the  
177 newly implemented continuing competency requirement. The Board must eliminate 5% spending, so  
178 one of those positions must be eliminated and that will affect the continuing competency audits. Mr.  
179 Hartzell explained the Board will have to prioritize its activities. Licensing and working enforcement  
180 cases are on the top of that priority list.

181  
182 **(C) Update on PTBC Outreach**

183  
184 Mr. Hartzell reported the newsletter was not mailed out due to delays within DCA and budget restraints.  
185 It is approximately a three month process from submitting the newsletter articles to DCA until it is  
186 mailed out. Dr. Alviso, Physical Therapist was concerned about getting information out regarding  
187 continuing competency, so the Board and staff discussed various alternatives to reach licensees in  
188 ways other than the printed newsletter. The ideas included posting news on the website, including  
189 news inserts with renewal notices and e-mailing licensees. Ms. Kim Kirchmeyer, Deputy Director for  
190 Board and Bureau Relations supported the idea of e-mailing the licensees and said many boards are  
191 using e-mail as a main source of communication. Staff will look into the communication alternatives  
192 and how to begin implementing new procedures for contacting the public.

193  
194 Dr. Takii, Physical Therapist shared about her recent trip to Armenia. Currently Armenia does not  
195 have a physical therapy program, so Dr. Takii, Physical Therapist has been working over the past five  
196 years in conjunction with the FSBPT to create a physical therapy program. The physical therapy school  
197 will be located at Yerevan State Medical University, in Armenia. Dr. Takii, Physical Therapist has  
198 established a non-profit corporation to finance the faculty salaries. The school will hopefully open in the  
199 fall of 2012.

200  
2018. **Consumer Protection Services Enforcement Report – Elsa Ybarra**

202  
203 **(A) Statistics**

204  
205 Minutes on agenda items 8 (A) and 8 (B) have been combined; see agenda item 8 (B).

206  
207 **(B) Disciplinary Summary**

208  
209 Ms. Elsa Ybarra updated the Board on the status and processing time of enforcement cases. For most  
210 cases, staff is meeting the 18 month timeline set by DCA to complete complaint investigations;  
211 however, it is taking slightly longer than 18 months to resolve discipline.

212  
2139. **Application & Licensing Services Report – Ilda Romo**

214  
215 **(A) Statistics**

216  
217 Dr. Alviso, Physical Therapist commented that staff should remain cognizant of licensees, whose  
218 licenses are delinquent because it does not exempt licensees from action being taken against them.  
219 For example, it is illegal for a licensee to continue working with a delinquent license. Ms. Jewell, PT,  
220 Ph.D. requested staff monitor the exam passing score of foreign educated physical therapists because  
221 the statistics show that the pass rate in California is currently below the national average.

222  
223

22410. **Consumer and Professional Associations and Intergovernmental Report –**

225 *Steven K. Hartzell*

226

227 **(A) California Physical Therapy Association (CPTA)**

228

229 Representatives from the CPTA indicated they had nothing to report or discuss that is not elsewhere on  
230 the agenda.

231

232 **(B) Federation of State Boards of Physical Therapy (FSBPT)**

233

234 Dr. Alviso, Physical Therapist shared the FSBPT is working on resource papers for dry needling and  
235 musculoskeletal ultrasound imaging. The Board may want to keep this in mind should these topics be  
236 considered in the future. In addition, Dr. Alviso, Physical Therapist recommended adding  
237 environmental assessment to the Board's agenda. Environment assessment allows the Board to be  
238 proactive by considering current trends and issues addressing various aspects of each in the event  
239 action or a position needs to be taken.

240

241 Mr. Hartzell shared information from a session he attended at the 2010 FSBPT Annual Meeting,  
242 presented by the Citizen Advocacy Center, regarding allowing scope of practice expansion specifically  
243 for pilot programs. This would be coordinated through the Office of Statewide Health Planning and  
244 Development (OSH PAD). Mr. Hartzell has discussed this idea with the CPTA and is hoping to bring  
245 back some concepts within physical therapy that may be applied through this program.

