



# Physical Therapy Board of California

*Department of Consumer Affairs*

**May 9 & 10, 2012  
Board Meeting**

**Loma Linda University  
Loma Linda, CA**



Physical Therapy Board of California

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

## 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](http://www.ptbc.ca.gov)



### Physical Therapy Board of California **REVISED** Notice of Public Board Meeting May 9 & 10, 2012

**DATE:** Wednesday, May 9, 2012 8:30 a.m.

Thursday, May 10, 2012 8:00 a.m.

**PLACE:** University of Loma Linda, Randall Visitors Center  
11072 Anderson Street  
Loma Linda, CA 92350

Action may be taken on any agenda item. Agenda items may be taken out of order. Please refer to the informational notes at the end of the agenda.

Unless otherwise indicated, all agenda items will be held in OPEN SESSION.  
THE PUBLIC IS ENCOURAGED TO ATTEND.

A live webcast of the meeting will be available at [www.ptbc.ca.gov](http://www.ptbc.ca.gov).

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#### Agenda

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1. **Call to Order and Roll Call.**  
Debra J. Alviso, PT, D.P.T., President  
Marty Jewell, Ph.D., PT, Vice-President  
Donald A. Chu, Ph.D., PT, ATC, CSCS  
Sara Takii, PT, D.P.T., M.P.A.  
James E. Turner, M.P.A.  
Carol Wallisch, M.A., M.P.H.
2. **Approval of February 8 & 9, 2012 Board Meeting Minutes**
3. **Application & Licensing Services Report – Jason Kaiser**  
(A) Statistics  
(B) Continuing Competency Audit Monthly Statistics
4. **Consumer Protection Services Enforcement Report – Elsa Ybarra**  
(A) Performance Measures  
(B) Disciplinary Summary
5. **President's Report – Dr. Debra Alviso**  
(A) 2012/2013 Board Meeting Calendar  
(B) President's Activities Since Last Meeting
6. **Legal Counsel's Report – Shela Barker**  
(A) Stipulated Settlements

- (B) Update on FSBPT Contract
  - (C) Board Consideration of Standard Motion Language
- 7. **Executive Officer's Report** – *Rebecca Marco*
  - (A) Update on Audit of the Board by the Bureau of State Audits
- 8. **Consumer and Professional Associations and Intergovernmental Relations Report**
  - (A) Department of Consumer Affairs (DCA) – *Reichel Everhart*
  - (B) California Physical Therapy Association (CPTA)
  - (C) Federation of State Boards of Physical Therapy (FSBPT)
- 9. **Practice Issues Update**
- 10. **Legislation Report** – *Sarah Conley*
  - (A) Adoption of Administrative Manual Policy Regarding Board President Taking Interim Positions on Pending Legislation
  - (B) Relevant 2011-2012 Bills with Staff Recommendations to Board
- 11. **2012 Rulemaking Calendar** – *Sarah Conley*
- 12. **Uniform Standards Related to Substance Abuse and Guidelines for Issuing Citations and Imposing Discipline Modified Text for Board Consideration and Possible Action for Section 1399.15 of Division 13.2 of Title 16 of the California Code of Regulations** – *Elsa Ybarra*
- 13. **Special Order of Business – May 10, 2012 8:00 a.m.**  
**Introduction of Board Members and Orientation for Students**
- 14. **Special Order of Business – May 10, 2012 8:30 a.m.**  
**Regulatory Hearing on Proposed Language for Mandatory Fingerprinting, Sections 1398.14 and 1399.80 of Division 13.2 of Title 16 of the California Code of Regulations**
- 15. **Special Order of Business – May 10, 2012 9:00 a.m.**  
**Hearing on Petition for Modification of Probation – Joy M. Miller, PT**  
After submission of the matter, the Board will convene in CLOSED SESSION to deliberate per Government Code section 11126(c)(3).
- 16. **Notice to Consumers Draft Regulatory Language for Board Consideration and Possible Action for Section Number(s) to be Determined of Division 13.2 of Title 16 of the California Code of Regulations** – *Sarah Conley*
- 17. **Required E-mail Submission Draft Regulatory Language for Board Consideration and Possible Action for Section 1398.6 of Division 13.2 of Title 16 of the California Code of Regulations** – *Sarah Conley*
- 18. **Sponsored Free Health Care Events Modified Text for Board Consideration and Possible Action for Sections 1400-1400.3 of Title 16 of the California Code of Regulations** – *Jason Kaiser*

- 19. Board Consideration of Public Request for Regulatory Action Regarding Notification to Patient of Responsible Care Provider Pursuant to Government Code section 11340.7**
- 20. Public Comment on Items Not on the Agenda**  
*Note: The Board may not discuss or take action on any matter raised during this public comment section that is not included on this agenda, except to decide to place the matter on the agenda of a future meeting [Government Code sections 11125 and 11125.7(a)].*
- 21. Agenda Items for Next Meeting – July 31 and August 1 & 2, 2012 – Sacramento, CA**
- 22. Closed Session**
  - (A)** Pursuant to Government Code Section 11126(c)(3) to Deliberate on Disciplinary Actions
  - (B)** Pursuant to Government Code section 11126(e) US Equal Employment Opportunity Commission (EEOC) Charge Number: 555-2012-00027
  - (C)** Pursuant to Government Code section 11126(a)(1) Evaluation of Executive Officer
- 23. Adjournment**

Times stated are approximate and subject to change. Agenda order is tentative and may be changed by the Board without prior notice. This meeting will conform to the Bagley-Keene Open Meeting Act. Agenda discussions and report items are subject to action being taken on them during the meeting by the Board at its discretion. The Board provides the public the opportunity at the meetings to address each agenda item during the Board's discussion or consideration of the item. Total time allocated for public comment on particular issues may be limited.

The meeting is accessible to the physically disabled. A person who needs disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Sarah Conley at (916) 561-8210, e-mail [Sarah.Conley@dca.ca.gov](mailto:Sarah.Conley@dca.ca.gov), or send a written request to The Physical Therapy Board of California 2005 Evergreen Street, Suite 1350 Sacramento, CA 95815. Providing your request at least five (5) business days before the meeting will help to ensure availability of the requested accommodations. TDD Line: (916) 322-1700.

# Agenda Item 1

**Roll Call**

**Board Meeting – Loma Linda University, Loma Linda, CA**

**Wednesday, May 9, 2012**

	Present	Absent
Debra J. Alviso, PT, D.P.T., President		
Marty Jewell, Ph.D., PT, Vice-President		
Donald A. Chu, Ph.D., PT, ATC, CSCS		
Sara Takii, PT, D.P.T., M.P.A.		
James E. Turner, M.P.A.		
Carol Wallisch, M.A., M.P.H.		

**Thursday, May 10, 2012**

	Present	Absent
Debra J. Alviso, PT, D.P.T., President		
Marty Jewell, Ph.D., PT, Vice-President		
Donald A. Chu, Ph.D., PT, ATC, CSCS		
Sara Takii, PT, D.P.T., M.P.A.		
James E. Turner, M.P.A.		
Carol Wallisch, M.A., M.P.H.		

## Agenda Item 2



Physical Therapy Board of California

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## Physical Therapy Board of California

### DRAFT Meeting Minutes

February 8 & 9, 2012

Wednesday, February 8, 2012 8:30 a.m.

Thursday, February 9, 2012 8:30 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.

- Debra J. Alviso, PT, D.P.T., President
- Marty Jewell, Ph.D., PT, Vice-President
- Donald A. Chu, Ph.D., PT, ATC, CSCS
- Sara Takii, PT, D.P.T., M.P.A
- James E. Turner, M.P.A.
- Carol Wallisch, M.A., M.P.H.

Debra J. Alviso, PT, D.P.T., President	February 8, 2012 – Present February 9, 2012 – Present
Marty Jewell, Ph.D., PT, Vice-President	February 8, 2012 – Present February 9, 2012 – Present
Donald A. Chu, Ph.D., PT, ATC, CSCS	February 8, 2012 – Present February 9, 2012 – Present
Sara Takii, PT, D.P.T., M.P.A	February 8, 2012 – Present February 9, 2012 – Present
James E. Turner, M.P.A.	February 8, 2012 – Present February 9, 2012 – Present
Carol Wallisch, M.A., M.P.H.	February 8, 2012 – Present February 9, 2012 – Present

The Physical Therapy Board of California (Board) February 2012 meeting was called to order by Dr. Alviso at 8:35 a.m. All members were present and a quorum was established. Also present at the meeting were Shela Barker, Legal Counsel; Rebecca Marco, Executive Officer; and other Board staff, including, Sarah Conley, Liz Constancio, Jason Kaiser and Elsa Ybarra.

#### 2. Disciplinary Decisions – CLOSED SESSION

**(A) Pursuant to Government Code Section 11126(c)(3) to deliberate on disciplinary actions**

1 The Board convened in closed session to deliberate on disciplinary actions pursuant to  
2 Government Code section 11126(c)(3).

3  
4 **(B) Pursuant to Government Code section 11126(e)**  
5 **US Equal Employment Opportunity Commission (EEOC) Charge**  
6 **Number: 555-2012-00027**  
7

8 The Board convened in closed session to discuss US Equal Employment Opportunity  
9 Commission (EEOC) Charge Number: 555-2012-00027 pursuant to Government Code section  
10 11126(e).

11  
12 **3. Approval of November 2 & 3, 2011 Board Meeting Minutes**  
13

14 Corrections were made to the minutes as follows:

15  
16 Page 6, Lines 255-257  
17

18 *The Board assessed its current practice of meeting at schools with physical therapist or*  
19 *physical therapist assistant programs and if it is facilitating the Board's outreach goals*  
20 *as set in the 2009 Strategic Plan.*  
21

22 Page 6, Lines 273-275  
23

24 *DCA wants the Board to move in to the vacant space at the North Market location, but*  
25 *discussions were put on hold because staff has been focused on completing the Sunset*  
26 *report.*  
27

28 Page 8, Lines 377-378  
29

30 *PTA – Equivalency Training and Experience: Amend California Code of ~~Regulations~~*  
31 *Regulations section 1398.47: Priority 3 2*  
32

33 Page 11, Lines 522-527  
34

35 The Board indicated the minutes did not accurately reflect Lauren Robertson's concern that  
36 approval agencies could also be course providers creating a conflict of interest. Ms.  
37 Robertson suggested the Board create another level of approval for course providers.  
38

39 Regulatory Hearing Transcripts, Page 3, Line 9  
40

41 The record indicates Ms. Barker was present at the meeting when she was not.  
42

43 Regulatory Hearing Transcripts  
44

45 In the record, the Senate Committee on Business, Professions and Economic Development, is  
46 referred to as the BMP Committee instead of the B&P Committee,.  
47

48 Staff will return the transcripts for editing.  
49

50 **MOTION: To adopt the November 2 & 3, 2011 Board meeting minutes as**

1 amended.

2  
3 **MOVED: Dr. Takii**

4  
5 **SECOND: Ms. Wallisch**

6  
7 **VOTE: 6-0 Motion carried**

8  
9 **4. Application & Licensing Services Report – Jason Kaiser**

10  
11 **(A) Statistics**

12  
13 Dr. Jewell clarified that she requested 1) data on how many foreign educated physical  
14 therapists apply for physical therapist assistant licensure, 2) separate foreign application  
15 received data and 3) separate foreign educated physical therapist assistant exam data based  
16 on qualification. Mr. Kaiser responded the data is available, but must be collected manually.

17  
18 Mr. Turner inquired whether a delinquent license is considered an active license and how a  
19 licensee obtains inactive status. Mr. Kaiser explained variables contributing to the renewal data  
20 provided, and that data pertaining to renewals is dependent upon the date the data is  
21 collected. The renewal data changes on a day to day basis with licensees continually  
22 submitting renewal payment. The Board questioned whether licensees holding a delinquent  
23 license are practicing. Mr. Kaiser noted licensees are not permitted to work with a delinquent  
24 license; however, the Board may not be aware of a licensee practicing with a delinquent  
25 license without specific notification.

26  
27 Mr. Kaiser also explained a licensee must have a valid license to be placed on inactive status  
28 and to obtain inactive status, the licensee must submit notification to the board. Inactive status  
29 exempts licensees from the requirement to complete continuing competency hours, but does  
30 not exempt licensees from submitting the renewal payment. A licensee who has requested  
31 inactive status may not practice until he or she submits the current renewal fee and completes  
32 the required continuing competency hours. Mr. Kaiser informed the Board approximately two  
33 percent of the licensing population has requested inactive status.

34  
35 Dr. Alviso requested staff provide the National Physical Therapy Examination (NPTE) test  
36 dates since data is no longer being provided monthly due to fixed-date testing.

37  
38  
39 **(B) Continuing Competency Audit Monthly Statistics**

40  
41 The Board requested staff further breakdown the “Failed Audit” category of the continuing  
42 competency compliance statistics to include the various reasons licensees fail the audit. Dr.  
43 Alviso inquired as to whether the “Pending Review” category referred to pending internally, or  
44 pending due to the licensee. Mr. Kaiser responded the “Pending Review” includes both the  
45 internal backlog and unresponsive licensees; however, with redirection of resources to the  
46 Continuing Competency program, the number of pending audits due to internal backlogs is  
47 decreasing. Dr. Jewell requested staff rank violations from most to least egregious.

48  
49 **(C) Photo Licenses**

1 Mr. Kaiser presented research on photo licenses. Ms. Wallisch questioned whether staff has  
2 evidence of license fraud. Mr. Kaiser responded there is no substantial evidence of license  
3 fraud; however, the intent of updating the license material and format is to move away from  
4 outdated "security" paper and towards more advanced, secure licenses. Moreover, photo  
5 licenses may also be used for other purposes, such as identification and as a way to provide  
6 required information pertaining to the licensee. Mr. Kaiser explained at this time staff is  
7 determining what options are available with BreEZe because although this feature will be  
8 initially unavailable, the potential for photo licenses exists. Ms. Marco shared staff is seeking  
9 the Department of Consumer Affairs' (DCA) involvement with this project. After considering  
10 the necessity of the project, the Board directed staff to continue its research.

11  
12 **5. Consumer Protection Services Enforcement Report – *Elsa Ybarra***

13  
14 **(A) Performance Measures**

15  
16 Elsa Ybarra presented the Performance Measure data and explained the Consumer Protection  
17 Services program lost two analysts, which has and will affect staff's ability to meet  
18 Performance Measure goals. Ms. Ybarra noted the high number of pending cases in the  
19 enforcement statistics is due to temporary staff assisting for a few days by opening numerous  
20 cases and the analysts have not had the opportunity to assign all those cases.

21  
22 **(B) Disciplinary Summary**

23  
24 Ms. Ybarra explained this agenda item is a list of disciplinary actions taken by the board which  
25 are reported to the DCA and posted to the board's Web site.

26  
27 **6. President's Report – *Dr. Debra Alviso***

28  
29 **(A) 2013 Proposed PTBC Meeting Dates and Locations**

30  
31 Dr. Alviso thanked Dr. Takii for her previous service as Board President. Dr. Alviso reported  
32 the Federation of State Boards of Physical Therapy (FSBPT) and the American Physical  
33 Therapy Association (APTA), though each have similar, but different missions, released a joint  
34 statement regarding the model continuing competency program. California was noted as one  
35 of the five states who require continuing competency in lieu of continuing education as a  
36 condition of renewal .

37  
38 The Board reviewed the meeting dates and locations for 2012 and 2013. All members  
39 indicated they are available for the set meeting dates.

40  
41 **7. Legal Counsel Report – *Shela Barker***

42  
43 **(A) Practice Issues**

44  
45 Ms. Barker expressed concern with staff responding to practice issue questions. Ms. Barker  
46 advised against the Board taking a position on practice issues unless regulations are adopted.  
47 Additionally, after reviewing common practice issue responses on the Board's Web site, Ms.  
48 Barker found some responses to be carefully drafted as to not create an underground  
49 regulation; however, other responses could be considered underground regulation.

1  
2 The Board has the authority to define the scope of physical therapy in conjunction with the  
3 definition of physical therapy in statute, but there are some limitations. Also, when an answer  
4 to a practice issue question requires professional judgment, Ms. Barker recommends staff  
5 provide a standard response informing the licensee he or she will have to make that  
6 determination using his or her own professional judgment. Ms. Barker explained, if a practice  
7 issue question is clearly answered by law or regulation, she would advise that staff may  
8 respond based on the law or regulation; however, Ms. Barker noted there are very few of those  
9 types of responses based on the laws and regulations governing physical therapy practice. If  
10 the issue in question is causing problems between an employee and an employer, it is an  
11 employment issue and not an issue to be resolved by the board.

12  
13 The Board determined this issue will be discussed further at the next meeting.

### 14 15 **(B) Board Audit Confidentiality Requirements**

16  
17 Ms. Barker presented information regarding the Bureau of State Audits' (BSA) access to  
18 confidential information and the prohibition of the Board to discuss the audit during the  
19 investigation. The BSA warned Board members and Management shall not interfere with the  
20 audit investigations and if there is any appearance of impropriety, the auditors will make note  
21 of that in the report and the report will be provided to the Legislature; therefore, Ms. Barker  
22 advised the Board heed the warning and refrain from any conduct that could be mistaken for  
23 interference with staff's responses to the BSA staff while the investigation is taking place.

24  
25 Mr. Turner inquired as to the last time the Board was audited. Ms. Marco replied the Board  
26 has never before been audited by the BSA.

27  
28 Ms. Wallisch inquired as to the process of reviewing the draft audit report. Ms. Barker  
29 explained pursuant to statute, the Board would hold a special meeting to review the draft audit  
30 report. Staff is maintaining contact with the BSA in hopes ample notice is provided by the BSA  
31 to staff so that a special meeting can be quickly arranged in compliance with the Bagley-Keene  
32 Open Meeting Act. The special meeting will likely be held via teleconference and though it will  
33 be publically noticed, discussions of the draft audit report will be in closed session.

34  
35 Ms. Marco shared the BSA indicated the draft audit report is anticipated to be released in May.

36  
37 Ms. Barker explained the BSA cannot access criminal offender record information (CORI)  
38 because CORI is protected by both state and federal law and to access this information, the  
39 BSA staff working with the Board would need to obtain background clearance via LiveScan  
40 fingerprinting. Board staff has removed CORI from all files reviewed by the BSA and notified  
41 the BSA staff the CORI has been removed.

### 42 43 **(C) National Physical Therapy Exam and California Law Exam Contract Update**

44  
45 Ms. Barker reported she recently received the final draft of the contract from the FSBPT and is  
46 prepared to send it to Board staff for submission to the DCA. Ms. Barker explained the FSBPT  
47 agreed to amend the contract to comply with State law.

## 48 49 **8. Executive Officer's Report – Rebecca Marco**

1  
2 Ms. Marco informed the Board her report included an update on Board activities since the last  
3 meeting, then Ms. Marco addressed specific items from the report. The funding for the  
4 Consumer Protection Enforcement Initiative (CPEI) positions were not extended by the  
5 Department of Finance (DOF); therefore, the funding for the positions ends September 30,  
6 2012. Staff in these positions are concerned about the limited-term funding and one employee  
7 has sought another permanent full-time employment opportunity. For this reason, and others,  
8 the enforcement program processing time may increase which will appear in the Performance  
9 Measure data. Dr. Alviso inquired as to the future of the CPEI positions. Ms. Marco is hopeful  
10 the Board has sufficient funds to absorb the CPEI positions.

11  
12 Ms. Marco reported it is anticipated the Board will exceed Attorney General (AG) costs;  
13 therefore, a deficiency letter has been sent to the DCA Budget Office and will eventually be  
14 submitted to the DOF. The DOF will provide the Board with a response as to whether the  
15 budget augmentation will be granted in approximately thirty days. It is Ms. Marco's  
16 understanding the DCA Budget Office is supporting the Board's efforts for a budget  
17 augmentation. If the budget augmentation is not granted, all AG work on enforcement cases  
18 will cease until the board's budget can support the AG's services again.

19  
20 Ms. Marco and Dr. Alviso met with the staff of the Senate BP&ED Committee, Bill Gage, Chief  
21 Consultant, and Rosielyn Pulmano, Consultant, regarding the Board's Sunset Report and  
22 hearing. Ms. Pulmano who was assigned to review the Board's Sunset Report has been  
23 relocated; however, she will still be reviewing the Board's report. The Board's sunset hearing is  
24 scheduled for March 19, 2012 and Ms. Pulmano indicated Board staff should receive  
25 questions regarding the report approximately two weeks prior to the hearing. At the hearing on  
26 March 19<sup>th</sup>, Board members are welcome to attend as are any interested parties; however, the  
27 Board President and the Executive Officer will be the individuals testifying on behalf of the  
28 board. The Senate BP&ED Committee has not indicated what time the hearing will be  
29 scheduled, but when an agenda has been established the Committee requested the Board  
30 mail the agenda to all individuals on the Board's mailing list. James Dagostino, PT, CPTA,  
31 stated representatives from the CPTA will be present at the board's sunset hearing on March  
32 19<sup>th</sup> and if asked to provide comment, will be in support of the board.

33  
34 Mr. Turner requested Ms. Marco elaborate on the Board establishing a zero-based budget.  
35 Ms. Marco shared at the January monthly teleconference of the DCA Director and Board  
36 Presidents, it was announced the Governor has requested the Department of Finance develop  
37 a plan for zero-based budgeting of select departments statewide. Ms. Marco believes this may  
38 be the opportunity the Board needs to address its budget issues.

39  
40 Ms. Marco informed the Board the newsletter scheduled to be released the middle of February  
41 will be delayed due to limited resources.

## 42 43 44 **9. Consumer and Professional Associations and Intergovernmental Relations** 45 **Report**

### 46 47 **(A) California Physical Therapy Association (CPTA)** 48

49 Dr. Dagostino, CPTA, indicated the CPTA had no comments at this time; however, will  
50 comment on agenda item #11.

1  
2 **(B) Federation of State Boards of Physical Therapy (FSBPT)**  
3

4 **i. 2012 National Physical Therapy Examination Policies**  
5

6 Dr. Alviso asked for comment on FSBPT's 2012 NPTE Policies. Dr. Jewell brought to the  
7 Board's attention changes made to *Approval for Candidates to Sit for the NPTE*. A provision  
8 has been added permitting candidates to sit for an exam no more than 90 days prior to  
9 graduation which differs from State policy that the candidate must complete all educational  
10 requirements and have graduated prior to sitting for the exam. Dr. Jewell speculated this  
11 language was added to alleviate the issues with fixed-date testing.  
12

13 Ms. Barker informed the Board it does not currently have statute or regulation which speaks to  
14 when an applicant may sit for the NPTE.. Ms. Barker informed the Board it currently has one  
15 application process for both sitting for the exam and to obtain licensure. The Board having one  
16 application process was not of concern prior to these new policies because under old policy,  
17 the FSBPT would not allow a candidate to sit for the NPTE prior to graduation. Ms. Barker  
18 advised the Board now that the FSBPT has updated its policies to allow candidates to sit for  
19 the exam prior to graduation, the Board may wish to establish two separate application  
20 processes, one to sit for the NPTE and one to obtain licensure.  
21

22 Dr. Alviso shared she has completed her service on both the Finance Committee and the  
23 Continuing Competency Committee, so she had nothing to report. Dr. Jewell noted due to the  
24 State travel restriction, no Board representative attended the FSBPT Annual Conference and  
25 the Exam Security Committee has not met, so she had nothing to report.  
26

27 **10. FSBPT Draft Model for Supervised Clinical Practice – Dr. Sara Takii**  
28

29 Dr. Takii reviewed the Draft Model for Supervised Clinical Practice (SCP) and provided  
30 recommendations to the Board. Dr. Takii recommended amending the prerequisite  
31 requirements in the FSBPT's draft model to require the applicant's education be equivalent to  
32 the education of physical therapists' education in a U.S. accredited entry-level program.  
33

34 Dr. Takii also recommended, under *Timing of the NPTE*, the Supervised Clinical Practice  
35 (SCP) take place after the applicant sits for the exam and not before as the FSBPT has  
36 proposed in this draft. California has and currently requires foreign educated applicants to pass  
37 the NPTE prior to completing the SCP. Dr. Takii made this recommendation for the following  
38 reasons: 1) States should feel confident the foreign educated applicant has the required  
39 academic knowledge before allowing the applicant to treat patients; and, 2) statistically, a very  
40 high number of foreign educated applicants fail the exam; therefore, applicants who may not  
41 possess the required academic knowledge to practice physical therapy would be treating  
42 patients, thus creating a consumer protection issue.  
43

44 Dr. Takii presented additional concerns regarding the Draft Model for SCP: 1) current  
45 regulation requires Clinical Instructors to utilize an older APTA form, 2) the ability for the  
46 applicant to get three months of SCP waived by successfully completing a course in Laws and  
47 Professional Ethics, and 3) SCP may be waived completely if the applicant has been licensed  
48 and practicing in another state. Dr. Takii provided examples of how physical therapy is defined  
49 in other countries and how different it may be from the U.S., which is a reason why Dr. Takii

1 believes it is crucial the foreign educated applicants demonstrate their knowledge prior to the  
2 SCP. Lastly, Dr. Takii recommended the Board consider adopting the FSBPT's definition of  
3 onsite supervision because it clearly states the required level of supervision.  
4

5 Dr. Dagostino, CPTA, provided the CPTA would support the Board in recommending to the  
6 FSBPT a foreign educated applicant must pass the NPTE prior to the SCP due to the limited  
7 number of SCP sites and the statistically high fail rate of foreign educated applicants.  
8

9 Dr. Alviso asked for comment on the Draft Model for Supervised Clinical Service and/or Dr.  
10 Takii's recommendations. Ms. Barker noted as statute is currently written, the Board's only  
11 option, if an applicant is unsuccessful at completing the SCP, is to deny the application for a  
12 second SCP with opportunity for due process.  
13

14 **MOTION: To provide comment to the FSBPT on the Draft Model for Supervised**  
15 **Clinical Practice regarding the education being equivalent to the U.S.**  
16 **accredited entry-level program and the Supervised Clinical Practice should**  
17 **be completed after the applicant passes the NPTE.**  
18

19 **MOVED: Dr. Takii**  
20

21 **SECOND: Mr. Turner**  
22

23 **VOTE: 6-0 Motion carried**

24 **11. Legislation Report – Sarah Conley**  
25

26 **(A) Implementation of Chaptered 2011 Legislation**  
27 **(B) 2011-2012 Bills**  
28

29 Ms. Conley reported on implementation of legislation chaptered in 2011 and 2011-2012 bills  
30 and noted an error in her briefing paper explaining SB 924 would amend B&P Code section  
31 2620 and add section 2620.1, not 2660 and 2660.1. Ms. Conley shared SB 934 is sponsored  
32 by the CPTA. Dr. Dagostino, CPTA, reported SB 924 pertaining to direct access to physical  
33 therapy services and the addition of physical therapy corporations to the Moscone-Knox  
34 Professional Corporations Act passed out of the Senate with a unanimous vote and will be  
35 heard next by the Assembly Committee on Business, Professions and Consumer Protection.  
36

37 **(C) Proposed Physical Therapy Practice Act**  
38

39 Ms. Marco provided a brief history of the proposed Physical Therapy Practice Act (Act). The  
40 last time the Board reviewed the proposed Act was in February 2011 and since that time staff  
41 identified numerous items for consideration. One of the major changes proposed to the Board  
42 was to remove all specific licensure and renewal requirements and qualifications from statute  
43 and adopt them into regulation. The Board reviewed the proposed Act page by page and  
44 made the following determinations:  
45

- 46 • Not more than one member of the Board may be involved in physical therapy  
47 education.

- 1 • A public member who is involved in education, with the exception of physical therapy  
2 education, may serve on the Board in addition to the one professional member  
3 involved in physical therapy education. There is no limitation as to the number of  
4 public members involved in education who may serve on the board.
- 5 • To serve on the Board as a professional member, a licensee must hold a valid  
6 license.
- 7 • The language to create a program of consumer and professional education in matters  
8 relating to the practice of physical therapy, was amended to read, “[...] *the regulation*  
9 *of physical therapy.*”
- 10 • Move all application for initial licensure and application for licensure renewal  
11 requirements to regulation.
- 12 • Amend §2612 stating simply the Board shall comply with the Bagley-Keene Open  
13 Meeting Act.
- 14 • The first sentence of 2620 stating what physical therapy means shall remain, and, as  
15 proposed, strike the remaining language and add language redefining physical  
16 therapy.
- 17 • Strike the definitions of “clinical instructor,” non-patient-related task” and “patient-  
18 related task” and move to regulation.
- 19 • Staff needs to rework 2620.7 stating a physical therapist shall document all care  
20 provided to a patient in the patient record, and replace the requirement for physical  
21 therapists to be responsible for maintaining patient records with general language  
22 stating how long patient records shall be maintained.
- 23 • Strike “direct and immediate” throughout the Act and leave as just “supervision.”
- 24 • Add “entry-level” to further define the educational program in 2630.5 which pertains to  
25 persons exempt from licensure.
- 26 • Add “unrestricted” before “license” under 2630.5 for out-of-state licensees practicing  
27 in California for specific reasons during a limited period of time.
- 28 • Eliminate language referring to a bridge program or transitional program under  
29 2630.5 (a).
- 30 • Eliminate “suffix” from 2633 because “affix” means either prefix or suffix.
- 31 • Ensure the authority for individuals to apply for physical therapy assistant licensure  
32 through equivalency remains.
- 33 • Strike “national” from 2636 so the physical therapy examination is not specific to the  
34 exam administered by the FSBPT.
- 35 • Maintain all educational requirements, as introduced in the original version of the  
36 Proposed Practice Act, be approved by CAPTE, or otherwise by the Board.
- 37 • In the Article referring to Diversion, change “diversion” to “rehabilitation.”  
38

39 The Board considered potential conflicts with the scope of practice as defined in the proposed  
40 Act and the proposed language in SB 924. SB 924 would add a new section, 2620.1, to the  
41 Act, and does not change any of the current scope of practice language, so there is no conflict.  
42

43 **MOTION:** To authorize staff to move forward with these changes and any other  
44 changes authorized by the Board to be made by staff in concurrence with  
45 the discussions of today.  
46

47 **MOVED:** Dr. Jewell

48  
49 **SECOND:** Dr. Takii

1  
2 **VOTE: 6-0 Motion carried**

3  
4 **12. Update on Practice of Physical Therapy in Corporate Settings – *Rebecca Marco***

5  
6 **(A) Chapter 548, Statutes of 2011 (SB 543)**

7  
8 Ms. Barker provided a brief background of the issue relating to the practice of physical therapy  
9 in corporate settings. The Board made a motion at the August 2011 meeting, to comply with a  
10 request by the DCA Acting Director to refrain from concluding enforcement cases opened  
11 against licensees for being employed by a medical corporation. This motion restricted staff's  
12 ability to act on complaints Ms. Barker presented two draft motions for Board consideration,  
13 one rescinding the August 2011 motion in its entirety and the second to rescind only the  
14 direction to staff to refrain from taking action, but keeping that the Board will continue to add to  
15 its agenda, "Updates on the Practice of Physical Therapy in a Corporate Setting" until the  
16 Board determines the issue has been resolved.

17  
18 Dr. Jewell expressed concern regarding rescinding a motion appropriate at that time,  
19 especially considering B&P Code §2674 sunsets January 1, 2013, and SB 924 may fail to  
20 pass. Dr. Alviso explained the intent is not to close all the cases, but that the Board  
21 inadvertently made a motion preventing staff from acting , whatever it may be.

22  
23 **MOTION: In light of the passage of Business and Professions Code section 2674, I**  
24 **move that the previously passed motion of August 4, 2011, directing the**  
25 **Board's staff to refrain from taking action to conclude investigations of**  
26 **complaints received alleging violations of the Moscone-Knox Professional**  
27 **Corporations Act be rescinded with the exception that staff continue to**  
28 **include, as a part of all future agenda, until such time as the Board**  
29 **determines the issues have been resolved, "Updates on the Practice of**  
30 **Physical Therapy in a Corporate Setting."**

31  
32 **MOVED: Dr. Takii**

33  
34 **SECOND: Mr. Turner**

35  
36 **VOTE: Motion withdrawn, no vote taken**

37  
38 Dr. Chu requested the Board consider the consequence of this motion particularly at this time  
39 since the Board is up for sunset review and inquired as to the necessity of addressing this  
40 issue at this time. Dr. Alviso explained since the motion prevents staff from doing its job, it is  
41 necessary to address at this time.

42  
43 After further consideration of the issue, Dr. Jewell requested Dr. Takii withdraw the motion. Dr.  
44 Takii and Mr. Turner agreed to withdraw the motion.

45  
46 **MOTION: In light of the passage of Business and Professions Code section 2674, I**  
47 **move that the previously pass motion of August 4, 2012, directing the**  
48 **Board's staff to refrain from taking action to conclude investigations of**  
49 **complaints received alleging violations of the Moscone-Knox Professional**  
50 **Corporations Act be rescinded in its entirety.**

1  
2 **MOVED: Dr. Jewell**

3  
4 **SECOND: Dr. Takii**

5  
6 **VOTE: 4-0, 2 abstained**  
7 **Motion carried**

8  
9 **13. Rulemaking– Sarah Conley**

10  
11 **(A) 2012 Calendar**

12  
13 Ms. Conley presented the rulemaking schedule for 2012 and asked if the Board had any  
14 questions. Dr. Alviso requested clarification regarding the status of the regulatory package for  
15 1398.4, Delegation of Functions; 1399.23, Discipline and Reinstatement of License; and,  
16 1398.24, Unprofessional Conduct. Ms. Conley clarified regulatory packages expire one year  
17 after the publication date of the regulatory change notice. This package was set to expire  
18 before staff could complete the package; however, the DCA has indicated it will submit an  
19 extension request on behalf of the Board, so staff will not have to notice a new regulatory  
20 package.

21  
22 **(B) Draft Regulatory Language for Board Consideration and Possible Action**  
23 **for the Following Sections of Division 13.2 of Title 16 of the California Code**  
24 **of Regulations:**

25  
26 **i. Mandatory Fingerprinting, Section Number(s) to be Determined –**  
27 **Jason Kaiser**

28  
29 Mr. Kaiser presented proposed regulatory language which would require licensees to submit  
30 fingerprints via LiveScan, and require retroactive fingerprinting as a condition of renewal if the  
31 licensee had not previously submitted fingerprints via LiveScan. Dr. Alviso recommended staff  
32 add language to clearly notify licensees the LiveScan request form must indicate the results  
33 shall be submitted to the Physical Therapy Board of California. The Board amended the title of  
34 the Article to be determined, Fingerprinting and Disclosure Requirements for Renewal of  
35 License to read Fingerprinting and Disclosure Requirements for Licensure. Dr. Jewell inquired  
36 as to how a licensee will know if he or she needs to be re-fingerprinted as a condition of  
37 renewal. Mr. Kaiser explained staff will identify who those licensees are and notify them they  
38 will be required to re-submit their fingerprints via LiveScan as a condition of renewal.

39  
40 The Board discussed whether marijuana should be specifically identified as a controlled  
41 substance under Fingerprinting and Disclosure Requirements for Licensure (b), if medical  
42 marijuana would be exempt from this section and how “controlled substance” should be  
43 defined in this regulation. Ms. Barker explained the California Supreme Court issued an  
44 opinion stating Proposition 215 provides a criminal defense against medical marijuana;  
45 however, it does not shield the user from any other consequence he or she may be subject to,  
46 including administrative and civil action. Ms. Barker further noted under federal law medical  
47 marijuana does not exist. After the Board considered three possible definitions of controlled  
48 substance from 1) the California Business and Professions Code; 2) the California Health and  
49 Safety Code; and, 3) federal law, it determined, for reader accessibility and to be consistent  
50 with the level of Board law, state law, the definition of controlled substance as defined in the

1 California Health and Safety Code to be the best fit for the purposes of this regulation. The  
2 definition is as follows:

3  
4 “Controlled substance,” unless otherwise specified, means a drug, substance, or  
5 immediate precursor which is listed in any schedule in Section 11054, 11055, 11056,  
6 11057, or 11058 [of the Health and Safety Code].

7  
8 **MOTION: To adopt 11007 [of the Health and Safety Code] as the**  
9 **definition of controlled substance**

10  
11 **MOVED: Dr. Jewell**

12  
13 **SECOND: Dr. Takii**

14  
15 **VOTE: 6-0 Motion carried**

16  
17 Additionally, the Board directed staff to commence the rulemaking process for the 1398.14 and  
18 Article to be determined related to fingerprint and disclosure requirements.

19  
20 **MOTION: To adopt the proposed language as amended, authorize staff**  
21 **to commence the regulatory process, and to notice the**  
22 **amended language related to 1398.14 and Article to be**  
23 **determined related to fingerprint and disclosure requirements**  
24 **for hearing at the May 2012 Board meeting.**

25  
26 **MOVED: Mr. Turner**

27  
28 **SECOND: Ms. Wallisch**

29  
30 **VOTE: 6-0 Motion carried**

31  
32 **ii. Notice to Consumers, Section Number(s) to be Determined –**  
33 ***Rebecca Marco***

34  
35 Ms. Marco presented two “Notice to Consumers” samples from other boards for Board  
36 consideration. The Board directed staff to combine aspects of both samples and bring a  
37 sample of a notice and proposed regulatory language for Board consideration at the May 2012  
38 Board meeting. Dr. Chu inquired as to how licensees would obtain this notice. Ms. Marco  
39 responded the Board would post it on its Web site for licensees to print out.

40  
41 **iii. Delegation of Functions, Section 1398.4; Required Actions Against**  
42 **Registered Sex Offenders, Section 1399.23; and Unprofessional**  
43 **Conduct, Section 1399.24**

44  
45 Ms. Marco presented the modified text as amended pursuant to the Board’s direction at the  
46 November 2011 Board meeting. Ms. Ybarra explained the changes made to the language  
47 included: 1) striking the Executive Officer’s delegation authority for approval of settlement  
48 agreements for revocation or surrender of a license or interim license suspension and to hold  
49 administrative citation informal conferences and make decisions to affirm, modify or dismiss  
50 the citations under 1398.4; and, 2) added a provision from SB 1111 making it unprofessional

1 conduct for a licensee to enter into a confidential settlement agreement prohibiting a party from  
2 disclosing information regarding the settlement under 1399.24. Ms. Barker explained Business  
3 and Professions Code section 802 mandates licensees to report any settlement agreement  
4 relating to any kind of misconduct related to the licensee's practice, such as alleging harm or  
5 negligence. Therefore, Ms. Barker recommended adding subsection 1398.24(d)(5) making  
6 failure to report settlements, judgments or arbitration awards unprofessional conduct.  
7  
8

9 **MOTION:** To approve of the language as edited and to delegate to the  
10 **Executive Officer the authority to make any non-substantive**  
11 **changes to the revised text if necessary and approval to**  
12 **proceed with the regulatory process with the revised text as**  
13 **discussed and adopt the changes of at the expiration of the**  
14 **required 15-day comment period provided the Board has not**  
15 **received any adverse comments directly to the proposed**  
16 **revisions.**

17  
18 **MOVED:** Mr. Turner

19  
20 **SECOND:** Dr. Jewell

21  
22 **VOTE:** 6-0 Motion carried  
23  
24

25 **iv. Uniform Standards Related to Substance Abuse and Guidelines for**  
26 **Issuing Citations and Imposing Discipline, Section 1399.15 – *Elsa***  
27 ***Ybarra***  
28

29 Ms. Ybarra presented the modified text of the Uniform Standards Related to Substance Abuse  
30 and Guidelines for Issuing Citations and Imposing Discipline (Guidelines) regulatory package  
31 as amended by the Board at the November 2011 Board meeting where the rulemaking hearing  
32 took place. The Board reviewed the modified text and provided the following comments:  
33

34 Page 2  
35

36 Ms. Wallisch noted she needs to be added to the list of Board members. Staff noted the  
37 version date will be the date the regulation takes effect.  
38

39 Page 4, Lines 20-23  
40

41 *When an Initial Probationary License has been issued, a Statement of Issues, or an*  
42 *Accusation has been filed, these actions indicate that the nature of the alleged violation is*  
43 *severe enough to warrant disciplinary action if the allegations are proven.*  
44

45 Page 6  
46

47 Dr. Jewell inquired as to how subsection (b) and (c) relate. Ms. Barker explained this language  
48 is the actual regulatory language that will incorporate the Guidelines document by reference;  
49 moreover, subsection (c) is included in this language for ease of use by an Administrative Law  
50 Judge (ALJ). Ms. Marco questioned whether to amend the title of this section. Ms. Barker

1 responded the titles as they read in throughout the document recognize the Board's Guidelines  
2 has incorporated the Uniform Standards set by the committee which was established by  
3 Chapter 548, Statutes of 2008 (SB 1441). Staff will work on this section.

