



Physical Therapy Board of California

2005 Evergreen St. Suite 1350, Sacramento, California 95815

Phone: (916) 561-8200 FAX : (916)263-2560

Internet: www.ptbc.ca.gov



Physical Therapy Board of California

Physical Therapy Board of California **DRAFT MEETING MINUTES**

Wednesday, February 16, 2011 – 9:30 a.m.

Thursday, February 17, 2011 – 9:00 a.m.

University of St. Augustine, San Diego Campus
700 Windy Point Drive, Building C, Room 113C
San Marcos, CA 92069

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.

1. Call to Order and Roll Call.

Dr. Sara Takii, Physical Therapist, President	February 16, 2011 – Present February 17, 2011 – Present
Dr. Debra J. Alviso, Physical Therapist, Vice-President	February 16, 2011 – Present February 17, 2011 – Present
Ms. Marty Jewell, PT, Ph.D.	February 16, 2011 – Present February 17, 2011 – Present
Mr. Donald A. Chu, PT Ph.D., ATC, CSCS	February 16, 2011 – Present February 17, 2011 – Present
Mr. James E. Turner	February 16, 2011 – Absent both days February 17, 2011 with prior notification
Ms. Karen B. Pines, LMFT	February 16, 2011 – Arrived at 9:45 a.m. February 17, 2011 – Present

The Physical Therapy Board of California (Board) February 2011 meeting was called to order by Dr. Takii, Physical Therapist, at 9:31 a.m., February 16, 2011. Although Ms. Pines, LMFT was absent, a quorum was established. Ms. Pines, LMFT, arrived at 9:45 a.m. Mr. Turner was absent from the meeting and provided prior notification to the Board.

2. Introduction of New Board Member Donald A. Chu, PT, Ph.D. – *Dr. Sara Takii, Physical Therapist*

Dr. Takii, Physical Therapist, introduced Donald A. Chu, PT, Ph.D. Mr. Chu, PT, Ph.D., previously served on the Board from January 1999 to October 2006 where he served as President for most of his tenure. He currently is the Director of the Athercare Fitness and Rehabilitation Clinic in Castro Valley, California. He serves as adjunct faculty to the Ohlone College Physical Therapist Assistant program in Newark, California. Mr. Chu, PT, Ph.D., is a past President of the National Strength and Conditioning Association (NSCA) and has served on the Board of Directors of the National Athletic Trainers'

35 Association (NATA). He is a member of the Hall of Fame for the NATA, Strength and
36 Conditioning Coaches and California State University, Hayward Athletic Hall of Fame.
37

38 3. Approval of Minutes

39 (A) November 2 & 3, 2010

40 Corrections were made to the minutes as follows:
41

42 Page 6, Line 307

43
44 *All healthcare practitioners as defined in the bill are required to either post in a clearly
45 visible location within the office, or present ~~the~~ to the patient at the initial visit the
46 following information [...]*
47

48 Page 7, Line 387

49
50 *He monitors approximately 60 probationers throughout California, which makes it
51 difficult to physically visit each probationer more than quarterly.*
52

53 Page 10, Lines 531-532

54
55 *The Board directed Mr. Hartzell to send the questions, ~~regarding they~~ Ms. Yazigi, legal
56 counsel, was ~~has~~ working on regarding the testing suspension to the FSBPT.*
57

58 Dr. Alviso, Physical Therapist, noted the sentence is grammatically incorrect and asked
59 it be revised.
60

61 Page 12, Line 628

62
63 *Dr. Alviso, Physical Therapist, shared the "wellness" issue is also being considered by
64 the FSBPT and the same ~~problem are arising~~ difficulty in defining "wellness" exists.*
65

66
67
68 **MOTION: To adopt the draft minutes from the November 2 & 3, 2010**
69 **meeting as amended.**

70
71 **MOVED: Ms. Jewell, PT, Ph.D.**

72
73 **SECOND: Dr. Alviso, Physical Therapist**

74
75 **VOTE: 4-0, 2 absent**
76 **Motion carried**
77

78 (B) January 20, 2011

79
80 Dr. Alviso, Physical Therapist, questioned the time of adjournment because although
81 the hearing ended at 2:15 p.m., the Board then convened in closed session. Mr.
82 Hartzell confirmed the meeting adjourned at 5:20 p.m. after the conclusion of closed
83 session.
84

85 **MOTION: To adopt the draft minutes from the January 20, 2011 meeting**
86 **as amended.**

87
88 **MOVED: Dr. Alviso, Physical Therapist**

89
90 **SECOND: Mr. Chu, PT, Ph.D.**

91
92 **VOTE: 4-0, 2 absent**
93 **Motion carried**

94
95 **4. Consumer Protection Services Enforcement Report – *Elsa Ybarra***

96
97
98 **(A) Statistics**

99
100 Minutes on agenda items 4(A) and 4(B) have been combined; see agenda item 4(B).