246

247 Mr. Hartzell said most motions presented to the FSBPT Assembly of Delegates will be addressed under  
248 agenda item # 18; however, there was one motion which did not fall under that category. The motion  
249 regarding the FSBPT adding a summary of discussion of each agenda item and a roll call of those in  
250 attendance to the meeting minutes, which is not currently done. The FSBPT disagreed with the  
251 Board's proposed motion stating the meeting minutes and are in compliance adding the minutes are not  
252 public because the FSBPT is a private organization. Mr. Hartzell will continue to work with the FSBPT  
253 regarding this matter.

254

255 Mr. Hartzell recommended adding discussion on possible motions for the 2011 FSBPT Annual Meeting  
256 to the next two Board meeting agendas. The FSBPT requires all motions to be presented at the annual  
257 meeting be submitted 90 days prior to the meeting, otherwise a two-thirds vote is required from the  
258 FSBPT Assembly of Delegates to discuss a motion at the meeting.

259

260 Dr. Takii, Physical Therapist provided an updated on the FSBPT Foreign Educated Standards  
261 Committee (FESC) projects. The FESC is comparing the current coursework tool with the Commission  
262 on Accreditation in Physical Therapy Education (CAPTE) language to ensure they are compatible. In  
263 addition, the FESC is working on developing a tool for clinical instructors of foreign educated physical  
264 therapist applicants. Currently, clinical instructors are using the form provided by the American  
265 Physical Therapy Association (APTA), but there is doubt, whether the form is addressing all the factors  
266 necessary to meet the minimum requirements to practice as a licensed physical therapist. For  
267 example, there is concern foreign educated physical therapists are not able to appropriately  
268 communicate with their patients and they may not fully understand the U.S. healthcare system, which  
269 are both key to physical therapy practice.

270

271 Dr. Alviso, Physical Therapist and Ms. Jewell, PT, Ph.D. discussed the withdraw of the Board's  
272 proposed motion regarding adding a clause to the FSBPT bylaws which prohibits discrimination of any  
273 nature. The FSBPT's position was that the FSBPT does not discriminate in anyway, ever, and the  
274 clause should not have to be added to the bylaws to ensure this from happening.

275

276 **(C) DCA Director's Report**

277

278 Ms. Kirchmeyer explained DCA has finalized the standards which stemmed from SB 1441 - Chapter  
279 548, Statutes of 2008. Mr. Hartzell said staff has not moved forward with regulations based on the  
280 standards because there is no clinical support for the number of drug tests per year for licensees on

281 probation. Ms. Kirchmeyer responded that other boards have worked on regulations despite not having  
282 confirmed information on the number of drug tests. The boards will add that language when there has  
283 been a resolution.  
284

285 **11. Legislation Update – Sarah Conley**

286  
287 **(A) Summary of 2010 Legislation**  
288

289 Ms. Sarah Conley provided a summary of 2010 legislation, and specifically addressed legislation that  
290 will directly impact the practice of physical therapy or Board requirements and/or procedures.  
291

292 **AB 2382 - Chapter 425, Statutes of 2010**  
293

294 AB 2382 will go into effect January 1, 2011. The California State University (CSU) campuses which  
295 have a physical therapy program will be authorized to award the Doctor of Physical Therapy degree.  
296

297 **SB 1172 - Chapter 517, Statutes of 2010**  
298

299 SB 1172 will go in to effect January 1, 2011. If a licensee tests positive for any substance prohibited by  
300 his/her probation terms, or is required to undergo a clinical diagnostic evaluation, the licensee must  
301 cease practice for a specified period of time prescribed by the Board.  
302

303 **AB 583 - Chapter 436, Statutes of 2010**  
304

305 AB 583 will go into effect January 1, 2011. All healthcare practitioners as defined in the bill are required  
306 to either post in a clearly visible location within the office, or present the to the patient at the initial visit  
307 the following information: practitioner's name, license type, and highest level of education.  
308