4  
5 Page 6, Lines 43-45

6  
7 *(d) Any offense committed or attempted in any other state or against the laws of the United*  
8 *States which, if committed or attempted in this state, would ~~have~~ be punishable as one or more*  
9 *of the offenses specified in this section.*

10  
11 Page 9, Lines 1-5

12  
13 Dr. Alviso questioned why a licensee testing positive for a banned substance is not listed as a  
14 major violation. Staff indicated this language is written to reflect the Uniform Standards, and  
15 consequences for licensees testing positive for a banned substance is a condensed version of  
16 Standard #8 while major and minor violations are in Standard # 10. In summary, organization  
17 of the Guidelines language is consistent with the organization of the Uniforms Standards  
18 language. Dr. Jewell requested staff address the sentence structure of the section.

19  
20 Page 9, Line 36

21  
22 Dr. Jewell inquired as to why the drug testing standards begin with exceptions and not  
23 standards. Ms. Barker informed the Board the language was taken from Uniform Standard #4  
24 which includes the testing frequency schedule that has not been included in the Board's  
25 language. Staff will add the drug testing schedule under Drug Testing Standards to this  
26 section as well as on page ten (10) for numbers one (1) and two (2).

27  
28 Page 10, Line 41-43

29  
30 *Thereafter, tests shall be ~~administrated~~ administered one (1) time per month if there have*  
31 *been no positive drug tests in the previous five (5) consecutive years of probation or diversion.*

32  
33 Page 11, Line 24

34  
35 *The ~~appropriate~~ Board ~~will~~ shall be[...].*

36  
37 Page 12, Line 3

38  
39 *[...] licentiate's ability to practice is impaired due to mental illness, or physical illness, affecting*  
40 *[...].*

41  
42 Page 12, Line 14

43  
44 *[...] profession safely is impaired because the licentiate is mentally ill, or physically ill, affecting*  
45 *[...].*

46  
47 Page 15, Line 31

48  
49 The Board changed "Health Support Group Meetings", which is specific to the Maximus  
50 Diversion Program to "support group meetings," so as not to refer to a specific program. The

1 Board also directed staff review the section and apply this change where necessary.

2  
3 Page 39, Line 27

4  
5 The Board requested staff confirm Business and Professions Code section 2626.5 is titled  
6 accurately.

7  
8 Page 58, Line 26

9  
10 The Respondent's is ordered to reimburse [...]

11  
12 Page 58, Lines 36-38

13  
14 Ms. Barker explained bankruptcy is federally regulated and under federal law cost recovery  
15 would be interpreted as remuneration back to the board. The Board would be considered the  
16 creditor and the licensee would be considered the debtor; therefore, cost recovery is  
17 considered dischargeable. However, any fine the Board may issue is considered police action  
18 which is not dischargeable under bankruptcy laws. Ms. Barker recommended the Board strike  
19 the sentence pertaining to the filing of bankruptcy shall not relieve a Respondent of his or her  
20 responsibility to reimburse the board. The Board concurred with Ms. Barker's  
21 recommendation.

22  
23 Page 61, Lines 37-38

24  
25 The Board directed staff to leave the language as presented that if a probationer is complying  
26 with all other terms, probation shall not be tolled. Ms. Marco requested direction from the  
27 Board as to whether a respondent's probation shall be tolled while the respondent attends  
28 school. The Board indicated its intent is probation shall be tolled while a respondent on  
29 probation attends school. Ms. Barker requested clarification whether the Board wishes to toll a  
30 probationer going to school if he or she meets the minimum number of practice hours. The  
31 Board responded, if the probationer is going to school and meeting the minimum practice  
32 hours, probation shall not be tolled.

33  
34 Page 70, Line 40

35  
36 *[...] supervisory [...].*

37  
38 Page 71, Line 6

39  
40 *[...] supervisory [...].*

41  
42 Page 75, Line 38

43  
44 *[...] Respondent for dangerous drugs, and controlled substances.*

45  
46 Page 76, Line 40

47  
48 The Board directed staff to eliminate all references to "out-of-range" use "positive result"  
49 instead.

1 Page 78

2  
3 Mr. Turner noted since the Board is changing “diversion” program to “rehabilitation” program in  
4 the proposed Physical Therapy Practice Act, “rehabilitation” should be defined in the Glossary  
5 of Terms.

6  
7 Page 79

8  
9 Dr. Alviso requested clarification as to the difference between a Public Repeal and a Public  
10 Letter of Reprimand. Ms. Barker suggested staff redefine Public Repeal addressing how it  
11 differs from a Public Letter of Reprimand. The Board concurred with Ms. Barker’s suggestion.

12  
13 Ms. Wallisch requested staff verify all the referenced code sections throughout the document.

14  
15 Ms. Marco informed the Board regulations may be implemented during the time between this  
16 Board meeting and the next, and some statutory provisions need to be added as well;  
17 therefore, Ms. Marco requested the Board authorize staff to make these changes as  
18 necessary. The Board directed staff to make the changes identified at this meeting as well as  
19 any other necessary changes and present the amended language for Board review at the May  
20 2012 Board meeting.

21  
22 Dr. Alviso noted public comment had been received on the Uniform Standards Related to  
23 Substance Abuse and Guidelines for Issuing Citations and Imposing Discipline regulatory  
24 package. Staff is currently preparing a response to the commenter.

25  
26 **v. Comments Received on Modified Text to Sponsored Free Health Care**  
27 **Events from Chapter 270, Statutes of 2010 (AB 2699), Sections 1400-**  
28 **1400.3 – Jason Kaiser**

29  
30 Mr. Kaiser presented the modified text of the Sponsored Free Health Care Events regulatory  
31 package as amended by the Board at the November 2011 Board meeting where the  
32 rulemaking hearing took place. The Board reviewed the modified text and made a few non-  
33 substantive edits to the language.

34  
35 **MOTION: To move forward with the rulemaking process with the edits made**  
36 **today and delegate to the Executive Officer to make non-substantive**  
37 **changes as needed to proceed with the rulemaking process.**

38  
39 **MOVED: Dr. Alviso**

40  
41 **SECOND: Dr. Jewell**

42  
43 **VOTE: 6-0 Motion carried**

44  
45 **14. Continuing Competency – Jason Kaiser**

46  
47 **(A) Audits Year in Review**

48  
49 Mr. Kaiser presented a history of the Continuing Competency program addressing the number  
50 of audits completed thus far, the renewal month staff is currently processing, and various

1 factors affecting audit processing, including changes in staffing resources and audit sample  
2 size. Mr. Kaiser noted though staffing of the Continuing Competency program has increased  
3 from ¼ of a position to 2 ½ positions, there are other aspects of the program staff is  
4 addressing such as troubleshooting, working to streamline the program, updating the FAQs  
5 and starting the audit process for recognized approval agencies, which all take away from  
6 audit processing. Ms. Marco noted recently staffing of the Continuing Competency program  
7 has been reduced to two positions.

8  
9 Dr. Chu requested staff research self-reporting of continuing competency. Self-reporting would  
10 allow licensees to maintain an electronic record of all continuing competency hours completed  
11 during their renewal cycle. Mr. Kaiser explained implementation of such a concept is being  
12 considered because it would benefit both licensees and staff and increase audit efficiency. Dr.  
13 Alviso explained the FSBPT has a continuing competency self-reporting program which allows  
14 licensees to authorize the Board to access their continuing competency information; however,  
15 the program is not commonly used on the West Coast. Dr. Alviso suggested notifying  
16 licensees of this service. Dr. Jewell noted many of the programs available to track licensees'  
17 continuing competency hours are provided by professional associations and until the Board  
18 has database to support such a program, it may not be the best use of resources to pursue  
19 this concept until BreEZE is implemented.

## 20 21 **(B) Review of Current Frequently Asked Questions**

22  
23 Mr. Kaiser presented updated continuing competency frequently asked questions (FAQs) Dr.  
24 Jewell expressed concern the responses to the FAQs may be overly complicated and  
25 suggested simplifying the responses.

26  
27 Dr. Jewell recommended adding a "Cancelled License" category to the chart which lists how  
28 many continuing competency hours a licensee is required to complete, and to not combine  
29 multiple questions as one.

30  
31 Ms. Barker expressed concern with the response provided for question number seven  
32 pertaining to the Basic Life Support (BLS) course requirement. The licensee must complete a  
33 four hour BLS course to comply with the continuing competency requirements. The purpose of  
34 regulations to is clarify statute; therefore, the regulation has little room to be interpreted in any  
35 other way than as written. Ms. Barker advised the board if the intent is for a BLS course of any  
36 length, including that which may fewer than four hours, to meet the BLS course requirement  
37 set forth by the board, the Board needs to adopt this into regulation because, at this time, that  
38 is not clear. Ms. Marco asked Ms. Barker for an alternative since the regulatory process is  
39 quite lengthy. Ms. Barker explained she will review the continuing competency regulatory  
40 package for the BLS course requirement intent.

41  
42 Ms. Wallisch questioned whether there is a similar issue with the hours for alternate pathways.  
43 Ms. Barker explained since the Board adopted the specific hours granted for those activities in  
44 regulation, there is no issue because the Board quantified the course and the licensees are  
45 aware of what hours will be granted up to the maximum as provided in the regulation.

46  
47 Mr. Kaiser questioned whether the board's intent was to limit the number of hours from a  
48 specific area of continuing competency, or permit the licensee to apply the "extra" hours  
49 obtained in one area to the overall number of continuing competency hours required. Dr.  
50 Alviso indicated it was the board's intent to allow the licensee to apply "extra" hours towards

1 the total continuing competency hours required.

2  
3 Mr. Turner recommended staff included an FAQ regarding how a licensee may apply extra  
4 hours.

5  
6 **(C) Report on Identified Program Components in Need of Review**  
7

8 Ms. Kaiser presented a briefing paper identifying obstacles within the Continuing Competency  
9 program, which included an action request to consider seeking funding for additional staff and  
10 impose a fee on the recognized approval agencies. The Board discussed the possibility of  
11 reducing licensing renewal fees and imposing a fee to recognized approval agencies. Ms.  
12 Barker informed the Board staff's proposal to redirect fees to the appropriate program, would  
13 be in line with Proposition 26 which indicates a fee is a tax unless it is directly related to the  
14 services being provided. Ms. Barker explained this could potentially be a Constitutional issue.  
15 Staff has identified a burden has been placed on the licentiate that does not appear to belong  
16 on the licentiate; however, is redirecting fees still creates an apparent revenue increase. The  
17 current Administration will not approve a revenue increase.  
18

19 Dr. Alviso indicated the Board at this time is not in a position to take any action on issues  
20 related to redirecting or imposing fees, or requesting funding.  
21

22 Dr. Alviso noted she anticipated an analysis of the Continuing Competency program  
23 addressing the effectiveness of the regulations, common concerns from licensees, coursework  
24 recommendations and a more detailed look at why licensees fail audits. Ms. Marco explained  
25 since the Board has a two-year renewal cycle, staff will not have a comprehensive picture of  
26 the program until after October 31, 2012 when the current two-year renewal cycle is complete.  
27

28 **(D) Framework for Approval Agency Audits**  
29

30 Mr. Kaiser presented a flowchart representing the audit process for recognized approval  
31 agencies. Mr. Kaiser informed the Board staff has sent out a Record Compliance Template  
32 (RCT) to all recognized approval agencies. The purpose of the RCT is to create a course  
33 catalog database with the information collected. It is anticipated the RCT will be sent to the  
34 recognized approval agencies quarterly.  
35

36 **15. Public Comment on Items Not on the Agenda**  
37

38 There were no comments from the public.  
39

40 **16. Agenda Items for Next Meeting –** May 9 & 10, 2012  
41 Loma Linda, CA  
42

43 Dr. Jewell will provide staff with a list of items she collected throughout the meeting.  
44

45 **17. Adjournment**  
46

47 The meeting adjourned at 4:12 p.m. on Thursday, February 9, 2012.  
48

## Agenda Item 3(A)

## APPLICATION AND LICENSING SERVICES STATISTICS FY 2011/12

AGENDA ITEM # 3A

### Application Statistics

APPLICATIONS RECEIVED													
Application Type	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	FY Total
PT	81	88	125	90	37	125	69	50	44				709
FOREIGN PT	24	39	29	23	22	22	30	20	17				226
FOREIGN PTA	9	17	11	3	0	2	8	4	8				62
AT	17	16	9	34	11	14	13	16	41				171
EQUIV AT	0	1	0	0	1	0	0	2	1				5
EK							0	0	0				0
EN							0	0	0				0
<b>Total</b>	<b>131</b>	<b>161</b>	<b>174</b>	<b>150</b>	<b>71</b>	<b>163</b>	<b>120</b>	<b>92</b>	<b>111</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1,173</b>

### Licensing Statistics

LICENSES ISSUED													
License Type	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	FY Total
PT	120	52	133	76	142	136	107	115	52				933
AT	45	59	26	27	12	26	31	20	14				260
EK	0	0	0	0	2	0	0	0	0				2
EN	0	0	0	0	0	0	0	0	0				0
<b>Total</b>	<b>165</b>	<b>111</b>	<b>159</b>	<b>103</b>	<b>156</b>	<b>162</b>	<b>138</b>	<b>135</b>	<b>66</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1,195</b>

The License Issued statistics will not match the Applications Received statistics due to the length of time an application may remain on file. The length of time an applicant may take to complete the application process may vary depending on how he or she applied.

## APPLICATION AND LICENSING SERVICES STATISTICS FY 2011/12

### License Renewal Statistics

LICENSES RENEWED													
License Type	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	FY Total
PT	809	1,504	1,867	863	841	745	898	832	925				9,284
AT	176	348	433	209	188	213	233	211	241				2,252
EK	1	1	3	3	0	0	1	1	0				10
EN	0	1	2	0	0	2	0	0	1				6
Total	986	1,854	2,305	1,075	1,029	960	1,132	1,044	1,167				11,552

### License Status Statistics

ACTIVE LICENSES												
License Type	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
PT	21,835	21,772	21,739	21,698	21,702	21,747	21,695	21,733	21,701			
AT	5,318	5,301	5,329	5,307	5,314	5,302	5,281	5,303	5,286			
EK	26	27	27	27	27	29	29	29	29			
EN	23	23	23	23	23	23	23	23	23			
Total	27,202	27,123	27,118	27,055	27,066	27,101	27,028	27,088	27,039	0	0	0

INACTIVE LICENSES												
License Type	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
PT	451	484	507	585	633	653	703	767	834			
AT	123	136	141	160	175	181	189	207	230			
Total	574	620	648	745	808	834	892	974	1,064	0	0	0

DELINQUENT LICENSES												
License Type	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
PT	2,798	2,925	2,948	3,014	3,007	3,029	3,129	3,063	3,100			
AT	803	855	860	869	870	877	903	882	888			
EK	7	6	6	6	6	6	6	5	5			
EN	5	5	5	5	5	4	4	4	4			
Total	3,611	3,791	3,819	3,894	3,888	3,916	4,042	3,954	3,997	0	0	0

Licensees in Delinquent status are eligible to renew their license and make it active/valid.

## APPLICATION AND LICENSING SERVICES STATISTICS FY 2011/12

### FEDERATION OF STATE BOARDS OF PHYSICAL THERAPY CALIFORNIA EXAMINATION STATISTICS

(These statistics are for applicants testing for licensure in California)

#### National Physical Therapist (PT) Examination - FIXED DATE TESTING

##### Accredited PT Program & Foreign Educated PT Combined Pass/Fail

	NO TEST AVAIL.	NO TEST AVAIL.	Sept 2011	Oct 2011	NO TEST AVAIL.	Dec 2011	Jan 2012	NO TEST AVAIL.	Mar 2012	NO TEST AVAIL.	NO TEST AVAIL.	NO TEST AVAIL.	Total FY 11/12
Pass			107	122		97	91		59				476
Fail			88	88		75	49		91				391
<b>Total</b>			<b>195</b>	<b>210</b>		<b>172</b>	<b>140</b>		<b>150</b>				<b>867</b>
Pass Rate			55%	58%		56%	65%		39%				55%

##### Accredited PT Program Pass/Fail

Pass			103	117		90	89		50				449
Fail			41	27		21	13		26				128
<b>Total</b>			<b>144</b>	<b>144</b>		<b>111</b>	<b>102</b>		<b>76</b>				<b>577</b>
Pass Rate			72%	81%		81%	87%		66%				78%

##### Foreign Educated PT Pass/Fail

Pass			4	5		7	2		9				27
Fail			47	61		54	36		65				263
<b>Total</b>			<b>51</b>	<b>66</b>		<b>61</b>	<b>38</b>		<b>74</b>				<b>290</b>
Pass Rate			8%	8%		11%	5%		12%				9%

## APPLICATION AND LICENSING SERVICES STATISTICS FY 2011/12

### FEDERATION OF STATE BOARDS OF PHYSICAL THERAPY CALIFORNIA EXAMINATION STATISTICS

(These statistics are for applicants testing for licensure in California)

#### National Physical Therapist Assistant (PTA) Examination - FIXED DATE TESTING

##### Accredited PTA Program, Foreign Educated PTA, & Equivalency Combined Pass/Fail

	July 2011	Aug 2011	Sept 2011	Oct 2011	Nov 2011	Dec 2011	Jan 2012	Feb 2012	NO TEST AVAIL.	Apr 2012	NO TEST AVAIL.	NO TEST AVAIL.	Total FY 11/12
Pass	42	36	19	9	19	26	13	17		TBA			181
Fail	13	19	15	9	9	20	7	22		TBA			114
<b>Total</b>	<b>55</b>	<b>55</b>	<b>34</b>	<b>18</b>	<b>28</b>	<b>46</b>	<b>20</b>	<b>39</b>		<b>TBA</b>			<b>295</b>
Pass Rate	76%	65%	56%	50%	68%	57%	65%	44%		TBA			61%

##### Accredited PTA Program Pass/Fail

Pass	37	29	8	5	12	20	12	9		TBA			132
Fail	6	9	7	2	2	6	2	8		TBA			42
<b>Total</b>	<b>43</b>	<b>38</b>	<b>15</b>	<b>7</b>	<b>14</b>	<b>26</b>	<b>14</b>	<b>17</b>		<b>TBA</b>			<b>174</b>
Pass Rate	86%	76%	53%	71%	86%	77%	86%	53%		TBA			76%

##### Foreign Educated PTA Pass/Fail

Pass	5	7	11	4	7	6	1	8		TBA			49
Fail	7	10	8	7	7	14	5	14		TBA			72
<b>Total</b>	<b>12</b>	<b>17</b>	<b>19</b>	<b>11</b>	<b>14</b>	<b>20</b>	<b>6</b>	<b>22</b>		<b>TBA</b>			<b>121</b>
Pass Rate	42%	41%	58%	36%	50%	30%	17%	36%		TBA			40%

##### Equivalency PTA Pass/Fail

Pass	0	0	0	0	0	0	0	0		TBA			0
Fail	0	0	0	0	0	0	0	0		TBA			0
<b>Total</b>	<b>0</b>		<b>TBA</b>			<b>0</b>							
Pass Rate	0%	0%	0%	0%	0%	0%	0%	0%		TBA			0%

## APPLICATION AND LICENSING SERVICES STATISTICS FY 2011/12

### California Jurisprudence (CALAW) Examination - Continuously Administered

(These statistics are for applicants testing for licensure in California)

#### Accredited & Foreign Educated Combined Pass/Fail

	July 2011	Aug 2011	Sept 2011	Oct 2011	Nov 2011	Dec 2011	Jan 2012	Feb 2012	Mar 2012	Apr 2012	May 2012	Jun 2012	Total FY 11/12
Pass	154	140	174	125	167	140	92	117	95	TBA			1204
Fail	7	5	1	3	2	3	4	5	9	TBA			39
<b>Total</b>	<b>161</b>	<b>145</b>	<b>175</b>	<b>128</b>	<b>169</b>	<b>143</b>	<b>96</b>	<b>122</b>	<b>104</b>	<b>TBA</b>	<b>0</b>	<b>0</b>	<b>1243</b>
Pass Rate	96%	97%	99%	98%	99%	98%	96%	96%	91%	TBA	0%	0%	97%

#### Accredited Pass/Fail

Pass	129	116	147	99	140	121	76	104	75	TBA			1007
Fail	6	3	0	1	1	2	1	3	5	TBA			22
<b>Total</b>	<b>135</b>	<b>119</b>	<b>147</b>	<b>100</b>	<b>141</b>	<b>123</b>	<b>77</b>	<b>107</b>	<b>80</b>	<b>TBA</b>	<b>0</b>	<b>0</b>	<b>1029</b>
Pass Rate	96%	97%	100%	99%	99%	98%	99%	97%	94%	TBA	0%	0%	98%

#### Foreign Educated Pass/Fail

Pass	25	24	27	26	27	19	16	13	20	TBA			197
Fail	1	2	1	2	1	1	3	2	4	TBA			17
<b>Total</b>	<b>26</b>	<b>26</b>	<b>28</b>	<b>28</b>	<b>28</b>	<b>20</b>	<b>19</b>	<b>15</b>	<b>24</b>	<b>TBA</b>	<b>0</b>	<b>0</b>	<b>214</b>
Pass Rate	96%	92%	96%	93%	96%	95%	84%	87%	83%	TBA	0%	0%	92%

## APPLICATION AND LICENSING SERVICES STATISTICS FY 2011/12

### FEDERATION OF STATE BOARDS OF PHYSICAL THERAPY NATIONAL EXAMINATION STATISTICS

#### National Physical Therapist (PT) Examination - FIXED DATE TESTING

##### Accredited PT Program & Foreign Educated PT Combined Pass/Fail

	NO TEST AVAIL.	NO TEST AVAIL.	Sept 2011	Oct 2011	NO TEST AVAIL.	Dec 2011	Jan 2012	NO TEST AVAIL.	Mar 2012	NO TEST AVAIL.	NO TEST AVAIL.	NO TEST AVAIL.	Total FY 11/12
Pass			1422	797		427	941	1	855				4443
Fail			966	966		816	724	1	1241				4714
<b>Total</b>			<b>2388</b>	<b>1763</b>		<b>1243</b>	<b>1665</b>	<b>2</b>	<b>2096</b>				<b>9157</b>
Pass Rate			60%	45%		34%	57%	50%	41%				49%

##### Accredited PT Program Pass/Fail

Pass			1285	655		301	753	1	631				3626
Fail			380	335		192	195	0	316				1418
<b>Total</b>			<b>1665</b>	<b>990</b>		<b>493</b>	<b>948</b>	<b>1</b>	<b>947</b>				<b>5044</b>
Pass Rate			77%	66%		61%	79%	100%	67%				72%

##### Foreign Educated PT Pass/Fail

Pass			137	142		126	188	0	224				817
Fail			586	630		624	529	1	925				3295
<b>Total</b>			<b>723</b>	<b>772</b>		<b>750</b>	<b>717</b>	<b>1</b>	<b>1149</b>				<b>4112</b>
Pass Rate			19%	18%		17%	26%	0%	19%				20%

## APPLICATION AND LICENSING SERVICES STATISTICS FY 2011/12

### FEDERATION OF STATE BOARDS OF PHYSICAL THERAPY NATIONAL EXAMINATION STATISTICS

#### National Physical Therapist Assistant (PTA) Examination - FIXED DATE TESTING

##### Accredited PTA Program, Foreign Educated PTA, & Equivalency Combined Pass/Fail

	July 2011	Aug 2011	Sept 2011	Oct 2011	Nov 2011	Dec 2011	Jan 2012	Feb 2012	NO TEST AVAIL.	Apr 2012	NO TEST AVAIL.	NO TEST AVAIL.	Total FY 11/12
Pass	975	695	538	549	373	412	358	583		TBA			4483
Fail	231	258	213	251	202	253	164	336		TBA			1908
<b>Total</b>	<b>1206</b>	<b>953</b>	<b>751</b>	<b>800</b>	<b>575</b>	<b>665</b>	<b>522</b>	<b>919</b>		<b>TBA</b>			<b>6391</b>
Pass Rate	81%	73%	72%	69%	65%	62%	69%	63%		TBA			70%

##### Accredited PTA Program Pass/Fail

Pass	942	666	515	516	339	365	315	489		TBA			4147
Fail	212	231	194	216	174	211	141	269		TBA			1648
<b>Total</b>	<b>1154</b>	<b>897</b>	<b>709</b>	<b>732</b>	<b>513</b>	<b>576</b>	<b>456</b>	<b>758</b>		<b>TBA</b>			<b>5795</b>
Pass Rate	82%	74%	73%	70%	66%	63%	69%	65%		TBA			72%

##### Foreign Educated PTA Pass/Fail

Pass	33	29	23	33	34	47	43	94		TBA			336
Fail	19	27	19	35	28	42	23	67		TBA			260
<b>Total</b>	<b>52</b>	<b>56</b>	<b>42</b>	<b>68</b>	<b>62</b>	<b>89</b>	<b>66</b>	<b>161</b>		<b>TBA</b>			<b>596</b>
Pass Rate	63%	52%	55%	49%	55%	53%	65%	58%		TBA			56%

##### Equivalency PTA Pass/Fail

Pass	0	0	0	0	0	0	0	0		TBA			0
Fail	0	0	0	0	0	0	0	0		TBA			0
<b>Total</b>	<b>0</b>		<b>TBA</b>			<b>0</b>							
Pass Rate	0%	0%	0%	0%	0%	0%	0%	0%		TBA			0%

## APPLICATION AND LICENSING SERVICES STATISTICS FY 2011/12

### LAW EXAM STATISTICS FY 2010/2011 - Continuously Administered

(These numbers compare the law exam statistics among the various states that require a state law exam)

#### Law Examination Pass/Fail

	July 2011	Aug 2011	Sept 2011	Oct 2011	Nov 2011	Dec 2011	Jan 2012	Feb 2012	Mar 2012	Apr 2012	May 2012	Jun 2012	Total FY 11/12
Pass	711	499	611	492	442	360	352	399	291	TBA			4157
Fail	59	54	62	86	50	46	49	44	65	TBA			515
<b>Total</b>	<b>770</b>	<b>553</b>	<b>673</b>	<b>578</b>	<b>492</b>	<b>406</b>	<b>401</b>	<b>443</b>	<b>356</b>	<b>TBA</b>	<b>0</b>	<b>0</b>	<b>4672</b>
Pass Rate	92%	90%	91%	85%	90%	89%	88%	90%	82%	TBA	0%	0%	89%

#### Accredited Pass/Fail

Pass	667	460	560	439	390	317	317	368	252	TBA			3770
Fail	52	52	53	68	39	35	41	40	41	TBA			421
<b>Total</b>	<b>719</b>	<b>512</b>	<b>613</b>	<b>507</b>	<b>429</b>	<b>352</b>	<b>358</b>	<b>408</b>	<b>293</b>	<b>TBA</b>	<b>0</b>	<b>0</b>	<b>4191</b>
Pass Rate	93%	90%	91%	87%	91%	90%	89%	90%	86%	TBA	0%	0%	90%

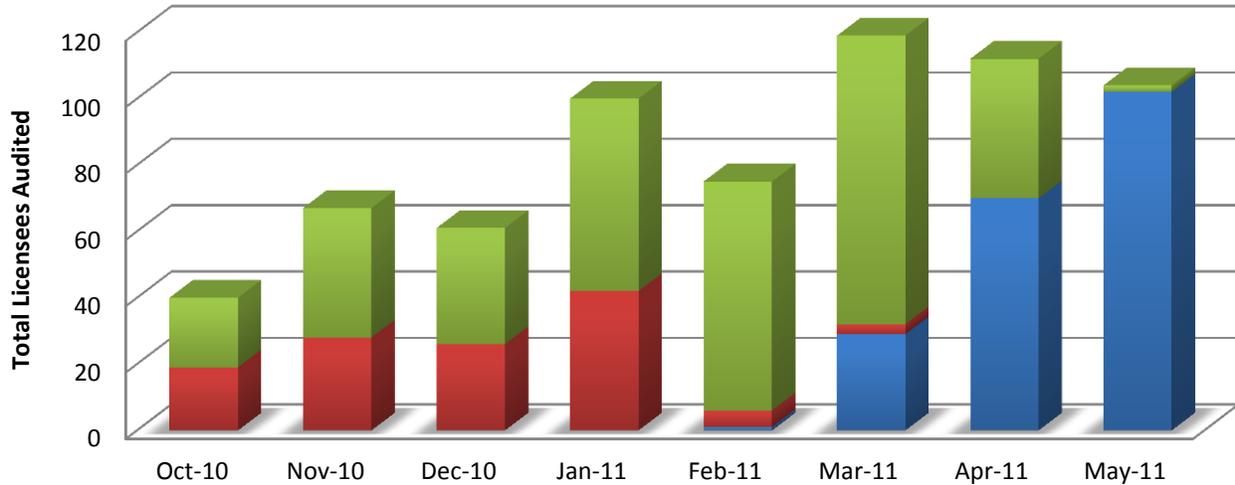
#### Foreign Educated Pass/Fail

Pass	44	39	51	53	52	43	35	31	39	TBA			387
Fail	7	2	9	18	11	11	8	4	24	TBA			94
<b>Total</b>	<b>51</b>	<b>41</b>	<b>60</b>	<b>71</b>	<b>63</b>	<b>54</b>	<b>43</b>	<b>35</b>	<b>63</b>	<b>TBA</b>			<b>481</b>
Pass Rate	86%	95%	85%	75%	83%	80%	81%	89%	62%	TBA	0%	0%	80%

## Agenda Item 3(B)

# CONTINUING COMPETENCY REPORT

**Continuing Competency Licensee Audits 2012**



	Oct-10	Nov-10	Dec-10	Jan-11	Feb-11	Mar-11	Apr-11	May-11
Pass	21	39	35	58	69	87	42	2
Fail	19	28	26	42	5	3	0	0
Pending	0	0	0	0	1	29	70	102

## CONTINUING COMPETENCY AUDITS

Below is a list of common violations of the continuing competency audit, sorted by most to least frequent:

1. The courses and/or activities were completed outside the renewal period.
2. The licensee was short on hours.
3. The licensee did not fulfill the prerequisites (Ethics/Life Support)
4. Continuing competency courses completed were not approved by a PTBC recognized approval agency or by a provider approved by a PTBC recognized approval agency.
5. Licensee did not respond to audit. After 2 notices of audit were mailed to the licensee no documents or response was received.
6. Proof of completion of continuing competency courses and/or activities were received after the 30 day period licensees are given to respond to the audit.
7. Licensee disclosed no continuing competency courses and/or activities were completed.

## Agenda Item 4(A)

## Performance Measures

### Q3 Report (January - March 2012)

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

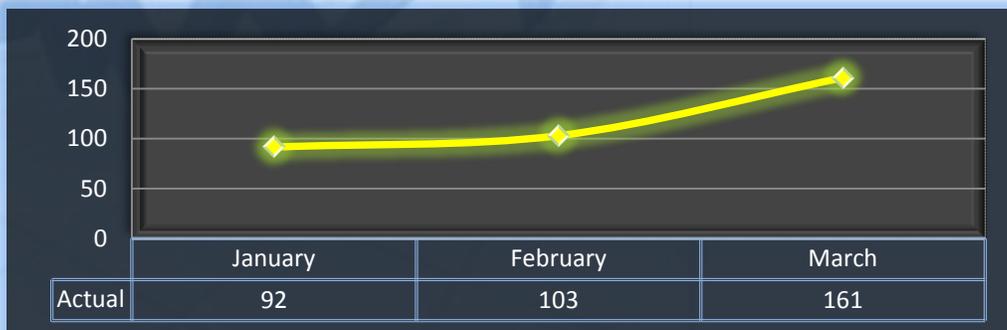
#### Volume

Number of complaints and convictions received.

**Q3 Total: 356**

*Complaints: 298 Convictions: 58*

**Q3 Monthly Average: 118**

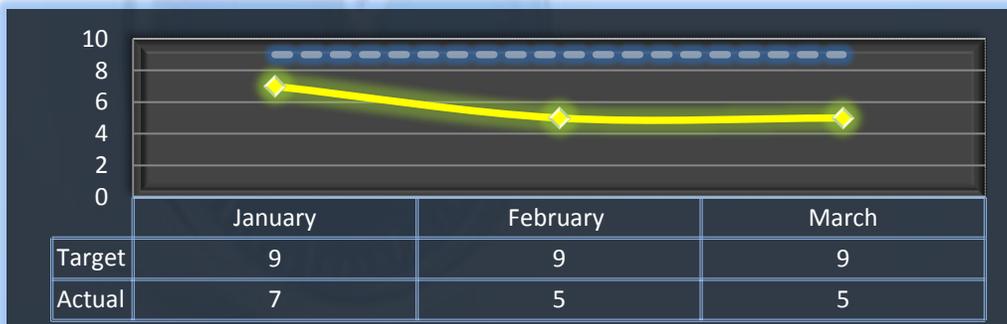


#### Intake

Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.

**Target: 9 Days**

**Q3 Average: 6 Days**



## Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.

**Target: 90 Days**

**Q3 Average: 36 Days**

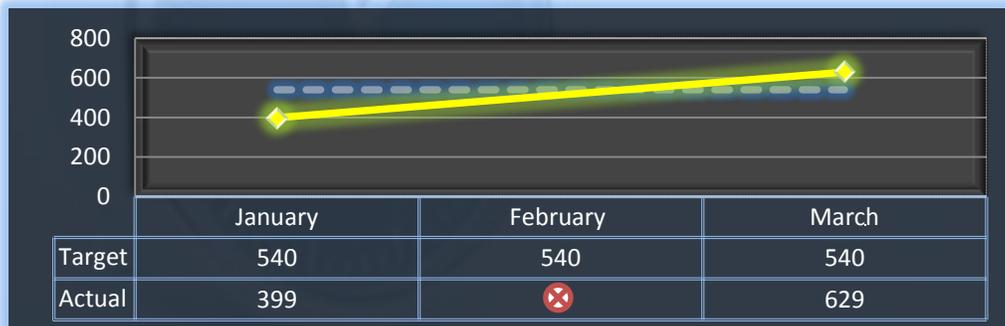


## Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board, and prosecution by the AG)

**Target: 540 Days**

**Q3 Average: 530 Days**

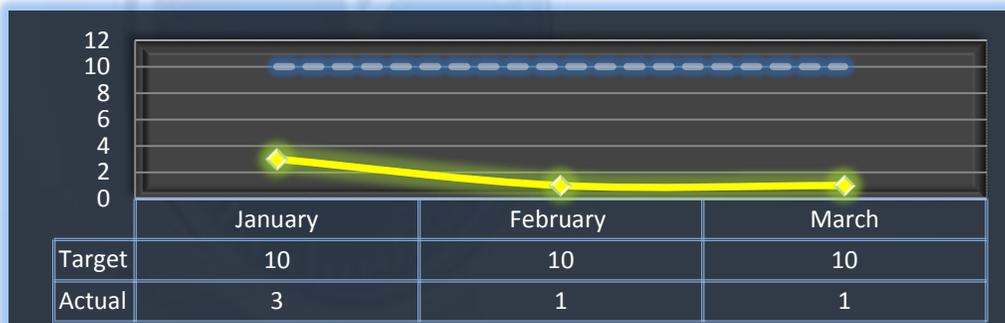


## Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

**Target: 10 Days**

**Q3 Average: 2 Days**



## **Probation Violation Response**

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

**Target: 7 Days**

**Q3 Average: N/A**

*The Board did not handle any probation violations this quarter .*

# CHART 1 - Monthly Enforcement Report to DCA 2011/2012

AGENDA ITEM # 4(A)

## Complaint Intake

Complaints Received by the Program.

Measured from date received to assignment for investigation or closure without action.

Complaints	Jul-11	Aug-11	Sep-11	Oct-11	Nov-11	Dec-11	Jan-12	Feb-12	Mar-12	Apr-12	May-12	Jun-12	YTD
Received	103	136	121	55	53	291	65	81	152				1057
Closed without Assignment for Investigation	1	4	0	0	1	3	1	0	0				10
Assigned for Investigation - <i>Note: Number of assigned cases may include cases from previous month; therefore totals will not add up.</i>	108	98	156	51	42	108	249	88	153				1053
Average Days to Close or Assigned for Investigation	7	5	6	6	7	6	8	5	5				6.1111
Pending	7	40	5	9	9	*199	13	6	5				

\* The high volume of "pending" cases in Complaint Intake is due to the majority of cases being opened between Dec 27 & 30, 2011. This did not allow time for the analysts to assign all of the cases to themselves prior to Dec 31, 2011. Therefore these cases remain in "intake" for the month of December; however, the cases were assigned first week in January 2012.

Convictions/Arrest Reports	Jul-11	Aug-11	Sep-11	Oct-11	Nov-11	Dec-11	Jan-12	Feb-12	Mar-12	Apr-12	May-12	Jun-12	YTD
Received	17	29	26	27	14	10	27	22	9				181
Closed / Assigned for Investigation	18	29	29	26	14	6	29	19	9				179
Average Days to Close	6	5	5	4	5	3	4	3	4				4.3333
Pending	3	3	0	1	1	4	2	5	5				

Total Intake	Jul-11	Aug-11	Sep-11	Oct-11	Nov-11	Dec-11	Jan-12	Feb-12	Mar-12	Apr-12	May-12	Jun-12	YTD
Received	120	165	147	82	67	301	92	103	161				1238
Closed w/o Inv. Assignment	2	4	1	0	2	3	1	0	0				13
Assigned for Investigation	125	127	184	77	55	114	278	107	162				1229
Avg. Days to Close or Assign	7	5	6	5	6	6	7	5	5				5.7778
Pending	10	43	5	10	20	*203	15	11	10				124

\* The high volume of "pending" cases in Total Intake is due to the majority of cases being opened between Dec 27 & 30, 2011. This did not allow time for the analysts to assign all of the cases to themselves prior to Dec 31, 2011. Therefore these cases remain in "intake" for the month of December; however, the cases were assigned first week in January 2012.

## Investigation

Complaints investigated by the program whether by desk investigation or by field investigation.

Measured by date the complaint is received to the date the complaint is closed or referred for enforcement action.

If a complaint is never referred for Field Investigation, it will be counted as 'Closed' under Desk Investigation.

If a complaint is referred for Field Investigation, it will be counted as 'Closed' under Non-Sworn or Sworn.

Desk Investigation	Jul-11	Aug-11	Sep-11	Oct-11	Nov-11	Dec-11	Jan-12	Feb-12	Mar-12	Apr-12	May-12	Jun-12	YTD
--------------------	--------	--------	--------	--------	--------	--------	--------	--------	--------	--------	--------	--------	-----

Initial Assignment for Desk Investigation	125	127	184	77	55	114	278	106	161				1227
Closed	89	126	114	103	126	85	257	149	126				1175
Average Days to Close	48	56	75	97	75	165	40	47	26				69.889
Pending	499	498	568	538	463	490	508	462	490				

Field Investigation (Non-Sworn)	Jul-11	Aug-11	Sep-11	Oct-11	Nov-11	Dec-11	Jan-12	Feb-12	Mar-12	Apr-12	May-12	Jun-12	YTD
Assignment for Non-Sworn Field Investigation	N/A												0
Closed													0
Average Days to Close													
Pending													

Field Investigation (Sworn)	Jul-11	Aug-11	Sep-11	Oct-11	Nov-11	Dec-11	Jan-12	Feb-12	Mar-12	Apr-12	May-12	Jun-12	YTD
Assignment for Sworn Field Investigation	4	4	4	5	5	5	3	4	7				41
Closed	10	3	4	5	2	4	5	0	4				37
Average Days to Close	273	257	420	268	702	385	682	0	317				367.11
Pending	45	46	45	45	51	50	49	54	57				

**FY 2011/2012**

All Investigations	Jul-11	Aug-11	Sep-11	Oct-11	Nov-11	Dec-11	Jan-12	Feb-12	Mar-12	Apr-12	May-12	Jun-12	YTD
First Assignments	125	127	184	77	55	114	278	107	162				1229
Closed	99	129	118	108	128	89	262	149	130				1212
Average Days to Close	71	60	86	105	85	175	52	47	35				79.556
Pending	544	544	613	583	514	540	557	516	547				

All Investigations Aging	Jul-11	Aug-11	Sep-11	Oct-11	Nov-11	Dec-11	Jan-12	Feb-12	Mar-12	Apr-12	May-12	Jun-12	YTD
Up to 90 Days	76	100	90	55	112	56	236	136	122				983
91 to 180 Days	15	23	17	34	9	11	13	8	4				134
181 Days to 1 Year	5	5	5	17	3	13	6	3	3				60
1 to 2 Years	2	1	4	2	2	6	5	2	0				24
2 to 3 Years	1	0	2	0	2	2	2	0	1				10
Over 3 Years	0	0	0	0	0	1	0	0	0				1

**Enforcement Actions**

This section DOES NOT include subsequent discipline on a license. Data from complaint records combined/consolidated into a single case will not appear in this section.