101
102 **(B) Disciplinary Summary**

103
104 Ms. Elsa Ybarra explained the Department of Consumer Affairs (DCA) began posting
105 the Performance Measures, which reflect the Board's enforcement statistics, on its
106 website. Mr. Hartzell added staff will be reviewing the goals of each Performance
107 Measure for enforcement and making recommendations at the next Board meeting. Mr.
108 Hartzell also shared Board enforcement staff and Dr. Alviso, Physical Therapist,
109 attended the National Certified Investigator/Inspector Training. Those who attended the
110 training appreciated the opportunity and felt the training was valuable. Mr. Hartzell
111 reported enforcement staff currently conducts in-house desk investigations, but with this
112 training, the future goal is for staff to also complete the in-house investigative reports.
113 Ms. Jewell, PT, Ph.D., stated that she likes the enforcement report formatting.

114
115 **5. Application & Licensing Services Report – *Jason Kaiser***

116
117 Mr. Hartzell introduced Mr. Jason Kaiser who is representing the Licensing Services
118 Unit in the absence of Ms. Ilda Romo.

119
120 **(A) Statistics**

121
122 The Licensing and Application Services Unit is approaching one of the busiest times of
123 year with many upcoming graduations for those schools within California and
124 throughout the U.S. The deadline for the foreign educated applicants to register for the
125 National Physical Therapy Exam (NPTE-i) is quickly approaching. In addition, foreign
126 educated applicants have shown a lot of interest in taking the NPTE-i in May.

127
128 Ms. Jewell, PT, Ph.D., expressed concern the Board is unable to track delinquent
129 licensees and whether or not they are continuing to practice. Mr. Hartzell responded
130 he encourages the public to verify licenses on the Board's website and to report a
131 licensee if his or her license is delinquent. Mr. Kaiser explained the small change in the
132 statistical report focuses on delinquent licenses primarily reflects those licensees who
133 are no longer practicing. Since the Board does not have a license status for a licensee
134 no longer practicing, the data is included with those delinquent licenses.

135
136 Ms. Jewell, PT, Ph.D., questioned why graduation statistics on pages 6 and page 9 do
137 not coincide? Mr. Kaiser explained page 6 includes statistical information for a period of
138 6 months, while page 9 is for 12 months. In addition, the information on page 9 is

139 received from the Federation of State Boards of Physical Therapy (FSBPT), while the
140 information on page 6 is accumulated by the Board, so there may be slight
141 discrepancies possibly due to the Board receiving data later than the FSBPT.
142

143 **(B) National Physical Therapy Exam Restrictions Lifted for PTAs**
144 **Applicants Who Graduated From a PT Program in the Restricted**
145 **Countries**
146

147 Physical Therapist Assistant applicants educated in Egypt, India, Pakistan, and the
148 Philippines are permitted to take the exam on a regular basis since the FSBPT has lifted
149 the testing restriction for these applicants.
150

151 **(C) Continuing Competency Audits**
152

153 Mr. Kaiser updated the Board on the implementation of continuing competency audits.
154 Staff is currently conducting audits for those licensees whose license expired in
155 October, November, or December of 2010. The audits are currently being conducted
156 on approximately 10% of all licensees renewing each month but the percentage of
157 audits may increase. Licensees, overall, are responding to the audit letters and are able
158 to provide proof they are in compliance with the continuing competency requirement for
159 licensure renewal. There continues to be some confusion as to the classes that qualify
160 to meet the continuing competency requirement.
161

162 Mr. Hartzell shared feedback he has heard within the physical therapy community such
163 as some licensees do not feel the need to comply with the continuing competency
164 requirement and have expressed intent to certify for renewal completion of the
165 continuing competency requirement, even if they have not. Mr. Hartzell explained
166 those licensees who knowingly violate the requirement will likely have an accusation
167 filed against them.
168

