



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 #8

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**DATE:** January 15, 2012

**TO:** Physical Therapy Board of California

**SUBJECT:** EXECUTIVE OFFICER'S REPORT

### ADMINISTRATION

#### PERSONNEL -

Two employees have separated from the Board. Leanne Shirley was appointed to a permanent, part time (0.6) Office Technician position in the Administrative Services Program but resigned from state service on November 30, 2011. Susan Burrows was appointed to a limited term, part time (0.5) Staff Services Analyst position in the Consumer Protection Services Program and retired from state service on December 31, 2011.

Subsequently, the Board received authorization to increase the time base from part time (0.6) to full time (1.0) to fill the Office Technician vacancy within the Administrative Program. This position was offered to Lita McFaddin formerly a permanent intermittent Office Technician in the Board's Licensing Services Program. Since it is unlikely the Board will be able to establish another permanent intermittent position within the blanket to replace Ms. McFaddin, the position will be split between the Administrative and Licensing Services Programs.

Unfortunately, filling the 0.5 limited term Staff Services Analyst position vacated by Ms. Burrows is more of a challenge since the funding for the position ends September 30, 2012.

Additionally, there has been some reassignment and increases in time base of staff to address training needs and program backlogs. They are as follows:

Jason Kaiser, Staff Services Manager has temporarily been reassigned to the Licensing Services Program. This is to address training needs of new staff and deficiencies in the continuing competency program. While Mr. Kaiser's current focus is

41 on the needs of the Licensing Program, when time permits he continues training in  
42 management of the Consumer Protection Services Program.

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44 Liz Constancio, Staff Services Manager is currently concentrating on the Board's  
45 Administration Program, especially personnel. However, she is also managing the  
46 Board's budget, purchasing, contracts, travel and outreach. Ms. Constancio's  
47 background in personnel is an asset to the Board in its quest to restructure for greater  
48 efficiency. Once Board staff is adequately realigned, Ms. Constancio will resume  
49 training in management of the Licensing Program. However, long processing times;  
50 and more importantly, inconsistent information from DCA's Office of Human Resources  
51 (OHR), significantly hinders the Board's ability to process personnel actions timely.  
52 The ongoing obstacles are delaying Ms. Constancio's transition to the Licensing  
53 Services Program.

54  
55 Monny Martin, Associate Governmental Program Analyst in the Consumer Protection  
56 Services Program has been offered the vacant Special Investigator position contingent  
57 upon the outcome of the background check, which can be quite lengthy. Mr. Martin's  
58 current position cannot be filled until it's vacated; therefore, until then Mr. Martin will  
59 continue probation monitoring. Recruitment for Mr. Martin's position will begin  
60 immediately, affording the Board the opportunity to make a conditional commitment  
61 and securing the appointment in the event a future freeze is placed on hiring.

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63 Authorization was obtained to increase the time base for Korey Landry, Office  
64 Technician, from permanent part time (0.5) to permanent full time (1.0); and, for Karin  
65 Thompsen from permanent part time (0.8) to permanent full time (1.0). Authorization to  
66 increase the time base for these two positions, as well as the Office Technician  
67 position recently offered to Ms. McFadden, indicates the Department of Consumer  
68 Affairs' Budget Manager assigned to the Board has reviewed the Board's budget to  
69 determine whether the budget can support the positions ongoing without benefit of an  
70 augmentation to the Board's budget via the Budget Change Proposal process.

71  
72 Veronica Gutierrez and Kirsten Salters, Staff Services Analysts have each been  
73 reassigned to continuing competency. Both are contributing 0.5 of their time, Ms.  
74 Salters is a 0.5 employee and Ms. Gutierrez is also spending 0.5 of her time in the  
75 Licensing Services Program.

76  
77 Funding for the appointments to the limited term, Associate Governmental Program  
78 Analyst positions resulting from the Consumer Protections Enforcement Initiative, will  
79 end on September 1, 2012; therefore, it is hopeful staff appointed to those positions will  
80 be redirected to funding from the blanket.

81  
82 The request submitted by the Board to increase the Executive Officer's salary was  
83 denied by the Director of DCA indicating increases in salary shall only be requested  
84 after 12 months of the initial exempt appointment which is consistent PML 2008-12;  
85 however, the Personnel Management Letter (PML) referenced applies to CEA  
86 positions, not Exempt positions. The PML indicates approval for increases in salary for

87 an Exempt position, while limited, can be justified on a case by case basis and shall be  
88 submitted to the Department of Personnel Administration and may be considered and  
89 authorized by the Governor's office. The Department of Consumer Affairs has no  
90 authority to withhold submission of the request. Thus, the Board's request was not  
91 given due process.

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93 **BUDGET –**

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95 Attached are documents reflecting the Board's revenue and expenditures by program  
96 component and the Board's fund analysis. Please note these figures are from  
97 CalSTARs which can have a two month lag time.

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99 The over expenditure in the Statutory Exempt line is caused by the "cash out" of the  
100 former Executive Officer's leave balances. The overall over expenditure in personnel  
101 services is due to the 16 positions (part time, permanent intermittent and student  
102 assistants) being paid out of the blanket.

103

104 Also, we anticipate a significant over expenditure in AG costs. Therefore, the Board  
105 will be submitting a request for deficiency funding to the Department of Finance. More  
106 information regarding the status and the amount will be presented at the meeting.

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108 At the monthly DCA Director/Board Presidents' Conference call it was announced the  
109 Governor has requested the Department of Finance (DOF) develop a plan for 0 base  
110 budgeting of select departments statewide. We were advised CalTrans had been  
111 initially selected by DOF and that in March 2012; DOF will release a plan selecting  
112 DCA. Some boards and bureaus may not be receptive to the plan but this would be an  
113 opportunity for this Board to address a necessary realignment of its budget.