	Jul-11	Aug-11	Sep-11	Oct-11	Nov-11	Dec-11	Jan-12	Feb-12	Mar-12	Apr-12	May-12	Jun-12	YTD
AG Cases Initiated	7	5	5	11	6	7	7	8	1				57
AG Cases Pending	71	73	73	77	81	78	81	89	84				
SOIs Filed	0	2	1	0	0	0	0	1	0				4
Accusations Filed	1	3	5	3	5	8	7	4	2				38

<b>ACC Decisions/Stips</b>	<b>Jul-11</b>	<b>Aug-11</b>	<b>Sep-11</b>	<b>Oct-11</b>	<b>Nov-11</b>	<b>Dec-11</b>	<b>Jan-12</b>	<b>Feb-12</b>	<b>Mar-12</b>	<b>Apr-12</b>	<b>May-12</b>	<b>Jun-12</b>	<b>YTD</b>
Prop/Default Decisions	0	0	0	0	0	3	1	0	2				6
Stipulations	0	1	5	2	1	2	0	0	2				13
<b>SOI Disciplinary Orders</b>	<b>Jul-11</b>	<b>Aug-11</b>	<b>Sep-11</b>	<b>Oct-11</b>	<b>Nov-11</b>	<b>Jan-00</b>	<b>Jan-12</b>	<b>Feb-12</b>	<b>Mar-12</b>	<b>Apr-12</b>	<b>May-12</b>	<b>Jun-12</b>	<b>YTD</b>
SOI Final Orders (Dec/Stips)	0	0	0	1	0	0	0	0	0				1
Average Days to Complete	0	0	0	1141	0	0	0	0	0				126.78
<b>ACC Disciplinary Orders</b>	<b>Jul-11</b>	<b>Aug-11</b>	<b>Sep-11</b>	<b>Oct-11</b>	<b>Nov-11</b>	<b>Dec-11</b>	<b>Jan-12</b>	<b>Feb-12</b>	<b>Mar-12</b>	<b>Apr-12</b>	<b>May-12</b>	<b>Jun-12</b>	<b>YTD</b>
ACC Final Orders (Dec/Stips)	4	1	5	2	1	5	1	0	4				23
Average Days to Complete	667	1100	815	1795	1416	755	486	0	629				851.44
<b>Total Disciplinary Orders</b>	<b>Jul-11</b>	<b>Aug-11</b>	<b>Sep-11</b>	<b>Oct-11</b>	<b>Nov-11</b>	<b>Dec-11</b>	<b>Jan-12</b>	<b>Feb-12</b>	<b>Mar-12</b>	<b>Apr-12</b>	<b>May-12</b>	<b>Jun-12</b>	<b>YTD</b>
Total Final Orders (Dec/Stips)	4	1	5	3	1	5	1	0	4				24
Total Average Days to Complete	667	1100	815	1577	1416	755	486	0	629				827.22
<b>Total Orders Aging</b>	<b>Jul-11</b>	<b>Aug-11</b>	<b>Sep-11</b>	<b>Oct-11</b>	<b>Nov-11</b>	<b>Dec-11</b>	<b>Jan-12</b>	<b>Feb-12</b>	<b>Mar-12</b>	<b>Apr-12</b>	<b>May-12</b>	<b>Jun-12</b>	<b>YTD</b>
Up to 90 Days	0	0	0	0	0	0	0	0	0				0
91 to 180 Days	0	0	1	0	0	0	0	0	1				2
181 Days to 1 Year	0	0	0	0	0	0	0	0	0				0
1 to 2 Years	4	0	1	0	0	2	1	0	2				10
2 to 3 Years	0	0	2	0	0	3	0	0	0				5
Over 3 Years	0	1	1	3	1	0	0	0	1				7
<b>Disciplinary Orders</b>	<b>Jul-11</b>	<b>Aug-11</b>	<b>Sep-11</b>	<b>Oct-11</b>	<b>Nov-11</b>	<b>Dec-11</b>	<b>Jan-12</b>	<b>Feb-12</b>	<b>Mar-12</b>	<b>Apr-12</b>	<b>May-12</b>	<b>Jun-12</b>	<b>YTD</b>
Final Orders (Proposed Decisions, Default Decisions, Stipulations)	4	1	5	3	1	5	1	0	4				24
Average Days to Complete*	667	1100	815	1577	1416	755	486	0	629				827.22
<b>Citations</b>	<b>Jul-11</b>	<b>Aug-11</b>	<b>Sep-11</b>	<b>Oct-11</b>	<b>Nov-11</b>	<b>Dec-11</b>	<b>Jan-12</b>	<b>Feb-12</b>	<b>Mar-12</b>	<b>Apr-12</b>	<b>May-12</b>	<b>Jun-12</b>	<b>YTD</b>
Final Citations	27	42	31	65	75	43	90	90	20				483
Average Days to Complete*	79	71	118	113	74	123	59	54	90				86.778

Performance Measures	Jul-11	Aug-11	Sep-11	Oct-11	Nov-11	Dec-11	Jan-12	Feb-12	Mar-12	Apr-12	May-12	Jun-12	
PM1 Volume	103	136	121	55	53	291	65	81	152				
PM1 Conv/Arrest Rpts Volume	17	29	26	27	14	10	27	22	9				
PM2 Cycle Time - Intake	7	5	6	5	6	6	7	5	5				
PM3 Cycle Time-No Discipline	58	59	64	101	67	114	38	45	26				
PM 4 Cycle Time-Discipline	667	322	815	1220	743	618	399	0	629				

**PM1: VOLUME**

Number of Complaints Received within the specified time period.

**PM2: CYCLE TIME-INTAKE**

Average Number of Days to complete Complaint Intake during the specified time period.

**PM3: CYCLE TIME-NO DISCIPLINE (Target 90 Days)**

Average Number of Days to complete Complaint Intake and Investigation steps of the Enforcement process for Closed Complaints not resulting in Formal Discipline during the specified time period.

**PM4: CYCLE TIME-DISCIPLINE (Target 540 Days)**

Average Number of Days to complete the Enforcement process (Complaint Intake, Investigation, and Formal Discipline steps) for Cases Closed which had gone to the Formal Discipline step during the specified time period.

## Agenda Item 4(B)

The following is a list of disciplinary actions taken by the Physical Therapy Board of California, in **February, March, and April 2012**. The Decisions become operative on the Effective Date, with the exception of situations where the licensee has obtained a court ordered stay. Stay orders do not occur in stipulated decisions, which are negotiated settlements waiving court appeals.

Copies of Accusations, Decisions, or Citations may be obtained by visiting our website at [www.ptbc.ca.gov](http://www.ptbc.ca.gov). In addition to obtaining this information from our website, you may also request it by telephone, fax, or mail. Please address your request to:

Physical Therapy Board of California  
2005 Evergreen Street, Suite 1350  
Sacramento, CA 95815  
(916) 561-8200/ FAX (916) 263-2560

**Physical Therapy Board of California Disciplinary Summary**



**February 2012**

(NONE FOR THIS MONTH)

**March 2012**

**BASACKER, RICHARD (AT 1235)**

Accusation Filed 05/06/10. Amended Accusation Filed 11/30/10. Violation of B & P Codes: 480(a)(2) Dishonest-Fraud/Self Benefit, 480(a)(3) License Denial, 480(c) False Statement on License App, 2236 Conviction of Criminal Offense, 2660(b) Procuring Licensure by Fraud, 2660(d) Conviction of Criminal Offense, 2660(l) Commit Fraud, Dishonest Act, 2661 Conviction of a Crime. Decision Effective 05/04/11, Revocation, Stayed, 90 Day Suspension. Petition for Reconsideration Denied Effective 05/16/11. Accusation & Petition to Revoke Probation Filed 12/15/11. Default Decision and Order Effective 03/28/12, License Revoked.

**HARRISON, MITZI (PT 15363)**

Accusation Filed 05/06/10. Violation of B & P Codes: 2234 Unprofessional Conduct, 2239(a) Unlawful use or Prescribing, 2660(d) Conviction of Criminal Offense, 2660(k) Aiding/Abetting Unlicensed Activity. Stipulated Settlement and Disciplinary Order Effective 03/14/12, Revocation, Stayed, 5 Yrs. Prob.

**KLINGBEIL, JONATHAN M. (PT 5223)**

Accusation Filed 03/08/04. Violation of B & P Codes: 2660(d) Conviction of Crime Substantially Related to the Practice, 2239 Self Use of Drugs or Alcohol. Decision Effective Date 07/18/05: License Revoked, Stayed, 4 Yrs. Prob. Proposed Decision Effective 07/18/05, License Revoked, Stayed, 4 Yrs. Prob. Accusation & Petition to Revoke Probation Filed 08/30/11. Default Decision and Order Effective 03/18/12, License Revoked.

**MOERKE, JULIE T. (AT 6081)**

Accusation Filed 02/22/11. Violation of B & P Codes: 2239 Self-Use of Drugs or Alcohol, 2660(d) Conviction of Criminal Offense, 2660(h) Violating the Code. Stipulation for Revocation of License and Order Effective 03/14/12, License Revoked.

**PETERS, MICHAEL (PT 38871)**

Violation of B & P Codes: 480 Grounds for Denial of License, 2660(d) Conviction of Criminal Offense, 2661 Conviction of a Crime. Initial Probationary License Issued 03/20/12, Completion of the Board's drug and alcohol recovery monitoring program plus one year; or three years, whichever is longer.

55 April 2012

56  
57 **SUZUKI, MARGARET (PT 12009)**

58 Accusation Filed 01/18/12. Violation of B & P Codes: 498 Licensure by Fraud, 2660(h) Violating the Code.  
59 Violation of CCR: 1399.91 Continuing Comp Required, 1399.92 Content Standards-Cont Comp, 1399.93 Cont  
60 Comp Required & Limitations. Stipulated Settlement of License and Order Effective 04/22/12, License  
61 Surrendered.

62  
63 **TAYLOR, KENNETH (AT 2208)**

64 Accusation Filed 08/10/11. Violation of B & P Codes: 490 Conviction of a Crime, 810(a)(2) Preparation of a False  
65 Writing, 2260(k) Committed Dishonest Act, 2261 False Statements on Documents, 2660(d) Conviction of Criminal  
66 Offense, 2661 Conviction of a Crime, 1399.20 Criminal Substantial Relation. Stipulated Surrender of License and  
67 Order Effective 04/05/12, License Surrendered.

68  
69 **VUKIC, SINISA (PT 20614)**

70 Accusation Filed 12/08/11. Violation of B & P Code: 498 Licensure by Fraud, 2660(b) Procuring Licensure by  
71 Fraud, 2660(h) Violating the Code, 2660(k) Commit Fraud, Dishonest Act. Violation of CCR: 1399.91 Continuing  
72 Comp Required, Content Standards-Cont Comp, 1399.93 Cont Comp Required & Limitations. Stipulated  
73 Settlement and Disciplinary Order Effective 04/19/12, Public Reapproval w/90 Days Suspension.

74  
75 **YUEN, LAWRENCE (AT 9333)**

76 Violation of B & P Codes: 493 Conviction of Crime w/Conclusive Evidence, 2660(d) Conviction of Criminal  
77 Offense, 2661 Conviction of a Crime. Initial Probationary License Issued 09/15/10, 3 Yrs. Probation. Statement of  
78 Issues Filed 09/12/11. Proposed Stipulated Settlement and Disciplinary Order Effective 04/27/12, Revocation  
79 Stayed, 3 Yrs. Prob.

80  
81 **Administrative Citations and Fines Paid**



85 February 2012

86  
87 **CARRILLO, ARTURO (AT 9503)**

88 Violation of B & P Codes: 2239 Self-Use of Drugs or Alcohol, 2660(d) Conviction of Criminal Offense, 2660(h)  
89 Violating the Code. Citation and Fine Ordered 02/21/12. Citation Paid in Full 03/20/12.

90  
91 **LO, ANDREW (AT 8019)**

92 Violation of B & P Codes: 2239 Self-Use of Drugs or Alcohol, 2660(d) Convict of Criminal Offense, 2660(h)  
93 Violating the Code. Citation and Fine Ordered 01/18/12. Citation Paid in Full 02/09/12

94  
95 **LONGO, BRETT (PT 20230)**

96 Violation of B & P Codes: 650 Referring Patients/Kickback, 2660 Unprofessional Conducts. Citation and Fine  
97 Ordered 01/05/12. Citation Paid in Full 02/03/12.

98  
99 **NAGALLA, DEEPTI (PT 36696)**

100 Violation of B & P Codes: 2271 Misleading Advertising, 2630 Unlawful Physical Therapy, 2633 Misuse of Titles,  
101 2660(h) Violating the Code, 17500 Unlawful Advertising. Citation and Fine Ordered 01/17/12. Citation Paid in  
102 Full 02/08/12.

103  
104 **WUCHENICH-NELSON, VALERIE (PT 7347)**

105 Violation of CCR: 1398.6 Filing of Address, 1399.91 Continuing Comp Required, 1399.93 Cont Comp Requir &  
106 Limitations. Citation and Fine Ordered 01/16/12. Citation Paid in Full 02/01/12.

107  
108 Violation of CCR: 1398.6 Filing of Address  
109 Citations Paid in Full in February 2012

110 ABENIANTE, MARIA (PT 29168)  
111 ADACHI, CATHERINE (PT 10980)  
112 ADAME, MARCO (PT 33076)  
113 ALCANTARA, FELIX (PT 35201)  
114 ANAND, GAURI (AT 5800)  
115 ARCHER, KIM (PT 8040)  
116 BERRY, CAITLIN (PT 36188)  
117 BLACHER, NICOLE (PT 18069)  
118 BURROWS, KAREN (AT 1840)  
119 CABRAL, DAVID (AT 6035)  
120 CALVARIO, MARGERIE (PT 34441)  
121 CHARLTON, JESSICA (PT 33363)  
122 COARTNEY, NANCY (PT 15123)  
123 DAHDUL, ZIAD (PT 37147)  
124 DAVID, JAN MICHAEL (PT 32958)  
125 DEIS, ROBERT (PT 36356)  
126 DEL ROSARIO, ROWENA (PT 30176)  
127 DIGIOVANNA, VINCENT (PT 36806)  
128 ELLIOTT, COLLEEN (PT 32490)  
129 GAGAJENA, ROSEMARIE (PT 16734)  
130 GALICINAO, ERWIN (PT 35376)  
131 GALIONE, CHRISTINE (PT 27086)  
132 GARZARO, GERARDO (AT 5409)  
133 HAGEN, NICHOLAS (PT 36265)  
134 HARRIS, DUSTIN (AT 9327)  
135 HARTY, KAREY (PT 12547)  
136 HOWE, KARINA (PT 20147)  
137 LARSEN, RONALD (PT 6677)  
138 LE, PATRICK (PT 25344)  
139 LEONTAS, CHRISTOPHER (AT 5725)  
140 LOGUE, ELIZABETH (PT 21503)  
141 MCGILL, HEATHER (PT 36984)  
142 MITCHELL, DENA (PT 23071)  
143 MURAY, SHELLY 9PT 19410)  
144 NEWMAN, SUE (PT 32881)  
145 PERNAS GIZ-BATTLES, ELENA (PT 32691)  
146 QUINTO, JACINTO (AT 9122)  
147 REED, DANA (PT 24062)  
148 SALES, HAECKEL (PT 27280)  
149 SANDERS, PAULA (PT 32572)  
150 SAULOG, JANE (PT 27697)  
151 SAVAGE, STACEY (PT 23648)  
152 SCHMID, IRENE (PT 33131)  
153 SILVERBERG, MARCI (PT 29318)  
154 SKINNER, NICOLE (PT 18043)  
155 VIANA, FLAVIA (PT 36254)  
156 VILLAREAL, JASON (PT 32980)  
157 WOOD, SAMANTHA (PT 25780)

158

159 **March 2012**

160

161 **VEENSTRA, JAMIE (AT 8248)**

162 Violation of B & P Code: 2660 Unprofessional Conduct. Violation of CCR: 1398.6 Filing of Address. Citation and  
163 Fine Ordered 02/06/12. Citation Paid in Full 03/30/12.

164

165

166 **WILCOX, KATHERINE (AT 2328)**  
167 Violation of B & P Codes: 2660(d) Convict of Criminal Offense, 2660(k) Commit Fraud, Dishonest Act, 2661  
168 Conviction of a Crime. Citation and Fine Ordered 10/01/10. Citation Paid in Full 03/26/12.

169  
170 Violation of CCR: 1398.6 Filing of Address  
171 Citations Paid in Full March 2012

172  
173 BEACHEY, CHRIS (AT 5992)  
174 BENDO, LENNIE (PT 33867)  
175 BRAVO, DENISE (PT 29713)  
176 CRAFT, LEEANNE (PT 27556)  
177 DAHM, MARCIA (PT 26583)  
178 DYER, JOHN (PT 10198)  
179 KERNEVES, BENJAMIN (AT 9469)  
180 MARTIN, LISA (PT 22640)  
181 MUNSON , SANDRA (AT 1077)  
182 REED, BETH (PT 25197)  
183 SCOTT, ROSS (PT 2998)

184  
185 **April 2012**

186  
187 **BENSON, TRICIA (PT 30225)**  
188 Violation of CCR: 1399.91 Continuing Comp Required, 1399.93 Cont Comp Requir & Limitations. Citation and  
189 Fine Ordered 12/12/11. Citation Paid in Full 04/02/12.

190  
191 **MITRANI, MITCHELL (PT 24019)**  
192 Violation of CCR: 1399.93 Cont Comp Requir & Limitations. Citation and Fine Ordered 03/22/12. Citation Paid in  
193 Full 04/04/12.

194  
195 **SONI, DAZY (PT 34085)**  
196 Violation of B & P Code: 2660 Unprofessional Conduct. Violation of CCR: 1398.6 Filing of Address. Citation and  
197 Fine Ordered 02/10/12. Citation Paid in Full 04/04/12.

198  
199 **VILLARIASA, JENNIFER (AT 5747)**  
200 Violation of B & P Code: 2660 Unprofessional Conduct. Violation of CCR: 1398.6 Filing of Address. Citation and  
201 Fine Ordered 02/13/12. Citation Paid in Full 04/02/12.

202  
203 Violation of CCR: 1398.6 Filing of Address  
204 Citations Paid in Full April 2012

205  
206 ANNIS, BRITTANY (PT 37690)  
207 BLACHER, NICOLE (PT 18069)  
208 GADA, SHWETA (PT 37367)  
209 NIEVES, ANNE (AT 6830)  
210 RUSSO, MICHAEL (PT 34635)  
211 SONGER, RENEE (PT 27718)

212  
213 **Glossary of Terms**

214  
215 B & P Code – Business and Professions Code  
216 H & S Code – Health and Safety Code  
217 R & R – Rules and Regulations  
218 CCR – California Code Regulations

219 Accusations: Charges and allegations, which still must undergo rigorous tests of proof at later administrative  
220 hearings.

221 Citation & Fine: An alternative means to address relatively minor violations that are not discipline in order to  
222 protect the public. Citations and Fine Orders are not disciplinary actions, but are matters of public record.  
223  
224 Petition to Revoke Probation: A Petition to Revoke Probation is filed when a licensee is charged with violation of a  
225 prior disciplinary decision.  
226  
227 Probationary License: Where good cause exists to deny a license, the licensing agency has the option to issue a  
228 conditional license subject to probationary terms and conditions.  
229  
230 Statement of Issues Filed: When an applicant for licensure is informed the license will be denied for cause, the  
231 applicant has a right to demand a formal hearing, usually before an Administrative Law Judge. The process is  
232 initiated by the filing of a Statement of Issues, which is similar to an accusation.  
233  
234 Surrender of License: License surrenders are accepted in lieu of further proceedings.  
235  
236 Statement of Issues Decision: These are decisions rendered after the filing of a Statement of Issues.  
237  
238 Stipulated Decision: Negotiated settlements waiving court appeals.

## Agenda Item 5(A)

**Agenda Item #5(A)**

**Physical Therapy Board  
Proposed 2013 Meeting Calendar**

JANUARY							FEBRUARY							MARCH							APRIL											
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S					
																					1	2										
		1	2	3	4	5						1	2	3	4	5	6	7	8	9			1	2	3	4	5	6				
6	7	8	9	10	11	12	3	4	5	6	7	8	9	10	11	12	13	14	15	16	7	8	9	10	11	12	13					
13	14	15	16	17	18	19	10	11	12	13	14	15	16	17	18	19	20	21	22	23	14	15	16	17	18	19	20					
20	21	22	23	24	25	26	17	18	19	20	21	22	23	24	25	26	27	28	29	30	21	22	23	24	25	26	27					
27	28	29	30	31			24	25	26	27	28			31							28	29	30									

MAY							JUNE							JULY							AUGUST											
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S					
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			1	2	3	4	2	3	4	5	6	7	8		1	2	3	4	5	6					1	2	3					
5	6	7	8	9	10	11	9	10	11	12	13	14	15	7	8	9	10	11	12	13	4	5	6	7	8	9	10					
12	13	14	15	16	17	18	16	17	18	19	20	21	22	14	15	16	17	18	19	20	11	12	13	14	15	16	17					
19	20	21	22	23	24	25	23	24	25	26	27	28	29	21	22	23	24	25	26	27	18	19	20	21	22	23	24					
26	27	28	29	30	31		30							28	29	30	31				25	26	27	28	29	30	31					

SEPTEMBER							OCTOBER							NOVEMBER							DECEMBER							
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	
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8	9	10	11	12	13	14	6	7	8	9	10	11	12	3	4	5	6	7	8	9	8	9	10	11	12	13	14	
15	16	17	18	19	20	21	13	14	15	16	17	18	19	10	11	12	13	14	15	16	15	16	17	18	19	20	21	
22	23	24	25	26	27	28	20	21	22	23	24	25	26	17	18	19	20	21	22	23	22	23	24	25	26	27	28	
29	30						27	28	29	30	31			24	25	26	27	28	29	30	29	30	31					

January

1 New Year's Day  
21 Martin Luther King Jr. Day

February

13-14 PTBC Meeting  
18 President's Day

March

31 Easter

April

May

8-9 PTBC Meeting – UCLA  
12 Mother's Day  
27 Memorial Day

June

16 Father's Day

July

4 Independence Day

August

7-8 PTBC Meeting – Sacramento

September

2 Labor Day

October

November

6-7 PTBC Meeting -  
11 Veteran's Day  
28 Thanksgiving Day

December

25 Christmas

**Confirmed 2012 Meeting Dates and Locations**

July 31, August 1 & 2 - Strategic Planning and Board Meeting at DCA in Sacramento, CA  
October 25 & 26 - Board Meeting at Ohlone College in Newark, CA

# Agenda Item 7



Physical Therapy Board of California

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

# 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](http://www.ptbc.ca.gov)



## AGENDA ITEM # 7

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**DATE:** April 14, 2012

**TO:** Physical Therapy Board of California

**FROM:** Rebecca Marco  
Executive Officer

**SUBJECT:** EXECUTIVE OFFICER'S REPORT

### ADMINISTRATION

#### PERSONNEL -

Two employees have separated from the Board. Lisa Chullino appointed in November 2009 secured a permanent position with another Board. Ms. Chullino vacated one of the limited term Consumer Protection Enforcement Initiative (CPEI) positions (expiring September 30, 2012) on February 16, 2012. Ms. Chullino's position has been filled with Beatriz Reynoso. Ms. Reynoso promoted to a limited term, Staff Services Analyst in the position formerly held by Ms. Chullino. Ms. Reynoso began her employment with the Board as a student in 2006 and later became a permanent intermittent Management Services Technician (MST) within the Consumer Protection Services (CPS) program. When Ms. Reynoso's position expires in September, she will return to her former position as a permanent intermittent MST within the CPS program meanwhile she is gaining experience processing complaints as a Staff Services Analyst.

Christina Metzen, seeking to gain new experiences, separated from the Board on April 20, 2012. Recruitment has begun to fill Ms. Metzen's position; however, Ms. Metzen's position was authorized at a .08 time base, with .02 being paid out of the blanket bringing the position to a full-time time base. Since she decided to vacate the position, Department of Consumer Affairs (DCA) has advised the Board that it will no longer authorize personnel over expenditures from the blanket; therefore it can only be filled at .08 time base, making recruitment a challenge.

Stacy Meza was appointed to the Board's Consumer Protection Services Program on April 2, 2012. Ms. Meza assumed one of the limited term CPEI positions expiring September 30, 2012. Ms. Meza earned her Bachelor of Science Degree in Criminal

1 Justice and a Masters in Organizational Management at CSUS. Upon graduation, she  
2 worked at the Student Aid Commission as a Special Investigator, where she  
3 investigated student loan fraud. During her Special Investigator assignment, she  
4 became POST certified. Additionally, she has over 10 years of personnel experience  
5 working at the Student Aid Commission and at DCA's Office of Human Resources.  
6 After spending several years in Personnel, she decided to get program experience and  
7 worked at several boards and bureaus within DCA. Ms. Meza comes to us from  
8 CalSTRS where she managed the Production and Disability units. After being there for  
9 almost 2 years, she missed DCA and wanted to strike more of a work/life balance.

10  
11 There are other personnel challenges created by the recent decision to deny  
12 authorization for personnel over expenditures from the blanket. Monny Martin,  
13 Associate Governmental Program Analyst serving as the Probation Monitor in the CPS  
14 Program, had been offered the vacant Special Investigator position contingent upon the  
15 outcome of the background check, it was learned last month that no authority exists to  
16 conduct background checks on Special Investigators. In any event, the Board had  
17 received authorization to over expend the position by 0.5 making it a full-time (1.0)  
18 position, since the position was only funded at 0.5 which is less than adequate for  
19 meeting the Board's investigative needs and objective to conduct on-site visits identified  
20 in its strategic plan. The authorization to over expend the position was granted in  
21 December, 2011 and a tentative offer was made to Mr. Martin. Since the position  
22 requires Department of Personnel Administration (DPA) approval, the personnel  
23 package for the position was sent to DPA but not until March 12, 2012, even though the  
24 personnel package was sent to DCA personnel in September 15, 2011. Just prior to the  
25 personnel package being sent to DPA, DCA decided this position also can only be filled  
26 at its authorized 0.5 time base and withdrew the over expenditure approval. The Board  
27 is waiting on DCA Office of Human Resources for direction regarding finalizing  
28 recruitment.

29  
30 The Board received 3.5 limited term Associate Governmental Program Analyst positions  
31 through the CPEI Budget Change Proposal submitted by DCA in 2010. These positions  
32 expire September 30, 2012. DCA Budget Office attempted to obtain an extension of the  
33 limited term on these positions since filling the positions was delayed one year due to  
34 the hiring freeze. Their attempt was unsuccessful; however, while three of these  
35 positions remain filled, one of them is filled by a current employee, so there remains a  
36 shortfall of 1.5 staff in the CPS program.

37  
38 **BUDGET –**

- 39  
40 • **Attachment (A)** reflects the Board's revenue and expenditures by program  
41 component; and, **attachment (B)** is the analysis of fund condition. **Attachment**  
42 **(C)** is a definition key of each line item, detailing the allocation type and potential  
43 cause for expenditure.  
44  
45 • As presented in the Executive Officer's report at the meeting in February 2012,  
46 the Board submitted a request for deficiency funding to the Department of  
47 Finance. **Attachment (D)** is a copy of the request submitted to John Fitzpatrick,

1 Principal Program Budget Analyst for the Department of Finance (DOF) and  
2 **attachments (E 1-3)** are supporting documents. The request outlines the cause  
3 for the deficiency and demonstrates the necessity for funds to augment Attorney  
4 General Costs. Since the process requires review and approval by State and  
5 Consumer Services Agency (Agency) prior to review by DOF, SCSA was alerted  
6 to the ongoing funding issues experienced by the Board which generated a  
7 request for the Board to submit a Corrective Action Plan (CAP) to Agency,  
8 **attachment (F)**. To date, the Board has received no response to the plan  
9 submitted. The request to augment the Board's budget was approved by DOF  
10 and the Board's budget was revised accordingly on March 9, 2012.

- 11  
12 • On April 2, 2012, Board staff responded to Budget Letter 12-03 **attachment (G)**.  
13 This required the Board to eliminate budgeted salary savings and to allocate that  
14 amount to operating expenses to accurately reflect how the funds are actually  
15 expended. An exercise for those agencies who intentionally maintain vacancies  
16 to use the funds for operating expenses. The Board had a salary savings of  
17 \$38,411 budgeted for FY 11/12. This salary savings was automatically factored  
18 into the Board's budget to account for vacancies; however, this Board historically  
19 does not have any ongoing vacancies [salary savings is based on authorized  
20 personnel (PYs) each fiscal year]. In fact, since the Board lacks adequate staffing  
21 levels necessary for meeting its mandates, the Board relies heavily on temporary  
22 help funded from Operating Expenses and Equipment (OE&E).

23  
24 Since it is part of the Governor's budget, the Board's response and outcome to  
25 this exercise remains confidential at this point and therefore is not attached to  
26 this report. Hopefully it can be publically addressed at the meeting next month.

- 27  
28 • **Attachment (H)**, Budget Letter 12-05 addressing Out of State Travel was  
29 released on April 20, 2012. This supersedes BL 11-06 and no longer restricts  
30 requests to those defined as mission critical (i.e. mandated) and allows for  
31 submission of Out of State Travel that represents a benefit to the state and  
32 consumers. Since travel to the Federation of State Boards of Physical Therapy  
33 (FSBPT) is not considered mission critical as defined, it will require approval by  
34 the Governor. Justification for travel to the FSBPT annual conference must be  
35 strong, clear, and convincing and must clearly identify the individual's role in the  
36 meeting (i.e., speaker, voting member, panel member, participant, or observer).  
37 Needless to say, this will be a priority for staff but may require some assistance  
38 from Board members.

#### 39 40 **LEGISLATION AND REGULATION –**

- 41 • **Sunset Review**

42 The Board submitted its Sunset report to the Senate Committee on Business and  
43 Professions and Economic Development (Committee) on November 4, 2011. As you  
44 are all aware, the Board received a call indicating the Board's Sunset hearing would be

1 postponed until the 2013 hearings and a bill would be introduced amending Business  
2 and Professions Code sections 2602 and 2607, extending the Board and its Executive  
3 Officer for one more year. To date, I have not yet seen the bill introduced but hope to  
4 have some information regarding the bill at the time of the meeting.

5 The Board had planned for strategic planning to occur after the Sunset hearings;  
6 however, since the hearing has been postponed I solicited advice from Committee staff  
7 about whether to wait or proceed as planned. I was advised the Board should proceed  
8 with strategic planning.

9 • **SB 1253 – Athletic Trainers**

10 This bill, in its current form, places licensure of Athletic Trainers under the oversight of  
11 the Physical Therapy Board. The bill was initially heard by the Senate Committee on  
12 Business and Professions and Economic Development (Committee) on April 16, 2012.  
13 The testimony provided was interesting in that there is a diverse group of athletic  
14 trainers with a wide range of background and experience. While the bill leaves a lot of  
15 room for amendments, the testimony seemed to indicate there was justification for  
16 licensure to ensure consumer protection. Since the bill didn't receive a majority vote in  
17 favor of the bill (2 Yes, 1 No & 6 Abstentions), the Committee granted it reconsideration.

18 • **Moscone-Knox Professional Corporations Act**

19 Status of SB 924 is addressed under agenda item #10A. There are no new  
20 developments; therefore, this was not placed on the agenda as a separate item.

21 • **Telehealth Advancement Act of 2011**

22 On October 7, 2011, the Governor signed into law the Telehealth Advancement Act of  
23 2011 (AB 415). AB 415, among other things, replaced the terminology of telemedicine  
24 with telehealth. But, most importantly **attachment (I)**, the Joint Issue Brief for the  
25 Connected Health Policy and the California Telemedicine and eHealth Center alleges  
26 the bill expands the definition of health care providers authorized to provide services via  
27 telehealth to include physical therapists. The bill amended B&P Code section  
28 2290.5(a)(3) of the Medical Practice Act to define; in part, a *“health care provider” as a*  
29 *person who is licensed under this division* [underlined for emphasis]. If *division* as  
30 referenced in this statute is Division 2, it is true that this could apply to physical  
31 therapists as well as all health care professionals licensed under Division 2 (dental  
32 hygienists to vocational nurses). However, this question has been posed to the DCA  
33 legal affairs office... *How can a statute within the Medical Practice Act govern the*  
34 *practice of another health care professional?*

35 To assist with discussion of this issue it is hopeful a response from the DCA legal office  
36 will be received prior to the Board meeting.

37 To obtain an electronic copy of the Joint Issue Brief, the web address is:

38 <http://www.connectedhealthca.org/sites/default/files/CCHP->  
39 [CTEC%20Telehealth%20Advancement%20Act%20Issue%20Brief.pdf](http://www.connectedhealthca.org/sites/default/files/CCHP-CTEC%20Telehealth%20Advancement%20Act%20Issue%20Brief.pdf)

1       • **Audit**

2       The status of the audit is addressed separately under agenda item #7(A).

3       • **Rulemaking**

4       Agenda items #11, 12, 14 and 16 - 18 addresses proposed rulemaking.

5       **OUTREACH –**

6       • **Attachment (J)** is an Outreach report on the PTBC website, Facebook and  
7       Twitter hits the Board has received in the last quarter. The hits on the website  
8       are separated by the website tabs.

9       • The PTBC newsletter is still under construction and is waiting on a couple of  
10      articles before released for distribution.

11     • DCA launched their new website using the look and feel of CA.Gov. The PTBC  
12     website is scheduled to receive its new look in the second phase which is due to  
13     be completed in June/July 2012.

14     • Board staff presented to the California State University, Sacramento physical  
15     therapy students and the Sacramento City College physical therapist assistant  
16     students. Board staff intends to present to the students of Ohlone College on  
17     May 21, 2012.

18     • Board staff will participate in a WebEx with the Board of Occupational Therapy  
19     for Kaiser Los Angeles on June 13, 2012.

20     **TRAVEL –**

21     Travel is addressed above under the **BUDGET** heading. It should be noted FSBPT  
22     authorized funding for travel of three Board representatives to the 2012 annual  
23     conference.

24     **CONTRACTS –**

25     Board counsel continues to negotiate with FSBPT counsel, which will be addressed  
26     under agenda item #6.

27     **PTBC OFFICE LOCATION –**

28     The Board's budget won't support funding for more office space; therefore, the PTBC  
29     office will not be relocating.

30     **APPLICATION & LICENSING**

31  
32     The item writing workshops for the California Law Exam concluded on April 18 and 19,  
33     2012. The new forms of the exam should be released in July, 2012.

1  
2 Additional information regarding the Application and Licensing Services Program  
3 activities will be addressed under agenda item #3.

4

5 **CONSUMER PROTECTION SERVICES**

6

7 Reports addressing activities of the Consumer Protection Services Program are  
8 addressed under agenda item #4.

9

10

11

12

Agenda Item 7  
Attachment A

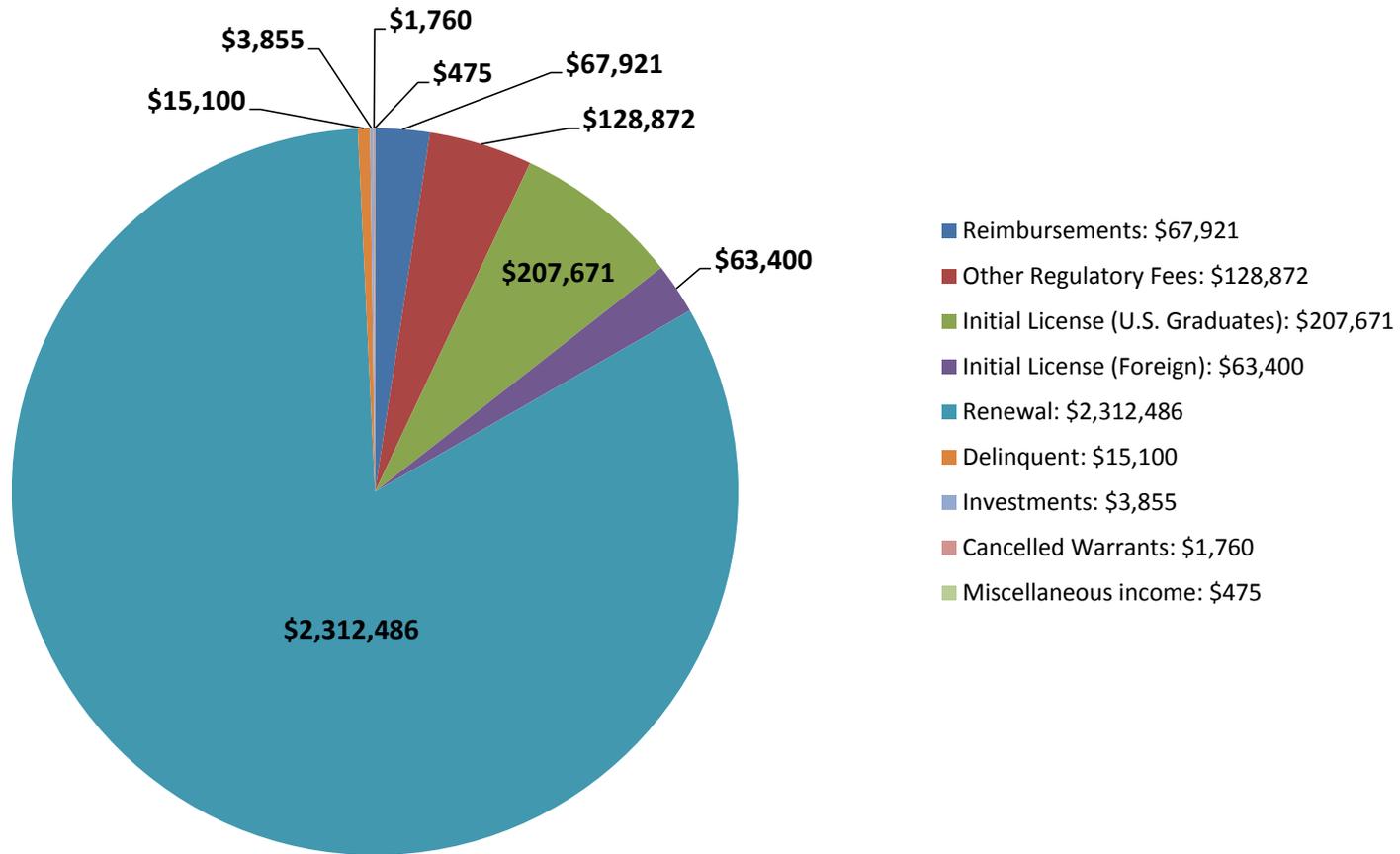
Physical Therapy Board of California  
 Budget Report (FY 11/12)  
 (As of 3/31/12)

AGENDA ITEM # 7 - Attachment A  
 Budget Report

Description	Budget	Expended	% Budget	Balance
<b>Personnel Services</b>				
<b>Personnel Services Totals</b>	<b>1,280,679</b>	<b>1,138,459</b>	<b>89%</b>	<b>142,220</b>
Civil Services Permanent	800,514	547,333	68%	253,181
Statutory Exempt	80,347	60,869	76%	19,478
Temp help	3,767	176,073	4674%	-172,306
Board Commission	11,786	22,600	192%	-10,814
Overtime	0	16,610	-	-16,610
Staff Benefits	422,676	314,974	75%	107,702
Salary Savings	-38,411	0	-	-38,411
<b>*TOTALS, PERSONNEL SERVICES</b>	<b>1,280,679</b>	<b>1,138,459</b>	<b>89%</b>	<b>142,220</b>
<b>Operating Expense &amp; Equipment</b>				
<b>General Services Totals</b>	<b>577,268</b>	<b>263,327</b>	<b>46%</b>	<b>313,941</b>
Fingerprints	99,090	19,444	20%	79,646
General Expense	66,789	13,007	19%	53,782
Minor Equipment	1,400	6,161	440%	-4761
Printing	64,816	6,386	10%	58,430
Communication	27,970	6,209	22%	21,761
Postage	42,789	25,732	60%	17,057
Travel in State	82,317	21,204	26%	61,113
Training	9,332	700	8%	8,632
Facilities Ops	118,121	106,994	91%	11,127
C/P Services Internal	11,828	1,800	15%	10,028
C/P Services External	52,816	55,690	105%	-2,874
<b>Departmental Services Totals</b>	<b>507,215</b>	<b>382,120</b>	<b>75%</b>	<b>125,095</b>
OIS Pro Rata	190,609	144,083	76%	46,526
Indirect Dist. Cost	139,197	103,272	74%	35,925
DOI Pro Rata	9,651	4,256	44%	5,395
Public Affairs Pro Rata	9,629	7,220	75%	2,409
CCED Pro Rata	10,137	7,604	75%	2,533
IA with OER	0	42,766	-	-42,766
Interagency Services	37,136	0	0%	37,136
Consolidated Data Center	6,637	1,404	21%	5,233
DP Maintenance & Supplies	16,796	5,948	35%	10,848
Central Admin Services	87,423	65,567	75%	21,856
<b>Exams Totals</b>	<b>72,616</b>	<b>5,122</b>	<b>7%</b>	<b>67,494</b>
Administrative - External	0	200	-	-200
C/P Services - Expert Examiners	69,931	0	-	0
C/P Services - Subject Matter Experts	2,685	4,922	183%	-2,237
<b>Enforcement Totals</b>	<b>967,058</b>	<b>712,095</b>	<b>74%</b>	<b>254,963</b>
Attorney General	435,668	315,875	73%	119,793
Office of Admin Hearings	59,584	25,324	43%	34,260
Evidence/Witness	100,145	82,131	82%	18,014
Court Reporters	0	7,037	-	-7,037
DOI Investigation	371,661	281,728	76%	89,933
<b>*TOTALS, OE &amp; E</b>	<b>2,124,157</b>	<b>1,362,664</b>	<b>64%</b>	<b>761,493</b>
<b>**TOTALS</b>	<b>3,404,836</b>	<b>2,501,121</b>	<b>73%</b>	<b>903,715</b>

\* The total reflects by line items.\*\* The total reflects overall expenditures of entire budget.