309 **AB 2699 - Chapter 270, Statutes of 2010**  
310

311 AB 2699 will go into effect January 1, 2011. Healing arts licensees from other states may perform  
312 voluntary services at events in California sponsored by non-profit organizations by obtaining  
313 authorization to do so by the appropriate licensing authority. DCA is working on basic regulation  
314 language, then the boards may add language specific to their requirements. Mr. Richard Woonacott,  
315 Deputy Director of the Division of Legislative and Policy Review provided information and the status of  
316 writing the regulation language to the Board regarding AB 2699.  
317

318 **(B) Suggestions for 2011 Legislation, including Revision of Physical Therapy Practice Act**  
319

320 Mr. Hartzell provided the Board with some background information on the revisions to the Physical  
321 Therapy Practice Act (Act), then asked the Board for feedback.  
322

323 The Board made the following amendments:  
324

325 Chapter 5.7 PHYSICAL THERAPY  
326 Article 1. Administration and General Provisions  
327

328 2603. The members of the Physical Therapy Board of California shall consist of the following: four  
329 physical therapists, one of whom shall be involved in the physical ~~therapy~~ therapist education, and  
330 three public members.  
331

332 **MOTION: To amend Section 2603 of the Physical Therapy Practice Act by replacing**  
333 **“therapy” with “therapist.”**  
334

335 **MOVED: Ms. Jewell, PT, Ph.D.**  
336

337 **SECOND: Ms. Pines, LMFT**

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**VOTE: 5-5 Motion carried**

Mr. Bryan Coleman Salgado, a member of the public brought the Board's attention to the phrase "involved in" referring to one Board member being in the education of physical therapists. He asked for clarification as to the intent of "involved in." Ms. Jewell, PT, Ph.D. shared her interpretation is a faculty member involved with instruction. Mr. Coleman Salgado asked if this included clinical instructors and adjunct faculty. The Board discussed defining "involved in." Mr. Hartzell recommended leaving the language as is because if the member that meets this criteria has a professional status change, and the language is too restrictive to encompass that change the member may no longer be able to serve even if his/her term has not expired.

Ms. Jewell, PT, Ph.D. said the grammatical error on page 8, Section 2608.5 should be corrected by deleting the term "Each" at the beginning of the paragraph.

The Board discussed language to define how many aides may be utilized by a physical therapist and whether this language should be in statute or regulation. No action was taken on the content of Section 2630.4 regarding the number of aides that may be utilized; however, the Board did make the following amendment:

(b) A physical therapist licensed pursuant to this chapter may utilize the services of one aide engaged in patient-related tasks to assist aide the physical therapist in his or her practice of physical therapy.

Mr. Woonacott shared he and staff met with staff from the Board, and DCA is willing to assist the Board in getting the revisions to the Act in statute in the 2011 legislative session.

**12. Office of Statewide Health Planning and Development's Request for DCA Boards and Bureaus to Conduct a Survey of Licensee Geographic Employment Distribution – Steven K. Hartzell**

OSHPAD requested that all DCA boards and bureaus survey all licensees for employment information. Mr. Hartzell is looking to work with the Medical Board of California (MBC) for survey formatting and questions. Ms. Kirchmeyer shared DCA supports OSHPAD and the survey request. Dr. Takii, Physical Therapist added the APTA is performing a parallel study and has offered to interpret the data. The Board's data would help the APTA develop national information as well.

**13. Probation, Process, Expectations, and Staff Responsibilities Presentation – Monny Martin**

Mr. Monny Martin presented the Board with information regarding the Board's probation monitoring program. One recent significant change is that Mr. Martin reviews a copy of all proposed decisions after they are adopted, but before they are in effect so he may provide input. Mr. Martin explained he interviews each probationer quarterly and requires that they submit a self-completed quarterly report. The overall cost of being enrolled in the diversion program is approximately \$1,300 per month to be paid to the contracted diversion program, Maximus, by the probationer. Many probationers find it difficult to pay the cost.