169 **6. President's Report – Dr. Sara Takii, Physical Therapist**
170

171 **(A) DCA Meeting with the Presidents of the Boards Report**
172

173 Dr. Takii, Physical Therapist, shared DCA is continuing to hold teleconferences with the
174 board Presidents and Executive Officers. The last teleconference was focused primarily
175 on issues related to the new administration, specifically surrounding the budget.
176 Another topic of discussion was the Office of Statewide Planning and Development
177 (OSHPAD) collecting data on trends for all health-related occupations to develop future
178 workforce predictions. The Medical Board of California (MBC) has created a survey
179 template for this study. The plan is for the results of the survey to be available in 2012.
180 There has also been a call for board Presidents to participate in an Executive Officer
181 (EO) Evaluation Committee to revise the EO evaluation form. Dr. Takii, Physical
182 Therapist, shared two concerns the Board had when completing the EO evaluation, 1)
183 the absence of goal setting and 2) how the EO works with DCA. Cindy Kanemoto, DCA
184 staff, is developing a new approach to the EO evaluation form basing it on identified
185 core competencies.
186

187 **(B) 2011/2012 Proposed PTBC Meeting Dates**
188

189 Ms. Marco shared Board staff has contacted physical therapist and physical therapist
190 assistant schools for their interest in hosting a Board meeting in 2012; the 2011 Board

191 meeting calendar has already been established. There was a positive response from
192 the schools and many offered to hold a meeting. Given the location of some of the
193 schools and the Board calendar template, Ms. Marco asked the Board members if they
194 would be willing to move some dates around to accommodate the schools' schedules.
195 Dr. Takii, Physical Therapist, shared she would like to encourage flexibility so the Board
196 can meet at the schools and Mr. Chu, PT, Ph.D., concurred. All the members agreed
197 the meeting dates could be flexible to accommodate the schools' schedules.
198

199 Mr. Hartzell shared a recent issue arose regarding the rulemaking file for amendments
200 to California Code of Regulations (CCR), Section 1398.44, but it is not on this meeting's
201 agenda, so he requested the Board schedule a future teleconference. There is a
202 timeline staff must follow with the rulemaking file, so the teleconference needed to be
203 scheduled as soon as possible, but also allowing enough time to properly notice the
204 agenda pursuant to the Open Meeting Act. The Board determined March 1st from 1:00
205 p.m. to 2:30 p.m. would be an available time for all members. In addition, the
206 (Administrative Procedures Act) APA requires the Board allow a 15-day comment
207 period for any amendments made to the modified text of proposed regulations, so Mr.
208 Hartzell suggested scheduling a second teleconference date in the event the Board
209 receives public comment regarding changes to the amended language on March 1st.
210 The Board determined March 17th would be available for all members. Both dates were
211 added to the 2011 meeting calendar.
212

213 Ms. Jewell expressed concern regarding available resources for both the California
214 Physical Therapy Association (CPTA) Annual Meeting and the FSBPT Annual Meeting
215 because they fall on the same dates this year. Mr. Hartzell agreed this does present a
216 conflict, so Board staff and members will need to be split between the two meetings.
217 Ms. Pines, LMFT, shared she may not be available for the May Board meeting.
218

219 **7. Executive Officer's Report – Steven K. Hartzell**

220 **(A) Outreach**

221
222
223 Ms. Marco provided the Board with a handout showing each tabbed section on the
224 Board's Web site and the number of hits each of those sections received. Ms. Jewell,
225 PT, Ph.D., asked why the "Consumers" section received one million hits. Mr. Kaiser
226 explained the license verification screen is located under that section, which is one of
227 the most utilized tools on the Board's Web site. Ms. Jewell asked if there was a way to
228 truly identify if a user is a consumer, employer, licensee, or applicant. Ms. Marco
229 explained she has been working with the DCA Internet Team about conducting user
230 surveys to determine who the user is and their interests.
231

232 Ms. Marco asked the Board members if they would like Web site updates at all future
233 meetings. Dr. Alviso, Physical Therapist, expressed she would like to see what the
234 "hot" items are, such as continuing competency. Mr. Chu, PT, Ph.D., asked if
235 continuing competency could be highlighted on the Web site so it stands out for users.
236 Ms. Marco responded she has been working with the DCA Internet Team and at one
237 point the Internet Team was planning to re-design all boards' Web sites, and they
238 advised it could be added at then. She will contact them to verify the implementation
239 date of the new Web sites, and if it is scheduled in the near future, changes such as
240 highlighting continuing competency may be completed at then as well.
241