**Physical Therapy Board of California  
Budget Revenues (FY 2011/12)  
(As of 3/31/12)**



**Reimbursements (Scheduled/Unscheduled):** Fingerprint Report, Grant, Cost Recovery, Probation Monitoring.

**Other Regulatory:** Administrative Citation, Franchise Tax Board Collection, Endorsement, Duplicate License Certs.

**Initial License (U.S. Graduates/Foreign):** Application and Initial License Fees Collected.

**Renewal:** Renewal Fees Collected.

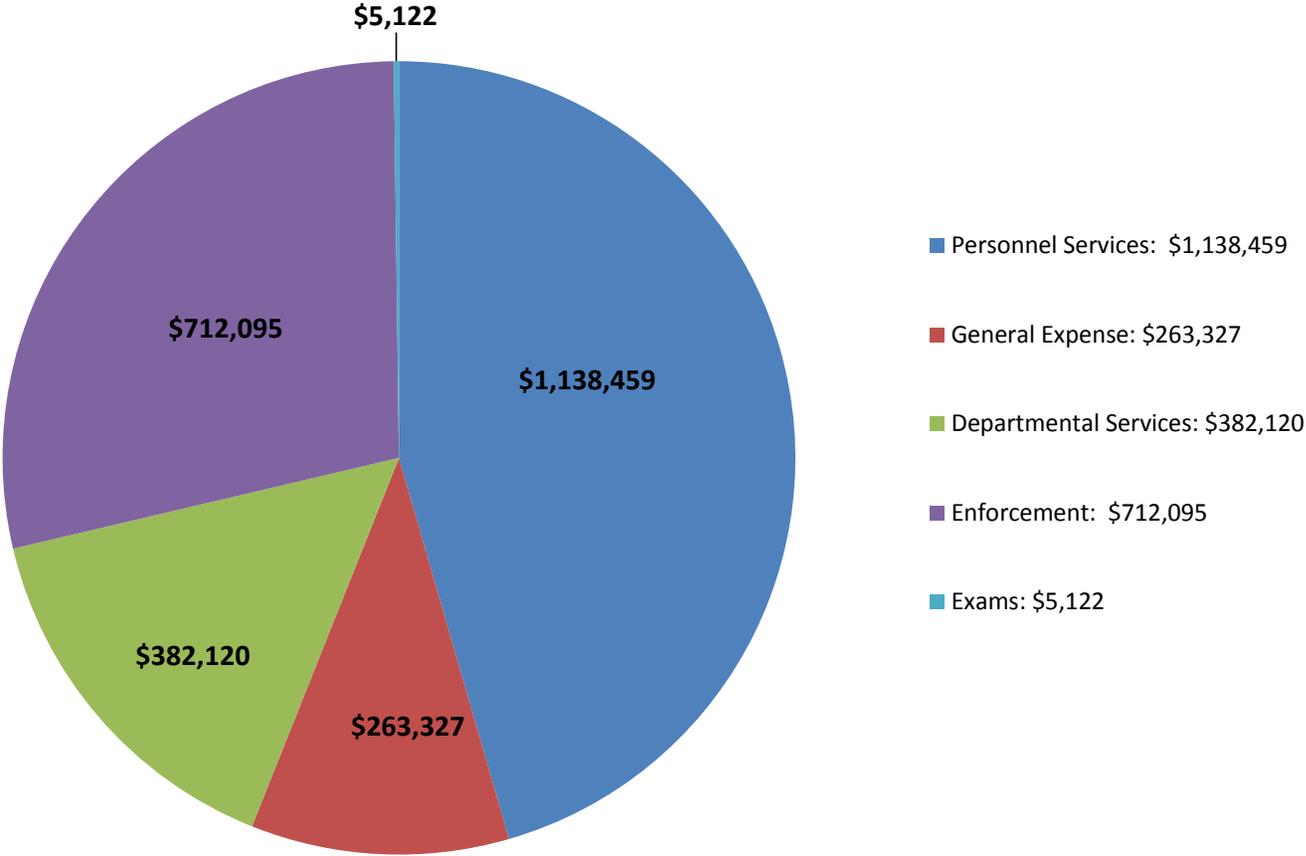
**Delinquent:** Delinquent Fees Collected.

**Investments:** Income From Surplus money Investments.

**Warrants:** Unclaimed Checks and Warrants, Cancelled Warrants Collection.

**Miscellaneous income:** Dishonored Check Fee Collected, etc.

Physical Therapy Board of California  
Budget Expenditures (FY 2011/12)  
(As of 3/31/12)



**Personnel Services :** Salary and Wages, Board Member Per Diem, Temp Help, Overtime, Benefits.

**General Services :** General Expense, Fingerprint, Minor Equipment, Printing, Postage, Travel In-State, Training, Facility Ops, Consultant Services.

**Departmental Services:** Pro Rata ,Interagency Services, Consolidated Data, Data Processing, Central Admin.

**Enforcement:** Attorney General, Office of Administrative Hearing, Evidence Witness, Court Reporter, DOI.

**Exams:** Examination Contracts, Expert Consultant Contracts.

Agenda Item 7

Attachment B

# 0759 - Physical Therapy Analysis of Fund Condition

(Dollars in Thousands)

## AGENDA ITEM # 7 Attachment B - Analysis Fund Condition

Attachment

	Acutal 2010-11	CY 2011-12	Governor's Budget BY 2012-13	BY +1 2013-14	BY +2 2014-15
<b>BEGINNING BALANCE</b>	\$ 1,996	\$ 2,407	\$ 757	\$ 715	\$ 612
Prior Year Adjustment	\$ -	\$ -	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 1,996	\$ 2,407	\$ 757	\$ 715	\$ 612
<b>REVENUES AND TRANSFERS</b>					
Revenues:					
125600 Other regulatory fees	\$ 150	\$ 153	\$ 156	\$ 156	\$ 156
125700 Other regulatory licenses and permits	\$ 366	\$ 384	\$ 395	\$ 395	\$ 395
125800 Renewal fees	\$ 2,562	\$ 2,589	\$ 2,609	\$ 2,609	\$ 2,609
125900 Delinquent fees	\$ 16	\$ 16	\$ 16	\$ 16	\$ 16
141200 Sales of documents	\$ -	\$ -	\$ -	\$ -	\$ -
142500 Miscellaneous services to the public	\$ -	\$ -	\$ -	\$ -	\$ -
150300 Income from surplus money investments	\$ 13	\$ 23	\$ 6	\$ 4	\$ 1
160400 Sale of fixed assets	\$ -	\$ -	\$ -	\$ -	\$ -
161000 Escheat of unclaimed checks and warrants	\$ 2	\$ 2	\$ 2	\$ 2	\$ 2
161400 Miscellaneous revenues	\$ 1	\$ 1	\$ 1	\$ 1	\$ 1
Totals, Revenues	\$ 3,110	\$ 3,168	\$ 3,185	\$ 3,183	\$ 3,180
Transfers from Other Funds					
Proposed GF Loan Repayment	\$ -	\$ -	\$ -	\$ -	\$ -
Transfers to Other Funds					
Proposed GF Loan	\$ -	\$ -1,500	\$ -	\$ -	\$ -
Totals, Revenues and Transfers	\$ 3,110	\$ 1,668	\$ 3,185	\$ 3,183	\$ 3,180
Totals, Resources	\$ 5,106	\$ 4,075	\$ 3,942	\$ 3,898	\$ 3,792
<b>EXPENDITURES</b>					
Disbursements:					
0840 State Controllers (State Operations)	\$ 2	\$ 3	\$ 3	\$ -	\$ -
8880 FSCU (State Operations)	\$ 1	\$ 9	\$ 2	\$ -	\$ -
OE&E Savings (Approved by Agency)					
1110 Program Expenditures (State Operations) -	\$ 2,696	\$ 3,156	\$ 3,222	\$ 3,286	\$ 3,352
AG Augmentation Request	\$ -	\$ 150	\$ -	\$ -	\$ -
Total Disbursements	\$ 2,699	\$ 3,318	\$ 3,227	\$ 3,286	\$ 3,352
<b>FUND BALANCE</b>					
Reserve for economic uncertainties	\$ 2,407	\$ 757	\$ 715	\$ 612	\$ 440
<b>Months in Reserve</b>	8.7	2.8	2.6	2.2	1.5

NOTES:

- A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED FOR 2010-11.
- B. ASSUMES APPROPRIATION GROWTH OF 2% PER YEAR.

Agenda Item 7  
Attachment C

**PERSONNEL SERVICES**

Civil Services Permanent	Salary and wages of civil service - permanent employees (i.e. authorized).
Statutory Exempt	Employees appointed/elected to state (i.e. Executive Officer).
Temp help	Blanket positions (i.e. Student Assistant, Permanent Intermittent, etc.).
Board Commission	Exempt/Statutory - Per Diem (i.e. Board Members per diem reimbursement).
Overtime	Ordered work time in excess of regular scheduled workweek.
Staff Benefits	Benefits for both authorized and temporary positions (i.e. health, dental, vision, retirement, etc).
Salary Savings	Salary and wage savings of civil service - permanent employees (i.e. vacancies).

**GENERAL SERVICES**

Fingerprints	Fingerprint Reports (i.e. DOJ - name checks, and subsequent arrest reports).
General Expense	Office supplies, freight/drayage (FedEx shipping), transcription services, admin overhead (DGS service fees; purchase orders, contracts, etc.), library purchase/subscription, mail equipment maintenance).
Minor Equipment	Minor Equipement (Replacement/Additional) less than \$5,000 per unit (i.e. printer, copier, office furniture, etc.).
Printing	Printing costs (i.e. Newsletter's, booklets, etc.).
Communication	Communications costs (i.e. cell phones, office land lines and fax line, etc.).
Postage	Stamps, registered and certified mail charges, postage meter, postage charges by DCA mail room and license renewal notices processed by EDD, etc.
Travel in State	Per Diem, commercial air, private car (mileage, tolls, parking), rental car (rental, gas, parking, etc.). CalAters (transaction fees).
Training	Tuition and registration fees for training classes and conferences (i.e. DCA - SOLID, State Training Center, colleges).
Facilities Ops	Rent - Building and Grounds (Non-State Owned), includes, self storage and overtime utility charges.
C&P Services Internal	Consultant/Professional (Inter-departmental) services provided by other state agencies or interagency agreement with DCA.
C&P Services External	Consultant/Professional Services - Interdepartmental for credit card processing (i.e. credit card transactions for online license renewals and American Express).

**Departmental Services Totals**

OIS Pro Rata	<b>Pro-rata</b> assessment to support the DCA, Office of Information Systems (OIS).
Indirect Dist. Cost Pro-rata	<b>Pro-rata</b> assessment to support the DCA, Administrative Services (OAS).
DOI Pro-rata	<b>Pro-rata</b> assessment for Division of Investigations (DOI) service costs for administering new employment background checks, etc.
Public Affairs Pro Rata	<b>Pro-rata</b> assessment for media inquiries; creating and executing marketing plans, and developing consumer education and media campaigns (i.e. graphic art for publications, business cards, envelopes, website, etc.).
CCED Pro-rata	<b>Pro-rata</b> assessment for Consumer and Community Empowerment Division (CCED). CCED develops partnerships with all facets of DCA, by working with all its various programs to convey their messages to the public.
IA with OER	Services provided by Office of Examination Resources (OER) to the Board within DCA (inter-
Interagency Services	Services provided by another Board to the Board within DCA (inter-agency agreement).
Consolidated Data Center	TEALE data center (i.e. Board's costs for number of records on Consumer Affairs System (CAS)).

**Physical Therapy Board of California**  
**Budget Detail Report (FY 11/12)**  
**(As of 3/31/12)**

**AGENDA ITEM # 7 - Budget Definition Key**

DP Maintenance & Supplies	Data Processing (DP) provide information technology services (i.e. maintenance, security services, archival services, etc.; copier and printer paper, software, hardware and electronic waste recycling and disposal).
Central Admin Services	<b>Pro-rata</b> (Statewide) assessment to support of Personnel Board, Department of Finance, State Controller, State Treasurer, Legislature, Governor's office, etc.).

**Exams Totals**

C/P Administrative	Consultant/Professional (External) Services (i.e. FSBPT service contract).
C/P Exam Contracts	Consultant/Professional Services (External) - Wages for services provided by Expert Examiner in the oral/written exam process.
C/P Exam Subject Matter Experts	Consultant/Professional (External) Services (i.e. Wages for services provided by Subject Matter Experts in the oral/written examination processes, including travel).

**Enforcement Totals**

Attorney General	Legal services provided by the Attorney General's Office.
Office of Admin Hearings	Services provide by Office of Administrative Hearings (i.e. hearing officer, judges' and filing fees).
Evidence/Witness	Payment of witness fees, including hourly wages and travel expenses, undercover operative fees, films and flash bulbs and includes medical services for use as evidence.
Court Reporters (C/P -External)	Services provided for court reporter services and invoices for transcriptions provided by a private vendor (i.e. hearing transcripts, etc.).
DOI Investigation	Services provided by Division of Investigations (DOI) for investigative services.

Agenda Item 7

Attachment D



Physical Therapy Board of California

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

## 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](http://www.ptbc.ca.gov)

February 14, 2012

TO: John Fitzpatrick, Principal Program Budget Analyst  
Department of Finance (DOF)

VIA: Jennifer Osborn, Deputy Secretary  
State and Consumer Services Agency (SCSA)

VIA: Janice Shintaku-Enkoji, Fiscal Officer  
DCA Budget Office

FROM: Rebecca Marco, Executive Officer  
Physical Therapy Board

SUBJECT: 2011-12 Budget Bill Language (item 1110-402) - AG Expenditures

Pursuant to the Budget Bill Language in Item 1110-402, and based on the FY 2011-12 expenditure projections (thru January 2012), the Physical Therapy Board of California (PTBC) is requesting a total augmentation of \$150,000 for its Attorney General (AG) line. Assuming that its enforcement costs do not exceed currently projected levels, this augmentation request would also allow for a minimal reversion.

Over the past several years, the PTBC has relied heavily on Permanent Intermittent and temporary staffing to manage the ongoing workload. It is not possible for the PTBC to absorb the workload currently handled by Permanent Intermittent and temporary employees. The PTBC suffers from staffing shortfalls; therefore, continues to address this issue through the BCP process. In FY 2010/11, the PTBC spent \$357,219 of its \$3,767 temp help budget. As of 1/31/12, the PTBC has spent \$142,379 of its \$3,767 budget and projects to spend at total of \$220,000 of its \$3,767 budget. This decrease in expenditures was a direct result of placing Permanent Intermittent employees in vacant positions and decreasing temporary help (Student Assistants). Although, the PTBC has undergone these shortfalls, the PTBC projects a shortfall in its budget related to AG and OAH costs.

This is the second consecutive year that PTBC is projected to overspend its AG budget. In FY 2010/11, the PTBC spent \$406,570 of its \$285,668 AG budget, an overall over expenditure of \$120,902. For both years these over expenditures are due to the PTBC's attempt to stay within the guidelines of the Department of Consumer Affairs Consumer Protection Enforcement Initiative (Initiative). In result of the Initiative, the PTBC received an increase in Enforcement staff, providing an increase in cases to the AG for prosecution. In addition, the PTBC has faced an increase in workload for its Continuing Competency Program (CCP). The CCP was implemented October 2010. The PTBC requires licensees

to renew licensure by signing their renewal notice, under penalty of perjury, stating their CC education is complete (Bus. & Prof. §2676.), licensees are also required to maintain documentation of each course and activity for five years. The PTBC verifies licensee's continuing competency by conducting routine random audits. The first random audit process began October 31, 2010, targeting 10% of renewing licensees; however with an average of 43% non-compliance the PTBC increased the audit sample to 20% per month effective January 2011. Thus, generating even more increase in workload for Enforcement.

Year-to-date, the PTBC has expended \$272,366 of its \$285,698 AG budget (thru January 2012). Despite the fact that the AG are projected to exceed their budgeted authority by \$189,557, the PTBC has made every effort to achieve savings in other line items to mitigate the overall impact of this enforcement-related augmentation, e.g., the PTBC decided against moving its operations to the Department of Consumer Affairs North Market Headquarters Complex in spite of the need for more office space, saving approximately \$180,000 in moving costs. The PTBC has also made a decision to no longer print a newsletter at a savings of \$28,000 per issue. In 2011/12, the PTBC has limited the amount of staff authorized to travel in addition to abiding by the Governor's Executive Order restricting non-essential travel.

The AG augmentations are vital to the PTBC's enforcement efforts to remove physical therapists and physical therapist assistants with serious practice act violations and to ensure that the utmost protection is afforded the public and consumers.

If you have any questions, please contact me at 916-561-8260 or the DCA, Budget Office at 574-7166. Thank you for your time and consideration of this request.

**Attachments:**

1. PTBC's Fund Condition
2. PTBC's Month 6 Expenditure Projections
3. AG's Letter of Acknowledgement

Agenda Item 7  
Attachments E(1-3)

# 0759 - Physical Therapy Analysis of Fund Condition

Prepared 2/14/12

(Dollars in Thousands)

## AG Deficiency Request

	Acutal 2010-11	CY 2011-12	Governor's Budget BY 2012-13	BY +1 2013-14	BY +2 2014-15
<b>BEGINNING BALANCE</b>	\$ 1,996	\$ 2,407	\$ 757	\$ 715	\$ 612
Prior Year Adjustment	\$ -	\$ -	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 1,996	\$ 2,407	\$ 757	\$ 715	\$ 612
<b>REVENUES AND TRANSFERS</b>					
Revenues:					
125600 Other regulatory fees	\$ 150	\$ 153	\$ 156	\$ 156	\$ 156
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125900 Delinquent fees	\$ 16	\$ 16	\$ 16	\$ 16	\$ 16
141200 Sales of documents	\$ -	\$ -	\$ -	\$ -	\$ -
142500 Miscellaneous services to the public	\$ -	\$ -	\$ -	\$ -	\$ -
150300 Income from surplus money investments	\$ 13	\$ 23	\$ 6	\$ 4	\$ 1
160400 Sale of fixed assets	\$ -	\$ -	\$ -	\$ -	\$ -
161000 Escheat of unclaimed checks and warrants	\$ 2	\$ 2	\$ 2	\$ 2	\$ 2
161400 Miscellaneous revenues	\$ 1	\$ 1	\$ 1	\$ 1	\$ 1
Totals, Revenues	\$ 3,110	\$ 3,168	\$ 3,185	\$ 3,183	\$ 3,180
Transfers from Other Funds					
Proposed GF Loan Repayment	\$ -	\$ -	\$ -	\$ -	\$ -
Transfers to Other Funds					
Proposed GF Loan	\$ -	\$ -1,500	\$ -	\$ -	\$ -
Totals, Revenues and Transfers	\$ 3,110	\$ 1,668	\$ 3,185	\$ 3,183	\$ 3,180
Totals, Resources	\$ 5,106	\$ 4,075	\$ 3,942	\$ 3,898	\$ 3,792
<b>EXPENDITURES</b>					
Disbursements:					
0840 State Controllers (State Operations)	\$ 2	\$ 3	\$ 3	\$ -	\$ -
8880 FSCU (State Operations)	\$ 1	\$ 9	\$ 2	\$ -	\$ -
OE&E Savings (Approved by Agency)					
1110 Program Expenditures (State Operations) - AG Augmentation Request	\$ 2,696 \$ -	\$ 3,156 \$ 150	\$ 3,222 \$ -	\$ 3,286 \$ -	\$ 3,352 \$ -
Total Disbursements	\$ 2,699	\$ 3,318	\$ 3,227	\$ 3,286	\$ 3,352
<b>FUND BALANCE</b>					
Reserve for economic uncertainties	\$ 2,407	\$ 757	\$ 715	\$ 612	\$ 440
<b>Months in Reserve</b>	8.7	2.8	2.6	2.2	1.5

### NOTES:

- ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED FOR 2010-11.
- ASSUMES APPROPRIATION GROWTH OF 2% PER YEAR.

DEPARTMENT OF CONSUMER AFFAIR  
**PHYSICAL THERAPY BOARD**  
**Fund 0759**

**BUDGET REPORT**  
**FY 2011-12 Expenditure Projection**  
**FM 06 CALSTARS**

Lag  
 calcu

OBJECT DESCRIPTION	FY 2010-11		FY 2011-12					UNENCUMBERED BALANCE	Lag mo.
	ACTUAL EXPENDITURES (MONTH 13)	PY EXPENDITURES 12/31/2010	BUDGET ALLOTMENT (FINAL)	CY EXPENDITURES 12/31/2011	PERCENT SPENT	PROJECTIONS TO YEAR END	Redirection to AG/OAH		
<b>PERSONNEL SERVICES</b>									
Civil-Service-PERM	514,278	251,509	800,514	339,247	42%	810,229	-9,715	(9,715)	0
Statutory Exempt	76,385	37,407	80,347	60,869	76%	79,989	0	358	
Temp Help 907	357,219	152,583	3,767	123,257	3272%	193,957	-190,190	(190,190)	1
Proctors 915	0	0	0	0	0	0	0	0	1
Bd/Commsn (901,920)	26,500	11,100	11,786	16,000	136%	30,000	-18,214	(18,214)	1
Overtime	1,197	0	0	14,453	0	20,000	-20,000	(20,000)	1
Benefits	379,790	178,078	422,676	205,689	49%	494,240	-71,564	(71,564)	0
Salary Savings	0	0	(38,411)	0	0	0	0	(38,411)	
<b>TOTAL PERS SVS</b>	<b>1,355,369</b>	<b>630,677</b>	<b>1,280,679</b>	<b>759,515</b>	<b>59%</b>	<b>1,628,415</b>	<b>-309,683</b>	<b>(347,736)</b>	
<b>OPERATING EXPENSES &amp; EQUIPMENT</b>									
Fingerprints	26,316	9,588	99,090	12,784	13%	30,000	69,090	69,090	1
General Expense	16,120	3,448	66,789	9,490	14%	20,000	46,789	46,789	1
Minor Equipment 226	714	714	1,400	3,939	281%	10,000	-8,600	(8,600)	1
Printing	38,969	34,415	64,816	6,221	10%	15,000	49,816	49,816	1
Communication	13,192	5,876	27,970	4,005	14%	13,000	14,970	14,970	1
Postage	44,337	25,449	42,789	17,615	41%	40,000	2,789	2,789	1
Travel In state	30,370	6,848	82,317	8,065	10%	20,000	62,317	62,317	0
Travel Out of state	0	0	0	0	0	0	0	0	0
Training	5,409	1,110	9,332	980	11%	3,500	5,832	5,832	1
Facilities Ops	117,637	116,369	118,121	106,495	90%	106,495	11,626	11,626	1
C&P Serv. Internal	0	0	11,828	0	0	0	11,828	11,828	1
**C&P Serv. External	33,564	55,743	52,816	55,690	105%	33,238	19,578	19,578	1
<b>Departmental Services</b>									
OIS Pro Rata	149,007	67,360	190,609	96,056	50%	190,609	0	0	1
Indirect Dist. Cost	125,092	47,332	139,197	68,847	49%	139,197	0	0	
IA with OER	0	0	0	10,174	100%	42,766	-42,766	(42,766)	
DOI - Pro data	4,200	1,908	9,651	2,837	29%	9,651	0	0	
Public Affairs Pro R	8,494	4,380	9,629	4,814	50%	9,629	0	0	
CCED Pro Rata	5,191	2,305	10,137	5,069	50%	10,137	0	0	
<b>-SHARED SVCS-MBC ONLY</b>									
Interagency SVCS	0	0	37,136	0	0	0	37,136	37,136	0
Opp Support Services	0	0	0	0	0	0	0	0	0
Consolidated Data Center	2,438	2,500	6,637	1,193	18%	2,500	4,137	4,137	1
DP Maint & supplies	3,431	0	16,796	1,835	11%	3,500	13,296	13,296	1
Insurance	0	0	0	0	0	0	0	0	
Central Adm. Services	73,184	36,592	87,423	43,712	50%	87,423	0	0	1
<b>EXAMS</b>									
ADMIN and C/P SVS	1,240	10,962	0	200	0	200	-200	(200)	1
Exam Site rental	0	0	0	0	0	0	0	0	1
Exam Contracts	0	0	69,931	0	0	10,080	59,851	59,851	1
Expert Examiners	0	0	2,685	0	0	2,685	0	2,685	1
Exam Subject Matter Experts	9,500	0	0	0	0	0	0	2,685	1
<b>ENFORCEMENT</b>									
Attorney General	406,570	182,012	285,668	237,613	83%	475,225	0	(189,557)	2
Off of Admin Hearings	65,025	25,600	59,584	28,906	49%	66,478	0	(6,894)	2
Evidence/Witness	108,636	22,276	100,145	35,454	35%	100,145	0	0	1
Court Reporters	3,075	1,011	0	1,142	0	3,075	0	(3,075)	0
DOI-INVESTIGATION	164,273	37,968	371,661	187,819	51%	371,661	0	0	0
<b>Major Equipment</b>									
Other Payment	0	0	0	0	0	0	0	0	0
Special Adj. (Estimated Sav.)	0	0	0	0	0	0	0	0	0
15% OE&E savings	0	0	0	0	0	0	0	0	0
<b>Total OE &amp; E</b>	<b>1,455,984</b>	<b>701,766</b>	<b>1,974,157</b>	<b>950,955</b>	<b>48%</b>	<b>1,816,194</b>	<b>357,489</b>	<b>160,648</b>	
<b>TOTAL EXPENDITURES</b>	<b>2,811,353</b>	<b>1,332,443</b>	<b>3,254,836</b>	<b>1,710,470</b>	<b>53%</b>	<b>3,444,609</b>	<b>47,806</b>	<b>(189,773)</b>	
FINGERPRINT REIMBURSEMENT	(22,899)	(9,991)	(97,000)	(11,985)	12%	(97,000)	0	0	
OTHER SCHEDULED REIMBURSEMENT	(15,650)	(4,770)	(2,000)	(4,260)	213%	(2,000)	0	0	
UNSCHE REIMBURSEMENT	(84,659)	(23,302)	0	(24,787)	0	0	0	0	
<b>NET APPROPRIATION</b>	<b>2,688,145</b>	<b>1,294,380</b>	<b>3,155,836</b>	<b>1,669,438</b>	<b>53%</b>	<b>3,345,609</b>	<b>47,806</b>	<b>(189,773)</b>	
NOTES/ASSUMPTIONS									
1. CY expenditures include YTD+encumbrances									
<b>Surplus/Deficit</b>								<b>-6.0%</b>	

**KAMALA D. HARRIS**  
**Attorney General**

*State of California*  
**DEPARTMENT OF JUSTICE**



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January 27, 2012

Denise Brown, Director  
Department of Consumer Affairs  
1625 North Market Blvd., Suite S-309  
Sacramento, CA 95834-1924

RE: Projected AG Line Item Shortfall for the Board of Physical  
Therapy for Fiscal Year 2011-2012

Dear Director Brown:

This letter is to express support for the budget augmentation request submitted by the Physical Therapy Board of the State of California (PTB). The Health Quality Enforcement (HQE) Section of the Attorney General's Office provides legal services to the PTB, and as the Senior Assistant of this section I am familiar with the PTB's projected legal services budget deficiency for Fiscal Year (FY) 2011-2012.

Given the current and projected caseloads for FY 2011/12 for the PTB and based on the discussions with the executive staff at the PTB as well the Supervising Deputy Attorneys General in the HQE Section, who concur with this request, the Attorney General estimates that the PTB needs baseline budget augmentations to its AG line items in FY 2011/12.

In consultation with our Accounting Department, I have obtained the following data, which shows that the current AG budget allotment the PTB has a projected budget AG billing overage of its remaining enforcement, and then projects the augmentation needed based upon the average monthly amount the Attorney General's Office has billed to it this fiscal year.

It is apparent from the table below that PTB's enforcement budget will be exhausted by the end of January, 2012 and that an augmentation will be needed to cover the Board's average monthly expenditures with our office for the balance of the fiscal year.

Agency	DCA Budget	Balance Remaining	Average Monthly Invoice	Estimated Months Left	Augmentation Needed At Current Average
Board of Physical Therapy	\$285,668.00	\$47,977.50	\$ 39,615.08	1	\$198,075.00

Further, by way of a very brief explanation of why PTB AG billings have increased this year, please know that there are two basic reasons. First, the volume of PTB cases referred has increased. There are currently seventy one PTB cases pending at the Attorney General's Office. These include cases for a new enforcement initiative undertaken by the PTB for continuing competency deficiencies discovered during the license renewal process. (Cal. Code Regs. tit. 16, § 1399.91) And, secondly, the PTB staff has been quite persistent in requesting that our office process their cases quickly, despite the high volume of referrals.

In the event the PTB is unable to secure additional funding for their enforcement programs, it may be necessary for our office to cease work on their cases until the beginning of the next fiscal year, which will result in slowing the pace of prosecution of their disciplinary actions. This would be inconsistent with the Consumer Protection Enforcement Initiative that DCA has undertaken to implement over the next two years to overhaul the enforcement and disciplinary processes of its healing arts boards, with a goal of reducing the average enforcement completion timeline from 36 months to 18 months.

Sincerely,



Carlos Ramirez  
Senior Assistant Attorney General

For KAMALA D. HARRIS  
Attorney General

CR: Rebecca Marco  
Janice Shintaku-Enkoji, Budget Officer, Department of Consumer Affairs  
Taylor Schick, Budget Officer, Department of Consumer Affairs  
Robert De los Reyes, Budget Analyst, Department of Consumer Affairs

Agenda Item 7

Attachment F



Physical Therapy Board of California

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

## 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](http://www.ptbc.ca.gov)

# MEMORANDUM

<b>DATE</b>	March 21, 2012
<b>TO</b>	Jennifer Osborn, Deputy Secretary State Consumer Services Agency (SCSA)
<b>FROM</b>	Rebecca Marco, Executive Officer Physical Therapy Board of California (PTBC)
<b>SUBJECT</b>	Corrective Action Plan re: Temporary Help Expenditures

The mission of the Physical Therapy Board of California (PTBC) is “*to promote and protect the interests of the people of California by the effective and consistent administration and enforcement of the Physical Therapy Practice Act*”. In order to fulfill its mission, the PTBC must have a workforce consistent with the workload resulting from its mandate. However, the largest challenge of the PTBC is inadequate expenditure and position authority necessary to correct ongoing staffing issues.

The highest priority of the PTBC is ensuring consumers have access to physical therapy treatments and are protected from unlawful and/or unsafe practitioners. In fiscal year 2010/11 the PTBC received 1730 license applications; 1812 complaints and regulated over 32,000 licensees providing physical therapy treatment to consumers of California.

The PTBC is divided into four service programs: Administration; Application and Licensing; Continuing Competency and Consumer Protection. In 2006, the legislature mandated licensees meet a minimum continuing competency requirement to ensure consumers that physical therapy practitioners are current in their practice. After three years of developing and implementing regulations, the requirement to demonstrate completion of 30 continuing competency hours, as a condition of renewal, went into effect in October 2010. The PTBC received one Staff Services Analyst and one Office Technician to support this program; however, the PTBC lost the one Office Technician when required to reduce salary by 5%. This program is mandated to audit licensees and recognized agencies approving providers of continuing competency. Due to manpower shortages the PTBC has only been able to audit 10% of those licensees renewing from October 2010 to March 2011 which has resulted in a small percentage (35%) of compliance and a workload increase in the Consumer Protection Services’ citation program. The Board directed staff to increase the number of those licensees audited in an attempt to ensure a greater number of compliance by licensees. The Board also directed staff to begin an audit of approval agencies. PTBC receives an average of 16,000 renewals a year. Currently, there are over 1,460 continuing competency renewals pending review (audit) for compliance resulting from a 12 month backlog.

As illustrated below, not only did the PTBC experience a dramatic increase in workload, specifically, within the Continuing Competency (CC) and Consumer Protection Services (CPS) programs, several mandates transpired resulting in the PTBC’s fiscal deficiency. In September 2011, PTBC responded to questions presented by the legislature as mandated by the Sunset Review process which was completed in November 2011, resulting in 291 hours of staff overtime and two additional meetings of the PTBC. In July 2011, the former Executive Officer retired resulting in a (lump-sum) expenditure of 61K. Additionally, the PTBC absorbed an expenditure of 43K for revisions to the California Law Exam (CLE). In conjunction with the ongoing increased workload, lump-sum payment, sunset review and audit expenses (overtime and additional Board meetings), as well as additional costs for the CLE updates and

maintenance, the PTBC Personnel Services and Operating Expense expenditures significantly increased in FY 2011/12.

As a result of the increase in complaints elevating to discipline and the unexpected additional expenses demonstrated in the above paragraph, the PTBC requested a one-time budget augmentation for over expenditures in Attorney General costs since it was unable to absorb these costs.

PROGRAM	TYPE	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11
LICENSING	Licensee Population	28,158	28,948	29,743	30,551	31,387
CONSUMER PROTECTION SERVICES	Complaints Received	515	1,102	1,075	1,455	1,812
PTBC	Authorized PY's	10.5	11.0	11.0	11.0	*16.5

\*Includes 3.5 2-year LT positions expiring as of Sept 30, 2012

### **Corrective Action Plan**

The PTBC has identified several deficiencies within its budget, specifically in Personnel Services and Enforcement. The deficiency is a direct result of over expending in personnel services and Attorney General costs associated with increasing workload in the areas of the CC and the CPS programs,

To correct the deficiencies and decrease over-expending, PTBC has made several adjustments throughout the programs. To accommodate expenditures for temporary help, PTBC has decreased its expenditures within its operating expense by 357K (i.e. contracts, purchasing, etc.). In addition, PTBC has shifted temporary employees to vacant authorized positions, restricted overtime to only mission critical functions and increased its budget monitoring in efforts to identify potential deficits before funds materialize. In addition, PTBC plans to undertake the following corrective actions to address deficiencies:

- **Budget Adjustments** – through Budget Letter 12-03 and the 7A process, PTBC will reallocate resources from OE&E to Personal Services to more accurately reflect actual expenditures. However, this does not address the fact that PTBC is not sufficiently funded to support their current level of personal services and enforcement expenditures, specifically Attorney General costs. PTBC’s budget will still experience a fiscal shortfall primarily in Operating Expenses.
- **Zero Base Budget (ZBB)** – Through the ZBB process, the PTBC will identify inefficiencies within the programs and align the budget authority appropriately for meeting priority service levels and determine the appropriate level of personal services funding needed to meet its workload.
- **Budget Change Proposal (BCP)** – The PTBC plans to pursue a BCP based on the findings from the Zero Based budget process in order to obtain the appropriate authorized funding and staff to support workload for FY 2013-14 and ongoing.

Therefore, successfully executing the options identified in the proposed Corrective Action Plan, the PTBC is confident the deficiencies identified within the personnel services will be corrected. If PTBC cannot execute the Corrective Action Plan, PTBC will not meet its current mandates, which would result in increasing deficiencies (i.e. backlogs), jeopardizing the public’s health and safety.

If you have any questions, please do not hesitate to contact me at (916) 561-8260.

Best Regards,

Rebecca Marco  
Executive Officer

Agenda Item 7  
Attachment G

# BUDGET LETTER

	NUMBER: 12-03
SUBJECT: ADJUST BUDGET DISPLAY TO REFLECT ACTUAL EXPENDITURES AND ELIMINATE SALARY SAVINGS	DATE ISSUED: March 12, 2012
REFERENCES:	SUPERSEDES:

TO: Agency Secretaries  
 Department Directors  
 Departmental Deputy Directors of Administration  
 Departmental Budget Officers  
 Departmental Personnel Officers  
 Department of Finance Budget Staff

FROM: DEPARTMENT OF FINANCE

<b>Deadlines and Deliverables</b>	
April 9, 2012	Attachments 1 and 2, and backup documentation to your Department of Finance (Finance) budget analyst.
3 days after plan approval	Attachment 3 to your Finance budget analyst.

This Budget Letter (BL) provides direction to departments to make necessary adjustments to accurately reflect budget expenditures and positions for a more transparent budget. This adjustment will eliminate budgeted salary savings and allocate that amount to accurately reflect how state operation funds are being expended. Each department is directed to rebase current funding for state operations by performing an analysis of this funding in prior years and reallocating funds to expenditure categories in which they are actually being expended. This is expected to result in the elimination of positions historically held vacant to support the operational needs of departments. **Although dollars may be redistributed within state operations expenditure categories and positions may be reduced, this process will not result in a change to each department's total state operations funding.** This activity will be completed in time for inclusion in the Budget Act of 2012.

On Thursday, March 15, and Monday, March 19, Finance will conduct several sessions of mandatory training for department staff and Finance budget analysts to provide assistance in complying with this BL and explain how to calculate the costs of April 1 and May Revision budget change proposals. Departments are strongly encouraged to send their Deputy Director of Administration, or equivalent, and a departmental budget analyst. Departments will register for a training session time through their Finance budget analyst. Departments should coordinate with their Finance budget analyst to attend the same training session.

**Instructions:**

Each department will be required to analyze all its authorized positions and eliminate positions or groups of positions that have been historically vacant. To accomplish this, the department will use Attachment 1 to complete an analysis of vacant positions in prior years. A comparison of past year to current year positions in the Salaries and Wages publication (Schedule 7A) and the Expenditures by Category should be used to analyze position vacancies in prior budgets. Once the number of historically vacant positions has been identified, total authorized positions should be reduced to reflect the average number of filled positions the department utilizes on an annual basis. As part of the personal services analysis, consider the impacts of the 2010-11 hiring freeze and approved exemptions. In addition, past year expenditures for staff benefits, temporary help, leave buyouts, and overtime need to be examined to determine how funding should be

redistributed. The funding associated with the deleted positions should be redistributed, and appropriate dollars can be moved into the temporary help blanket, if necessary, for a department to operate at full employment at any given point in time.

Once personal services and associated funding available for redistribution have been determined, prior budgets must be analyzed to review past funding for Operating Expenses and Equipment (OE&E). The Past Year columns of the DF-300, Supplementary Schedule of OE&E, should be used to analyze OE&E expenditures. Based on the analysis, departments will determine how much funding is necessary to fully fund OE&E.

After completing the analysis of both personal services and OE&E expenditures, departments will summarize their plan for reallocating funds within expenditure categories and eliminating authorized positions on Attachment 2.

Once budgeted expenditures for personal services and OE&E have been aligned with past expenditure patterns, the salary savings line will no longer be necessary because that amount will be allocated to the appropriate category within the Expenditures by Category. Accurately reflecting utilized positions should result in a decrease in the number of authorized positions, but will not result in an increase to the number of authorized positions. As part of the proposed plan, departments will be required to provide backup documentation, in addition to Attachment 1, that was used to justify the reallocation of expenditures by category and position authority. Finance budget analysts will work with departments throughout the process as the plans are developed. Please refer to the following examples for clarification:

**Example 1:**

This example represents a department that fills all authorized positions, with the exception of those identified for salary savings, and results in no change to the current funding for authorized positions. In this case, removing salary savings would result in an adjustment to the Authorized Positions and the elimination of positions outlined as salary savings.