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115 **FISMA REPORT - Financial integrity and State Manager Accountability Act of 1983-**

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117 The Board provided input for staff to submit to DCA at the August meeting. DCA  
118 reported that when the information was compiled there were areas that crossed most  
119 boards. DCA identified the greatest risks as:

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- 121 1. Staff Resources – having employees to keep pace with workload;
- 122 2. Enforcement- being able to shorten the timeframes for enforcement, especially  
123 when the hiring freeze hit before the CPEI investigator positions could be filled;
- 124 3. BreEZe implementation – concerns that specific needs will not be addressed  
125 and that challenges in development or implementation could limit access to  
126 stakeholders; and
- 127 4. Appropriate budget funding – with the cuts that have been taken over the past  
128 several years, there is limited flexibility to absorb any cost increases.

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131 **LEGISLATION AND REGULATION –**

132 **Sunset Review**

133 The Board submitted its report to the Senate Committee on Business and Professions  
134 and Economic Development on November 4, 2011. On January 5, 2012 I received an  
135 email indicating they were beginning a review of the report. To date I have received no  
136 word regarding the Board’s report; however, the Board’s President, Debra Alviso and I  
137 scheduled a “meet and greet” with Committee staff on January 25, 2012. It is hopeful  
138 we will be able to address any preliminary concerns they may have at that time.

139 **Moscone Knox Professional Corporations Act**

140 Agenda item #12, *Update on Practice of Physical Therapy in Corporate Settings* is a  
141 discussion item. The Board will discuss the motion made at the August meeting.

142 **Audit**

143 An update on the status of the audit was emailed to the Board on December 27, 2011.  
144 The auditors continue to collect information. To date, the audit has not been intrusive  
145 or overly burdensome.

146 Legal counsel will address confidentiality requirements under agenda item 7(B).

147 **Rulemaking**

148 Agenda item #13 addresses proposed rulemaking; however, it should be noted staff  
149 added three rulemaking proposals, “Notice to Consumers”, “Email Address Reporting”  
150 and “Setting an Examination Pass Score” . Since the Rulemaking Calendar is due to  
151 the Office of Administrative Law by January 30, 2012, staff took the liberty of adding  
152 the proposals to the calendar but the Board can choose not to act on them if you  
153 choose.

154 Alternative pathways to recovery are not ready to be addressed at this meeting since  
155 staff hasn’t had adequate time to conduct the necessary research. Staff anticipates it  
156 will be ready for presentation at the May meeting.

157 **OUTREACH –**

158 The Board continues receiving requests from physical therapy programs to speak to  
159 students on the application process, the exam and the laws and regulations. Due to  
160 travel restrictions staff is developing a power point presentation with a tutorial script for  
161 program use. Staff will be accepting invitations to programs within driving distance.

162 Attached is a Web site, Twitter and Facebook Statistics report (report). The report was  
163 not presented at the November Board meeting, so the attached report is reflecting the  
164 last date data was gathered, which was on July 21, 2011 [presented at the August  
165 meeting]. Therefore, the data for this report is from 07/21/11 through 12/31/11. The  
166 second column data is the data reported at the August meeting. The final column  
167 reflects the increase between the two time frames.

168 **TRAVEL –**

169 Travel continues to be restricted to mission critical travel, e.g. Board meetings,  
170 probation monitoring, mandated trainings, etc.

171 **CONTRACTS -**

172 Board counsel continues to negotiate with FSBPT counsel, which will be addressed  
173 under agenda item #7; however, a new issue has arisen regarding the number of seats  
174 reserved for candidates in each exam location. Board counsel will elaborate on the  
175 issue at the meeting.

176 **PTBC OFFICE LOCATION -**

177 Relocation of the PTBC office has been postponed due to funding limitations.

178 **PRACTICE ISSUES -**

179 Historically the Board and staff have responded to practice issues posed by licensees  
180 and posted the most questionable issues on the PTBC website; however, current legal  
181 counsel is of the opinion that this practice needs to be discussed. This appears under  
182 section 7(A) on the agenda.

183 **LICENSING**

184 **APPLICATIONS –**

185 Staff is currently processing applications for the upcoming examination scheduled for  
186 March 29, 2011. The deadline for Board staff to declare candidates eligible is March  
187 13, 2011. There were no California schools graduating between the last exam in  
188 January and the upcoming March exam. However, staff continues processing foreign  
189 and out of state applications and those applications of those California graduates who  
190 opted not to take the January exam.

191 Board staff identified an issue with applicants PTLA status expiring in 90 days and  
192 presented a briefing paper on the issue at the May meeting (attached). The direction  
193 to staff by the Board was to seek a legislative amendment to Business and Professions  
194 Code (B&P) section 2640; however, since this is an ongoing concern, legal counsel is  
195 researching the legislative analysis to determine whether “computer based testing” is  
196 synonymous to “continuous testing” as defined in B&P 2639. If it is, then B &P section  
197 2639 would apply and alleviate the issue until an amendment could be made or B&P  
198 2640 could be repealed.

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202 **EXAMINATION –**

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204 On January 20, 2011, the new supplemental test questions will be sent to Prometric for  
205 roll out which is scheduled to occur on February 28, 2012 for California and March 5,  
206 2012 nationwide. FSBPT will require 30 days for psychometric quality checks.

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208 **ENFORCEMENT**

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210 Most of the reporting on enforcement will occur under agenda item 5.