242 Ms. Marco presented the newsletter proof designed by the DCA Publication, Design,
243 and Editing Team for Board review. Ms. Pines strongly suggested the newsletter be
244 made available on-line instead of being mailed. Ms. Marco explained it is the Board's
245 decision as to how the newsletter is distributed to licensees. Mr. Hartzell shared, at this
246 time; the Board is still transitioning to sharing information electronically, so the Board
247 does not have a substantial database of e-mails for licensees. When BreEZe is
248 implemented, the Board will obtain e-mails on a regular basis, but until then, Mr. Hartzell
249 recommends at least notifying licensees the newsletter is on-line through regular mail.
250 There are a couple options which include mailing a post card; doing so would require
251 less postage than mailing the entire newsletter and save the printing costs. Another
252 option is sending a notice with the license renewal form notifying licensees the
253 newsletter will be, or is available on-line. Either way, Mr. Hartzell suggests notifying
254 licensees through the newsletter this may be the last issue mailed and suggest
255 licensees go to the Board's Web site to sign-up for e-mail notifications. In addition to
256 the newsletter, staff has been working on commencing a Facebook page. There is
257 concern the Facebook page will require constant attention and maintenance to keep
258 people's interest. The Board would like the Facebook page to move forward and
259 directed staff to implement the Board's page and include a notice in the newsletter.
260

261 Ms. Marco asked the Board for feedback regarding the flow of information which is an
262 item addressed on the Board's Strategic Plan. The Board appreciated receiving items
263 in a timely manner; however, it is a slight challenge organizing all meeting materials
264 when items are sent separately. Due to an attempt to get the most current information
265 to the Board in a timely manner, and without causing extraneous printing costs to the
266 members, staff will continue to work towards getting information to the Board in a timely
267 manner both in electronic format and hard copy as well, unless members indicate
268 otherwise to staff.
269

270 **(B) FY 2010/2011 Budget**

271
272 Minutes on agenda items 7(B) and 7(C) have been combined; see agenda item 7(C).
273

274 **(C) FY 2011/2012 Budget**

275
276 Mr. Hartzell shared the Board has a tight budget at this time. Governor Brown
277 cancelled the plan to sell state buildings, which left a budget short fall. Though the
278 Board is a special funds agency, the State is borrowing \$1.5 million from the Board's
279 finds. The money must be returned to the Board in the event the Board is in desperate
280 need of the funds; however, the Department of Finance (DOF) is not approving
281 increases in the budget.
282

283 Dr. James Dagostino, Physical Therapist, representing the CPTA expressed concern
284 about the State using the licensees' fees for things unrelated to the Board. Mr. Hartzell
285 explained by law all fees paid by applicants and licensees cannot be used for anything
286 other than the operational costs of the Board, so if the Board needed the borrowed
287 money, the State would have to return the funds. The funds are invested by the State,
288 but not necessarily used; this type of State borrowing occurs on an ongoing basis for
289 many different types of funds. Because of the state of the Board's budget, Mr. Hartzell
290 shared he may not retire until next fiscal year so the Board would not have to incur the
291 cost associated with his retirement during this fiscal year.
292

293 **(D) Update on PTBC Staffing**

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Governor Brown has issued Executive Order B-3-11 implementing a statewide hiring freeze. Details of what the Executive Order does and does not allow is still being determined. The Executive Order does pose a challenge to the Board's future staffing plans. An immediate concern which prevents the progress of the Board's staffing plan is some staff is included as operating costs in the Board's budget. The Board could pursue a Budget Change Proposal (BCP); however, given the Board would have to provide a comprehensive report on staffing, there is a possibility the Board could lose staff given the current staffing structure. In addition to clerical and analytical staff changes, Mr. Hartzell shared the Board also needs to add managerial staff. Currently, there are only two managers, the Executive Officer and Assistant Executive Officer, with approximately thirty staff members, which is a large burden given the numerous other responsibilities both are required to perform.

(E) Announcement of Retirement

Mr. Hartzell announced he will be retiring around June 30, 2011. The Board will consider selection of an Executive Officer, and the process will be addressed under agenda item #20.