**Please Note: Total expenditures remain the same.**

<b>EXAMPLE 1</b>				
<b>EXPENDITURES BY CATEGORY</b>	<b>Positions/Personnel Years</b>		<b>Expenditures</b>	
	<b>BY</b>		<b>BY</b>	
<b>1 STATE OPERATIONS</b>	<b>Current</b>	<b>Proposed</b>	<b>Current</b>	<b>Proposed</b>
<b>PERSONAL SERVICES</b>				
Authorized Positions (Equals Sch. 7A)	10.0	9.5	\$100	\$95
Estimated Salary Savings	-0.5	<b>0.0</b>	-5	0
<b>Net Totals, Salaries and Wages</b>	<b>9.5</b>	<b>9.5</b>	<b>\$95</b>	<b>\$95</b>
Staff Benefits	-	-	10	10
<b>Totals, Personal Services</b>	<b>9.5</b>	<b>9.5</b>	<b>\$105</b>	<b>\$105</b>
<b>OPERATING EXPENSES AND EQUIPMENT</b>			\$20	\$20
<b>TOTALS, POSITIONS AND EXPENDITURES, ALL FUNDS (State Operations)</b>			<b>\$125</b>	<b>\$125</b>

**Example 2:**

In this example, actual salary savings exceed budgeted salary savings. This department would consistently have positions, over and above salary savings positions, which remain vacant throughout the year to fund personal services (such as staff benefits, temporary help, and overtime) or OE&E. In this example, the excess funding for the vacant positions would be moved to the line items in which the funds are actually being spent. The removal of the funding for these positions would also result in the elimination of the vacant positions as reflected in Authorized Positions below and the redistribution of funding to better align how authorized funding is being utilized.

**Please Note: Total expenditures remain the same.**

EXAMPLE 2				
EXPENDITURES BY CATEGORY	Positions/Personnel Years		Expenditures	
	BY		BY	
1 STATE OPERATIONS	Current	Proposed	Current	Proposed
PERSONAL SERVICES				
Authorized Positions (Equals Sch. 7A)	10.0	8.5	\$100	\$85
Estimated Salary Savings	-0.5	0.0	-5	0
<b>Net Totals, Salaries and Wages</b>	<b>9.5</b>	<b>8.5</b>	<b>\$95</b>	<b>\$85</b>
Staff Benefits	-	-	10	15
<b>Totals, Personal Services</b>	<b>9.5</b>	<b>8.5</b>	<b>\$105</b>	<b>\$100</b>
OPERATING EXPENSES AND EQUIPMENT			\$20	\$25
<b>TOTALS, POSITIONS AND EXPENDITURES, ALL FUNDS (State Operations)</b>			<b>\$125</b>	<b>\$125</b>

**Example 3:**

This example represents a department that fills all authorized positions and uses funding from staff benefits or OE&E to fully fund filled positions. In this example, the department utilizes all of their authorized positions and removing salary savings would result in an adjustment to staff benefits and OE&E.

**Please Note: Total expenditures remain the same.**

EXAMPLE 3				
EXPENDITURES BY CATEGORY	Positions/Personnel Years		Expenditures	
	BY		BY	
1 STATE OPERATIONS	Current	Proposed	Current	Proposed
PERSONAL SERVICES				
Authorized Positions (Equals Sch. 7A)	10.0	10.0	\$100	\$100
Estimated Salary Savings	-0.5	0.0	-5	0
<b>Net Totals, Salaries and Wages</b>	<b>9.5</b>	<b>10.0</b>	<b>\$95</b>	<b>\$100</b>
Staff Benefits	-	-	10	7
<b>Totals, Personal Services</b>	<b>9.5</b>	<b>10.0</b>	<b>\$105</b>	<b>\$107</b>
OPERATING EXPENSES AND EQUIPMENT			\$20	\$18
<b>TOTALS, POSITIONS AND EXPENDITURES, ALL FUNDS (State Operations)</b>			<b>\$125</b>	<b>\$125</b>

All budgetary changes to 2012-13 authorized position authority and categories outlined in the Expenditures by Category will be part of a statewide May Revision Finance Letter. Each department will submit Attachment 1 and Attachment 2 to your Finance budget analyst as soon as possible, but no later than **Monday, April 9, 2012**. Three days after approval of the plan by Finance, Attachment 3 will be due to your Finance budget analyst to ensure that the Change Book information accurately reflects the necessary changes to the 2012-13 Governor's Budget. Change Book entries will be discussed in training. Departments must submit Change in Established Positions (Std. 607) forms identifying which specific positions will be eliminated to the State Controller's Office within 30 days of enactment of the Budget Act of 2012 and provide a copy to your Finance budget analyst.

In addition to the adjustments outlined above, departments will have flexibility to use blanket authority to fill positions beyond approved position authority on a temporary basis for operational needs. Because budgeted authorized positions will be based on an average rate of filled positions, departments may hire permanent employees within the blanket if no vacant positions exist; however, the employee must be moved from the blanket once an authorized position becomes vacant. The temporary help blanket can be used for both temporary issues and temporary positions consistent with the requirements outlined in State Administrative Manual Section 6518. The blanket can be used for the following temporary issues: retired annuitants, seasonal staff, or payment of leave balances. The blanket also can be used for permanent employees on a temporary basis to meet the department's operational needs. Departments that have existing blanket authority will need to work with their Finance budget analyst to establish the appropriate level of authority for their blanket. Departments that do not have existing blanket authority will need to discuss the potential need for establishing blanket authority and, if necessary, the appropriate level of authority.

If you have any questions regarding this BL or to schedule training, please contact your Finance budget analyst.

/s/ Todd Jerue

TODD JERUE  
Chief Operating Officer

Attachment

Agenda Item 7

Attachment H

# BUDGET LETTER

	<b>NUMBER:</b> 12-05
<b>SUBJECT:</b> Out-of-State Travel Requests—Approval by the Governor's Office	<b>DATE ISSUED:</b> April 20, 2012
<b>REFERENCES:</b> Government Code Sections 11032 and 13030, State Administrative Manual Sections 0760-0765, and Management Memo 04-21	<b>SUPERSEDES:</b> BL 11-06

TO: Agency Secretaries  
Department Directors  
Departmental Budget Officers  
Departmental Accounting Officers  
Department of Finance Budget Staff

FROM: The Governor's Office

This Budget Letter reminds state departments, boards, agencies, and commissions of the requirements of Out-of-State Travel (OST) blankets and individual OST requests, including travel to foreign countries. This process also applies to employees of the constitutional officers.

There are significant changes for the fiscal year 2012-13 OST blankets. The blanket will now have two separate components. The first section should only include trips that meet specific mission critical criteria (defined below) and will only require approval from the Department Director and the Agency Secretary (or a commensurate level). The second section would include trips that are discretionary but your agency believes represent a benefit to the state and should be considered for approval by the Governor's Office.

Each trip listed in the first section should contain the following information:

- The purpose of the trip and mission critical criteria it meets.
- Destination
- Projected cost of the trip and the source of funding
- Number of travelers, and role of each

Each trip listed in the second section must contain the following information:

- The purpose of the trip and an explanation why it is in the best interest of the State
- Destination
- Projected cost of the trip and the source of funding (state the fund name as shown in the Governor's Budget)
- Number of travelers, and role of each
- Impact if the trip is denied
- Whether the traveler's absence will interfere with their regularly assigned duties

## **Mission critical criteria:**

- Enforcement responsibilities
- Auditing
- Revenue collection
- A function required by statute, contract or executive directive
- Job-required training necessary to maintain licensure or similar standards required for holding a position
- Equipment inspection as required by a contract

- Meetings or training **required** by a grant or to maintain grant funding
- Litigation related (depositions, discovery, testimony)
- Requests by the Federal Government to appear before committees

Mission critical **does not** mean travel to attend:

- Conferences, meetings or seminars (even those that historically have been attended or if a request has been made for your department or an individual to make a presentation)
- Networking opportunities
- Professional development courses
- Continuing education classes/seminars

All OST blankets for fiscal year 2012-13 must be submitted directly to the Governor's Director of Operations by **May 25, 2012**. This deadline provides adequate time for review and approval of OST blankets, and should prevent travel disruptions by reducing the need for departments to submit individual trip requests for travel already included in a blanket that has not yet been approved. Your OST blanket submission will only be accepted on the most recent version of the STD. 260 (REV 4/2012), which can be found by clicking this link-- <http://www.documents.dgs.ca.gov/osp/pdf/std260.pdf>. Submissions on out of date forms will be returned.

If a department has a travel request that needs consideration before their blanket has been approved, they should follow these guidelines:

- Departments are required to submit individual OST requests when a department's OST blanket has been submitted but not yet approved by the Governor's Office. The individual trip requests must be submitted on the revised OST Approval Request Form (STD. 257 REV 4/2012), which can be found by clicking this link-- <http://www.documents.dgs.ca.gov/osp/pdf/std257.pdf>. These requests must be received by the Governor's Director of Operations at least 14 days before travel is scheduled to begin. It is important to note that only submissions on the new form will be accepted. All others will be returned.

If departments do not adhere to this timeframe and if the forms are not filled out accurately and completely, the request may be denied and individual employees will not be reimbursed for travel costs or may be subject to other consequences. Please refer to SAM and Management Memo 04-21 for additional information regarding the consequences of non-compliance with OST requirements.

Please submit all OST blankets to the Governor's Director of Operations by the **May 25, 2012**, deadline. The original blanket or individual OST request must be submitted and routed via a transmittal memorandum through your Agency and sent to:

Office of the Governor  
Attn: Director of Operations

The transmittal memorandum must include the name of a contact person with e-mail and phone number, should follow up or clarifications be necessary.

/s/ Todd Jerue

TODD JERUE  
Chief Operating Officer

Agenda Item 7

Attachment I

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# The Telehealth Advancement Act of 2011

## Opportunities for Innovation in California

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On Oct. 7, 2011, Gov. Edmund G. Brown, Jr., signed into law the Telehealth Advancement Act of 2011 (AB 415). The Act was authored by Assemblyman Dan Logue (R, Lake Wildwood) and sponsored by the California State Rural Health Association (CSRHA). AB 415 enjoyed impressive bi-partisan support, with four Democratic co-authors: Wesley Chesbro (D-North Coast), Cathleen Galgiani (D-Livingston), Richard Pan (D-Natomas), and V. Manuel Pérez (D-Coachella).

The Act, which went into effect Jan. 1, 2012, makes significant changes to California telehealth laws. It creates better parity between health care services delivered via telehealth and delivered in person, and further distinguishes telehealth as a mode of delivering services.

AB 415 removes barriers, real or perceived, that have hampered implementation of telehealth. AB 415 creates opportunities to further the use of telehealth, with the goal of providing better care, access and efficiencies.

AB 415 **does not mandate** the use or reimbursement of any telehealth services by public or private payers. Covered services, and the locations of their delivery, are still negotiated in contracts between health plans and providers, and in public insurance programs such as Medi-Cal, the state's Medicaid program. Nor does AB 415 change the scope of practice of any licensed health professional, or change interstate licensure laws.

The following is an assessment by the California Telemedicine and eHealth Center (CTEC) and the Center for Connected Health Policy (CCHP) on the impacts of AB 415.

## What AB 415 Does

### **AB 415 replaces the terminology of “telemedicine” with “telehealth” in California law.**

Under the old law's terminology, telemedicine was defined as the practice of medicine via live video connections between patients and providers in separate locations, or via “data communications.” Telephone and email were explicitly excluded. As technological advances resulted in new telehealth treatment options, this legal definition over time created unintentional obstacles to the expansion of telehealth, and became a barrier to implementation.

In addition, while the old law referenced data communications, it did not explicitly reference in its definitions the use of store & forward technologies, a prominent type of delivery means, as a part of telehealth. Store & forward connects primary care providers (PCPs) and medical specialists via sophisticated high speed, high definition communications systems without the patient being present. While store & forward was allowed in a separate section of the old law, the lack of a clear and explicit presence in the definitions section created difficulties for providers seeking reimbursement for them.

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[A joint issue brief from the Center for Connected Health Policy and the California Telemedicine and eHealth Center.](#)

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Telehealth, the new legal terminology, refers to the technology-enabled delivery of services, rather than a specific medical practice. This allows for a far broader range of telehealth than the old law, and does not limit future telehealth technologies, because of its encompassing, forward-looking definitions.

### **AB 415 removes limits on the physical locations where telehealth delivered services may be provided.**

Under the old state law, there was no explicit restriction to the location where telemedicine could be delivered, other than that the facility had to be licensed. However, Medi-Cal restricted delivery and receipt of telemedicine services to four specific licensed facilities: hospitals, clinics, doctors' offices, and skilled nursing facilities. This small list of facilities was perceived as the only locations in which telemedicine could be provided.

AB 415 clears up the confusion on location by explicitly removing limits on the settings for telehealth. This will **allow** for services delivered via telehealth to be covered, regardless of where it takes place. For example, this can include services such as patient care management programs that employ home monitoring devices, in-home patient medical appointments, and provider reviews, in any location, of store & forward patient cases. However, locations for telehealth are still subject to policies and contracts enacted by Medi-Cal and private payers.

### **AB 415 eliminates the ban on services provided via email or telephone being included as "telehealth."**

AB 415 removes the restriction on telephone and email as a part of the definition of telehealth, but AB 415 did not mandate that services be provided in either manner, or reimbursement made for it. Only the restriction in current law is removed.

### **AB 415 expands the definition of health care provider, to include all health care professionals licensed by the State of California.**

Under the old law, only these health professionals could provide services via telehealth:

- Physicians
- Surgeons
- Podiatrists
- Clinical psychologists
- Marriage, family and child counselors
- Dentists
- Optometrists (in limited scope)

AB 415 expands this list to include all professionals licensed under the state's healing arts statute, which also include:

- Pharmacists
- Nurse practitioners
- Physician assistants
- Registered nurses
- Dental hygienists
- Physical therapists
- Occupational therapists
- Speech and language pathologists
- Audiologists
- Licensed vocational nurses
- Psychologists
- Osteopaths
- Naturopaths

The expanded definition of provider allows for a substantial expansion of licensed providers and the corresponding service types they are able to provide via telehealth. However, reimbursement for telehealth is still subject to policies and contracts enacted by Medi-Cal and private payers.

**AB 415 allows California hospitals to use new federal rules to more easily establish medical credentials of telehealth providers.**

An amendment added to AB 415 during its legislative approval process helped clear up confusion among California regulators over a new federal rule to streamline the process for establishing medical credentials of telehealth providers.

The federal Centers for Medicare and Medicaid Services (CMS) issued new regulations in July 2011 that speed the approval process of medical credentials for telehealth practitioners.

The new federal regulations allow hospitals engaged in telehealth to accept the credentialing paperwork from the telehealth provider's original facility to use in determining whether the hospital would extend privileges to that specific provider. These new regulations make for quicker approvals of practitioners, and eliminate duplicative, expensive, and often cumbersome credentialing processes.

The new CMS rules also allow sites other than hospitals, such as physician offices and ambulatory centers, to use the same privileging by proxy approvals for telehealth services at a hospital, as long as those services meet the hospital's conditions of practice.

AB 415 aligns California law with the new CMS regulations. The confusion among California regulators centered on whether existing state regulations were in conflict with the new federal rules, and hospitals still would have to go through full state credentialing processes for all telehealth practitioners. Hospitals may use the credentialing process outlined in CMS regulations, but it is not mandatory. Should a hospital wish to undertake the full credentialing vetting process of a telehealth provider, it may still do so.

**AB 415 removes two Medi-Cal regulations viewed as restrictive to services provided via telehealth.**

AB 415 eliminated a Medi-Cal rule requiring providers to document a barrier to an in-person visit before a beneficiary could receive services via telehealth, which was widely viewed as a disincentive by providers to utilize telehealth.

Additionally, AB 415 eliminated the sunset date on the Medi-Cal reimbursed store & forward specialties of teledermatology, teleophthalmology and a small set of services for teleoptometry. Reimbursement for these services would have ended in 2013.

**AB 415 changes the requirement of an additional written patient consent specifically for telehealth delivered services to a verbal consent.**

The old law required that patients sign a separate, telehealth-specific consent form prior to receiving any type of services via telehealth. This stigmatized the field, and created an unnecessary barrier to care. In the medical field, written consents are often viewed as the equivalent of flagging a procedure as risky or experimental.

AB 415's removal of a written consent establishes parity between services provided in person and services provided via telehealth.

This provision is not a blanket removal of all written consent. It simply puts telehealth more in alignment with services delivered in person, by eliminating the **additional** written informed consent that existed in law. The new law requires that a verbal consent will still need to be obtained at the originating site, prior to services provided via telehealth and the consent be documented in the patient's medical record.

## About This Issue Brief

This issue brief on the impacts of the Telehealth Advancement Act of 2011 was a joint project of the California Telemedicine and eHealth Center (CTEC), and the Center for Connected Health Policy (CCHP).

### About CCHP

Established in 2008 by the California HealthCare Foundation, the Center for Connected Health Policy (CCHP) is a non-profit planning and strategy organization working to remove policy barriers that prevent the integration of telehealth technologies into California's health care system. CCHP conducts objective policy analysis and research, develops non-partisan policy recommendations, and manages innovative telehealth demonstration projects.

[www.connectedhealthca.org](http://www.connectedhealthca.org)

### About CTEC

With more than 15 years' telehealth experience, CTEC is one of the country's leading resources for telehealth education, expertise, and implementation guidance. A federally designated Telehealth Resource Center, CTEC is the go-to source for unbiased information, serving healthcare providers, health systems, clinics and government agencies. Working to make telehealth services widely available, CTEC creates systems that make people healthier, increase access to care, improve patient outcomes, drive down healthcare costs, and sustain a reduced-carbon economy. For more information on CTEC, please visit [www.cteconline.org](http://www.cteconline.org).



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Attachment J

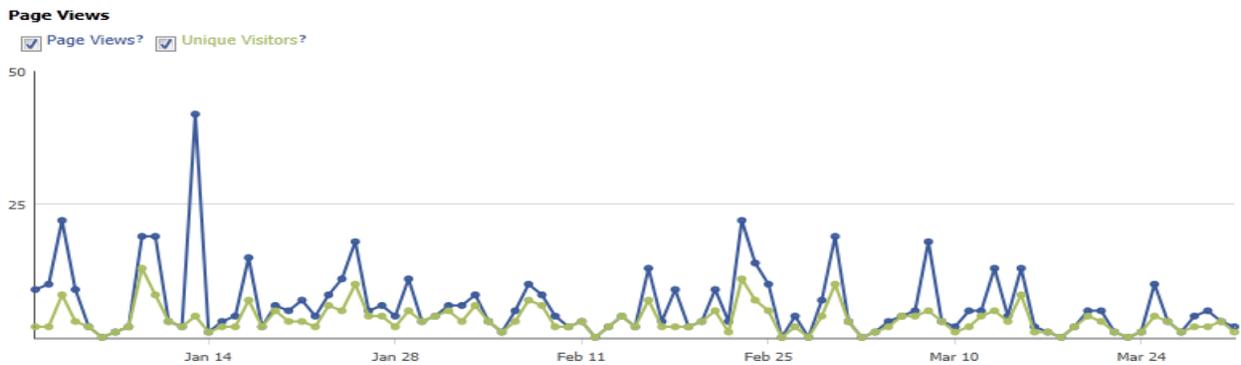
Web Hit Statistics			
Category	Web Hits During 10/01/2011 – 12/31/2011	Web Hits During 1/01/2012 – 3/31/2012	% Increase/Decrease
Home	72,647	77,863	7% ↑
Consumers	173,811	198,401	14% ↑
Applicants	79,727	94,047	18% ↑
Licensees	45,189	55,765	23% ↑
Laws/Regs	64,066	80,512	26% ↑
Form/Pub	65,475	79,057	21% ↑
About Us	40,677	45,684	12% ↑
Continuing Competency	9,080	11,185	23% ↑

Twitter Statistics			
Category	Data As Of 1/13/2012	Data As Of 4/13/2012	% Increase/Decrease
Number of Tweets	94	118	26% ↑
Number of Followers	79	89	13% ↑

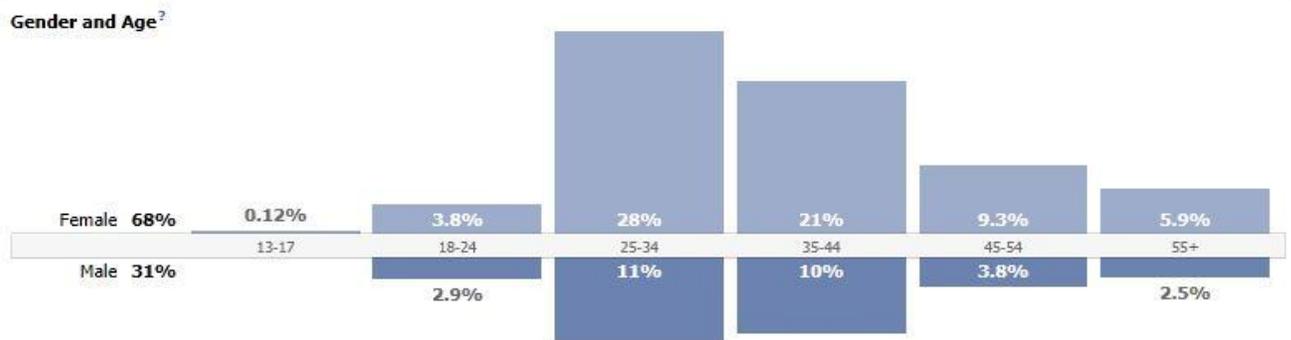
\*Account opened on 2/27/2011

Facebook Statistics			
Category	Data During 10/01/11 – 12/31/2011	Data During 1/01/12 – 3/31/12	% Increase/Decrease
Total Likes	842	929	10% ↑
Friend of Fans	290,556	300,258	3% ↑
People Talking About Page	16	39	144% ↑

Facebook Page Visits: 1/1/2012-3/31/2012



Facebook Demographic Users: 1/01/2012-3/31/2012



Note: Effective April 2012, data reflects periods by quarters per fiscal year, with the exception of Twitter.

## Agenda Item 7(A)



Physical Therapy Board of California

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

## 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](http://www.ptbc.ca.gov)

### **Briefing Paper**

Date: April 25, 2012

To: Physical Therapy Board of California

From: Rebecca Marco, Executive Officer

Subject: Audit of the Physical Therapy Board by the Bureau of State Audits

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### **Background:**

May 26, 2011 – Mary Hayashi, Assembly Member and Chair of Assembly Business, Professions and Consumer Protection Committee, submitted a letter to the Joint Legislative Audit Committee (JLAC) **attachment A** requesting an audit of the Physical Therapy Board of California (Board).

August 17, 2011 – Notification of hearing request from Ricardo Lara, Chair of JLAC **attachment B**.

August 24, 2011 – JLAC voted 12-2 in favor of the audit. Analysis of Audit Request is **attachment C**.

November 18, 2012 - Letter received from the BSA advising the Board of the upcoming audit **attachment D**.

December 7, 2011 – Board staff participated in an Entrance Conference with BSA staff. Board staff was advised of the audit objectives **attachment E** and the audit process **attachment F**.

April 9, 2012 – Board staff and Department of Consumer Affairs' staff participated in a Pre-Exit Conference with BSA staff. At the Pre-Exit Conference, BSA staff disclosed the "unofficial" findings of the audit. Since the findings are confidential, the specifics cannot be disclosed; however, it is safe to say that the findings are extremely minimal and Board staff has, or already had, begun to address them.

May 16, 2012 – The Board President, Board Legal Counsel, Board staff and Department of Consumer Affairs' staff will participate in an Exit Conference with BSA staff. At this time the official findings will be disclosed only to those participating in the Exit Conference.

May 30 to June 4, 2012 – The BSA audit report will be released to the Board and the Board has five days to respond to the findings within the report.

June 26, 2012 – The audit report and the Board's response will be made public.

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### **Action Requested:**

Since the findings are so minimal, it is unnecessary for the Board to bear the expense of a special meeting authorized pursuant to the Government Code. Therefore, it is recommended the Board delegate preparation of the response to the findings in the audit report to the Board President and staff; however, this will delay disclosure of the audit report to the remaining members of the Board until it is released to the public on June 26, 2012.

Agenda Item 7(A)

Attachment A

STATE CAPITOL  
P.O. BOX 942849  
SACRAMENTO, CA 94249-0018  
(916) 319-2018  
FAX (916) 319-2118

DISTRICT OFFICE  
22320 FOOTHILL BLVD., SUITE 540  
HAYWARD, CA 94541  
(510) 583-8818  
FAX (510) 583-8800

EMAIL: [Assemblymember.hayashi@assembly.ca.gov](mailto:Assemblymember.hayashi@assembly.ca.gov)  
WEBSITE: [www.assembly.ca.gov/hayashi](http://www.assembly.ca.gov/hayashi)

# Assembly California Legislature



**MARY HAYASHI**  
ASSEMBLYMEMBER, EIGHTEENTH DISTRICT

COMMITTEES  
CHAIR, BUSINESS, PROFESSIONS  
AND CONSUMER PROTECTION  
HEALTH  
INSURANCE

SELECT COMMITTEES  
CHAIR, COMMUNITY COLLEGES  
HIGH SPEED RAIL FOR CALIFORNIA

COMMISSION  
MENTAL HEALTH SERVICES  
OVERSIGHT & ACCOUNTABILITY

May 26, 2011

MAY 27 2011

The Honorable Ricardo Lara  
Joint Legislative Audit Committee  
State Capitol, Room 2179  
Sacramento, CA 95814

2011-119

Dear Assemblymember Lara:

I'm writing to request an audit of the Physical Therapy Board of California (Board), specifically regarding its relationship with professional organizations within the profession and its handling of complaints against physical therapists.

The Board is charged with protecting and promoting the interests of the people of California from the incompetent, unprofessional, and criminal practice of physical therapy. Over the past three years, it appears that the Board has begun to serve as an advocate for private practice physical therapists, a narrow portion of the profession it is charged to oversee, to the detriment of the majority of practicing physical therapists and their patients. Preliminary investigations also indicate that a substantial amount of public funds have been spent on travel and other expenses to allow the Board's Executive Officer, Steven Hartzell, to participate in industry-sponsored events, in direct conflict with the Board's mission. Finally, it also appears that the Board is prioritizing complaints against physical therapists who have testified for or against particular legislation over physical therapists whose violations are causing the public severe harm.

Given these questionable activities, an audit of the Board is warranted and should ask the following:

1. Has the Board's relationship and interaction with organizations in the physical therapy profession complied with conflict of interest laws, rules, and regulations?
  - a. Does the Board have policies and procedures to prevent, identify, and properly address conflicts of interests and do these policies and procedures comply with conflict of interest laws, rules, and regulations?
  - b. How does the Board monitor its compliance with conflicts of interest laws, rules, and regulations?
  - c. Are the expenditures of the Board reasonable and consistent with its mission and goals?

- d. Is the Board's relationship and level of activity with the various professional organizations consistent and reasonable?
- e. Does the Board comply with the Brown Act?
2. Is the Board consistently complying with the laws, rules, and regulations for opening, prioritizing, investigating, and closing complaints?
  - a. Does the Board have enforcement policies and procedures that comply with current laws, rules, and regulations?
  - b. Is the Board consistent in its handling of complaints against physical therapists, i.e., opening, prioritizing, investigating, and taking action?

Investigation is warranted to determine if the Board is misappropriating public funds, abusing its authority, and failing to carry out its mission. I appreciate your attention to this matter.

Sincerely,



MARY HAYASHI

Agenda Item 7(A)

Attachment B

STATE CAPITOL  
P.O. BOX 942849  
SACRAMENTO, CA 94249-0137  
(916) 319-3300  
FAX (916) 319-2352

# California Legislature



CHIEF CONSULTANT  
CAMERON VALDERRAMA  
COMMITTEE SECRETARY  
KATARINA TARR

## JOINT LEGISLATIVE AUDIT COMMITTEE RICARDO LARA, CHAIR

August 17, 2011

2011-119

Sara Takii, PT, DPT, MPA – Board President  
Physical Therapy Board of California  
2005 Evergreen Street, Suite 1350  
Sacramento, CA 95815

Dear Ms. Takii:

The Joint Legislative Audit Committee received a request to have the State Auditor conduct an audit of the Physical Therapy Board of California's relationship with professional organizations and its handling of complaints against physical therapists.

The members of the Joint Legislative Audit Committee will consider this audit request at a hearing at the State Capitol on August 24, 2011 at 9:00 a.m. in Room 444. We request that you attend the hearing or send a representative from your department. If you or a representative intends on testifying at the hearing, please notify the committee secretary to the Joint Legislative Audit Committee, at (916) 319-3300.

Sincerely,

A handwritten signature in cursive script that reads "Ricardo Lara".

RICARDO LARA  
Assembly Member, 50<sup>th</sup> District  
Chair, Joint Legislative Audit Committee

Agenda Item 7(A)  
Attachment C

Elaine M. Howle  
State Auditor

Doug Cordiner  
Chief Deputy

# CALIFORNIA STATE AUDITOR

## Bureau of State Audits

555 Capitol Mall, Suite 300

Sacramento, CA 95814

916.445.0255

916.327.0019 fax

www.bsa.ca.gov

### ANALYSIS OF AUDIT REQUEST

2011-119

August 24, 2011

#### I. AUDIT REQUEST

Assemblymember Hayashi is requesting an audit of the Physical Therapy Board of California's (board) relationship with professional organizations and its handling of complaints against physical therapists.

#### II. BACKGROUND

In 1953 the Legislature established the Physical Therapy Examining Committee, which was subsequently renamed the Physical Therapy Board of California. The board is one of 40 regulatory entities established within the Department of Consumer Affairs. The board administers and enforces the laws governing the practice of physical therapy including issuing licenses to and disciplining physical therapists and physical therapy assistants. It is funded by revenue generated from its licensing and application fees and had a fiscal year 2010-11 budget of approximately \$2.9 million.

The board consists of seven members (four licensed physical therapists, one public member appointed by the governor, and two public members appointed by the Legislature) who serve four-year terms. The board is required to meet at least three times per year and conducts its meetings in accordance with the applicable open-meeting laws. Board members and designated board employees are subject to conflict-of-interest laws, which generally require public officials to perform their duties in an impartial manner and to disqualify themselves from participating in any decision that may benefit them.

Day-to-day operations of the board are the responsibility of the executive officer who is appointed by the board. The board carries out its regulatory function primarily by evaluating the qualifications of applicants for licensure as a physical therapist or physical therapy assistant, investigating complaints regarding the board's licensees, and taking enforcement action against licensees found to be in violation of the law.

In its fiscal year 2009–10 annual report, the board stated that it received and investigated over 1,400 complaints and conviction/arrest notifications regarding its applicants and licensees, issued 588 citations, and referred 90 cases for disciplinary action.

Assemblymember Hayashi has expressed concerns about the board's relationship with the industry's professional organizations and its handling of complaints against physical therapists, and is requesting an audit to determine whether the board is misappropriating public funds, abusing its authority, and failing to carry out its mission.

### III. AUDIT SCOPE AND OBJECTIVES

The audit by the Bureau of State Audits will provide independently developed and verified information related to the board and will include, but not be limited to, the following:

1. Review and evaluate the laws, rules, and regulations significant to the audit objectives.
2. Review and assess the board's compliance with the applicable open meeting laws.
3. Determine the extent to which the board monitors its compliance with, and adherence to, policies and procedures to prevent, identify, and address conflict-of-interest violations. This analysis should include:
  - (a) Review the board's policies and procedures related to conflict of interest and assess the extent to which it complies with current conflict-of-interest laws.
  - (b) Reviewing and assessing, to the extent possible, the nature and extent of executive officer and board member interactions with professional organizations representing physical therapy professionals and how those interactions compare with other professional licensing boards.
4. For the most recent three-year period, determine whether the board's expenditures, including travel expenses, are reasonable and consistent with state law.
5. Review and evaluate the board's enforcement policies and procedures with respect to opening, investigating, and closing complaints to determine whether they are consistent with applicable laws, rules, and regulations, as well as best practices. Using a sample of complaints from the most recent three-year period, determine if the board has consistently applied its policies related to prioritizing, investigating, and closing complaints. At a minimum, this assessment should include:
  - (a) How the board prioritized complaints.
  - (b) How it assigned complaints to investigators or experts.
  - (c) The criteria it used selecting experts for case reviews.

- (d) The consistency and reasonableness of the course of action taken when it substantiated a complaint.
  - (e) A review of complaints closed without an enforcement action taken to determine whether the complaints were closed in a manner consistent with state laws, regulations, and established policies and practices.
6. Review and assess any other issues that are significant to the board's ability to fulfill its statutory mandate.

**IV. OTHER WORK IN THE GENERAL AREA**

*2007-117 State Board of Chiropractic Examiners: Board Members Violated State Laws and Procedural Requirements, and Its Enforcement, Licensing, and Continuing Education Programs Need Improvement (March 2008)*

*2006-116 Medical Board of California's Physician Diversion Program: While Making Recent Improvements, Inconsistent Monitoring of Participants and Inadequate Oversight of Its Service Providers Continue to Hamper Its Ability to Protect the Public (June 2007)*

**V. RESOURCE REQUIREMENTS**

We estimate that this audit would require approximately 1,880 hours of audit work at a cost of approximately \$188,000 plus travel and administrative expenses and the possible costs related to an outside consultant, if necessary. We will conduct this audit using our existing budget authority to the extent funding is available for audits approved by the Joint Legislative Audit Committee.

**VI. REQUIRED DATE OF COMPLETION**

Assemblymember Hayashi did not specify a completion date for this audit.

*Elaine M. Howle*

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ELAINE M. HOWLE, CPA

State Auditor

Agenda Item 7(A)  
Attachment D

Elaine M. Howle  
State Auditor

Doug Cordiner  
Chief Deputy

# CALIFORNIA STATE AUDITOR

## Bureau of State Audits

555 Capitol Mall, Suite 300

Sacramento, CA 95814

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November 18, 2011

2011-119

Anna Caballero, Secretary  
State and Consumer Services Agency  
915 Capitol Mall, Suite 200  
Sacramento, California 95814-2719

Dear Ms. Caballero:

The California Government Code, Section 8543, creates the Bureau of State Audits (bureau). The bureau is responsible for conducting audits requested by the Legislature and approved by the Joint Legislative Audit Committee. Therefore, the bureau will be conducting an audit of the Physical Therapy Board of California's (board) relationship with professional organizations and its handling of complaints against physical therapists.

The California Government Code, Section 8545.2, gives the bureau complete access to all records and property of state agencies; public entities including any city, county, and school or special district; and private entities or persons to the same extent that employees of state agencies and public entities have access to these records. However, we assure you that the bureau respects the legal confidentiality of these records and will not publicly release them when legal restrictions prohibit such release.

The audit will be under the supervision of Mike Tilden, Audit Principal. We will contact Rebecca Marco, the board's Interim Executive Officer, to arrange an opening conference. If you have any questions during the review, please do not hesitate to contact me.

Sincerely,



ELAINE M. HOWLE, CPA  
State Auditor

cc: Rebecca Marco, Interim Executive Officer, Physical Therapy Board of California  
Sara Takii, Board President, Physical Therapy Board of California  
Brian Stiger, Acting Director, Department of Consumer Affairs

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Attachment E

## 2011-119 AUDIT SCOPE AND OBJECTIVES—Physical Therapy Board of California

The audit by the Bureau of State Audits will provide independently developed and verified information related to the Physical Therapy Board of California (board) and will include, but not be limited to, the following:

1. Review and evaluate the laws, rules, and regulations significant to the audit objectives.
2. Review and assess the board's compliance with the applicable open meeting laws.
3. Determine the extent to which the board monitors its compliance with, and adherence to, policies and procedures to prevent, identify, and address conflict-of-interest violations. This analysis should include:
  - (a) Review the board's policies and procedures related to conflict of interest and assess the extent to which it complies with current conflict-of-interest laws.
  - (b) Reviewing and assessing, to the extent possible, the nature and extent of executive officer and board member interactions with professional organizations representing physical therapy professionals and how those interactions compare with other professional licensing boards.
4. For the most recent three-year period, determine whether the board's expenditures, including travel expenses, are reasonable and consistent with state law.
5. Review and evaluate the board's enforcement policies and procedures with respect to opening, investigating, and closing complaints to determine whether they are consistent with applicable laws, rules, and regulations, as well as best practices. Using a sample of complaints from the most recent three-year period, determine if the board has consistently applied its policies related to prioritizing, investigating, and closing complaints. At a minimum, this assessment should include:
  - (a) How the board prioritized complaints.
  - (b) How it assigned complaints to investigators or experts.
  - (c) The criteria it used selecting experts for case reviews.
  - (d) The consistency and reasonableness of the course of action taken when it substantiated a complaint.
  - (e) A review of complaints closed without an enforcement action taken to determine whether the complaints were closed in a manner consistent with state laws, regulations, and established policies and practices.
6. Review and assess any other issues that are significant to the board's ability to fulfill its statutory mandate.

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Attachment F

## **Bureau of State Audits – Audit Process**

1. We generally conduct audits in three phases: scoping, fieldwork, and reporting, as follows:
  - Scoping Phase – During this phase, we gain an understanding of the auditee, audit issues, criteria (e.g., relevant laws, rules, regulations, and policies) and develop our procedures. For example, the team will spend time interviewing relevant Physical Therapy Board (board) personnel and reviewing policies and procedures and other documents (e.g., expenditures, travel claims, complaints, etc.).
  - Fieldwork Phase - Once scoping is complete, we will begin the testing necessary for us to address the audit's objectives. For example, we expect to test samples of board meetings (for compliance with open meeting laws), expenditures, travel claims, and complaints. In addition, we will perform testing to identify any potential conflicts of interest. At the conclusion of our work, we will discuss any potential findings or recommendations with appropriate management and staff to ensure that we have a correct understanding of the facts and the board's perspective on each issue.
  - Reporting Phase - As we near the end of fieldwork, we will begin preparing a draft report. The draft report goes through numerous internal reviews and we will provide the board an opportunity to review and comment on the draft report. During this phase we will also hold an exit conference to discuss the content of the draft report. Your comments will be attached to the report.
  - A very preliminary estimate of when we expect to issue the public audit report is May or June of 2012.
2. Evidence requirements under generally accepted governmental auditing standards require us to confirm verbal statements that are important to our audit work. Thus, in some cases, we will ask that management and/or staff we interview confirm statements made to us. Typically, this is done through e-mail. We may also ask the board to

provide us a representation letter to confirm that it has provided all documents to us related to our audit. We do this in some, but not all audits, and we will make a decision later in the audit whether such a letter is required in this case.

3. A few other reminders:

- Pursuant to state law, the audit process is confidential. For example, the BSA and the board are prohibited from sharing with others (e.g., outside entities, etc.) any findings, recommendations, discussions or other information provided during the audit, etc., until the report is publicly released. If you have any questions about this, please contact Stephanie Ramirez-Ridgeway at 916-445-0255.
- We will try to be considerate of your schedules and commitments, but we also have deadlines to meet, so we will have to work together to balance your and our needs.
- We welcome your perspective on the issues and will try to the extent possible to incorporate your perspective into the final audit report.
- Please do not hesitate to contact either AJ or myself if you have questions during the audit or if you feel a need to be briefed on the issues. We want to keep the communication lines open between the board and us.
- After the audit is issued, we ask that you provide us follow-up responses at 60 days, 6 months, and 1 year.

## Agenda Item 9



## Physical Therapy Board of California

2005 Evergreen St. Suite 1350, Sacramento, California 95815

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### Agenda Item #9

#### **Issue Paper**

Date: April 25, 2012  
Prepared for: PTBC Members  
Prepared by: Sarah Conley  
Subject: Practice Issues

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#### **Issue:**

How should Board staff address practice issues?

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#### **Purpose:**

Consider and discuss options on the subject of practice issues.

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#### **Background:**

Responding to practice issues has been managed a number of ways throughout the Board's history. Currently, Board staff responds to practice issues with assistance from the Board's in-house Expert Consultant and Legal Counsel.

Consequently, Counsel's exposure to the nature of inquiries received by the Board began generating concern which prompted her presentation of an opinion at the February 2012 meeting identifying two concerns with the manner in which the Board, currently and historically, responds to practice issues: 1) lack of complete information; and, 2) potential for underground regulation. In response, the Board expressed apprehension with Counsel's findings since it limits the Board's ability to respond to these issues.

Because of this, staff, Legal Counsel and the Board President met to evaluate the extent of the issue. And after much discussion, staff realized the true magnitude of the situation, which could not be presented solely in an issue paper. Therefore, staff will be delivering a PowerPoint presentation in hopes of demonstrating the extent of the issue and potential solutions.

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#### **Action Requested:**

Provide direction to staff as to how to proceed with practice issues received by the Board.

## Agenda Item 10(A)



# Physical Therapy Board of California Policies and Procedures



<b>SUBJECT:</b>	Legislation/Board President Authority	<b>SUPERSEDES:</b>	New	<b>POLICY:</b>	LEG 05-12
<b>TITLE:</b>	Board President Delegated Authority: Interim Positions on Pending Legislation	<b>EFFECTIVE:</b>	Upon Board Adoption	<b>PAGE:</b>	1 of 1
<b>DISTRIBUTE TO:</b>	Board Members and Staff	<b>APPROVED BY:</b>			
<b>ISSUE DATE:</b>					

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**Background:** Joint Rule 61 of the Senate and Assembly sets forth deadlines within each two-year legislative session. To meet these deadlines, and for various other reasons, pending legislation may move quickly through the legislative process during the year. Since the Board meets quarterly each year, the Board is unable to immediately take a position on pending legislation where it may be necessary.