The Board asked Mr. Martin to share what are some difficulties in probation monitoring and what are the key reasons for non-compliance. Physically visiting each probationer is very difficult and it is the biggest restriction. He monitors approximately 60 probationers throughout California, which makes it difficult to physical visit each probationer more than quarterly. He conducts phone interviews to supplement monitoring the probationers. Also, Mr. Martin is unable to travel when the State does not have a budget, so he is guaranteed not to be able to travel at least two months out of the year.

The Board continued to discuss various aspects of the probation monitoring process. The Board requested that current, detailed information is gathered on probationers. There have been situations where the Board has not received all inclusive information regarding a probationer that has petitioned for hearing. Mr. Martin and Mr. Hartzell explained the Deputy Attorney General (DAG) is responsible for the hearing. Though Mr. Martin provides the information to the DAG, the DAG may not present it for

395 the hearing. Ms. Jewell, PT, Ph.D. asked if the Board could call Mr. Martin to question him at the  
396 hearings in the event the DAG does not provide information collected by Mr. Martin. Mr. Spencer  
397 Walker, Legal Counsel advised the Board may ask the ALJ if Mr. Martin may be questioned.  
398

399 Dr. Alviso, Physical Therapist said there seems to be a lot of probationers who misunderstand the  
400 terms of probation. She questions whether there is a way to resolve this issue. Mr. Martin reported the  
401 two terms of probation that are most confusing for probationers are community service and supervision.  
402 Probationers ask for clarification as to what constitutes community services. In addition, probationers  
403 who are required to be supervised and have a practice monitor do not understand why they have two  
404 supervisors. The Board will consider these issues and thanked Mr. Martin for his presentation.  
405

406**14. Maximus Diversion Program Audit Report – Steven K. Hartzell**

407  
408 On September 8, 2010 DCA was notified Maximus was not using the appropriate threshold for drug  
409 testing licensees. DCA is seeking correction to this error; Maximus is re-testing all licensees that were  
410 incorrectly tested.  
411

412**15. Special Order of Business – Wednesday, November 3, 2010, 9:00 a.m.**

413 **Regulatory Hearing on the Proposed Language for the Following Sections of California Code of**  
414 **Regulations, Title 16, Division 13.2:**

415  
416 **(A) Article 2, Application and Examinations, Section 1398.26.1**  
417

418 The hearing began at approximately 9:08 a.m. There was no public comment at the hearing, nor were  
419 any written comments received by the Board regarding the proposed language. The hearing was  
420 closed at 9:12 a.m.  
421

422**16. Draft Regulatory Language for Board Consideration and Possible Action for the Following**  
423 **Sections of Division 13.2 of Title 16 of the California Code of Regulations (Physical Therapy**  
424 **Board of California) – Claire Yazigi**  
425

426 **(A) Proposed Language to be Added to Section 1399.15 Regarding the Treatment of Sex**  
427 **Offenses in Proposed Decisions**  
428

429 Ms. Yazigi explained Business and Professions Code Section 1399.15 regarding the treatment of sex  
430 offenses in proposed decisions was part of the CPEI. At the May 2010 meeting the Board moved  
431 forward with four of the five regulations. The proposed language for Section 1399.15 referenced the  
432 Education Code, so the Board reviewed the Education Code at the July 2010 meeting. Due to the  
433 Education Code containing extensive reference to other codes, specifically the Penal Code, the Board  
434 directed Ms. Yazigi to eliminate the reference to the Education Code within Section 1399.15 and  
435 instead include a summarized version of those references.  
436

437 Due to the number of references in the Education Code to the Penal Code where most sexual offense  
438 violations are defined, there was no way to create an all inclusive summary of these violations.  
439 Therefore, Ms. Yazigi modified the proposed language for Section 1399.15 and included just the titles  
440 of appropriate Education Code and Penal Code references, which she feels sufficiently represents the  
441 same information without including all the reference language.  
442

443 The Board shared a concern that it may not be appropriate to revoke a license for lesser violations.  
444 Ms. Yazigi said the Board may non-adopt the proposed decision if they determine revocation is too  
445 harsh and provide a justification as to why revocation is not necessary.  
446

447 **MOTION: To adopt 1399.15 as presented.**

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449 **Moved: Ms. Jewell, PT, Ph.D.**