8. Consumer and Professional Associations and Intergovernmental Relations Report – Steven K. Hartzell

(A) California Physical Therapy Association (CPTA)

Representatives from the CPTA indicated they had nothing to report or discuss.

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

Dr. Alviso, Physical Therapist, shared the FSBPT Finance Committee approved the current budget. Dr. Takii, Physical Therapist, shared she resigned from the FSBPT Foreign Education Standards Committee. Ms. Jewell, PT, Ph.D., reported she is on the FSBPT Exam Security Committee (ESC). The ESC is looking at issues such as credential evaluations being an adequate screening tool for exam eligibility, the effect retake policies have on applicants retaining questions. In addition, long-term topics include equity of access, actual education equivalency, and level of practice which could be addressed by conducting an across countries study. Also some states may have to look at the need for temporary licenses.

(C) DCA Director's Report – DCA Representative

Kim Kirchmeyer, Deputy Director of Board and Bureau Relations thanked Board staff for participating in the National Certified Investigator/Inspector Training and thanked Mr. Hartzell and Dr. Takii, Physical Therapist, for serving on the EO Evaluation Committee, to revise the EO evaluation form. Ms. Kirchmeyer shared, Mr. Brian Stiger, DCA Acting Director will maintain his position as Acting Director, and so he asks all projects under his direction to continue. Governor Brown issued Executive Order B-1-11 which required DCA to reduce the number of cell phones used by staff by 50% and the other 50%, which DCA is permitted to keep, are required to be justified for continued use. DCA requests all boards continue with establishing expert consultant contracts. Ms. Kirchmeyer shared questions regarding the Board's implementation of regulations, which stemmed from the Consumer Protection Enforcement Initiative (CPEI) and

346 Chapter 548, Statutes of 2008 (SB 1441), may be included in the Sunset Review report
347 the Board is required to complete in the near future. Ms. Kirchmeyer then shared the
348 BreEZe project is continuing to progress; the vendors are required to submit their
349 proposal by the end of February 2011.

350
351 **9. Sunset Review Pursuant to Business and Professions Code Section 2602 –**
352 *Steven K. Hartzell*

353
354 Mr. Hartzell explained the Legislature will soon be sending questions to the staff and will
355 be requiring responses during the upcoming Sunset Review. Those questions may be
356 provided for Board review at the May Board meeting.

357
358 **10. 2011 Rulemaking Calendar – Rebecca Marco**

359
360 Ms. Marco presented the 2011 Rulemaking Calendar to the Board and noted, since the
361 printing of the calendar, she has added an additional item, *Defining the Title Doctor of*
362 *Physical Therapy*. Since there are numerous items to address on the calendar, Ms.
363 Marco prioritized each one with a 1, 2, or 3 and asked the Board members whether they
364 concur with her recommendations. Dr. Takii, Physical Therapist, asked why *Practice of*
365 *Physical Therapy in Veterinarian Medicine* was not added, and why *Delegation of*
366 *Authority* was listed with such high priority. Ms. Marco explained the Board does not
367 have statutory authority to address *Practice of Physical Therapy in Veterinary Medicine*,
368 but has asked the Veterinary Medical Board of California to address this issue, which
369 they have recently formed a task force to do. *Delegation of Authority* was listed as a
370 high priority due to conflicting tasks specifically delegated to the EO, as often is the
371 case, and he/she may not be available to address all tasks.

372
373 **MOTION: To adopt the rulemaking calendar as amended and prioritized.**

374
375 **MOVED: Dr. Alviso, Physical Therapist**

376
377 **SECOND: Mr. Chu, PT, Ph.D.**

378
379 **VOTE: 5-0, 1 absent**
380 **Motion carried**

381
382 **11. Disciplinary Decisions**

383 The Board convened in CLOSED SESSION to deliberate on disciplinary actions
384 pursuant to Government Code Section 11126(c)(3).

385
386 Disciplinary decisions will be available on the Board's Web site at www.ptbc.ca.gov.

387
388 **12. Legislation Update – Steven K. Hartzell**

389
390 **(A) Revisions to the Physical Therapy Practice Act Update**

391
392 Mr. Hartzell provided an update on the Physical Therapy Practice Act (Act). He
393 explained the Act revisions are primarily to reorganize language for clarity; move any
394 authority still in the Medical Practice Act; and, to formally include the Board within the
395 scope of the Health Quality Enforcement Section.