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**Purpose:** To establish a policy authorizing the Board President to take interim positions on behalf of the Board on pending legislation between meetings of the Board.

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**Applicability:** This policy would apply to the Board President.

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**Policy:** It is the Board’s policy that the Board President is authorized to take an interim position on behalf of the Board on pending legislation that requires the Board to take a position other than “watch” between meetings of the Board. The position taken by the Board President shall be the interim position of the Board until the next meeting of the Board at which time the Board would either ratify, or reject the position taken by the Board President. Should the Board reject the interim position taken by the Board President, the bill author and any other party which was notified of the Board’s interim position would immediately be notified of the Board’s action.

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**Authority:** Business and Professions Code section 2602

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**Revisions:** Revisions of this policy are the responsibility of the Board and may be rendered at any time.

## Agenda Item 10(B)



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 #10(B)

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### Briefing Paper

Date: April 25, 2012

Prepared for: PTBC Members

Prepared by: Sarah Conley

Subject: Legislation

### **Purpose:**

To update the Board on 2011-2012 proposed legislation

### **2011**

#### SB 924, Senator Price

Approved Position: Watch

Recommended Position:

SB 924 would amend Sections 2406 and 2690 of, and add Sections 2406.5, 2620.1 and 2694.5 to the Business and Professions Code and amend Section 13401.5 of the Corporations Code authorizing physical therapists and occupational therapist to be shareholders, officers, directors, and employees of a medical corporation or podiatric corporation, as specified. This bill would add physical therapy corporations to the Moscone-Knox Professional Corporations Act permitting physicians, surgeons, doctors of podiatric medicine, acupuncturists, naturopathic doctors, occupational therapists, speech-language pathologists, audiologists, nurses, psychologists and physician assistants to be shareholders, officers, directors, or employees. This bill would authorize direct access to physical therapy treatment for not more than thirty (30) days or twelve (12) visits, whichever occurs first, and as specified.

### **2012**

#### AB 1904, Assembly Member Block

Recommended Position: Watch

AB 1904 would add Section 115.5 to the Business and Professions Code providing that a board within the Department of Consumer Affairs (DCA) may issue a temporary license to an applicant who is married to, or in a domestic partnership or

1 other legal union with, an active duty member of the Armed Forces of the United  
2 States who is assigned to a duty station in California under official active military  
3 orders and who is already licensed in another state. The bill would mandate that the  
4 board expedite the procedure for issuing a temporary license pursuant to the section  
5 and that the temporary license be valid for 180 days.  
6

7 AB 1932, Assembly Member Gorell

8 Recommended Position: Watch  
9

10 AB 1932 would add Section 710.2 to the Business and Professions Code mandating  
11 all healing arts boards to submit to the Department of Veterans Affairs, by January 1,  
12 2014, a written report detailing the methods of evaluating the education, training, and  
13 experience obtained in military service and whether that education, training, and  
14 experience is applicable to the board's requirements for licensure. The report must  
15 also include the number of service members who have applied for and have used  
16 their military education, training, and experience to fulfill the board's requirements for  
17 licensure.  
18

19 AB 1976, Assembly Member Logue

20 Recommended Position: Watch  
21

22 AB 1976 would add Section 712 to the Business and Professions Code and add  
23 Section 1131136 to the Health and Safety Code enacting the Veterans Health Care  
24 Workforce Act of 2012. This bill would require healing arts boards within the  
25 Department of Consumer Affairs and the State Department of Public Health to accept  
26 education, training, and practical experience completed by an applicant in military  
27 service toward the qualification and requirements to receive a license or certificate.  
28 This bill would require boards to adopt regulations to implement the provisions of this  
29 section by January 14, 2014.  
30

31 AB 2213, Assembly Member Donnelly

32 Recommended Position: Watch  
33

34 AB 2213 would add Chapter 8.2 (commencing with Section 11820) to Part 1 of  
35 Division 3 of Title 2 of the Government Code to establish the Bureaucracy  
36 Realignment and Closure Act of 2013. This bill would authorize the establishment of  
37 the Bureaucracy Realignment and Closure Commission (Commission) by the  
38 Governor. This bill would provide that the appointees shall not be have any  
39 involvement in federal, local or state government, including any person who would  
40 qualify as a lobbyist as specified in Section 82039. This bill would authorize the  
41 Commission to examine and investigate state bureaucracies and report findings and  
42 recommendations to the Governor and the Legislature, which may include a list of  
43 state bureaucracies to be realigned or abolished. This bill would mandate that the  
44 Controller, the Director of Finance, the Legislative Analyst, and the Milton Marks  
45 "Little Hoover" Commission on California State Government Organization and  
46 Economy develop recommendations for the closure or realignment of state  
47 bureaucracies and submit a report with these recommendations to the Commission

1 by July 15, 2014 for consideration. The Commission, not later than July 15, 2015,  
2 would be required to submit a report of its final recommendation to the Governor and  
3 the Legislature that established a list of state bureaucracies that are proposed to be  
4 realigned or abolished. This bill contains other related provisions.

5  
6 AB 2214, Assembly Member Monning

7 Recommended Position: Watch

8  
9 AB 2214 would add Part 3.5 (commencing with Section 128590) to Division 107 of  
10 the Health and Safety Code mandating the California Workforce Investment Board  
11 establish a special committee to be known as the Health Workforce Development  
12 Council (Council) to help expand the State's health workforce in order to provide  
13 access to quality health care for all Californians.

14  
15 AB 2570, Assembly Member Hill

16 Recommended Position: Support

17  
18 AB 2570 would add Section 143.5 to the Business and Professions Code prohibiting  
19 a licensee who is regulated by a board, bureau, or program within the Department of  
20 Consumer Affairs, or any entity or person acting as an authorized agent of a  
21 licensee, from including or permitting a provision in an agreement to settle a civil  
22 dispute that prohibits the other party in that dispute from contacting, filing a complaint  
23 with, or cooperating with the party to withdraw a complaint from the department,  
24 board, bureau, or program. This bill would make a provision such as this void as  
25 against public policy and would authorize the board, bureau, or program to take  
26 disciplinary action against the licensee for including the provision in a settlement  
27 agreement.

28  
29 SB 975, Senator Wright

30 Recommended Position: Watch

31  
32 SB 975 would add Section 101.2 to the Business and Professions Code establishing  
33 an explicit finding that the regulatory programs of the Department of Consumers  
34 Affairs are the sole state authorities for licensure and regulation of their respective  
35 professions and that no other state agency may impose any additional licensure  
36 requirements, including mandated training or certification requirements, needed for  
37 practice within a licensure profession.

38  
39 SB 1273, Senator Lowenthal

40 Recommended Position: Watch

41  
42 SB 1273 would add Chapter 5.8 (commencing with Section 2697.2) to Division 2 of,  
43 and to repeal Section 2697.8 of, the Business and Professions Code to establish the  
44 Athletic Trainers Licensing Committee within the Physical Therapy Board. This bill  
45 would, on or after January 1, 2016, prohibit a person from using the title "athletic  
46 trainer" without being licensed by the Committee. This bill contains other related  
47 provisions.

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SB 1374, Senator Harman  
Recommended Position: Oppose

SB 1374 would add Section 1713.5 to the Civil Code proving that any person who relies upon a written order, ruling, approval, interpretation, or enforcement policy of a state agency shall not be liable or subject to punishment for a violation of a civil statute or regulation if the person proves that, at the time the alleged act or omission occurred, the person was acting in good faith and in conformity with, and in reliance on, an applicable state agency’s written order, ruling, approval, interpretation, or enforcement policy. This bill would provide that this defense shall apply if, after the alleged act or omission occurred, the order, ruling, approval, interpretation, or enforcement policy relied upon is modified, rescinded, or determined by judicial authority to be invalid or of no legal effect. This bill would provide the section would apply to all actions and proceedings that have not resulted in a final judgment on or after January 1, 2013.

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**Action Requested:**

To adopt the positions as recommended by staff on the bills presented at this meeting, and to delegate the authority to take and/or change positions on any bill to the Board President

# Agenda Item 11

Rulemaking Calendar

Topic	Current Status	Next Target	Priority	Lead
Uniform Standards/Guidelines 1399.15 File No. Z2011-0907-01 Published: September 16, 2011	Present modified text at the May 2012 meeting	Proceed as directed by the Board	2011 - 1	Elsa
Delegated Functions/Sex Offenders/Unprof. Conduct 1398.4, 1399.23, 1399.24 File No. Z2011-0314-01 Published: March 25, 2011	Submitted to State and Consumer Services Agency (Agency) for approval	If approved by Agency, the file will be submitted to the Office of Administrative Law (OAL) for review and approval	2011 - 1	Elsa
Free Sponsored Health Care Events 1400-1400.3 File No. Z2011-0907-02 Published: September 16, 2011	Modified text and forms for uniformity with other boards	Staff will issue 15-day notice of modified text	2011 - 1	Jason
Mandatory Fingerprinting Regulation number(s) to be determined File No. Z2012-0313-10 Published: March 23, 2012	Comment period ends: May 7, 2012 Hearing date: May 10, 2012	<u>If comments rec'd/changes made:</u> Staff may issue a 15-day notice of modified text <u>If no comments rec'd/changes made:</u> Staff will prepare file for submission to DCA for review	1 (A)	Jason
Continuing Competency Article 13	Researching/collecting data	Present program analysis at February 2013 meeting	1 (B) <sup>1</sup>	Jason

<sup>1</sup> Staff identified priority – recommend Board change priority from 2 to 1(B)

Notice to Consumers Regulation number(s) to be determined	Propose text at the May 2012 meeting	Board direct staff to prepare notice for regulatory hearing at the August 2012 meeting	1 (C) <sup>2</sup>	Sarah
Delegation Authority for Citation Informal Conferences 1399.29		Staff will develop proposed text for Board consideration at the August 2012 meeting	1(D) <sup>3</sup>	Elsa
Pathways for Recovery Regulation number(s) to be determined	Scoping	Research rehabilitation alternatives for presentation at August 2012 meeting	1 <sup>4</sup>	Becky
Application & Licensing Regulations Section numbers already specifically identified: 1398.21, 1398.21.1, 1398.22, 1398.23, 1398.24 <sup>5</sup> , 1398.25, 1398.26, 1398.26.5, 1398.27 <sup>6</sup> , 1398.28, 1398.42 <sup>6</sup> , 1398.47, 1399.10, 1399.12 TBD section number – processing time for applicants completing application process, TBD section number – invalidating exam scores <sup>6</sup>		Establish a task force to review current regs. and determine Application and Licensing Services program abilities/processes	2	Jason
Required E-mail Submission 1398.6	Propose text at the May 2012 meeting	Board direct staff to prepare notice for hearing at the August 2012 meeting	2 <sup>7</sup>	Sarah
Establish Passing Score for the National Physical Therapy Exams		Propose text at August 2012 meeting	2 <sup>8</sup>	Jason
Office Location <sup>9</sup> 1398.1	Assignment	Staff will prepare for submission to OAL	3	Sarah

<sup>2</sup> Staff identified priority – recommend Board identify this rulemaking item to be a priority 1(C)

<sup>3</sup> Staff identified priority – recommend Board identify this rulemaking item to be a priority 1(D)

<sup>4</sup> Board identified priority – staff considering priority recommendation

<sup>5</sup> PTBC application processing time requirements – repeal based on repeal of authority (GC 15376) can be done as a Section 100 change

<sup>6</sup> Staff identified priority – recommend Board change priority from 3 to 2 (staff including with other App./Lic. reg. change proposals)

<sup>7</sup> Staff identified priority – recommend Board identify this rulemaking item to be a priority 2

<sup>8</sup> Staff identified priority – recommend Board identify this rulemaking item to be a priority 2

<sup>9</sup> Section 100 change

**Notes:**

A rulemaking file expires one year from the notice of proposed rulemaking.

DCA is allowed thirty (30) calendar days to review the rulemaking file prior to submission to OAL.

OAL is allowed thirty (30) working days to review and either approve or deny the rulemaking file.

Regulations, unless otherwise specified, take effect thirty (30) days after filing with the Secretary of State.



Physical Therapy Board of California

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

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## Agenda Item #11

### Briefing Paper

Date: April 17, 2012

Prepared for: PTBC Members

Prepared by: Sarah Conley

Subject: 2012 Rulemaking Calendar

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### **Purpose:**

To update the Board on current and proposed rulemaking

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The following is an update on the progress of each rulemaking file on the 2012 Rulemaking Calendar as adopted by the Board at the November 2 & 3, 2011 meeting and submitted to the Office of Administrative Law for publication.

### 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 amend the proposed text (refer to agenda item #13 briefing paper for details) and present the amended proposed text for Board consideration at the May 2012 meeting. If the amended proposed text is adopted as presented, staff will issue a 15-day notice of modified text for public comment. If public comment is received, staff will present the modified text, as noticed after this meeting, with public comment for Board consideration at the August 2012 meeting; however, if no public comment is received, staff will prepare the rulemaking file for review by the Department of Consumer Affairs (DCA).

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

Pursuant to the Board's direction at the February 2012 meeting, staff issued a 15-day notice of modified text. No comments were received during the 15-day comment period; therefore, staff prepared the rulemaking file and submitted it to DCA for review. DCA forwarded the file to the State and Consumer Services Agency

1 (Agency). Agency has approved the file and it is now with the Department of Finance  
2 for review.

3  
4 Free Sponsored Health Care Events, CCR §1400-1400.3

5  
6 The Board made non-substantive edits to the modified text at the February 2012  
7 meeting and directed staff to proceed with the rulemaking process with the text as  
8 edited at the meeting, and delegated to the Executive Officer the authority to make  
9 any additional non-substantive changes to proceed with the rulemaking process.  
10 Staff prepared the rulemaking file and submitted it to the DCA for review. The DCA  
11 identified inconsistencies with the forms and/or requirements for all boards, and  
12 recommended changes to the language, which staff will present at this meeting  
13 (agenda item #18).

14  
15 Mandatory Fingerprinting, CCR section number(s) to be determined

16  
17 Staff introduced proposed text at the February 2012 meeting for Board consideration.  
18 The Board amended the proposed text and directed staff to issue a Notice of  
19 Proposed Rulemaking and schedule the regulatory hearing for the May 2012  
20 meeting.

21  
22 Continuing Competency, CCR, Article 13

23  
24 Staff presented an issue paper at the February 2012 meeting identifying internal  
25 obstacles in the Continuing Competency program. The Board President requested  
26 staff present an analysis of the Continuing Competency program addressing the  
27 effectiveness of the regulations, common concerns from licensees, coursework  
28 recommendations and a more detailed look at why licensees fail audits. The  
29 Executive Officer explained since the Continuing Competency program began in  
30 October 2010 and there is a two (2) year renewal cycle, staff will not have a  
31 comprehensive picture of the program until after October 31, 2012. Staff anticipates  
32 presenting an analysis of the Continuing Competency program at the February 2013  
33 meeting provided audits are current.

34  
35 Establish a Passing Score for the National Physical Therapy Exam

36  
37 At the August 2011 meeting, Legal Counsel recommended the Board establish a  
38 passing score for the NPTE and the Board concurred. The Board directed staff to  
39 draft proposed text. Staff will present proposed text at the August 2012 meeting.

40  
41 Notice to Consumers, CCR section number(s) to be determined

42  
43 Staff presented "Notice to Consumers" samples from other boards for consideration  
44 at the February 2012 meeting. The Board directed staff to propose text at the May  
45 2012 meeting. If the Board adopts the text as proposed, or modifies the proposed  
46 text, staff will proceed with issuing a Notice of Proposed Rulemaking and schedule

1 the regulatory hearing for the August 2012 meeting, or otherwise as directed by the  
2 Board.

3  
4 Application and Licensing Regulations, Numerous CCR sections

5  
6 The Board adopted a number of application and licensing rulemaking proposals as a  
7 part of the 2012 Rulemaking Calendar at the November 2011 meeting. In reviewing  
8 the current application and licensing regulations, staff determined a complete revision  
9 of these regulations is needed and will establish a task force of staff members and  
10 Legal Counsel to conduct the review.

11  
12 Pathways for Recovery, CCR section number(s) to be determined

13  
14 The Board adopted this rulemaking proposal as a part of the 2012 Rulemaking  
15 Calendar at the November 2011 meeting. Staff is currently scoping the issue to  
16 identify where the specific areas of concern lie and whether this issue warrants  
17 promulgating regulation(s). The Executive Officer and the Probation Monitor will  
18 present rehabilitation alternatives at the August 2012 meeting.

19  
20 Required E-mail Submission, CCR §1398.6

21  
22 Staff added this rulemaking proposal after the November 2011 meeting. The growing  
23 use of electronic communication and the most recent move to only electronic  
24 distribution of the Board's quarterly newsletter supports requiring submission of  
25 applicant and licensee electronic communication records. Staff is proposing text at  
26 this meeting. If the Board adopts the text as proposed, or modifies the proposed text,  
27 staff will proceed with issuing the Notice of Proposed Rulemaking and schedule the  
28 regulatory hearing for the August 2012 meeting, or otherwise proceed as directed by  
29 the Board.

30  
31 Office Location, CCR §1398.1

32  
33 At the November 2011 meeting, staff reported this rulemaking proposal is dependent  
34 on whether the office relocation occurs. Since that time, it was unknown whether the  
35 office location would change. Currently, relocation does not appear to be an option  
36 for the Board; therefore, staff will proceed with filing a Section 100 change with OAL  
37 to update the Board's office address to its current location.

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38  
39  
40 **Action Requested:**

41  
42 Review priorities of each rulemaking item on the 2012 Rulemaking Calendar that staff  
43 updated for various reasons, and adopt these changes.

## Agenda Item 12



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 12

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### Briefing Paper

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Date: April 13, 2012

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Prepared for: PTBC Members

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Prepared by: Elsa Ybarra

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SUBJECT: Proposed revisions to 1399.15 of Division 13.2, Title 16 of the California Code of Regulations and the Model Guidelines for Issuing Citations and Imposing Discipline

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8

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#### Purpose:

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To consider amending 1399.15 of Division 13.2 of Title 16 of the California Code of Regulations; Model Guidelines for Issuing Citations and Imposing Discipline (Guidelines). The amendments include revisions made at the November 3, 2011 rulemaking hearing.

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#### Analysis:

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The Model Guidelines for Issuing Citations and Imposing Discipline (Guidelines), incorporated by reference into Division 13.2 of Title 16 of the California Code of Regulation section 1399.15, was heard on November 3, 2011. In February 2012, the Board motioned to table this item until the May 2012 Board meeting and directed staff to make the revisions as discussed during the meeting.

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19

There has been some confusion as to why or how sections 1399.15 (b) & (c) are included in this section. Section 1399.15(c) stemmed from SB1111 in "2010". SB1111 was part of the Consumer Protection Enforcement Initiative; however, since SB1111 was not adopted, it was recommended by the Department to extract sections from SB1111 and adopt into regulation. At the May 2010 Board Meeting, Claire Yazigi, Legal Counsel, first presented CCR 1399.15 with draft language adding 1399.15(c). Ms. Yazigi explained since the Guidelines are just that, there can be a departure from the Guidelines with good reason to deviate; however, placing this language (subparagraph (c)) in the regulation itself, there would be no exception to deviate from revoking a license if it is determined that the licensee engaged in any act of sexual contact. Section 1399.15 (b) was recommended by Anita Scuri, Legal Counsel at the November 3, 2011 hearing. Subparagraph (b) allows the Board the discretion to modify the terms of probation on a case by case basis for appropriate public protection and provide with modification or omission of a specific standard as a term, should the licensee establish or provide evidence that he/she does not have a substance problem. Although the title of CCR 1399.15 does not include or identify the subject matter of subsections (b) and (c), the current title is throughout the Guidelines and should facilitate the use by an Administrative Law Judge. (Attachment B)

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Revisions since the February 2012 meeting include:

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Grammatical changes were made throughout the Model Guidelines for Issuing Citations and Imposing Discipline. For simplicity, the grammatical changes for this meeting are highlighted in yellow.

35

36

Tracking notes for each proposed amendment explaining rationale for the change are included. The Model Guidelines for Issuing Citations and Imposing Discipline is included in its entirety. (Attachment C)

37

38

The Board recently received a memo from Doreathea Johnson, DCA, Deputy Director, from Legal Affairs concerning the discretion Boards have with regards to the Uniform Standards for Substance-Abusing Healing

39

1 Arts Licensees (Uniform Standards). This memo includes (as an attachment) two opinions, one issued by  
2 Legislative Counsel Bureau and an informal legal opinion, provided by the Government Law Section of the  
3 Office of the Attorney General. Based on this memo, further discussion is needed to determine how best to  
4 implement the Uniform Standards. For your reference, a copy of this memo and its attachments are included  
5 behind this briefing paper. (Attachment A)

6 A copy of the Uniform Standards Regarding Substance-Abusing Healing Arts Licensees is also included in its  
7 entirety directly behind the Model Guidelines for Issuing Citations and Imposing Discipline. (Attachment D)

8 **Action Requested:** Request Board Members consider the revisions made since the February 2012 meeting  
9 and provide recommendations on any other changes needed. Also, provide direction based on the discussion  
10 with regards to the memo received from DCA, Legal Affairs regarding the Uniform Standards.

Agenda Item 12  
Attachment A



## MEMORANDUM

DATE	April 5, 2012
TO	ALL HEALING ARTS BOARDS
FROM	 DOREATHEA JOHNSON Deputy Director, Legal Affairs Department of Consumer Affairs
SUBJECT	Opinion Regarding Uniform Standards for Substance-Abusing Licensees (SB 1441)

RECEIVED BY PT20 APR 09 12

This memo addresses a number of questions that have been raised concerning the discretion of healing arts boards, with respect to the Uniform Standards for Substance-Abusing Healing Arts Licensees ("Uniform Standards") that were formulated by the Substance Abuse Coordination Committee and mandated by Business and Professions Code section 315. Previously, there have been discussions and advice rendered, opining that the boards retain the discretion to modify the Uniform Standards. This opinion, largely influenced by the fact that the rulemaking process necessarily involves the exercise of a board's discretion, has been followed by a number of boards as they completed the regulatory process.

Two opinions, one issued by the Legislative Counsel Bureau ("Legislative Counsel") dated October 27, 2011, and an informal legal opinion, rendered by the Government Law Section of the Office of the Attorney General ("Attorney General"), dated February 29, 2012, have been issued and address the discretion of the boards, in adopting the Uniform Standards. This memo is to advise the healing arts boards of this office's opinion regarding the questions raised, after a review of these two opinions. A copy of each opinion is attached for your convenience.

Questions Presented

1. **Do the healing arts boards retain the discretion to modify the content of the specific terms or conditions of probation that make up the Uniform Standards?**

*Both Legislative Counsel and the Attorney General concluded that the healing arts boards do not have the discretion to modify the content of the specific terms or conditions of probation that make up the Uniform Standards. We concur with that conclusion.*

2. **Do the healing arts boards have the discretion to determine which of the Uniform Standards apply in a particular case?**

*Legislative Counsel opined that, unless the Uniform Standards specifically so provide, all of the Uniform Standards must be applied to cases involving substance-abusing licensees, as it was their belief that the Legislative intent was to "provide for the full implementation of the Uniform Standards." The Attorney General agreed with Legislative Counsel. Following our review and analysis of Business and Professions Code Section 315, we concur with both the Office of the Attorney General and the Legislative Counsel.*

3. **Is the Substance Abuse Coordination Committee (SACC) the entity with rulemaking authority over the uniform standards to be used by the healing arts boards?**

*The Legislative Counsel concluded that the SACC had the authority to promulgate regulations mandating that the boards implement the Uniform Standards. However, the Office of the Attorney General disagreed and concluded that the SACC was not vested with the authority to adopt regulations implementing the uniform standards. We agree with the Office of the Attorney General. It is our opinion that the authority to promulgate the regulations necessary to implement the Uniform Standards, lies with the individual boards that implement, interpret or make specific, the laws administered by those boards. As the SACC is limited to the creation or formulation of the uniform standards, but is not authorized to implement the laws of the healing arts boards, it does not have authority to adopt regulations to implement those standards. Consequently, we agree with the Attorney General's opinion that the SACC is not the rule-making entity with respect to the Uniform Standards, and therefore has no authority to adopt the Uniform Standards as regulations.*

It is our recommendation that healing arts boards move forward as soon as possible to implement the mandate of Business and Professions Code section 315, as it relates to

the Uniform Standards. Some of the standards are appropriate for inclusion in an agency's disciplinary guidelines, which necessarily will involve the regulatory process. Others are administrative in nature and not appropriate for inclusion in the disciplinary guidelines. For example, Uniform Standard No. 16 which sets forth reporting requirements would not be appropriate for inclusion in disciplinary guidelines.

Please work with your assigned legal counsel to determine how best to implement the Uniform Standards. This should include a discussion as to whether : (1) the Uniform Standards should be placed in a regulation separate from the disciplinary guidelines; (2) the implementing regulation should include a definition of (or criteria by which to determine) what constitutes a "substance-abusing licensee."

It is hopeful that the foregoing information addresses your concerns with respect to the implementation of the mandatory uniform standards.

Attachments

cc: Denise Brown, DCA Director  
Awet Kidane, DCA Chief Deputy Director  
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October 27, 2011

Honorable Curren D. Price Jr.  
Room 2053, State Capitol

HEALING ARTS BOARDS: ADOPTION OF UNIFORM STANDARDS - #1124437

Dear Senator Price:

You have asked two questions with regard to the adoption of uniform standards by the Substance Abuse Coordination Committee pursuant to Section 315 of the Business and Professions Code. You have asked whether the Substance Abuse Coordination Committee is required to adopt the uniform standards pursuant to the rulemaking procedures under the Administrative Procedure Act (Ch. 3.5 (commencing with Sec. 11340), Pt. 1, Div. 3, Title 2, Civ. C.). You have also asked, if the uniform standards are properly adopted by the Substance Abuse Coordination Committee, whether the healing arts boards are required to implement them.

By way of background, Section 315 of the Business and Professions Code<sup>1</sup> provides as follows:

"315. (a) For the purpose of determining uniform standards that will be used by healing arts boards in dealing with substance-abusing licensees, there is established in the Department of Consumer Affairs the Substance Abuse Coordination Committee. The committee shall be comprised of the executive officers of the department's healing arts boards established pursuant to Division 2 (commencing with Section 500), the State Board of Chiropractic Examiners, the Osteopathic Medical Board of California, and a designee of the State Department of Alcohol and Drug Programs. The Director of Consumer Affairs shall chair the committee and may invite individuals or stakeholders who have particular expertise in the area of substance abuse to advise the committee.

<sup>1</sup> All further section references are to the Business and Professions Code, unless otherwise referenced.

"(b) The committee shall be subject to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Division 3 of Title 2 of the Government Code).

"(c) By January 1, 2010, the committee shall formulate uniform and specific standards in each of the following areas that each healing arts board shall use in dealing with substance-abusing licensees, whether or not a board chooses to have a formal diversion program:

"(1) Specific requirements for a clinical diagnostic evaluation of the licensee, including, but not limited to, required qualifications for the providers evaluating the licensee.

"(2) Specific requirements for the temporary removal of the licensee from practice, in order to enable the licensee to undergo the clinical diagnostic evaluation described in paragraph (1) and any treatment recommended by the evaluator described in paragraph (1) and approved by the board, and specific criteria that the licensee must meet before being permitted to return to practice on a full-time or part-time basis.

"(3) Specific requirements that govern the ability of the licensing board to communicate with the licensee's employer about the licensee's status and condition.

"(4) Standards governing all aspects of required testing, including, but not limited to, frequency of testing, randomness, method of notice to the licensee, number of hours between the provision of notice and the test standards for specimen collectors, procedures used by specimen collectors, the permissible locations of testing, whether the collection process must be observed by the collector, backup testing requirements when the licensee is on vacation or otherwise unavailable for local testing, requirements for the laboratory that analyzes the specimens, and the required maximum timeframe from the test to the receipt of the result of the test.

"(5) Standards governing all aspects of group meeting attendance requirements, including, but not limited to, required qualifications for group meeting facilitators, frequency of required meeting attendance, and methods of documenting and reporting attendance or nonattendance by licensees.

"(6) Standards used in determining whether inpatient, outpatient, or other type of treatment is necessary.

"(7) Worksite monitoring requirements and standards, including, but not limited to, required qualifications of worksite monitors, required methods of monitoring by worksite monitors, and required reporting by worksite monitors.

"(8) Procedures to be followed when a licensee tests positive for a banned substance.

"(9) Procedures to be followed when a licensee is confirmed to have ingested a banned substance.

"(10) Specific consequences for major violations and minor violations. In particular, the committee shall consider the use of a deferred prosecution stipulation similar to the stipulation described in Section 1000 of the Penal Code, in which the licensee admits to self-abuse of drugs or alcohol and surrenders his or her license. That agreement is deferred by the agency unless or until the licensee commits a major violation, in which case it is revived and the license is surrendered.

"(11) Criteria that a licensee must meet in order to petition for return to practice on a full-time basis.

"(12) Criteria that a licensee must meet in order to petition for reinstatement of a full and unrestricted license.

"(13) If a board uses a private-sector vendor that provides diversion services, standards for immediate reporting by the vendor to the board of any and all noncompliance with any term of the diversion contract or probation; standards for the vendor's approval process for providers or contractors that provide diversion services, including, but not limited to, specimen collectors, group meeting facilitators, and worksite monitors; standards requiring the vendor to disapprove and discontinue the use of providers or contractors that fail to provide effective or timely diversion services; and standards for a licensee's termination from the program and referral to enforcement.

"(14) If a board uses a private-sector vendor that provides diversion services, the extent to which licensee participation in that program shall be kept confidential from the public.

"(15) If a board uses a private-sector vendor that provides diversion services, a schedule for external independent audits of the vendor's performance in adhering to the standards adopted by the committee.

"(16) Measurable criteria and standards to determine whether each board's method of dealing with substance-abusing licensees protects patients from harm and is effective in assisting its licensees in recovering from substance abuse in the long term." (Emphasis added.)

Thus, the Legislature has established in the Department of Consumer Affairs (hereafter department) the Substance Abuse Coordination Committee (subd. (2), Sec. 315, hereafter committee). The committee is comprised of the executive officers of each healing arts board within the department,<sup>2</sup> the State Board of Chiropractic Examiners, and the

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<sup>2</sup> The department's healing arts boards are those boards established under Division 2 (commencing with Section 500) to license and regulate practitioners of the healing arts. Those boards include, among others, the Dental Board of California, the Medical Board of California, the Veterinary Medical Board, and the Board of Registered Nursing.

Osteopathic Medical Board of California (hereafter, collectively, healing arts boards), and a designee of the State Department of Alcohol and Drug Programs (*ibid.*). The Director of Consumer Affairs chairs the committee and is authorized to invite individuals or stakeholders who have particular expertise in the area of substance abuse to advise the committee (*ibid.*).

The committee is required to formulate uniform and specific standards in each of 16 areas provided by the Legislature, but otherwise has discretion to adopt the uniform standards each healing arts board shall use in dealing with substance-abusing licensees (subd. (c), Sec. 315). The committee adopted its initial set of uniform standards in April 2010, and revised those initial standards as recently as April 2011.<sup>3</sup> Although the committee has adopted the uniform standards pursuant to its own procedures, it has yet to adopt those standards pursuant to the rulemaking procedures of the Administrative Procedure Act (Ch. 3.5 (commencing with Sec. 11340), Pt. 1, Div. 3, Title 2, Gov. C.; hereafter APA).

You have asked whether the committee is required to adopt the uniform standards pursuant to the rulemaking procedures of the APA.

The APA establishes basic minimum procedural requirements for the adoption, amendment, or repeal of administrative regulations by state agencies (subd. (a), Sec. 11346, Gov. C.). The APA is applicable to the exercise of any quasi-legislative power conferred by any statute (*ibid.*). Quasi-legislative powers consist of the authority to make rules and regulations having the force and effect of law (*California Advocates for Nursing Home Reform v. Bonta* (2003) 106 Cal.App.4th 498, 517; hereafter *California Advocates*). The APA may not be superseded or modified by any subsequent legislation except to the extent that the legislation does so expressly (subd. (a), Sec. 11346, Gov. C.).

The term "regulation" is defined for purposes of the APA to mean "every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure" (Sec. 11342.600, Gov. C.; emphasis added). The APA provides that a state agency shall not issue, utilize, enforce, or attempt to enforce any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, which is a regulation under the APA, unless properly adopted under the procedures set forth in the APA, and the Office of Administrative Law is empowered to determine whether any such guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule is a regulation under the APA (Sec. 11340.5, Gov. C.).

In *Tidewater Marine Western, Inc. v. Bradshaw* (1996) 14 Cal.4th 557, 571 (hereafter *Tidewater*), the California Supreme Court found as follows:

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<sup>3</sup> See [http://www.dca.ca.gov/about\\_dca/sacc/index.shtml](http://www.dca.ca.gov/about_dca/sacc/index.shtml) (as of September 20, 2011).

"A regulation subject to the APA thus has two principal identifying characteristics. (See *Union of American Physicians & Dentists v. Kizer* (1990) 223 Cal.App.3d 490, 497 [272 Cal.Rptr. 886] [describing two-part test of the Office of Administrative Law].) First, the agency must intend its rule to apply generally, rather than in a specific case. The rule need not, however, apply universally; a rule applies generally so long as it declares how a certain class of cases will be decided. (*Roth v. Department of Veterans Affairs* (1980) 110 Cal.App.3d 622, 630 [167 Cal.Rptr. 552].) Second, the rule must implement, interpret, or make specific the law enforced or administered by [the agency], or ... govern [the agency's] procedure. (Gov. Code, § 11342, subd. (g).)"

If a policy or procedure falls within the definition of a "regulation" within the meaning of the APA, the adopting agency must comply with the procedures for formalizing the regulation, which include public notice and approval by the Office of Administrative Law (*County of Butte v. Emergency Medical Services Authority* (2010) 187 Cal.App.4th 1175, 1200). The Office of Administrative Law is required to review all regulations adopted pursuant to the APA and to make its determinations according to specified standards that include, among other things, assessing the necessity for the regulation and the regulation's consistency with the agency's statutory obligation to implement a statute (subd. (a), Sec. 11349.1, Gov. C.).

Applying these principles to the question presented, the uniform standards are subject to the rulemaking procedures of the APA if the following criteria are met: (1) Section 315 does not expressly preclude application of the APA, (2) the committee is a state agency under the APA, (3) the uniform standards are regulations subject to the APA, and (4) no exemption applies under the APA.

With respect to the first criterion, Section 315 is silent on the application of the APA. Thus, Section 315 does not expressly preclude application of the APA, and the APA will apply to any regulation adopted under Section 315.

We turn next to the second criterion, and whether the committee is an "agency" for purposes of the APA. The word "agency" is defined, for purposes of the APA, by several separate provisions of law. For purposes of the rulemaking procedures of the APA, "agency" is defined to mean a state agency (Sec. 11342.520, Gov. C.). That reference to state agency is defined elsewhere in the Government Code to include every state office, officer, department, division, bureau, board, and commission (subd. (a), Sec. 11000, Gov. C.). The APA does not apply to an agency in the judicial or legislative branch of the state government (subd. (a), Sec. 11340.9, Gov. C.).

Along those lines, the APA is applicable to the exercise of any quasi-legislative power conferred by any statute (subd. (a), Sec. 11346, Gov. C.). Quasi-legislative powers consist of the authority to make rules and regulations having the force and effect of law (*California Advocates*, supra, at p. 517). Thus, for purposes of our analysis, we think that an "agency" means any state office, officer, department, division, bureau, board, or commission that exercises quasi-legislative powers.

Here, the committee is a state office comprised of executive officers of the healing arts boards and the Director of Consumer Affairs. Although the Legislature has set forth 16 areas in which the committee is required to adopt standards, the committee itself is required to exercise quasi-legislative powers and adopt uniform standards within those areas. Those standards shall have the force and effect of law, since the healing arts boards, as discussed more extensively below, are required to use the standards in dealing with substance-abusing licensees and the standards are required to govern matters such as when a licensee is temporarily removed from practice or subject to drug testing or work monitoring (paras. (2), (4), and (7), subd. (c), Sec. 315). Accordingly, we think the committee is an agency to which the APA applies.

As to the third criterion, two elements must be met for the uniform standards at issue to be a regulation: they must apply generally and they must implement, interpret, or make specific a law enforced or administered by the agency or that governs its procedures (*Tidewater*, supra, at p. 571; Sec. 11342.600, Gov. C.). Section 315 requires the committee to formulate uniform and specific standards in specified areas that each healing arts board within the department shall use when dealing with substance-abusing licensees, whether or not the board chooses to have a formal diversion program. The uniform standards will not be limited in application to particular instances or individuals but, instead, will apply generally to those licensees. Further, under this statutory scheme, the uniform standards will implement Section 315 and will be enforced and administered by, and will govern the procedures of, each healing arts board that is a member of the committee. Thus, the uniform standards are, in our view, a regulation under the APA.

Lastly, we turn to the fourth criterion, and whether the regulation is exempt from the APA. Certain policies and procedures are expressly exempted by statute from the requirement that they be adopted as regulations pursuant to the APA. In that regard, Section 11340.9 of the Government Code provides as follows:

"11340.9. This chapter does not apply to any of the following:

"(a) An agency in the judicial or legislative branch of the state government.

"(b) A legal ruling of counsel issued by the Franchise Tax Board or State Board of Equalization.

"(c) A form prescribed by a state agency or any instructions relating to the use of the form, but this provision is not a limitation on any requirement that a regulation be adopted pursuant to this chapter when one is needed to implement the law under which the form is issued.

"(d) A regulation that relates only to the internal management of the state agency.

"(e) A regulation that establishes criteria or guidelines to be used by the staff of an agency in performing an audit, investigation, examination, or inspection, settling a commercial dispute, negotiating a commercial

arrangement, or in the defense, prosecution, or settlement of a case, if disclosure of the criteria or guidelines would do any of the following:

"(1) Enable a law violator to avoid detection.

"(2) Facilitate disregard of requirements imposed by law.

"(3) Give clearly improper advantage to a person who is in an adverse position to the state.

"(f) A regulation that embodies the only legally tenable interpretation of a provision of law.

"(g) A regulation that establishes or fixes rates, prices, or tariffs.

"(h) A regulation that relates to the use of public works, including streets and highways, when the effect of the regulation is indicated to the public by means of signs or signals or when the regulation determines uniform standards and specifications for official traffic control devices pursuant to Section 21400 of the Vehicle Code.

"(i) A regulation that is directed to a specifically named person or to a group of persons and does not apply generally throughout the state."

None of the exemptions contained in the APA can be reasonably construed to apply to the committee or the uniform standards to be used by the healing arts boards. In addition, we are aware of no other applicable exemption.

Thus, because all four of the criteria are met, it is our opinion that the Substance Abuse Coordination Committee is required to adopt the uniform standards pursuant to the rulemaking procedures under the Administrative Procedure Act (Ch. 3.5 (commencing with Sec. 11340), Pt. 1, Div. 3, Title 2, Gov. C.).

Having reached this conclusion, we next turn to whether the healing arts boards are required to use the uniform standards if those standards are properly adopted. In addressing that question, we apply certain established rules of statutory construction. To ascertain the meaning of a statute, we begin with the language in which the statute is framed (*Leroy T. v. Workmen's Comp. Appeals Bd.* (1974) 12 Cal.3d 434, 438; *Visalia School Dist. v. Workers' Comp. Appeals Bd.* (1995) 40 Cal.App.4th 1211, 1220). Significance should be given to every word, and construction making some words surplusage is to be avoided (*Lambert Steel Co. v. Heller Financial, Inc.* (1993) 16 Cal.App.4th 1034, 1040). In addition, effect should be given to statutes according to the usual, ordinary import of the language employed in framing them (*Dubais v. Workers' Comp. Appeals Bd.* (1993) 5 Cal.4th 382, 388).

As set forth above, subdivision (c) of Section 315 provides that "the committee shall formulate uniform and specific standards in each of the following areas that each healing arts board shall use in dealing with substance-abusing licensees, whether or not a board chooses to have a formal diversion program" (emphasis added). Section 19 provides that "shall" is mandatory and "may" is permissive. The word "may" is ordinarily construed as permissive, whereas the word "shall" is ordinarily construed as mandatory (*Common Cause v. Board of Supervisors* (1989) 49 Cal.3d 432, 443).