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451 **SECOND: Dr. Alviso, Physical Therapist**

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**VOTE: 5-0 Motion carried**

**MOTION: To direct staff to proceed.**

**MOVED: Ms. Jewell, PT, Ph.D.**

**SECOND: Mr. Turner**

**VOTE: 5-0 Motion carried**

**46517. Adoption of the 2011 Rulemaking Calendar – Rebecca Marco**

Ms. Rebecca Marco presented the proposed 2011 rulemaking calendar adding that the substance abuse standards and requirement for fingerprinting is not reflected on the calendar, but will be added. The Board already has the authority to fingerprint applicants, but it needs to be put into regulation. Dr. Takii, Physical Therapist requested adding telemedicine to the proposed 2011 rulemaking calendar. Mr. Hartzell recommended adding telemedicine to the proposed 2011 rulemaking calendar in the event the Board is unable to add it in statute. If telemedicine did get added in statute, it would then be added to the proposed 2012 rulemaking calendar. Dr. Alviso, Physical Therapist requested adding the clarification of the use of the Doctor of Physical Therapy title with regards to licensing to the calendar.

**MOTION: To adopt the proposed 2011 rulemaking calendar as amended.**

**MOVED: Ms. Pines, LMFT**

**SECOND: Dr. Alviso, Physical Therapist**

**VOTE: 5-0 Motion carried**

**48518. Actions by the FSBPT to Suspend Testing for NPTE Candidates from Specific Countries**

Ms. Jewell PT, Ph.D. shared a presentation given by the FSBPT regarding the suspension of testing, due to cheating, for graduates from the following four countries: Philippines, Egypt, Pakistan, and India. One concern was that the FSBPT did not have enough test questions to replace those which were compromised. The FSBPT has an abundance of test questions pre-written, but they must be pre-tested on the official exam before they are added and there is a limit on the number of pre-test questions that can be included on the official exam. The FSBPT addressed the issue surrounding the four specified countries which were identified to be involved. Given the processes used, there is less than 1 in 500 million chance that the flagged groups have been wrongly identified. Also, The FSBPT uses secret shoppers to visit websites that share testing information to find out how people gain access to the website and what information is available to those who use it; some websites are limited to specific groups.

After the presentation the Board considered possible action that may be taken. Mr. Walker and Ms. Yazigi both agreed the Board cannot terminate the testing contract with the FSBPT primarily because of the length of time it would take to create a new exam, leaving a large number of applicants unable to test. This would prevent them from obtaining licenses and beginning work. In addition, the Board cannot sue the FSBPT because the Board did not suffer any injuries due to the testing suspension. However, applicants from the specified countries have sustained injuries and they could sue the Board. If the Board was sued by applicants affected by the testing suspension, then the Board would suffer injury based on actions taken by the FSBPT. At that point the Board could sue the FSBPT

508 Dr. Alviso, Physical Therapist said there is an obvious inequity allowing all but the applicants from the  
509 four specified countries to test everyday; whereas the applicants from those countries may test only two  
510 times per year. The Board questions whether the FSBPT testing contract could be modified so all  
511 applicants would test only two times per year to maintain equality, which is a primary concern of the  
512 Board.

513  
514 Mr. Hartzell explained the Board has the option to stop approving applicants to take the exam. The  
515 FSBPT would have already received payment, but all the candidates would remain in the FSBPT's  
516 system until the Board approved them. Ms. Pines, LMFT shared the Board of Behavioral Science was  
517 transitioning from oral examinations strictly computer-based testing, which required the board stop  
518 offering that exam for a specific amount of time. The applicants were outraged at having to wait to  
519 take the exam. Ms. Jewell, PT, Ph.D. added that some schools have alternate graduation dates, which  
520 may delay some applicants ability to take the exam even longer. Ms. Jewell, PT, Ph.D. said a main  
521 concern is those, whose tests were invalidated, may still be practicing. Mr. Hartzell responded he has  
522 not been notified that any licensees from California are in this situation.