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397 The Board then reviewed the Act and made the following amendments:

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Page 5, Section 2608.5

Failure to cooperate with the inspection or to provide the required report constitutes unprofessional conduct.

Page 8, Section 2623

Dr. Alviso, Physical Therapist, questioned the intent of Business and Professions Code Section 2623. The Board also discussed whether or not the requirement to notify licensees should be included in statute. The Board determined the statute establishes the authority to create a professional code of conduct, and if necessary establish regulations addressing notifications of changes. The current language is too burdensome; therefore, the following language was stricken:

The board may by regulation, prescribe, amend, or repeal any rules contained within a code of professional conduct appropriate to the establishment and maintenance of integrity and dignity in the profession. ~~In addition to the requirements contained in Chapter 4 (commencing with Section 11370) of Part 1 of Division 3 of Title 2 of the Government Code, a copy of the initial changes to the rules shall be distributed to every holder of a license under this chapter at least thirty (30) days prior to a date named for public hearing held for the purpose of receiving and considering objections to any of the proposed provisions. Every licensee of the board in this state shall be governed and controlled by the rules and standards adopted by the board.~~

Mr. Walker agreed the language which establishes the Board's authority to create a code of professional conduct was ambiguous and made the following recommendations to the Board's revised language:

The board may by regulation, prescribe, amend, or repeal any rules contained within a code of professional conduct appropriate to the establishment and maintenance of integrity and dignity in the profession [...]

MOTION: To amend Section 2623 as recommended by legal counsel.

MOVED: Dr. Alviso, Physical Therapist

SECOND: Ms. Jewell, PT, Ph.D.

**VOTE: 5-0, 1 absent
Motion carried**

Page 12, Section 2633.7

During the period of clinical practice referred to in Section 2650 or in any similar period of observation of ~~related~~ related education experience involving recipients of physical therapy, a person so engaged shall be identified only as a "physical therapist student," or "physical therapist assistant student" as authorized by the board in its regulations.

Page 14, Section 2636.7(b)

449 A temporary permit to practice as a physical therapist or physical therapist assistant
450 shall terminate upon notice thereof by certified mail, return receipt requested, if it is
451 ~~issues~~ issued by mistake or if the application for licensure is denied.

452
453 Page 16, Section 2646

454
455 A license which has expired may be renewed at any time within three (3) years after its
456 expiration on filing an application for renewal on a form prescribed by the board and
457 payment of all accrued fees and any other fee required by Section 2686, if the licensee
458 is not renewed by the expiration date [...]

459
460 Page 16, Section 2648(a)

461
462 Ms. Jewell, PT, Ph.D., brought to the Board's attention; the Coast Guard is not included
463 with the other military branches listed as exempt from the payment of the renewal fee
464 while engaged in full-time training or active service. The Board determined the Coast
465 Guard should be included in this section.

466
467 *Every licensee is exempt from the payment of the renewal fee while engaged in full-time*
468 *training or active service in the Army, Navy, Air Force, ~~or Marines,~~ or Coast Guard, or in*
469 *the United States Public Health Service.*

470
471 Page 17, Section 2650 (a)(1)

472
473 *Except as otherwise provided in this chapter, each applicant for a license as a physical*
474 *therapist shall be a graduate of a professional degree program of an accredited [...]*

475
476 Page 27, Section 2660.6

477
478 The Board is striking Section 2660.6 because it is duplicative to what is already in
479 regulation.

480
481 **MOTION: To strike Section 2660.6 of the proposed Act.**

482
483 **MOVE: Mr. Chu, PT, Ph.D.**

484
485 **SECOND: Dr. Alviso, Physical Therapist**

486
487 **VOTE: 5-0, 1 absent**
488 **Motion carried**

489
490 **(B) All 2011 Legislation Which Could Have an Effect on Physical Therapy**
491 **Practice or Regulation in California**

492
493 Mr. Hartzell reported it is too early to determine what legislation may have an effect on
494 the practice or regulation of physical therapy given the last day to introduce bills is not
495 until February 18th. Staff will have more information at the May Board meeting. Dr.
496 Dagostino, Physical Therapist, representing the CPTA, stated the CPTA concurs with
497 Board staff, it is too early and they are not aware of any legislation; however, the CPTA
498 recently received a bill regarding licensing of Athletic Trainers, which they are in the
499 process of reviewing.