Here, in Section 315, the Legislature uses the term "shall" rather than "may" in providing that each healing arts board "shall use" the specific and uniform standards adopted by the committee when dealing with substance-abusing licensees. The Legislature uses the term "shall use" as compared to "shall consider," "may consider," or "may use." The Legislature's use of the term "shall" indicates that the healing arts boards are required to use the standards adopted by the committee rather than being provided the discretion to do so. Moreover, as employed in this context, the word "use" implies that the healing arts boards must implement and apply those standards rather than merely considering them. Finally, the use of the term "uniform" suggests that the Legislature intended each board to apply the same standards. If the healing arts boards were not required to use the standards as adopted by the committee, the standards employed by these boards would vary rather than being "uniform."

Norwithstanding the plain meaning of Section 315, one could argue that the enactment of Section 315.4 indicates that the Legislature intended that implementation of the uniform standards by the boards be discretionary. Section 315.4, which was added by Senate Bill No. 1172 of the 2009-10 Regular Session (Ch. 517, Stats. 2010; hereafter S.B. 1172), provides that a healing arts board "may adopt regulations authorizing the board to order a licensee on probation or in a diversion program to cease practice for major violations and when the board orders a licensee to undergo a clinical diagnostic evaluation pursuant to the uniform and specific standards adopted and authorized under Section 315." Section 315.4 could be read to imply that a healing arts board is not required to implement those uniform standards because the board was given discretion to adopt the regulations that would allow that board to implement the standards, if necessary.

It is a maxim of statutory construction that a statute is to be construed so as to harmonize its various parts within the legislative purpose of the statute as a whole (*Wells v. Marina City Properties, Inc.* (1981) 29 Cal.3d 781, 788). As discussed above, we believe that the plain meaning of Section 315 requires the healing arts boards to implement the uniform standards adopted by the committee. Thus, whether Section 315.4 indicates, to the contrary, that the Legislature intended the boards to have discretion in that regard depends upon whether there is a rational basis for harmonizing the two statutes.

In harmonizing Sections 315 and 315.4, we note that S.B. 1172 did not make any changes to Section 315, such as changing the term "shall" to "may" in subdivision (c) of Section 315 or deleting any subdivisions of Section 315. S.B. 1172 did not diminish the scope of the authority provided to the committee to adopt the uniform standards. In fact, the analysis of the Senate Committee on Business, Professions and Economic Development for S.B. 1172, dated April 19, 2010 (hereafter committee analysis), describes the purpose of S.B. 1172 and the enactment of Section 315.4, as follows:

"The Author points out that pursuant to SB 1441 (Ridley-Thomas, Chapter 548, Statutes of 2008), the DCA was required to adopt uniform guidelines on sixteen specific standards that would apply to substance abusing health care licensees, regardless of whether a board has a diversion program. Although most of the adopted guidelines do not need additional statutes for

implementation, there are a couple of changes that must be statutorily adopted to fully implement these standards. This bill seeks to provide the statutory authority to allow boards to order a licensee to cease practice if the licensee tests positive for any substance that is prohibited under the terms of the licensee's probation or diversion program, if a major violation is committed and while undergoing clinical diagnostic evaluation" (Committee analysis, at p. 4.)

The committee analysis further provides that the purpose of S.B. 1172 was to grant specific authority to implement those standards and "provide for the full implementation of the Uniform Standards" (committee analysis, at p. 11). The committee analysis at no time implies that the Legislature intended the Section 315 uniform standards to be revised or repealed by S.B. 1172 or that, in enacting Section 315.4, the Legislature intended that the implementation of the uniform standards be subject to the discretion of each healing arts board.

Thus, in our view, Section 315.4 may be reasonably construed in a manner that harmonizes it with Section 315. Specifically, we think that the intent of the Legislature in enacting Section 315.4 was not to make the uniform standards discretionary but to "provide for the full implementation of the Uniform Standards" by providing the authority to adopt regulations where the Legislature believed that further statutory authority was needed. Accordingly, we think implementation by the various healing arts boards of the uniform standards adopted under Section 315 is mandatory.<sup>4</sup>

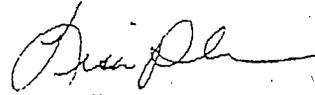
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<sup>4</sup> Although Section 108 and Division 2 (commencing with Section 500) authorize the healing arts boards to set standards and adopt regulations (see, for example, Secs. 1224, 1614, 2018, 2531.95, 2615, 2715, 2854, 2930, 3025, 3510, and 3546), it is an axiom of statutory construction that a particular or specific provision takes precedence over a conflicting general provision (Sec. 1859, C.C.P.; *Agricultural Labor Relations Bd. v. Superior Court* (1976) 16 Cal.3d 392, 420, app. dism. *Kubo v. Agricultural Relations Bd.* (1976) 429 U.S. 802; see also Sec. 3534, Civ. C.). Thus, in our view, the specific requirement under Section 315 that the uniform standards be adopted supersedes any general provision authorizing the boards to set standards and adopt regulations.

Thus, it is our opinion that, if the uniform standards are properly adopted by the Substance Abuse Coordination Committee, the healing arts boards are required to implement them.

Very truly yours,

Diane F. Boyer-Vine  
Legislative Counsel



By  
Lisa M. Plummer  
Deputy Legislative Counsel

LMP:syl

Memorandum

To : Doreathea Johnson  
Deputy Director & Chief Counsel  
Department of Consumer Affairs  
Legal Affairs Division

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From : Kathleen A. Lynch  
Deputy Attorney General  
Government Law Section  
Office of the Attorney General – Sacramento

Subject : Uniform Standards Related to Substance-Abusing Licensees (Bus. & Prof. Code,  
§§ 315 - 315.4)

**Executive Summary**

Issues

You asked us to review Legislative Counsel's letter of October 27, 2011, which rendered certain opinions regarding the Substance Abuse Coordination Committee (SACC), which was created by Business and Professions Code section 315 to formulate uniform standards for use by the healing arts boards to deal with substance-abusing licensees. Legislative Counsel opined that:

- (1) SACC was required to formally promulgate the uniform standards as regulations pursuant to the Administrative Procedures Act (APA), and
- (2) the healing arts boards are required to use such standards under Business and Professions Code sections 315.

Summary of Responses

With respect to question (1), we see things differently from Legislative Counsel, in two respects.

First, we believe that SACC's adoption of uniform standards does not need to undergo the formal rule-making process under the APA. While other laws could potentially require the adoption of regulations when the standards are implemented by the boards (such as statutes governing particular boards or the APA's provisions applicable to disciplinary proceedings), we disagree that section 315 itself triggers the need to issue the uniform standards as regulations.

Second, even assuming the uniform standards must be adopted as regulations, we disagree with Legislative Counsel's apparent assumption that SACC would issue the regulations under section 315. The legislative histories of the relevant laws and statutory authorities of the

individual boards indicate that the boards would issue the regulations to implement the uniform standards.

As to question (2), we agree with Legislative Counsel that the healing arts boards must use the uniform standards under sections 315. A board cannot simply disregard a specific standard because it does not like the standard or because it believes that the standard is too cumbersome. However, some specific uniform standards themselves recognize a board's discretion whether to order a particular action in the first place. Thus, boards still retain authority to determine if they will undertake certain types of actions if permitted under a specific uniform standard.

### Statutory Background

In 2008, SACC was legislatively established within the Department of Consumer Affairs to create uniform standards to be used by the healing arts boards when addressing licensees with substance abuse problems. (Bus. & Prof. Code, § 315, subd. (a); Stats. 2008, ch. 548 (SB 1441).) By January 1, 2010, SACC was required to "formulate uniform and specific standards" in 16 identified areas "that each healing arts board shall use in dealing with substance-abusing licensees, whether or not a board chooses to have a formal diversion program." (*Id.* at § 315, subd. (c).) These 16 standards include requirements for: clinical diagnostic evaluation of licensees; the temporary removal of the licensee from practice for clinical diagnostic evaluation and any treatment, and criteria before being permitted to return to practice on a full-time or part-time basis; aspects of drug testing; whether inpatient, outpatient, or other type of treatment is necessary; worksite monitoring requirements and standards; consequences for major and minor violations; and criteria for a licensee to return to practice and petition for reinstatement of a full and unrestricted license. (*Ibid.*) SACC meetings to create these standards are subject to Bagley-Keene Act open meeting requirements. (*Id.* at subd. (b).)

On March 3, 2009, SACC conducted its first public hearing, which included a discussion of an overview of the diversion programs, the importance of addressing substance abuse issues for health care professionals, and the impact of allowing health care professionals who are impaired to continue to practice. (Sen. Com. on Business, Professions, and Economic Development, Analysis of SB 1172 (2010-2011 Reg. Sess.), as amended April 12, 2010.) During this meeting, SACC members agreed to draft uniform guidelines for each of the standards, and during subsequent meetings, roundtable discussions were held on the draft uniform standards, including public comments. (*Ibid.*) In December 2009, the Department of Consumer Affairs adopted the uniform guidelines for each of the standards required by SB 1441. (*Ibid.*) These standards have subsequently been amended by SACC, and the current standards were issued in April of 2011.

According to the author of SB 1441 (Ridley-Thomas), the intent of the legislation was to protect the public by ensuring that, at a minimum, a set of best practices or standards were adopted by health-care-related boards to deal with practitioners with alcohol or drug problems. (Assem. Com. on Business and Professions, Analysis of SB 1441 (2008-2009 Reg. Sess.), as amended June 16, 2008.) The legislation was also meant to ensure uniformity among the

standards established throughout the healing arts licensing boards under the Department of Consumer Affairs. (*Ibid.*) Specifically, the author explains:

SB 1441 is not attempting to dictate to [the health-related boards] how to run their diversion programs, but instead sets parameters for these boards. The following is true to all of these boards' diversion programs: licensees suffer from alcohol or drug abuse problems, there is a potential threat to allowing licensees with substance abuse problems to continue to practice, actual harm is possible and, sadly, has happened. The failures of the Medical Board of California's (MBC) diversion program prove that there must be consistency when dealing with drug or alcohol issues of licensees.

(Assem. Com. on Business and Professions, Analysis of SB 1441 (2008-2009 Reg. Sess.), as amended June 16, 2008.)

In the view of its author, "[t]his bill allows the boards to continue a measure of self-governance; the standards for dealing with substance-abusing licensees determined by the commission set a floor, and boards are permitted to establish regulations above these levels." (*Ibid.*)

In 2010, additional legislation was enacted to further implement section 315. Specifically, it provided that the healing arts boards, as described in section 315 and with the exception of the Board of Registered Nursing, "may adopt regulations authorizing the board to order a licensee on probation or in a diversion program to cease practice for major violations and when the board orders a licensee to undergo a clinical diagnostic evaluation pursuant to the uniform and specific standards adopted and authorized under Section 315." (Bus. & Prof. Code, § 315.4, subd. (a); Stats. 2010, ch. 517 (SB 1172).) An order to cease practice does not require a formal hearing and does not constitute a disciplinary action. (*Id.* § 315.4 subds. (b), (c).)

According to the author of SB 1172 (Negrete McLoud), this subsequent statute was necessary "because current law does not give boards the authority to order a cease practice." (Sen. Com. on Business, Professions, and Economic Development, Analysis of SB 1172 (2010-2011 Reg. Sess.), as amended April 12, 2010.) The author explains:

Although most of the adopted guidelines do not need additional statutes for implementation, there are a few changes that must be statutorily adopted to fully implement these standards. [¶] This bill seeks to provide the statutory authority to allow boards to order a licensee to cease practice if the licensee tests positive for any substance that is prohibited under the terms of the licensee's probation or diversion program, if a major violation is committed and while undergoing clinical diagnostic evaluation. [¶] The ability of a board to order a licensee to cease practice under these circumstances provides a delicate balance to the inherent confidentiality of diversion programs. The protection of the public remains the top priority of boards when dealing with substance abusing licensees.

(Senate Third Reading; Analysis of SB 1172 (2010-2011 Reg. Sess.); as amended June 22, 2010.)

#### Legal Analysis

- 1a. **Section 315 should be construed as not requiring that the uniform standards be adopted as regulations.**

Legislative Counsel opined that SACC must adopt the uniform standards as regulations under section 315, because (1) the standards meet the definition of regulations, (2) none of the express exemptions under Government Code section 11340.9 remove them from the APA rule-making process, and (3) section 315 contains no express language precluding application of the rulemaking provisions of the APA. (October 27, 2011 Letter, p. 5.) We have a different view on the threshold issue of whether the standards qualify as a regulation under section 315.

Under the APA, a regulation is defined as "every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure." (Gov. Code, § 11342.600.) "No state agency shall issue, utilize, enforce, or attempt to enforce any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, which is a regulation as defined in Section 11342.600, unless [it has been adopted in compliance with the APA]." (*Id.* § 11340.5, subd. (a).) This requirement cannot be superseded or modified by subsequent legislation, unless the statute does so expressly. (*Id.* § 11346, subd. (a).)

An agency standard subject to the APA has two identifying characteristics. First, the agency must intend its rule to apply generally, rather than in a specific case. Second, the rule must "implement, interpret, or make specific the law enforced or administered by [the agency], or . . . govern [the agency's] procedure." (*Morning Star Co. v. State Bd. of Equalization* (2006) 38

Cal.4th 324, 333, quoting *Tidewater Marine Western, Inc. et al. v. Bradshaw* (1996) 14 Cal.4th 557, 571.)

Whether a particular standard or rule is a regulation requiring APA compliance depends on the facts of each case, considering the rule in question, and the applicable statutory scheme. Generally speaking, courts tend to readily find the need for such compliance. We understand that certain healing arts boards have already adopted regulations incorporating the uniform standards. (See, e.g., Cal. Code Regs., tit. 16, § 4147 [Board of Occupational Therapy].) This approach is understandable in light of the usually broad requirement that agency rules be adopted as regulations and, as noted below, may be required by other laws when they are implemented by the boards. Here, however, the wording and intent of section 315 indicate the Legislature did not intend that the initial act of formulating and adopting the uniform standards is within the purview of the formal APA rule-making process.

“The fundamental rule of statutory construction is that the court should ascertain the intent of the Legislature so as to effectuate the purpose of the law.” (*Bodell Const. Co. v. Trustees of California State University* (1998) 62 Cal.App.4th 1508, 1515.) In determining that intent, courts “first examine the words of the statute itself. Under the so-called ‘plain meaning’ rule, courts seek to give the words employed by the Legislature their usual and ordinary meaning. If the language of the statute is clear and unambiguous, there is no need for construction. However, the ‘plain meaning’ rule does not prohibit a court from determining whether the literal meaning of a statute comports with its purpose. If the terms of the statute provide no definitive answer, then courts may resort to extrinsic sources, including the ostensible objects to be achieved and the legislative history.” (*Ibid.* [citations omitted].) Courts “must select the construction that comports most closely with the apparent intent of the Legislature, with a view to promoting rather than defeating the general purpose of the statute, and avoid an interpretation that would lead to absurd consequences.” (*Ibid.* [citation omitted].) “The legislative purpose will not be sacrificed to a literal construction of any part of the statute.” (*Ibid.*)

In *Paleski v. State Department of Health Services* (2006) 144 Cal.App.4th 713, the Court of Appeal applied these rules of statutory construction and found that the challenged agency criteria were not required to be adopted as regulations under the APA. (*Id.* at pp. 728-729.) In *Paleski*, plaintiff challenged an agency’s criteria for the prescription of certain drugs because the department had not promulgated them in compliance with the APA. (*Ibid.*) The statute, however, expressly authorized the criteria to be effectuated by publishing them in a manual. (*Ibid.*) According to the court, the “necessary effect” of this language was that the Legislature did not intend for the broader notice procedure of the APA to apply when the agency issued the criteria. (*Ibid.*)

Similar reasoning should apply here. Under the plain meaning of section 315, SACC was legislatively established to create uniform standards to be used by the healing arts boards when addressing licensees with substance abuse problems. (Bus. & Prof. Code, § 315, subd. (a).) The intent of the legislation was to protect the public and to ensure that minimum standards are met and to ensure uniformity among the standards established throughout the healing arts

licensing boards under the Department of Consumer affairs. (Assem. Com. on Business and Professions, Analysis of SB 1441 (2008-2009 Reg. Sess.), as amended June 16, 2008.) In formulating these uniform standards, SACC was subject to the Bagley-Keene Act, which requires noticed public meetings. Many roundtable discussions were held on the draft uniform standards, including public vetting and public comments. In that way, the affected community learned about the standards and had the opportunity to comment. This is a prime requirement and purpose of the APA rule-making process (see Gov. Code, § 11343 *et seq.*), but it has already been fulfilled by the procedures set forth in section 315. To now require SACC to repeat that process by promulgating the standards as regulations would make little sense and be duplicative.

Nor does the process for the formulation of the standards set forth in section 315 comport with the other purposes and procedures of the APA. During the APA rule-making process, an agency must provide various reasons, justifications, analyses, and supporting evidence for the proposed regulation. (Gov. Code, § 11346.2.) Those provisions and other provisions of the APA are intended to address the proliferation, content, and effect of regulations proposed by administrative agencies. (*Id.* §§ 11340, 11340.1.) Here, the agency is not proposing to adopt the uniform standards. The Legislature has required that the standards adopted by SACC, be uniform, and be used by the boards. Given this statutory mandate that they be implemented, subjecting the uniform standards to substantive review under the APA again makes little sense.<sup>1</sup>

**1b. The SACC would not be the rule-making entity, even if the uniform standards would have to be adopted as regulations.**

Even assuming that APA compliance was required under section 315, it is doubtful that SACC would carry the responsibility to adopt regulations. The second component of a regulation requires that the rule must “implement, interpret, or make specific the law enforced or administered by [the agency], or . . . govern [the agency’s] procedure.” (*Morning Star Co.*, *supra*, 38 Cal.4th at p. 333.) Here, SACC was mandated to create the uniform standards to be used by separate boards; the SACC’s creation of the uniform standards does not implement,

---

<sup>1</sup> Even though the standards do not have to be promulgated as regulations by SACC under section 315, this does not mean that certain regulations would not arguably be required on the part of some or all of the boards under other statutory schemes, such as the laws applicable to a particular board or the APA’s provisions on quasi-adjudicatory proceedings. This type of analysis would require a fact specific, case-by-case study of each board’s practices and its regulatory scheme and may include consideration of: (1) whether a board’s statutory authority requires the adoption of regulations related to actions against substance-abusing licensees, (2) whether current regulations conflict with the standards, and (3) whether in an administrative adjudicative setting, the standards are considered “penalties” and thus must be adopted as regulations under section 11425.50, subdivision (e), of the Government Code.

interpret, or make any law more specific. (Bus. & Prof. Code, § 315, subds. (a), (c).) The only express statutory role of the SACC is to determine the uniform standards in the first place.<sup>2</sup>

The boards are then required to use and apply the standards and have much clearer authority to adopt regulations. “Each of the boards [within the Department of Consumer Affairs] exists as a separate unit, and has the function of setting standards, holding meetings, and setting dates thereof, preparing and conducting examinations, passing upon applicants, conducting investigations of violations of laws under its jurisdiction, issuing citations and hold hearings for the revocation of licenses, and the imposing of penalties following such hearings, in so far as these powers are given by statute to each respective board.” (Bus. & Prof. Code, § 108.)

The legislative history for section 315 also supports this conclusion. According to its author, section 315 was adopted to protect the public by ensuring that, at a minimum, a set of best practices or standards *were adopted by health care related boards to deal with practitioners with alcohol or drug problems.* (Assem. Com. on Business and Professions, Analysis of SB 1441 (2008-2009 Reg. Sess.), as amended June 16, 2008, emphasis added.)<sup>3</sup> Practically speaking, it would be difficult for the SACC (or the Department of Consumer Affairs) to draft regulations applicable to all boards, given that they are unique and deal with different subject areas, unless such regulations were adopted wholesale, on a one-size-fits-all basis. As explained below, while the healing arts boards must use the standards, they only have to use the ones that apply to their procedures.

Thus, while section 315 does not require regulations to initially adopt the standards, the boards (and not SACC) would more reasonably be tasked with this responsibility.

**2. The healing arts boards must use the uniform standards to the extent that they apply.**

The original language of section 315 is clear that the standards must be used. (Bus. & Prof. Code, § 315, subd. (a) [“uniform standards that will be used by healing arts boards”], subd. (b) [“uniform standards . . . that each healing arts board shall use in dealing with substance-abusing licenses”].) Legislative Counsel was asked to opine on whether subsequent legislation (Bus. & Prof. Code, § 315.4) somehow made these uniform standards discretionary. We agree with

---

<sup>2</sup> The SACC is a committee formed by various executive officers of healing arts boards and other public officials formed within the Department of Consumer Affairs. (Bus. & Prof. Code, § 315, subds. (a).)

<sup>3</sup> As discussed shortly, the legislative history for follow-up legislation similarly explains that its purpose was to provide statutory authority for some healing arts boards to issue regulations to implement certain of the uniform standards. (Sen. Com. on Business, Professions, and Economic Development, Analysis of SB 1172 (2010-2011 Reg. Sess.), as amended April 12, 2010.)

Legislative Counsel's conclusion that section 315.4 did not make the uniform standards optional. (Oct. 27, 2011, Letter, p. 9.)

Section 315.4 was enacted two years after section 315, and provides that that the healing arts boards, as described in section 315 and with the exception of the Board of Registered Nursing, "may adopt regulations authorizing the board to order a licensee on probation or in a diversion program to cease practice for major violations and when the board orders a licensee to undergo a clinical diagnostic evaluation pursuant to the uniform and specific standards adopted and authorized under Section 315." (Bus. & Prof. Code, § 315.4, subd. (a); Stats. 2010, ch. 517, (SB 1172).) If a board adopts such regulations, there is nothing to indicate that use of uniform standards created under section 315 is optional. Such an interpretation would be contrary to the legislative intent. Section 314.5 was enacted for the limited purpose to give boards the authority to order a licensee to cease practice, as this was not provided for in section 315. (Sen. Com. on Business, Professions, and Economic Development, Analysis of SB 1172 (2010-2011 Reg. Sess.), as amended April 12, 2010.) By no means was the intent to transform the mandatory uniform standards of section 315 into optional suggestions. As the author explains:

Although most of the adopted guidelines do not need additional statutes for implementation, there are a few changes that must be statutorily adopted to fully implement these standards. [¶] This bill seeks to provide the statutory authority to allow boards to order a licensee to cease practice if the licensee tests positive for any substance that is prohibited under the terms of the licensee's probation or diversion program, if a major violation is committed and while undergoing clinical diagnostic evaluation.

(Senate Third Reading, Analysis of SB 1172 (2010-2011 Reg. Sess.), as amended June 22, 2010.)

In addition, some specific uniform standards themselves recognize a board's discretion whether to order a particular action in the first place. (See e.g. Uniform Standard # 1 ["If a healing arts board orders a licensee . . . to undergo a clinical diagnosis evaluation, the following applies: . . . ".]) The standards must be applied, however, if a board undertakes a particular practice or orders an action covered by the standards. A determination regarding a board's specific application (or not) of certain uniform standards would have to be based on a fact specific, case-by-case review of each board and its regulatory scheme. However, once a board implements a procedure covered by the uniform standards, it cannot disregard the applicable uniform standard because it disagrees with the standard's substance.

### Conclusion

For the reasons stated above, in our view, section 315 can be read to preclude the necessity to adopt regulations when the uniform standards are issued initially. And even if regulations were required under section 315, SACC would not be tasked with this responsibility. We also

Doreathea Johnson  
February 29, 2012  
Page 9

believe that the healing arts boards must use the uniform standards where an agency undertakes an action covered by the standards.

Please feel free to contact me if you have any questions or would like to discuss the above.

:KAL

cc: Peter K. Southworth, Supervising Deputy Attorney General

Agenda Item 12

Attachment B

PHYSICAL THERAPY BOARD OF CALIFORNIA  
Proposed Language

Amend Section 1399.15 of Division 13.2 of Title 16 of the California Code of Regulations to read as follows:

**1399.15. Uniform Standards Related to Substance Abuse and Model Guidelines for Issuing Citations and Imposing Discipline.**

(a) In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et. seq.), the Board shall consider the ~~guidelines entitled~~ “Uniform Standards Related to Substance Abuse and Model Guidelines for Issuing Citations and Imposing Discipline”, Revised ~~on June 16, 2009~~ August 2011, 4<sup>th</sup> Edition, which are hereby incorporated by reference. The Uniform Standards apply to a substance abusing licensee. Notwithstanding subsection (b), deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the Board, in its sole discretion, determines that the facts of the particular case warrants such a deviation – for example: The presence of mitigating or aggravating factors; the age of the case; evidentiary problems.

(b) If the conduct found to be a violation involves drugs and/or or alcohol, the licensee shall be presumed to be a substance-abusing licensee for purposes of section 315 of the Business and Professions Code. If the licensee does not rebut that presumption, then the Uniform Standards for substance abusing licensee shall apply unless the licensee established that, in his or her particular case, appropriate public protection can be provided with modification or omission of a specific standard as a term of probation.

(c) Notwithstanding the disciplinary guidelines, any proposed decision issued in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that contains any finding of fact that the licensee engaged in any act of sexual contact, as defined in subdivision (c) of Section 729 of the Code, with a patient, or any finding that the licensee has committed a sex offense or been convicted of a sex offense, shall contain an order revoking the license. The proposed decision shall not contain an order staying the revocation of the license.

As used in this section, the term "sex offense" shall mean any of the following:

- (1) Any offense for which registration is required by Section 290 of the Penal Code or a finding that a person committed such an offense.
- (2) Any offense defined in Section 261.5, 313.1, 647b, or 647 subsections (a) or (3) of the Penal Code or a finding that a person committed such an offense.
- (4) Any attempt to commit any of the offenses specified in this section.
- (5) Any offense committed or attempted in any other state or against the laws of

1           the United States which, if committed or attempted in this state, would have been  
2           punishable as one or more of the offenses specified in this section."

3       NOTE: Authority cited: Section 2615, Business and Professions Code. Reference:  
4       Sections 2660, 2660.1, 2661 and 2661.5, Business and Professions Code: and  
5       Section 11425.50(e), Government Code.

Agenda Item 12  
Attachment C

Draft Language



**UNIFORM STANDARDS RELATED TO SUBSTANCE  
ABUSE AND MODEL GUIDELINES FOR ISSUING  
CITATIONS AND IMPOSING DISCIPLINE**

*Physical Therapy Board of California*

*Department of Consumer Affairs*

1  
2 **Physical Therapy Board of California**

3  
4 **Uniform Standards Related to Substance Abuse**  
5 **& Model Guidelines for Issuing Citations**  
6 **& Imposing Discipline**  
7

8  
9 ~~Arnold Schwarzenegger~~ Edmund G. Brown Jr., Governor

10  
11 ~~Carrie Lopez~~ ~~Brian Stiger~~ Denise Brown, ~~Acting Deputy~~ Director  
12 Department of Consumer Affairs  
13

14 Physical Therapy Board of California Members:

15  
16 Sara Takii, PT, DPT, ~~President~~

17 Debra Alviso, PT, DPT, ~~Vice~~ Vice President

18 Donald Chu, PT, PhD

19 Marty Jewell, PT, PhD, Vice President

20 Nancy Krueger, PT, President

21 James Turner

22 Carol A. Wallish

23  
24 ~~Interim~~ Executive Officer: Steven K. Hartzell Rebecca Marco

25  
26  
27 ~~The Model Guidelines for Issuing Citations and Imposing~~  
28 ~~Discipline contained in this manual were originally adopted by the~~  
29 ~~Physical Therapy Board of California on October 24, 1996. The~~  
30 ~~second edition of the Model for Issuing Citations and Imposing~~  
31 ~~Discipline was adopted on May 13, 2005. The Third Edition was~~  
32 ~~adopted on June 16, 2009.~~  
33

34 Published by the Physical Therapy Board of California, Department of  
35 Consumer Affairs, and 2005 Evergreen Street, Suite 1350, Sacramento,  
36 California 95815.  
37

38  
39  
40  
41 ~~June 2009~~ August 2011  
42 ~~3<sup>rd</sup>~~ 4<sup>th</sup>-Edition  
43

**STATE OF CALIFORNIA**  
**PHYSICAL THERAPY BOARD OF CALIFORNIA**  
**MODEL GUIDELINES FOR ISSUING CITATIONS**  
**AND IMPOSING DISCIPLINE**

*3<sup>rd</sup> Edition Adopted June 2009*

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3  
4 **Statement of Purpose, Intent & Expectations**

5  
6 The purpose of licensure of physical therapists and physical therapist assistants licensure  
7 in the State of California is to protect the public's health, safety and welfare from the  
8 incompetent and unprofessional practice of physical therapy. The challenges that these  
9 guidelines address are to provide public protection and to enable a licensee to practice his  
10 or her profession in a controlled environment, if possible. In addition to protecting the  
11 public and, where not inconsistent, rehabilitating a licensee, the Physical Therapy Board  
12 finds imposing the discipline set forth in the guidelines will promote uniformity, certainty,  
13 fairness, and deterrence, to further public protection.  
14

15 The Physical Therapy Board of California (Board) is producing produced this 3<sup>rd</sup> 4<sup>th</sup> edition  
16 of the "Uniform Standards Related to Substance Abuse and Guidelines for Issuing  
17 Citations and Imposing Discipline" Manual of Disciplinary Guidelines for the public,  
18 individuals subject to issuance of a citation and fine, as well as those involved in the  
19 disciplinary process: Administrative Law Judges, Deputy Attorneys General, Members of  
20 the Board who review proposed decisions and stipulations and make final decisions, it's  
21 the Board's Executive Officer and staff, and Rrespondents and their counsel. When an  
22 Initial Probationary License has been issued, or a Statement of Issues, or an Accusation  
23 has been filed, these actions indicate the nature of the alleged violation is severe enough to  
24 warrant disciplinary action if the allegations are proven true preclude the issuance of an  
25 administrative citation. An administrative citation is not discipline and is issued for less  
26 egregious violations. When documentation of significant mitigation has been received,  
27 discipline is may not be required to protect the public.  
28

29 When criminal charges are alleged and there is an immediate need to protect the public,  
30 application of Penal Code 23 shall be sought. In addition, if the alleged conduct poses an  
31 immediate threat to public safety an Interim Suspension Order shall be sought.  
32

33 The Board has some basic expectations when an Administrative Law Judge determines  
34 that the allegations are true and that a cause for discipline exists. The Board recognizes a  
35 rare individual case may necessitate a departure from these guidelines. Any "Proposed  
36 Decision" that departs from the disciplinary guidelines shall identify the departures and the  
37 facts supporting the departure. However, in such a rare case, the mitigating circumstances  
38 must be detailed in the Findings of Fact, which is in every Proposed Decision.  
39

40 These include:

- 41  
42 1) If at the time of hearing, the Administrative Law Judge finds that the  
43 Rrespondent, for any reason, is not capable of safe practice, the Board expects  
44 the outright revocation of the license. This is particularly true in cases of patient  
45 sexual abuse. In less egregious cases, a stayed revocation with suspension and  
46 probation, pursuant to the guidelines contained in this manual, would be  
47 expected.  
48

- 1 2) The Board expects ~~that~~ revocation is normally the appropriate order in cases  
2 where ~~the R~~espondent does not file a Notice of Defense or appear at a hearing  
3 is in default.  
4
- 5 3) When probation is granted, the inclusion of a stayed revocation order is essential  
6 to ensure compliance with terms of probation.  
7
- 8 4) The Board expects ~~that~~ when the revocation of a license is stayed, a suspension  
9 of the license shall be considered when further education, medical or  
10 psychological evaluation or treatment is deemed necessary to ensure safe  
11 practice. A suspension, when imposed, should not be for less than indicated in  
12 the guidelines. ~~Community service may be substituted in whole or in part for the~~  
13 ~~suspension.~~  
14
- 15 5) The Board expects ~~that~~ the decision will include an order for cost recovery.  
16

17 ~~The Board recognizes that a rare individual case may necessitate a departure from these~~  
18 ~~guidelines for disciplinary order. The Board expects a similar result and explanation for any~~  
19 ~~Stipulation negotiated prior to hearing. Any "P~~roposed decision or "Ssettlement that departs  
20 from the disciplinary guidelines shall be accompanied by a memorandum identifying the  
21 departures and the facts supporting the departure. However, in such a rare case, the  
22 mitigating circumstances must be detailed in the Findings of Fact, ~~which is in every Proposed~~  
23 ~~Decision. The Board expects a similar result and explanation for any Stipulation negotiated~~  
24 ~~prior to hearing.~~

25  
26 Probation conditions are divided into two three categories: 1) Standard Conditions ~~that~~  
27 the Board expects generally appear in all probation cases; and 2) Specific Conditions that  
28 depend on the nature and circumstances of the particular case; and 3) Conditions  
29 Specific to Alcohol and/or Controlled Substance. The standard conditions generally  
30 appearing in every probation case.  
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1 **LEGAL AUTHORITY**

2  
3 The legal authority for the “Physical Therapy Board of California Uniform Standards Related to  
4 Substance Abuse and Guidelines for Issuing Citations and Imposing Discipline”, revised  
5 November 3, 2011, is contained in Section 315, of the Business and Professions Code; and  
6 4399.15 of Title 16, of the California Code of Regulations CCR §1399.15.  
7

8 California Code of Regulations  
9 Title. 16 Professional and Vocational Regulations  
10 Division 13.2

11 Article 8 Uniform Standards Related To Substance Abuse and Disciplinary Guidelines

- 12  
13 (a) In reaching a decision on a disciplinary action under the Administrative Procedure Act  
14 (Government Code Section 11400 et. seq.), the Board shall consider the “Uniform Standards  
15 Related to Substance Abuse and Guidelines for Issuing Citations and Imposing  
16 Discipline” (Revised November 3, ~~Month XX,~~ 2014~~2~~) which are hereby incorporated by  
17 reference. The Uniform Standards apply to a substance abusing licensee. Notwithstanding  
18 subsection (b), deviation from these guidelines and orders, including the standard terms of  
19 probation, is appropriate where the Board, in its sole discretion, determines that the facts of  
20 the particular case warrants such a deviation – for example: The presence of mitigating or  
21 aggravating factors; the age of the case; evidentiary problems.  
22  
23 (b) If the conduct found to be a violation involves drugs and/or or alcohol, the licensee shall be  
24 presumed to be a substance-abusing licensee for purposes of section 315 of the Business and  
25 Professions Code. If the licensee does not rebut that presumption, then the Uniform  
26 Standards for substance abusing licensee shall apply unless the licensee established that, in  
27 his or her particular case, appropriate public protection can be provided with modification or  
28 omission of a specific standard as a term of probation.  
29  
30  
31 (c) Notwithstanding the disciplinary guidelines, any proposed decision issued in accordance with  
32 the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division  
33 3 of Title 2 of the Government Code that contains any finding of fact that the licensee  
34 engaged in any act of sexual contact, as defined in subdivision (c) of Section 729 of the  
35 Code, with a patient, or any finding that the licensee has committed a sex offense or been  
36 convicted of a sex offense, shall contain an order revoking the license. The proposed decision  
37 shall not contain an order staying the revocation of the license.  
38

39 As used in this section, the term “sex offense” shall mean any of the following:

- 40 (a) Any offense for which registration is required by Section 290 of the Penal code or a  
41 finding that a person committed such an offense.  
42 (b) Any offense defined in Section 261.5, 313.1, 647 subsections (a) or (d) of the Penal code  
43 or a finding that a person committed such an offense.  
44 (c) Any attempt to commit any of the offenses specified in this section.  
45 (d) Any offense committed or attempted in any other state or against the laws of the United  
46 States which, if committed or attempted in this state, would ~~have~~ be punishable as one or  
47 more of the offenses specified in this section.  
48  
49  
50

1                   **UNIFORM STANDARDS RELATED TO A SUBSTANCE ABUSE**  
2

3 The following standards govern all cases involving a substance abuse license.  
4

5 **Clinical Diagnostic Evaluations:**  
6

7 Whenever a licensee is ordered to undergo a clinical diagnostic evaluation, the evaluator  
8 shall be a licensed practitioner who holds a valid, unrestricted license to conduct clinical  
9 diagnostic evaluations, has three (3) years experience in providing evaluations of health  
10 care professionals with substance abuse disorders, and is approved by the Board. The  
11 evaluations shall be conducted in accordance with accepted professional standards for  
12 conducting substance abuse clinical diagnostic evaluations.  
13

14 **Clinical Diagnostic Evaluation Report:**  
15

16 The clinical diagnostic evaluation report shall set forth, in the evaluator's opinion, whether  
17 the licensee has a substance abuse problem, whether the licensee is a threat to himself or  
18 herself or others, and recommendations for substance abuse treatment, practice  
19 restrictions, or other recommendations related to the licensee's rehabilitation and safe  
20 practice.  
21

22 The evaluator shall not have a financial, personal, or business relationship with the licensee  
23 within the last five (5) years. The evaluator shall provide an objective, unbiased, and  
24 independent evaluation.  
25

26 If the evaluator determines during the evaluation process that a licensee is a threat to  
27 himself or herself or others, the evaluator shall notify the Board within 24 hours of such a  
28 determination.  
29

30 For all evaluations, a final written report shall be provided to the Board no later than ten  
31 (10) days from the date the evaluator is assigned the matter unless the evaluator requests  
32 additional information to complete the evaluation, not to exceed thirty (30) days.  
33

34 The Board shall review the clinical diagnostic evaluation and the criteria below to determine  
35 whether or not the licensee is safe to return to either part-time or full-time practice and what  
36 restrictions or recommendations should be imposed on the licensee based on the  
37 application of the following criteria:  
38

39 License type; licensee's history; documented length of sobriety; scope and pattern of  
40 substance abuse; treatment history; medical history; current medical condition; nature;  
41 duration and severity of substance abuse problem; and whether the licensee is a threat to  
42 himself or herself or others.  
43

44 When determining if the licensee should be required to participate in inpatient, outpatient or  
45 any other type of treatment, the Board shall take into consideration the recommendation of  
46 the clinical diagnostic evaluation, license type, licensee's history, length of sobriety, scope  
47 and pattern of substance abuse, treatment history, medical history, current medical  
48 condition, nature, duration and severity of substance abuse and whether the licensee is a  
49 threat to himself or herself or others.

1  
2 **Work Site Monitor Requirements:**  
3

4 If the Board determines a worksite monitor is necessary for a particular licensee, the  
5 worksite monitor must meet the following requirements to be considered for approval by the  
6 Board:  
7

8 The worksite monitor shall not have any current or former financial, personal, or familial  
9 relationship with the licensee, or other relationship that could reasonably be expected to  
10 compromise the ability of the monitor to render impartial and unbiased reports to the Board.  
11 If it is impractical for anyone but the licensee's employer to serve as the worksite monitor,  
12 this requirement may be waived by the Board. However, under no circumstances shall a  
13 licensee's worksite monitor be an employee of the licensee.  
14

15 The worksite monitor's license scope of practice shall include the scope of practice of the  
16 licensee who is being monitored or be another health care professional if no monitor with  
17 like scope of practice is available.  
18

19 The worksite monitor shall have an active unrestricted license, with no disciplinary action  
20 within the last five (5) years.  
21

22 The worksite monitor shall sign an affirmation that he or she has reviewed the terms and  
23 conditions of the licensee's disciplinary order and agrees to monitor the licensee as set  
24 forth by the Board.  
25

26 The worksite monitor must adhere to the following required methods of monitoring the  
27 licensee:  
28

- 29 a) Have face-to-face contact with the licensee at least once per week in the work  
30 environment or more frequently if required by the Board.
- 31 b) Interview other staff in the office regarding the licensee's behavior, if applicable.
- 32 c) Review the licensee's work attendance.  
33

34 Reporting by the worksite monitor to the Board shall be as follows:  
35

36 Any suspected substance abuse must be verbally reported to the Board and the licensee's  
37 employer within one (1) business day of occurrence. If occurrence is not during the Board's  
38 normal business hours the verbal report must be within one (1) hour of the next business  
39 day. A written report shall be submitted to the Board within 48 hours of occurrence.  
40

41 The worksite monitor shall complete and submit a written report monthly or as directed by  
42 the Board. The report shall include: the licensee's name; license number; worksite  
43 monitor's name and signature; worksite monitor's license number; worksite location(s);  
44 dates licensee had face-to-face contact with monitor; staff interviewed if applicable;  
45 attendance report; any change in behavior and/or personal habits; any indicators leading to  
46 suspected substance abuse.  
47

1 The licensee shall complete the required consent forms and sign an agreement with the  
2 worksite monitor and the Board to allow the Board to communicate with the worksite  
3 monitor.

4  
5 If a licensee tests positive for a banned substance, the Board shall immediately ~~order the~~  
6 ~~licensee to cease practice~~ suspend, and immediately contact the licensee and inform him  
7 or her their license has been suspended and he or she may not work until the suspension  
8 is lifted. The Board shall also immediately notify the licensee's employer that the licensee's  
9 license has been ~~ordered to cease practice~~ suspended.