523  
524 Mr. Hartzell recommended, instead of developing a new exam, continue with research which would  
525 include an analysis of physical therapy practice. An analysis of the practice would have purpose  
526 beyond just the development of a new exam, for example, it could be applied to continuing  
527 competency. In addition, Mr. Hartzell recommended asking legal counsel to notify the FSBPT that  
528 there was a breach of contract.

529  
530 The Board directed Mr. Hartzell to send the questions, regarding they has been working on regarding  
531 the testing suspension to the FSBPT. In addition, the Board directed Mr. Hartzell to send a second  
532 letter requesting input on how all exam candidates may have an equal opportunity at the exam. The  
533 Board agreed representatives from California need to go to Alexandria, West Virginia to meet with the  
534 FSBPT in person. The Board requested sending psychometricians to represent the Board, but in the  
535 event that is not possible, a third party may be sent. The Board informally directed Mr. Hartzell to move  
536 forward with the analysis of practice; however, Mr. Hartzell requested the Board make a formal motion  
537 for this direction.

538  
539 **MOTION: To move forward with an analysis of physical therapy practice.**

540  
541 **MOVED: Mr. Turner**

542  
543 **SECOND: Ms. Jewell, PT, Ph.D.**

544  
545 **VOTE: 5-0 Motion carried**

546  
547 **19. Legality of Physical Therapy Corporation Ownership by a Layperson – Steven K. Hartzell**

548  
549 Mr. Hartzell presented the issue of a layperson owning a physical therapy corporation. In 1990 the  
550 same issue was addressed and at that time a resolution was made allowing laypersons to own a  
551 physical therapy corporation; however, this is currently against the law. If the resolution remains in  
552 effect, it would be considered an underground regulation because the Board does not have statutory  
553 authority for the resolution. Mr. Hartzell recommended the Board rescind the resolution and adopt a  
554 new resolution stating the previous resolution was against the law; however, if ownership of the  
555 physical therapy general corporation was obtained prior to November 3, 2010, the owner may retain  
556 his/her status and continue to operate the corporation.

557  
558 Mr. Walker explained the Board would only need to rescind the resolution; the Board does not need to  
559 adopt a new resolution because it is already law that a physical therapy corporation must be formed as  
560 a professional corporation, not a general corporation. The current resolution is in conflict with the  
561 Moscone-Knox Corporation Act, and in such a case as this, the Moscone-Knox Corporation Act is the  
562 final word. Ms. De Foe urged the Board to rescind the resolution.

563

564 **MOTION:** To rescind the 1990 resolution regarding physical therapy corporation  
565 ownership by a layperson.

566  
567 **MOVED:** Ms. Jewell, PT, Ph.D.

568  
569 **SECOND:** Mr. Turner

570  
571 **VOTE:** 3 in favor, 1 abstained, 1 opposed  
572 Motion carried

573  
574 **20. Recommendations for Use of the Doctor of Physical Therapy Title – Marty Jewell, PT, Ph.D.**

575  
576 Ms. Jewell, PT, Ph.D. provided the Board with a briefing paper with recommendations for use of the  
577 Doctor of Physical Therapy title, which included California statutes and regulations pertaining to the  
578 issue and other state laws and regulations that specifically address the issue. The recommendations  
579 were intended to address when a licensee uses the title Doctor, not if an individual uses the  
580 abbreviation “DPT” after his/her name. Mr. Hartzell shared the MBC, Physicians Committee is against  
581 physical therapist using the title “Doctor.” The Legislature permitted the use of the title “Doctor” only if  
582 “Physical Therapist” followed the licensee’s name.

583  
584 Given the circumstances surrounding the issue, the Board did not take action; however, though not the  
585 focus, the use of DPT was discussed. Section 2633 of the Business and Professions Code does not  
586 allow an individual to use DPT unless he/she is licensed. This led to consideration of adding an  
587 alternative licensure status, for example, no longer practicing or retired. Staff will further research  
588 alternative licensure status implementation and report back to the Board.