500

501 (C) **Legislation to Include Telemedicine in Physical Therapy Practice**

502
503 Agenda item 12(c) was discussed under agenda item 17; see agenda item 17.

504
505 **13. Draft Regulatory Language for Board Consideration and Possible Action for the**
506 **Following Sections of Division 13.2 of Title 16 of the California Code of**
507 **Regulations (Physical Therapy Board of California) –**

508
509 (A) **Model Guidelines for Issuing Citations and Imposing Discipline**
510 **1399.15**

511
512 Mr. Spencer Walker, legal counsel, explained California Code of Regulations (CCR)
513 1399.15 must be amended to authorize the inclusion of the Substance Abuse Standards
514 from Chapter 548, Statutes of 2008 (SB 1441). Mr. Walker recommended the Board
515 President appoint a task force of two members to work on uniform standards related to
516 substance abuse and guidelines for issuing citations and imposing discipline. These
517 terms would apply to those licensees on probation for substance abuse problems. The
518 task force is also tasked with going through all the terms and conditions of the
519 Substance Abuse Standards and determining which offenses of the Business and
520 Professions Code and California Code of Regulations would warrant the given
521 conditions. Dr. Takii, Physical Therapist, appointed Dr. Donald Chu, PT, Ph.D., and Mr.
522 Turner serve on the task force.

523
524 (B) **Sponsored Free Health Care Events – Chapter 270, Statutes of 2010**
525 **(AB 2699)**
526 **1400-1400.3**

527
528 Mr. Walker provided the Board with the background of Chapter 270, Statutes of 2010
529 (AB 2699). This new provision allows licensees from out of state to volunteer at free
530 health care events in California without obtaining a California license, but an
531 authorization to practice for the specified event instead. DCA has drafted the regulatory
532 language to ensure consistent requirements through all licensing boards; however,
533 there are a few items which the Board may make specific. Under CCR Section
534 1400.2(a), the Board may determine the fee to be paid for the processing of the
535 authorization. Mr. Walker shared the MBC has decided upon a twenty-five (\$25) fee.
536 Mr. Hartzell added the approximate cost to the Board to process a check is twenty-five
537 dollars (\$25). Keeping in mind the individuals participating in these events would be
538 doing so on a voluntary basis, it would be good to charge only a minimal fee.

539
540 The Board may also decide whether or not to have specific education and/or experience
541 requirements under CCR Section 1400.2(c)(1)(B). Mr. Hartzell explained the
542 requirements to practice in California are already in statute and since there is a national
543 exam, no additional education requirements should be necessary; however, California is
544 the only state which provides certification for Electroneuromyography, so the Board may
545 wish to add a specific requirement to address specialty certification. The proposed
546 language was presented to the whole Board; however, the Board delegated the review
547 of this regulation to the same task force responsible for reviewing the Disciplinary
548 Guidelines and the Substance Abuse Standards.

549
550 **14. Regulations to Implement Diversion Program Guidelines, Chapter 517, Statutes of**
551 **2010 (SB 1172)**

552

553 Mr. Walker explained the DCA, Division of Legislative and Policy Review is currently in
554 the process of drafting the proposed regulations which stem from Chapter 517, Statutes
555 of 2010 (SB 1172); therefore, they are not yet available for review.
556

557 **15. Regulations to Implement Substance Abuse Guidelines, Chapter 548, Statutes of**
558 **2008 (SB 1441)**
559

560 Minutes on agenda items 13(A) and 15 have been combined; see agenda item 13(A).
561

562 **16. Update on Actions by the FSBPT to Restrict Testing for NPTE Candidates from**
563 **Specific Countries – Steven K. Hartzell**
564

565 Mr. Hartzell reported Dr. Norman Hertz will be traveling to Virginia to conduct an audit
566 on the FSBPT's evidence regarding the integrity of the NPTE exam. Mr. Walker shared
567 three Filipino applicants in Georgia filed an injunction against the Georgia Physical
568 Therapy Board, which the court granted on the basis the Georgia Physical Therapy
569 Board did not follow the Administrative Procedures Act (APA). The Court ruled, by the
570 Georgia Physical Therapy Board adopting the FSBPT's action, the Georgia Physical
571 Therapy Board discriminated against applicants educated in Egypt, India, Pakistan and
572 the Philippines. The Court's ruling is in keeping with the California Board's position.
573

