



Physical Therapy Board of California

STATE AND CONSUMER SERVICES AGENCY - GOVERNOR EDMUND G. BROWN JR.

Physical Therapy Board of California

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Agenda Item #13(A)

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Briefing Paper

Date: January 17, 2012
Prepared for: PTBC Members
Prepared by: Sarah Conley
Subject: 2012 Rulemaking Schedule

Purpose:

To update the Board on current and proposed rulemaking

Background:

At the November 2011 Board meeting, the Board expressed concern with the number of inactive rulemaking proposals. Staff indicated this appearance is due to the rulemaking report (calendar) being organized so that numerous proposals, which should be worked together, are listed separately. The Board identified new rulemaking priorities and directed staff to reorganize the rulemaking reporting format to clearly indicate the Board’s rulemaking progress.

Analysis:

The 2012 Rulemaking Schedule includes a reorganization of current rulemaking files and proposals, inclusion of rulemaking targets, more specific priority identifiers and identifies project leads.

Uniform Standards Related to Substance Abuse and Guidelines for Issuing Citations and Imposing Discipline (Uniform Standards/Guidelines), California Code of Regulations (CCR) §1399.15

The Board directed staff to modify the proposed text (refer to agenda item 13(B) iv. briefing paper for details) and present the modified text for Board consideration at the February 2012 Board meeting. If the modified text is adopted as presented, or the modified text is amended at this meeting, staff will issue a 15-day notice of modified text for public comment. If public comment is received, staff will present the modified

1 text, as noticed after this meeting, with public comment for Board consideration at the
2 May 2012 Board meeting; however, if no public comment is received, staff will
3 prepare the rulemaking file for review by the Department of Consumer Affairs (DCA).
4

5 Delegation of Functions, CCR §1398.4; Required Actions Against Registered Sex
6 Offenders, CCR §1399.23; Unprofessional Conduct, CCR §1399.24
7

8 Pursuant to the Board's direction at the November 2011 Board meeting, staff is
9 presenting the text for CCR §1398.4 and §1399.23, as modified at the May 2011
10 Board meeting, for Board reconsideration. Staff has modified CCR §1399.23 since
11 the May 2011 Board meeting to include provision a(3) providing that prohibiting
12 disclosure of settlement information, or declaring a settlement confidential,
13 constitutes unprofessional conduct.
14

15 Free Sponsored Health Care Events, CCR §1400-1400.3
16

17 After the regulatory hearing at the November 2011 Board meeting, the Board directed
18 staff to modify the proposed text and issue a 15-day notice of modified text. If no
19 comments on the modified text are received for Board consideration at this meeting,
20 staff will prepare the rulemaking file for review by the DCA. If the modified text is
21 amended at this meeting, staff will issue another 15-day notice of modified text for
22 public comment. If public comment is received, staff will present the modified text, as
23 noticed after this meeting, with public comment for Board consideration at the May
24 2012 Board meeting; however, if no public comment is received, staff will prepare the
25 rulemaking file for review by the DCA.
26

27 Mandatory Fingerprinting, CCR section number(s) to be determined
28

29 The Board adopted this rulemaking proposal as a part of the 2012 Rulemaking
30 Calendar at the November 2011 Board meeting. If the proposed text presented at
31 this meeting is adopted, staff will issue a 45-day notice of proposed regulatory
32 change for public comment. The text and public comment, if received, will be heard
33 at the May 2012 Board meeting. If the Board does not adopt the proposed text, staff
34 will modify the text and proceed as directed by the Board. The Board may direct staff
35 to modify the text and present at the May 2012 Board meeting for Board
36 consideration, or modify the text, issue a 45-day notice for public comment and notice
37 for hearing at the May 2012 Board meeting.
38

39 Application and Licensing Fees, CCR §1399.50 and §1399.52
40

41 The Board adopted this rulemaking proposal as a part of the 2012 Rulemaking
42 Calendar at the November 2011 Board meeting. Chapter 301, Statutes of 2008 (AB
43 2111) included the physical therapist assistant licensing fee with the application fee
44 although these are two separate fees. This regulatory proposal would define all
45 application and licensing fees in regulation in addition to establishing a licensing fee
46 for physical therapist assistants. After staff conducted an analysis of the Board's

1 current fund condition, it was determined a fee increase could not be justified;
2 therefore, this proposal has been removed from the 2012 Rulemaking Calendar.

3
4 Continuing Competency, CCR, Article 13

5
6 The Board directed staff to evaluate the Continuing Competency program, determine
7 emerging issues and present these findings at the February 2012 Board Meeting.
8 Staff will present its findings at this meeting and proceed as directed the Board.

9
10 Establish a Passing Score for the National Physical Therapy Exam

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12 At the August 2011 Board meeting, legal counsel recommended the Board establish
13 a passing score for the NPTE with which the Board concurred. The Board directed
14 staff to draft proposed text. Staff will present proposed text at the May 2012 Board
15 meeting.

16
17 Notice to Consumers, CCR section number(s) to be determined

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19 Staff added this rulemaking proposal after the November 2011 Board meeting.
20 Initially, the requirement to post a Notice to Consumers was a statutory proposal;
21 however, the Board's authority to promulgate a regulation for this purpose already
22 exists in Business and Professions Code §138. Staff has included two Notice to
23 Consumers samples for Board consideration.

24
25 Application and Licensing Regulations, Numerous CCR sections

26
27 The Board adopted a number of application and licensing rulemaking proposals as a
28 part of the 2012 Rulemaking Calendar at the November 2011 Board meeting. In
29 reviewing the current application and licensing regulations, staff determined a
30 complete revision of these regulations is needed and anticipates presenting proposed
31 text for Board consideration at the October 2012 Board meeting.

32
33 Pathways for Recovery, CCR section number(s) to be determined

34
35 The Board adopted this rulemaking proposal as a part of the 2012 Rulemaking
36 Calendar at the November 2011 Board meeting. Staff is currently scoping the issue to
37 identify where the specific areas of concern lie and whether this issue warrants
38 promulgating regulation(s). If given direction to do so by the Board, staff will move
39 ahead with researching rehabilitation alternatives to present at the July/August 2012
40 Board meeting for Board consideration.

41
42 Required E-mail Submission, CCR §1398.6

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44 Staff added this rulemaking proposal after the November 2011 Board meeting. The
45 growing use of electronic communication, most recently the move to only electronic
46 distribution of the Board's quarterly newsletter, made clear the necessity to maintain

1 applicant and licensee electronic communication records. If the Board accepts this
2 proposal and directs staff to proceed, proposed text will be presented at the May
3 2012 Board meeting for Board consideration, or as directed by the Board.
4

5 Office Location, CCR §1398.1
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7 At the November 2011 Board meeting, staff reported this rulemaking proposal is
8 dependent on whether the office relocation occurs. At this time, relocation does not
9 appear to be an option for the Board; therefore, staff will proceed with filing a Section
10 100 change with OAL to update the Board's address to its current location.
11

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13 **Action Requested:**

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15 Review briefing paper and provide direction as necessary