589  
590 **21. Request for Board to Consider Physical Therapy in Veterinary Medicine**

591  
592 Currently the Act limits physical therapy to humans and proposed language for the revision of the Act  
593 include granting the Board authority to take action against a licensee that violates the Veterinary  
594 Medicine Practice Act. There was a written request from the public that Mr. Hartzell work with the  
595 Veterinary Medical Board (VMB) for regulations regarding this topic. Mr. Hartzell attended the VMB  
596 meeting on October 20, 2010. In discussion with the VMB, it was explained registered veterinary  
597 technicians can receive a specialization to perform physical therapy on animals. The VMB has created  
598 a task force to further consider animal physical therapy; Mr. Hartzell requested the VMB include  
599 language in regulation addressing physical therapists’ role with animal physical therapy.

600  
601 Anne Howard, PT from Santa Cruz, CA was representing a special interest group with the APTA that is  
602 interested in animal physical therapy and how physical therapists may be involved with this practice.  
603 Ms. Howard’s concern was that VMB took language directly from the Act and put it in AB 1980 -  
604 Chapter 538, Statutes of 2010, but veterinarians and registered veterinary technicians have not had the  
605 appropriate education in physical therapy. To allow physical therapists to work with veterinarians and  
606 registered veterinary technicians, Ms. Howard requested the Board revise the definition of physical  
607 therapy within the Act changing “person” to “client,” or “patient.” Ms. Howard said the biggest  
608 misconception is that physical therapists interested in animal physical therapy want to be veterinarians,  
609 which is not the case. They want to ensure animals are receiving proper treatment with regards to  
610 physical therapy. Other states such as Colorado have already addressed this issue with specific  
611 language, which the Board may wish to consider.

612  
613 After further discussion, the Board determined it does not have the resources to take action on this  
614 issue; it is too controversial to include in the revision of the Act. The CPTA may be a resource to utilize  
615 to address this issue.

616  
617 **22. Practice of Wellness by Physical Therapists**

618  
619 Dr. Takii, Physical Therapist wanted to address on record “wellness” within the practice of physical  
620 therapy as it currently stands legally. Ms. Yazigi explained “wellness” is addressed in Business and

621 Professions Code Section 2620. Current documentation and supervision requirements for physical  
622 therapy also apply to “wellness.”

623  
624 Previously the Board created a task force to consider several issues, briefly including “wellness” as it  
625 relates to physical therapy. Those on the task force could not agree. Some physical therapists said  
626 “wellness” should have fewer restrictions. Dr. Alviso, Physical Therapist shared the “wellness” issue is  
627 also being considered by the FSBPT and the same problems are arising. Again, at this time,  
628 “wellness,” as practiced by physical therapists, is still governed by the Act and existing codes. No  
629 changes have been made to date. When budget constraints are resolved, allowing time for further  
630 study, the Board will consider further action on this issue.

631  
632 **23. Elections**

- 633  
634 (A) PTBC President  
635 (B) PTBC Vice-President  
636 (C) FSBPT Delegate  
637 (D) FSBPT Alternate Delegate (Primary)  
638 (E) FSBPT Alternate Delegate (Back-up)

639  
640 **Motion: To continue with current Board officer positions.**

641  
642 **MOVE: Mr. Turner**

643  
644 **SECOND: Dr. Alviso, Physical Therapist**

645  
646 **VOTE: 5-0 Motion carried**

647  
648 Dr. Takii, Physical Therapist will remain as President. Dr. Alviso, Physical Therapist will remain as  
649 Vice-President. Ms. Jewell, PT, Ph.D. will remain as FSBPT delegate. Dr. Alviso, Physical Therapist  
650 will remain as FSBPT alternate delegate (primary). All Board members, the Executive Officer and legal  
651 counsel all remain as FSBPT alternate delegates (back-up).

652  
653 **24. Public Comment on Items not on the Agenda**

654  
655 There were no additional public comments.