574 Mr. Walker explained the FSBPT was put on written notice by Ms. Claire Yazigi, legal
575 counsel, their actions were discriminatory. Therefore, this ruling in Georgia, though it
576 has no application in California, again notifies the FSBPT of the discriminatory actions.
577 Mr. Walker recommends taking action against the FSBPT if they do not change their
578 position on this matter.
579

580 Mr. Hartzell suggested gathering information for the Board to consider an alternate
581 testing option. He added there are some issues to address when considering using an
582 alternate test, including portability of the score to other states, and the availability of the
583 alternate test for use by other states.
584

585 The Board then discussed the issue of limiting the number of exam attempts per
586 application from three to two. Dr. Alviso, Physical Therapist, supported limiting the
587 number of exam attempts for all applicants because at this time it is the only thing the
588 Board has control over to ensure equality during this time. If the Board were to limit the
589 number of exam attempts for all applicants, it would only apply to the number of
590 attempts, not limiting the number of days, or making the test available only on specific
591 days. Ms. Jewell, PT, Ph.D., clarified there are two separate issues involved, the first
592 being the number of exam attempts, and the second being the exam is only offered on
593 fixed dates for the affected applicants.
594

595 **MOTION: To direct the Executive Officer and legal counsel to monitor**
596 **activity regarding this issue in other states and, if appropriate,**
597 **file a brief.**
598

599 **MOVED: Mr. Chu, PT, Ph.D.**
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601 **SECOND: Ms. Pines, LMFT**
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603 **VOTE: 4-0, 1 abstained, 1 absent**
604 **Motion carried**

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**17. Special Order of Business – Thursday, February 17, 2011, 9:00 a.m.
Telehealth/Telemedicine Presentation – Alan Chong W. Lee, PT, DPT, CWS, GCS**

Dr. Lee, Physical Therapist, presented information on telehealth including the various types of telehealth, how it is applied by those healthcare professions with authority to use it, and how other states are using telehealth in physical therapy. Refer to agenda item #17 for presentation information. At the conclusion of the presentation Tammy Richmond, MS, OTR/L, shared her experience with telehealth and pursuing telemedicine legislation for the California Board of Occupational Therapy (BOT).

The Board discussed the possibility of adding telehealth/telemedicine to physical therapists' scope of practice. To do this, the Board would need statutory authority, which the BOT is already pursuing for occupational therapists to practice telemedicine.

MOTION: The Board shall join the Occupational Therapy Board of California in their efforts to obtain an author for the telemedicine bill. The Board directs the Executive Officer, in consultation with physical therapist experts to develop statutory language for the Act authorizing physical therapists to practice telehealth, including telemedicine and telerehabilitation. The Board authorizes the President to approve the language.

MOVED: Mr. Chu, PT, Ph.D.

SECOND: Dr. Alviso, Physical Therapist

**VOTE: 5-0, 1 absent
Motion carried**

18. Maximus Diversion Program Presentation – Linda Ryan, MFT, MA

Linda Ryan, MFT, MA, Maximus Clinical Case Manager, and Ginny Matthews, RN, Maximus Project Manager presented information regarding the Physical Therapy Diversion Program. For the information presented, please refer to the presentation included as agenda item #18.

19. Public Comment on Items Not on the Agenda

There were no additional public comments.

20. Discussion of Selection of New Executive Officer – Jennifer Willis, DCA Personnel Officer

Ms. Willis outlined the procedures for appointing a new Executive Officer. Discussions regarding specific action by Board to appoint a new Executive Officer occurred under agenda item #22, in closed session.

**21. Agenda Items for Next Meeting – Wednesday & Thursday, May 11 & 12, 2011
Mount St. Mary's College, Los Angeles, CA**

657 Staff will review the minutes from this meeting to determine agenda items for the May
658 Board meeting.

659
660 **22. Closed Session – Deliberation on Personnel Matters and Action on Personnel**
661 **Decisions Pursuant to Government Code Section 11126(a)(1)**

662 (A) Interview Candidates for Executive Officer Position (If necessary)

663 (B) Selection and Appointment of Executive Officer (If necessary)

664
665 At the conclusion of closed session the Board announced the appointment of Rebecca
666 Marco as Interim Executive Officer. Ms. Marco currently serves as the Assistant
667 Executive Officer to the Board. The appointment will commence on April 1, 2011.

668
669 **23. Adjournment**

670 The meeting adjourned at _____, February 17, 2011.
671

DRAFT