656  
657 **25. Agenda Items for Next Meeting** – Wednesday and Thursday, February 16 & 17, 2011 – San Diego,  
658 CA

- 659  
660
- 661 • Dr. Takii, Physical Therapist suggested adding telemedicine to the February Board meeting  
662 agenda.
  - 663 • Dr. Alviso, Physical Therapist suggested adding compacts to a future Board meeting agenda.
  - 664 • The Board requested staff provide an update of the FSBPT testing issue at the February Board  
665 meeting.
  - 666 • The Board requested staff coordinate with Maximus to arrange a presentation on the diversion  
667 program, focusing on expectations of licensees.
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### Motion Summary

1	<p><b>MOTION:</b> To adopt the draft minutes from the October 11, 2010 teleconference as amended.</p> <p><b>MOVED:</b> Dr. Alviso, Physical Therapist</p> <p><b>SECOND:</b> Ms. Pines, LMFT</p> <p><b>VOTE:</b> 5-0 Motion carried</p> Agenda item # 5 (A)
2	<p><b>MOTION:</b> To adopt the draft minutes from the July 28, 2010 meeting as amended.</p> <p><b>MOVED:</b> Mr. Turner</p> <p><b>SECOND:</b> Dr. Alviso, Physical Therapist</p> <p><b>VOTE:</b> 5-0 Motion carried</p> Agenda item # 5 (B)
3	<p><b>MOTION:</b> To adopt the draft minutes from the January 28 &amp; 29, 2010 meeting as amended.</p> <p><b>MOVED:</b> Ms. Marty Jewell, PT, Ph.D.</p> <p><b>SECOND:</b> Dr. Debra Alviso, Physical Therapist</p> <p><b>VOTE:</b> 5-0 Motion carried</p> Agenda item # 5 (C)
4	<p><b>MOTION:</b> To amend Section 2603 of the Physical Therapy Practice Act by replacing “therapy” with “therapist.”</p> <p><b>MOVED:</b> Ms Jewell, PT, Ph.D.</p> <p><b>SECOND:</b> Ms. Pines, LMFT</p> <p><b>VOTE:</b> 5-5 Motion carried</p> Agenda Item # 11 (B)
5	<p><b>MOTION:</b> To adopt 1399.15 as presented.</p> <p><b>MOVED:</b> Ms. Jewell, PT, Ph.D.</p> <p><b>SECOND:</b> Dr. Alviso, Physical Therapist</p> <p><b>VOTE:</b> 5-0 Motion carried</p> Agenda item # 16 (A)

6	<p><b>MOTION:</b> To direct staff to proceed.</p> <p><b>MOVED:</b> Ms. Jewell, PT, Ph.D.</p> <p><b>SECOND:</b> Mr. Turner</p> <p><b>VOTE:</b> 5-0 Motion carried</p> <p>Agenda item # 16 (A)</p>
7	<p><b>MOTION:</b> To adopt the proposed 2011 rulemaking calendar as amended.</p> <p><b>MOVED:</b> Ms. Pines, LMFT</p> <p><b>SECOND:</b> Dr. Alviso, Physical Therapist</p> <p><b>VOTE:</b> 5-0 Motion carried</p> <p>Agenda item # 17 (A)</p>
8	<p><b>MOTION:</b> To move forward with an analysis of physical therapy practice.</p> <p><b>MOVED:</b> Mr. Turner</p> <p><b>SECOND:</b> Ms. Jewell, PT, Ph.D.</p> <p><b>VOTE:</b> 5-0 Motion carried</p> <p>Agenda item # 18</p>
9	<p><b>MOTION:</b> To rescind the 1990 resolution regarding physical therapy corporation ownership by a layperson.</p> <p><b>MOVED:</b> Ms. Jewell, PT, Ph.D.</p> <p><b>SECOND:</b> Mr. Turner</p> <p><b>VOTE:</b> 3 in favor, 1 abstained, 1 opposed Motion carried</p> <p>Agenda item #19</p>
10	<p><b>Motion:</b> To continue with current Board officer positions.</p> <p><b>MOVE:</b> Mr. Turner</p> <p><b>SECOND:</b> Dr. Alviso, Physical Therapist</p> <p><b>VOTE:</b> 5-0 Motion carried</p> <p>Agenda item # 23</p>