**Comment [EB1]:** At the February Board Meeting, the board requested restructuring of this paragraph; however, with the memo received opining that Board's do not have the discretion to modify the Uniform Standards, this paragraph cannot be changed and will be changed back to its original language as worded in the Uniform Standards.

### 11 **Major and Minor Violations**

12  
13 Major Violations include, but are not limited to, the following:

- 14 1. Failure to complete the Board-ordered program;
- 15 2. Failure to undergo a required clinical diagnostic evaluation;
- 16 3. Committing multiple minor violations of probation conditions and terms;
- 17 4. Treating a patient while under the influence of drugs or alcohol;
- 18 5. Committing any drug or alcohol offense that is a violation of the Business and  
19 Professions Code or state or federal law;
- 20 6. Failure to obtain biological testing for substance abuse;
- 21 7. Knowingly using, making, altering or possessing any object or product in such a way  
22 as to defraud a drug test designed to detect the presence of alcohol or a controlled  
23 substance.

24  
25 If a licensee commits a major violation, the Board shall immediately ~~suspend~~ ~~order the~~  
26 ~~Respondent's license~~ ~~to practice to cease practice~~ and refer the matter for disciplinary  
27 action or other action as determined by the Board.

**Comment [EB2]:** Same as above comment (EB2)

28  
29 Minor Violations include, but are not limited to, the following:

- 30 1. Failure to submit required documentation in a timely manner;
- 31 2. Unexcused absences at required meetings;
- 32 3. Failure to contact a monitor as required;
- 33 4. Any other violations that do not present an immediate threat to the licensee or to the  
34 public.

35  
36 If a licensee commits a minor violation, the Board shall determine what action is  
37 appropriate.

### 39 **Drug Testing Standards:**

40  
41 The following standards shall govern all aspects of testing required to determine abstention  
42 from alcohol and drugs for any person whose license is placed on probation or in a drug  
43 and alcohol recovery monitoring program due to substance use.

44  
45 (Level 1) Respondent shall be randomly drug tested at 52 – 104 times per year for  
46 the first year and at any time as directed by the Board.

47 (Level 2) After the first year, Respondent shall be randomly drug tested 36-104  
48 times per year for up to five (5) years. Thereafter, tests shall be administered one

**Comment [EB3]:** Added levels 1 & 2 of testing as requested by board but is also below in V (1) & (2)

1 (1) time per month if there have been no positive drug tests in the previous five (5)  
2 consecutive years of probation or diversion.

3  
4 **Exceptions to Testing Frequency Schedule:**

5  
6 **I. PREVIOUS TESTING/SOBRIETY**

7 In cases where the Board has evidence that a licensee has participated in a treatment  
8 or monitoring program requiring random testing, prior to being subject to testing by the  
9 Board, the Board may give consideration to that testing in altering the testing frequency  
10 schedule so that it is equivalent to this standard.

11  
12 **II. VIOLATION(S) OUTSIDE OF EMPLOYMENT**

13 A physical therapist/physical therapist assistant whose license is placed on probation for  
14 a single conviction or incident or two convictions or incidents, spanning greater than  
15 seven years from each other, where those violations did not occur at work or while on  
16 the licensee's way to work, where alcohol or drugs were a contributing factor, may  
17 bypass Level 1 (see Section V) and participate in Level 2 (see Section V) of the testing  
18 frequency schedule.

19  
20 **III. NOT EMPLOYED IN HEALTH CARE FIELD**

21 The Board may reduce testing frequency to a minimum of twelve (12) times per year for  
22 any person who is not practicing OR working in any health care field. If a reduced  
23 testing frequency schedule is established for this reason, and if Respondent wants to  
24 return to practice or work in a health care field, ~~the~~ Respondent shall notify and secure  
25 the approval of the Board. Prior to returning to the employment of physical therapy, the  
26 licensee shall be subject to Level 1 testing frequency for at least sixty (60) days. At  
27 such time as the person returns to employment (in a health care field), if the licensee  
28 has not previously met the Level 1 frequency standard, the licensee shall be subject to  
29 completing a full year at the Level 1 testing frequency schedule; otherwise Level 2 of  
30 testing shall be in effect.

31  
32 **IV. TOLLING**

33 The Board may postpone all testing for any person whose probation or diversion is  
34 placed in a tolling status if the overall length of the probationary or diversion period is  
35 also tolled. Respondent shall notify the Board upon Respondent's return to California  
36 and shall be subject to testing as provided in this standard. If Respondent returns to  
37 employment in a health care field, and has not previously met the Level I frequency  
38 standard, the licensee shall be subject to completing a full year at Level I of the testing  
39 frequency schedule; otherwise Level 2 testing shall be in effect.

40  
41 **V. SUBSTANCE USE DISORDER NOT DIAGNOSED**

42 In cases where no current substance use disorder diagnosis is made, a lesser period of  
43 monitoring and toxicology screening may be adopted by the Board, but not to be less  
44 than 24 times per year.

45  
46 The Board may order a licensee to drug test at any time. Additionally, each licensee  
47 shall be ~~T~~ested RANDOMLY in accordance with the schedule below:

- 48  
49 1. (Level 1) Respondent shall be randomly drug tested at 52 – 104 times per year for  
50 the first year and at any time as directed by the Board.

1 (Level 2) After the first year, Respondent shall be randomly drug tested 36-104  
2 times per year for up to five (5) years. Thereafter, tests shall be administered  
3 of one (1) time per month if there have been no positive drug tests in the previous  
4 five (5) consecutive years of probation or diversion.

- 5 2. Nothing precludes the Board from increasing the number of random tests for any  
6 reason. If the Board finds or has suspicion that a licensee has committed a violation  
7 of the Board's testing program or who has committed a Major Violation, as identified  
8 in Page 9, it may reestablish the testing cycle by placing that a licensee at the  
9 beginning of Level I, in addition to any other disciplinary action that may be pursued.
- 10 3. Drug testing may be required on any day, including weekends and holidays.
- 11 4. The scheduling of drug tests shall be done on a random basis, preferably by a  
12 computer program, so that a licensee can make no reasonable assumption of when  
13 he/she will be tested again. Boards should be prepared to report data to support  
14 back-to-back testing as well as numerous different intervals of testing.
- 15 5. Licensees shall be required to make daily contact to determine if drug testing is required.
- 16 6. Licensees shall be drug tested on the date of notification as directed by the Board.
- 17 7. Specimen collectors must either be certified by the Drug and Alcohol Testing  
18 Industry Association or have completed the training required to serve as a collector  
19 for the U.S. Department of Transportation.
- 20 8. Specimen collectors shall adhere to the current U.S. Department of Transportation  
21 Specimen Collection Guidelines.
- 22 9. Testing locations shall comply with the Urine Specimen Collection Guidelines  
23 published by the U.S. Department of Transportation, regardless of the type of test  
24 administered.
- 25 10. Collection of specimens shall be observed.
- 26 11. Prior to vacation or absence, alternative drug testing location(s) must be approved  
27 by the Board.
- 28 12. Laboratories shall be certified and accredited by the U.S. Department of Health and  
29 Human Services.

30  
31 A collection site must submit a specimen to the laboratory within one (1) business day of  
32 receipt. A chain of custody shall be used on all specimens. The laboratory shall process  
33 results and provide legally defensible test results within seven (7) days of receipt of the  
34 specimen. The appropriate Board will be notified of non-negative test results within one (1)  
35 business day and will be notified of negative test results within seven (7) business days.

36  
37 The Board may use other testing methods in place of, or to supplement biological fluid  
38 testing, if the alternate testing method is appropriate.

**Comment [EB4]:** Same as above comment regarding Uniform Standards (EB2)

1  
2 **AUTHORITY TO EXAMINE DUE TO MENTAL ILLNESS AND/OR PHYSICAL**  
3 **IMPAIRMENT**  
4

5 ~~Business and Professions Code, section 820, w~~Whenever it appears that any person  
6 holding a license, certificate or permit under this division or under any initiative act referred  
7 to in this division may be unable to practice his or her profession safely because the  
8 licentiate's ability to practice is impaired due to mental ~~illness~~ or physical illness, affecting  
9 competency, the licensing agency may order the licentiate's to be examined by one or  
10 more physicians and surgeons or psychologists designated by the agency. The report of  
11 the examiners shall be made available to the licentiate's and may be received as direct  
12 evidence in proceedings conducted pursuant to Section 822.  
13

14 Business and Professions Code, section 821, provides that the licentiate's failure to comply  
15 with an order issued under Section 820 shall constitute grounds for the suspension or  
16 revocation of the licentiate's certificate or license.  
17

18 822. If a licensing agency determines that its licentiate's ability to practice his or her  
19 profession safely is impaired because the licentiate's is mentally ~~ill~~ or physically ill,  
20 affecting competency, the licensing agency may take action by any one of the following  
21 methods:

- 22 (a) Revoking the licentiate's certificate or license.  
23 (b) Suspending the licentiate's right to practice.  
24 (c) Placing the licentiate's on probation.  
25 (d) Taking such other action in relation to the licentiate's as the licensing agency in its  
26 discretion deems proper.

27 The licensing agency shall not reinstate a revoked or suspended certificate or license  
28 until it has received competent evidence of the absence or control of the condition which  
29 caused its action and until it is satisfied that with due regard for the public health and  
30 safety the person's right to practice his or her profession may be safely reinstated.  
31

32 823. Notwithstanding any other provisions of law, reinstatement of a licentiate against  
33 whom action has been taken pursuant to Section 822 shall be governed by the procedures  
34 in this article. In reinstating a certificate or license which has been revoked or suspended  
35 under Section 822, the licensing agency may impose terms and conditions to be complied  
36 with by the licentiate after the certificate or license has been reinstated. The authority of the  
37 licensing agency to impose terms and conditions includes, but is not limited to, the  
38 following:

- 39 (a) Requiring the licentiate to obtain additional professional training and to pass an  
40 examination upon the completion of the training.  
41 (b) Requiring the licentiate to pass an oral, written, practical, or clinical examination, or  
42 any combination thereof to determine his or her present fitness to engage in the practice of  
43 his or her profession.  
44 (c) Requiring the licentiate to submit to a complete diagnostic examination by one or  
45 more physicians and surgeons or psychologists appointed by the licensing agency. If the  
46 licensing agency requires the licentiate to submit to such an examination, the licensing  
47 agency shall receive and consider any other report of a complete diagnostic examination  
48 given by one or more physicians and surgeons or psychologists of the licentiate's choice.  
49 (d) Requiring the licentiate to undergo continuing treatment.

1 (e) Restricting or limiting the extent, scope or type of practice of the licentiate.

2  
3 824. The licensing agency may proceed against a licentiate under either Section 820, or  
4 822, or under both sections.

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1 **DEFINITION OF DIVERSION DRUG AND ALCOHOL RECOVERY MONITORING**  
2 **PROGRAM**

3 There are two types of participants in the “diversion” program for the Physical Therapy  
4 Board of California: licensees with drug and/or alcohol addiction issues who have self-  
5 referred to the program and are not under a disciplinary order and licensees who have  
6 been ordered to participate in the Board’s drug and alcohol recovery monitoring program  
7 due to violations of the Physical Therapy Practice Act related to abuse of drugs and/or  
8 alcohol.

9 *Self-Referrals*

10 While the Board does not divert licensees from discipline, those licensees who self-refer  
11 are considered to be participants in the Board’s “diversion” program.

12 When a licensee who enrolls in the Board’s diversion program as a self-referral, the  
13 participation is confidential. As a self-referred participant, if it is determined the continued  
14 practice of physical therapy by that individual creates too great a risk to the public health,  
15 safety, and welfare, the facts shall be reported to the executive officer of the Board and all  
16 documents and information pertaining to and supporting that conclusion shall be provided  
17 to the executive officer. The matter may be referred for investigation and disciplinary action  
18 by the Board. Each physical therapist or physical therapist assistant who requests  
19 participation in a diversion program shall agree to cooperate with the recovery program  
20 designed for him or her. Any failure to comply with the program may result in termination of  
21 participation in the program.

22 The terms and conditions described in these guidelines are not applicable to self-referred  
23 licensees. Instead, self-referred licensees are subject to contractual terms of participation;  
24 the violation of those terms which could lead to termination of participation in the diversion  
25 program.

26 *Probationary Participants*

27 The Board does not consider licensees who have been ordered to participate in the Board’s  
28 diversion program to be “in diversion,” rather the Board considers these individuals to be in  
29 a drug and alcohol recovery monitoring program. As a result, the Board will not use the  
30 term “diversion” in these disciplinary guidelines to describe licensees on probation or terms  
31 and conditions of probation related to drug and alcohol recovery monitoring. Instead the  
32 phrase “drug and alcohol recovery monitoring program” or “recovery monitoring program”  
33 will be used.

1  
2 **PARTICIPANTS OF THE BOARD'S CONTRACTED**  
3 **DRUG AND ALCOHOL RECOVERY MONITORING PROGRAM**

4  
5 **REQUIREMENTS & COSTS**

6  
7 Licensees enrolled in the drug and alcohol recovery monitoring program are required to pay  
8 the entire cost of the program pursuant to Business and Professions Code section 2668.  
9 The drug and alcohol recovery monitoring program costs include the monthly  
10 administrative fee, monthly health support fees, and random drug and alcohol testing fees.  
11 **All drug and alcohol recovery monitoring program fees are subject to change.**

12  
13  
14 **Drug and Alcohol Recovery Monitoring Program Timeframe:** Participation in the drug  
15 and alcohol recovery monitoring program is for a period of approximately 3-5 years.

16  
17 **Monthly Administrative Fee:** The participant pays the monthly administrative fee directly  
18 to the drug and alcohol recovery monitoring program. The monthly administrative fee is  
19 currently \$27288. The monthly administrative fee may increase 3-5% annually each July.  
20 Costs are dependent on the contracted costs.

21  
22 **Random Body Fluid Testing (RBFT) & Fee:** Currently the average cost of each RBFT is  
23 approximately \$58.00 plus the collection fee at the testing site (\$20-\$50) which can cost up  
24 to \$125.00 and possibly more if applicant is required to test on a weekend. Additionally,  
25 there are charges for the medical review officer (MRO) who reviews drug test results,  
26 retests of specimen samples, and hair tests. These additional procedures are usually a  
27 direct result of problematic (i.e. positive) RBF test results.

Comment [YE5]: Cost may be changing to \$63.00. Will change if necessary.

28  
29 **Health Professional Support Group Meetings:** Health Support Group Meetings are a  
30 treatment modality of the drug and alcohol recovery monitoring program. These groups  
31 are attended exclusively by licensed professionals who are in their own recovery and  
32 involved in a drug and alcohol recovery monitoring program. The Health Support Group  
33 Facilitators are licensed professionals who have extensive clinical experience in working  
34 with licensed professionals in recovery and in drug and alcohol recovery monitoring  
35 programs. Each participant is required to attend Health Support Group Meetings two  
36 times per week during their first 18 months in the diversion drug and alcohol recovery  
37 monitoring program. The frequency of Health Support Group meeting attendance can be  
38 reduced to one time per week after 18 months of successful participation in the program.  
39 This reduction is also based upon the on-going clinical evaluation of each participant.

Comment [EB6]: Changed name so that we are not referring to a particular program. Revised throughout paragraph.

40  
41 **Health Support Group Meeting Fees:** The participant pays the monthly health support  
42 group meeting fees directly to the Health Support Group Facilitator. Health Support Groups  
43 all charge different fees and negotiate directly with the participant. Average costs range  
44 from \$50-\$100 weekly \$200-\$500 monthly. Participants may be required to attend Health  
45 Support Groups once or twice weekly. The current fee schedule is \$325.00 per month for  
46 two times meetings per week and \$225.00 per month for one time per week attendance.  
47 The Health Support Group Facilitators are independent practitioners who are individually  
48 contracted by the drug and alcohol recovery monitoring program provider.

1 **12-Step Meetings:** All participants are required to attend community-based 12-step  
2 meetings. The frequency requirement for attending 12-step meetings range from daily  
3 attendance to three times per week. The frequency requirement is established and  
4 modified by the Clinical Case Manager based upon the on-going clinical evaluation of each  
5 participant. Generally there is not a cost associated with attending 12-step meetings.  
6 Contributions at the 12-step meetings are voluntary.

7  
8 **Clinical Assessment:** All participants are required to undergo an initial clinical assessment  
9 and subsequent re-assessments by contracted Assessors. There is currently no cost to the  
10 PTBC participants for the initial clinical assessment and the annual re-assessments.  
11 However, if the participant is required to have more than one clinical assessment per year  
12 the participant is required to pay the cost for the additional clinical assessment. These  
13 additional assessments are usually a direct result of reoccurring problems in the drug and  
14 alcohol recovery monitoring program.

15  
16 **Additional Costs to Third Parties:** Participants may be required to enter formal chemical  
17 dependency treatment (i.e. inpatient or outpatient facilities) at treatment programs  
18 approved by the drug and alcohol recovery monitoring program. Referrals to specific  
19 treatment programs are based upon the assessment of a participant's clinical need. The  
20 cost of any formal chemical dependency treatment program is the sole responsibility of  
21 each participant. Participants may also be required to undergo formal treatment for mental  
22 health diagnosis. The cost of any formal treatment for mental health treatment program is  
23 the sole responsibility of each participant.

24  
25 **Worksite Monitor:** All Each participants are is required to have a worksite monitor at his or  
26 her place of employment. The drug and alcohol recovery monitoring program will provide  
27 the application with the required consent forms at the time of enrollment. The worksite  
28 monitor is required to report to the drug and alcohol recovery monitoring program on the  
29 status of the participant. Respondent is responsible for costs incurred.

30  
31 **Other Requirements:** The participant must submit monthly self-evaluation reports and call  
32 into the drug and alcohol recovery monitoring program on a routine, often daily, basis.  
33 The assigned Clinical Case Manager will determine the frequency of how often the  
34 participant needs to call in. Participants are required to receive prior approval from the  
35 Clinical Case Manager before scheduling and taking any vacations. The participant's  
36 Clinical Case Manager may determine other requirements.

Comment [EB7]: This language is irrelevant since there are no costs incurred by probationer

1 **DENIAL OF LICENSURE & ISSUANCE OF AN**  
2 **INITIAL PROBATIONARY LICENSE**  
3

4 Mandatory Denial of a License

5  
6 In accordance with section 2660.5 of the B&P Code, the Board must deny licensure to any  
7 applicant who is required to be registered pursuant to Penal Code Section 290, unless the  
8 only basis for ~~290~~ the registrations is due to a misdemeanor conviction under Penal Code  
9 Section 314. There is no discretion allowed. If an applicant is a 290 registrant, their  
10 application for licensure will be denied.

11  
12 Permissive Denials of a License

13  
14 The Board has the right to deny a license to any applicant for any of the following:

15  
16 Business and Professions Code 480, the Physical Therapy Board has the authority to deny  
17 licensure to any applicant whose misconduct or criminal history is substantially related to  
18 the qualifications, functions, or duties of a physical therapist or physical therapist assistant.  
19 Reasons for denial of a license include but are not limited to the following:

- 20  
21 • Conviction of a crime substantially related to the practice of physical therapy  
22 • Any act involving dishonesty, fraud, or deceit with intent to substantially benefit self  
23 or another or to substantially injure another  
24 • Any act which is grounds for revocation of a license  
25 • Making a false statement on the application  
26

27  
28 In addition to section 480, the Board has the authority to deny a license for any of the  
29 following reasons:

30  
31 Business and Professions Code 2635.5; every applicant for a license under this chapter  
32 shall, at the time of application, be a person over 18 years of age, not addicted to alcohol or  
33 any controlled substance, have successfully completed the education and training required  
34 by Section 2650, and not have committed acts or crimes constituting grounds for denial of  
35 licensure under Section 480.

36  
37 Business and Professions Code 2655.3(c): Not be addicted to alcohol or any controlled  
38 substance; (d) Not have committed acts or crimes constituting grounds for denial of  
39 approval under Section 480.

40  
41 Business and Professions Code 2660 (e): Habitual intemperance; (f) Addiction to the  
42 excessive use of any habit-forming drug

43  
44 Business and Professions Code 2660.2 (a) : The Board may refuse a license to any  
45 applicant guilty of unprofessional conduct or sexual activity referred to in Section 2660.1.

46  
47 Business and Professions Code 2660.2.5; the Board may refuse a license to any applicant  
48 guilty of unprofessional conduct or sexual misconduct as defined in B&P Code, Section

1 2660.1 and Title 16, California Code of Regulations, section 1399.23. The Board may in its  
2 sole discretion, issue a probationary license to any applicant for a license who is guilty of  
3 unprofessional conduct but who has met all other requirements for licensure.

4  
5 Appeal Rights

6  
7 The applicant has the right to appeal the denial, or the issuance with terms and conditions  
8 of a license. In either case, a Statement of Issues would be filed in accordance with  
9 Chapter 5, (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the  
10 Government Code, and the Board shall have all the powers granted therein.

11  
12 Any person whose application for a license has been denied by the Board, may reapply to  
13 the Board for license only after a period of one (1) year has elapsed from the date of the  
14 denial.

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1 **CITATION**

2  
3 The Physical Therapy Board may issue a citation pursuant to section 125.9 of the Business  
4 and Professions Code, as an alternate means to address relatively minor violations not  
5 necessarily warranting discipline.

6 ~~A citation pursuant to section 1399.25 of the California Code of Regulations, Title 16,~~  
7 ~~Division 13 is an alternative means by which the Physical Therapy Board of California~~  
8 ~~(Board) protect the public.~~ Citations are not disciplinary actions, but are matters of public  
9 record. The citation program increases the effectiveness of the Board's consumer  
10 protection process by providing a method to ~~more~~ effectively address less egregious  
11 violations.

12  
13 Citations shall be in writing and shall describe the particular ~~with particularity~~ the nature and  
14 facts of the violation, including a reference to the statute or regulation ~~allegedly to have~~  
15 ~~been~~ violated. In assessing a fine, the Board shall give due consideration to the factors  
16 enumerated in section 1399.25 of Title 16 of the CCR.

17  
18 Payment of a fine with or without an informal conference or administrative hearing does not  
19 constitute an admission of the violation charged, but ~~is represented~~ as a satisfactory  
20 resolution of the citation for purposes of public disclosure.

21  
22 After a citation is issued, the person may:

- 23 1) Pay the fine/comply with any Order of Abatement and the matter will be  
24 satisfactorily resolved.  
25  
26 2) Request an informal conference. At the conclusion of the informal conference,  
27 the ~~Executive Officer~~ citation may be affirmed, modified or dismissed ~~the~~  
28 ~~citation~~, including any fine levied or order of abatement issued  
29  
30 3) Request an Administrative Hearing in appeal of the citation whether or not an  
31 informal conference was held.  
32

33 Failure to pay a fine, unless the citation is being appealed, may result in disciplinary action.  
34 Where a citation is not contested and a fine is not paid, the fine shall be added to the fee  
35 for renewal of the license.  
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1  
2 **PUBLIC REPROVALS OR & REPRIMANDS**  
3

4 ~~B&P Code The Board is authorized by Section 495 and 2660.3 of the Business and~~  
5 ~~Professions Code~~ authorizes the Board to publicly reprove or reprimand a physical  
6 therapist or physical therapist assistant for an act constituting grounds for suspension or  
7 revocation of a license, a violation of the Physical Therapy Practice Act. The lissuanceing  
8 of a Ppublic Rreproval as part of a disciplinary order may be considered when the following  
9 circumstances exist:

- 10  
11 1. The offense is an isolated incident.  
12  
13 2. Sufficient time ~~has~~ elapsed since the offense without further violations ~~that~~  
14 ~~would indicateing that~~ a recurrence is unlikely.  
15  
16 3. ~~The R~~espondent ~~has~~ admitted to the offense.  
17  
18 4. ~~The R~~espondent ~~has~~ indicated remorse.  
19  
20 5. ~~There has been N~~o prior discipline for a similar violation exists.  
21  
22 6. In the case of an offense related to substance abuse, active participation in a  
23 recovery program has been documented for at least one year without a  
24 relapse.  
25

26 B&P Code Section 2660.3 authorizes the Board, upon stipulation or agreement by the  
27 licensee, in lieu of filing or prosecuting a formal accusation against a licensee, the Board  
28 may, to issue a public letter of reprimand after it has conducted an investigation or  
29 inspection. The Board may use a public letter of reprimand only for minor violations, (as  
30 defined by the Board), committed by the licensee. Minor violations, include, but are not  
31 limited to, the following:

- 32  
33 1. First DUI with no underlying circumstances that would be considered egregious.  
34 (e.g. no bodily injury to any third party)  
35  
36 2. One (1) minor adverse action in another State  
37  
38 3. Failure to maintain patient records, such as an isolated incident of a  
39 documentation violation  
40  
41  
42  
43  
44  
45  
46  
47

1 **GUIDELINES SPECIFIC TO VIOLATION**

2  
3 The following offenses are listed in numerical order of the statutory numbers in the Business  
4 and Professions Code (B&P Code), the California Code of Regulations (CCR) and the Health  
5 and Safety Code (H&S Code).

6  
7 B&P Code 2660(h) authorizes the Physical Therapy Board of California to cite violations of the  
8 Medical Practice Act; ~~therefore~~ W ~~when~~ ever violations of the Medical Practice Act are cited,  
9 B&P Code 2660(i) h must also be cited.

10  
11 Violations of the B&P Code or the CCR may result in the issuance of a C e i t a t i o n, P u b l i c h e r e n e r e d a t i o n, R e p r o v a l,  
12 R e p r o v a l, Initial Probationary License, filing of a Statement of Issues, or an Accusation. Filing  
13 of criminal charges shall be sought when appropriate.

1 **BUSINESS AND PROFESSIONS CODE**

2  
3 **SUBVERTING OR ATTEMPTING TO SUBVERT A LICENSING EXAM**  
4 **B&P CODE 123**

5  
6 **Citation:**

7 Minimum Fine: \$100  
8 Maximum Fine: \$5,000

9 ~~Note: This issuance of an administrative citation is for unlicensed persons only.~~

10

11 **Discipline:**

12 Minimum: Public Repraval or Initial Probationary License  
13 Maximum: Revocation or denial of license

14

15 ~~Conditions of Probation: in Addition to Standard Conditions and specific conditions to be~~  
16 ~~considered are: A, B, D, E, F, G, H, K~~

17

18 1) All "Standard Probation Conditions"

19 2) "Probation Conditions Specific to Violation" for consideration are: A, B, D, E, F, J

20

21 "Probation Conditions Specific to Violation" should be considered individually since some, or  
22 all, may not apply.

23

24 ~~Also may cite: B&P Code 496~~

25

26 **CHANGE OF ADDRESS REPORTING REQUIREMENT B&P CODE 136**

27

28 **Citation:**

29 Minimum Fine: \$100  
30 Maximum Fine: \$1 5,000

31

32 **Discipline:**

33 Minimum: Public Repraval  
34 Maximum: Public Repraval

35

36 Refer to related regulation: CCR 1398.6

37

38

39 **DISCIPLINARY ACTION BY A FOREIGN JURISDICTION B&P CODE 141**

40

41 **Citation:**

42 Minimum Fine: \$100  
43 Maximum Fine: \$5,000

44

45 **Discipline:**

46 If violation is an offense in California refer to corresponding statute, if not, the Board shall  
47 consider the discipline order from state of discipline when determining disciplinary action.

1 Refer to related regulation: CCR 1399.24

2  
3  
4  
5  
6  
7

**CONVICTION OF A CRIME - SUBSTANTIAL RELATIONSHIP REQUIRED  
B&P CODE 490**

**Citation:**

9 Minimum Fine: \$100  
10 Maximum Fine: \$5,000

**Discipline:**

13 Minimum: Public Reproval  
14 Maximum: Revocation

17 Conditions of Probation: ~~in Addition to Standard Conditions and specific conditions to be~~  
18 ~~considered are: A, B, D, D, E, F, G, H, N, O, P, S, T, U, W~~

20 1) All "Standard Probation Conditions"

21 2) "Probation Conditions Specific to Violation" for consideration are: A, B, C, D, E, F, H,  
22 M, N, P, W

24 "Probation Conditions Specific to Violation" should be considered individually since some, or  
25 all, may **not** apply.

27 (Conditions "P" and "W" should only be used if the violation relates to alcohol/substance  
28 abuse or psychiatric conditions)

31 Also may cite Refer to related statutes and/or regulations: B&P Code 2236, 2660(d),  
32 (h)<sup>1</sup>, 2661, CCR 1399.24(d)

**COMPLIANCE WITH CHILD SUPPORT ORDERS AND JUDGMENTS  
B&P CODE 490.5**

37 In addition to the mandatory suspension requirements of B&P 490.5.

**Citation:**

40 Minimum Fine: \$100  
41 Maximum Fine: \$5,000

**Discipline:**

45 Minimum: Public Reproval  
46 Maximum: Public Reproval

<sup>1</sup> B&P Code 2660(h) authorizes the Physical Therapy Board of California to cite the Medical Practice Act.

1  
2 ~~**VIOLATION OF EXAM SECURITY B&P CODE 496**~~

3  
4 ~~Also may cite: B&P Code 123~~

5  
6  
7 **OBTAINING LICENSURE BY FRAUD B&P CODE 498**

8  
9 **Discipline:**  
10 Revocation or Denial of License

11  
12 ~~Also may cite~~ Refer to related statutes: B&P Code 499, 581, 582, 583, 2235, 2660(b) (h)<sup>1</sup>

13  
14  
15 ~~**FALSE STATEMENTS ON OF MATERIAL FACT FOR APPLICATION B&P**~~  
16 ~~**CODE 499**~~

17  
18 **Discipline:**  
19 Revocation or Denial of License

20  
21 ~~Also may cite~~ Refer to related statutes: B&P Code 498, 581, 582, 583, 2235, 2660(b) (h)<sup>1</sup>

22  
23  
24 ~~**SALE OR BARTER OF DEGREE, CERTIFICATE OR TRANSCRIPT**~~  
25 ~~**B&P CODE 580**~~

26  
27 **Discipline:**  
28 Revocation or Denial of License

29  
30 ~~**PURCHASE OR FRAUDULENT ALTERATION OF DIPLOMA OR OTHER**~~  
31 ~~**WRITINGS B&P CODE 581**~~

32  
33 **Discipline:**  
34 Revocation or Denial of License

35  
36 ~~Also may cite~~ Refer to related statutes: B&P Code 498, 499, 582, 583, 2235, 2660(b) (h)<sup>1</sup>

37  
38  
39 ~~**USE OF ILLEGALLY OBTAINED, ALTERED OR COUNTERFEIT**~~  
40 ~~**DIPLOMA, CERTIFICATE, OR TRANSCRIPT B&P CODE 582**~~

41  
42 **Discipline:**  
\_\_\_\_\_

<sup>1</sup> B&P Code 2660(h) authorizes the Physical Therapy Board of California to cite the Medical Practice Act.

1 Revocation or Denial of License

2  
3

4 ~~Also may cite~~ Refer to related statutes: B&P Code 498, 499, 581, 583, 2235, 2660(b)(h)<sup>1</sup>

5  
6

7 **FALSE STATEMENTS IN APPLICATION DOCUMENTS OR WRITINGS**

8 **B&P CODE 583**

9

10 **Discipline:**

11 Minimum: \_\_\_\_\_ Revocation, stayed, 30 days suspension, 3 years probation

12 Maximum: \_\_\_\_\_ Denial or revocation of licensee

13

14 Conditions of Probation in Addition to Standard Conditions: A, D, E, F, U

15

16 **Discipline:** \_\_\_\_\_

17 Revocation or Denial of License

18

19

20 ~~Also may cite~~ Refer to related statutes: B&P Code 498, 499, 581, 582, 2235, 2660(b)(h)<sup>1</sup>

21  
22

23 **VIOLATION OF EXAMINATION SECURITY; IMPERSONATION AT**

24 **EXAMINATIONS B&P CODE 584**

25

26 **Discipline:**

27 Revocation or Denial of License

28

29 ~~Also may cite~~ Refer to related statutes: B&P Code 2288, 2660(h), 2660.7

30  
31

32 **CONSIDERATION FOR REFERRALS PROHIBITED B&P CODE 650**

33

34 **Citation:**

35 Minimum Fine: \$100

36 Maximum Fine: \$5,000

37

38 **Discipline:**

39 Minimum: Revocation, stayed, 30 days suspension, 3 years probation

40 Maximum: Revocation

41

42 Conditions of Probation in Addition to Standard Conditions: NONE U

43

<sup>1</sup> B&P Code 2660(h) authorizes the Physical Therapy Board of California to cite the Medical Practice Act.

1 **ADVERTISING VIOLATIONS- DISSEMINATION OF FALSE OR**  
2 **MISLEADING INFORMATION CONCERNING PROFESSIONAL**  
3 **SERVICES OR PRODUCTS B&P CODE 651**

4  
5 **Citation:**

6 Minimum Fine: \$1,000

7 Maximum Fine: \$5,000

8

9 **Discipline:**

10 Minimum: Revocation, stayed, 30 days suspension, 3 years probation

11 Maximum: Revocation

12

13 ~~Conditions of Probation in Addition to Standard Conditions: F, U~~

14

15 1) All "Standard Probation Conditions"

16 2) "Probation Conditions Specific to Violation" for consideration are: D

17

18 "Probation Conditions Specific to Violation" should be considered individually since some, or

19 all, may not apply.

20

21

22 Also may cite Refer to related statutes: B&P Code 2660(a), H&S-17500, CCR 1398.10,

23

24 **HEALTH CARE PRACTITIONER'S DISCLOSURE OF NAME AND**  
25 **LICENSE STATUS B&P CODE 680**

26

27 **Citation:**

28 Minimum Fine: \$100

29 Maximum Fine: \$5,000

30

31 **Discipline:**

32 Minimum: Public Reproval

33 Maximum: Public Reproval

34

35 Also may cite Refer to related regulation: CCR 1398.11

36

37 **EXCESSIVE PRESCRIBING OR TREATMENT B&P CODE 725**

38

39 **Citation:**

40 Minimum Fine: \$100

41 Maximum Fine: \$5,000

42

43 **Discipline:**

44 Minimum: Revocation, stayed, 30 days suspension, 3 years probation

45 Maximum: Revocation

46

1 Conditions of Probation: ~~in Addition to Standard Conditions and specific conditions to be~~  
2 ~~considered are: A, D, E, F, G, H, M, U, V~~

3  
4 1) All "Standard Probation Conditions"

5 2) "Probation Conditions Specific to Violation" for consideration are: A, C, D, E, F, H, L, O

6  
7 "Probation Conditions Specific to Violation" should be considered individually since some, or  
8 all, may **not** apply.

9

10

11 ~~Also may cite~~ Refer to related statutes: B&P Code 2234(b), 2660(g) (h)

12

### 13 **SEXUAL ABUSE OR MISCONDUCT WITH PATIENT OR CLIENT**

#### 14 **B&P CODE 726**

15

##### 16 **Discipline:**

17 **Minimum:** \_\_\_\_\_ Revocation, stayed, 30 days suspension, 3 years probation

18 **Maximum:** \_\_\_\_\_ Revocation

19

20 Conditions of Probation in Addition to Standard Conditions: A, B, C, D, E, F, H, I, O, P, U

21

22 Note: The Board has determined that no term and condition of probation can adequately  
23 protect the public from a licensee who has engaged in sexual abuse and/or misconduct.

24

25 ~~Also may cite~~ Refer to related statutes and/or regulation: B&P Code 2660.1, CCR 1399.15

26

### 27 **REPORTS OF MALPRACTICE SETTLEMENTS OR ARBITRATION**

### 28 **AWARDS INVOLVING UNINSURED LICENSEES; PENALTIES FOR NON**

### 29 **COMPLIANCE B&P CODE 802**

30

#### 31 **Citation:**

32 **Minimum Fine:** \$100

33 **Maximum Fine:** \$5,000

34

35 **Discipline:** Refer to related statutes and/or regulation violation triggering malpractice  
36 settlement.

37

38

### 39 **INSURANCE FRAUD - UNPROFESSIONAL CONDUCT B&P CODE 810**

40

#### 41 **Citation:**

42 **Minimum Fine:** \$100

43 **Maximum Fine:** \$5,000

44

#### 45 **Discipline:**

46 **Minimum Penalty:** Revocation, stayed, 30 days suspension, 3 years probation

47 **Maximum Penalty:** Revocation

48

1 Conditions of Probation in Addition to Standard Conditions: A, B, D, E, F, G, H, U

2

3 1) All "Standard Probation Conditions"

4 2) "Probation Conditions Specific to Violation" for consideration are: A, B, C, D, E, F

5

6 "Probation Conditions Specific to Violation" should be considered individually since some, or  
7 all, may not apply.

8

9

10 Also may cite Refer to related statutes: B&P Code 2261, 2262, 2660 (k)(h) <sup>1</sup>

11

12 **~~EXAMINATION OF LICENTIATE FOR MENTAL OR PHYSICAL ILLNESS~~**

13 **~~B&P CODE 820~~**

14

15 **Discipline:**

16 Minimum: \_\_\_\_\_ Revocation, stayed, Suspension until capable of practicing safely.

17 \_\_\_\_\_ Probation shall continue at least one year following return to practice.

18 Maximum: \_\_\_\_\_ Revocation

19

20 Conditions of Probation in Addition to Standard Conditions

21 Mental Illness: A, B, C, D, E, H, J, M, O, P, W, X, Y

22 Physical Illness: A, E, H, J, W, X

23

24 **~~REQUIREMENTS FOR LICENSE EXEMPTION-IMMUNITY OF LIABILITY~~**

25 **~~B&P CODE 901~~**

26

27 **Citation:**

28 Minimum Fine: \_\_\_\_\_ \$100

29 Maximum Fine: \_\_\_\_\_ \$5,000

30

31 Refer to related statutes and regulations: B&P Code, 2630, CCR 1400.1, 1400.2, 1400.3

32

33 **NUTRITIONAL ADVICE B&P CODE 2068, 2660(h)<sup>1</sup>**

34

35 **Citation:**

36 Minimum Fine \$100

37 Maximum Fine \$5,000

38

39 **Discipline:**

40 Minimum: \_\_\_\_\_ Public Reproval

41 Maximum: \_\_\_\_\_ Public Reproval

42

43 **GROSS NEGLIGENCE B&P CODE 2234(b), 2660(h)<sup>1</sup>**

44

<sup>1</sup> B&P Code 2660(h) authorizes the Physical Therapy Board of California to cite the Medical Practice Act.

1 **Discipline:**

2 Minimum: Revocation, stayed, 30 days suspension or until proficiency to practice  
3 safely is determined, 3 years probation following return to practice.

4 Maximum: Revocation

5  
6 ~~Conditions of Probation in Addition to Standard Conditions: A, B, D, E, F, H, J, K, M, O, P,~~  
7 ~~U, V~~

8  
9  
10 1) All "Standard Probation Conditions"

11 2) "Probation Conditions Specific to Violation" for consideration are: A, B, C, D, F, I, J, L, M,  
12 N, O

13  
14 "Probation Conditions Specific to Violation" should be considered individually since some, or  
15 all, may not apply.

16  
17  
18 Also may cite Refer to related statutes: B&P Code 725, 2660(g)

19  
20  
21  
22 **REPEATED NEGLIGENT ACTS B&P CODE 2234(Gc), 2660(h)<sup>1</sup>**

23  
24 **Citation:**

25 Minimum Fine \$1,000

26 Maximum Fine \$5,000

27  
28 **Discipline:**

29 Minimum: Revocation, stayed, 30 days suspension or until proficiency to practice  
30 safely is determined, 3 years probation following return to practice.

31 Maximum: Revocation

32  
33 ~~Conditions of Probation in Addition to Standard Conditions: A, B, D, E, F, H, J, K, M,~~  
34 ~~O, P, U, V~~

35  
36 1) All "Standard Probation Conditions"

37 2) "Probation Conditions Specific to Violation" for consideration are: A, B, C, D, F, I, J, L, M,  
38 N, O

39  
40 "Probation Conditions Specific to Violation" should be considered individually since some, or  
41 all, may not apply.

42  
43 **INCOMPETENCE B&P CODE 2234(d), 2660(h)<sup>1</sup>**

44  
45 **Discipline:**

<sup>1</sup> B&P Code 2660(h) authorizes the Physical Therapy Board of California to cite the Medical Practice Act.

1 Minimum: Revocation, stayed, 30 days suspension or until proficiency to  
2 practice safely is determined, 3 years probation following return to  
3 practice.  
4 Maximum: Revocation

5  
6 Conditions of Probation in Addition to Standard Conditions: ~~A, B, D, E, F, H, J, K, M, O, P,~~  
7 ~~—U, V~~

8  
9 1) All “Standard Probation Conditions”

10 2) “Probation Conditions Specific to Violation” for consideration are: A, B, C, D, F, I, J, L, M,  
11 N, O

12  
13 “Probation Conditions Specific to Violation” should be considered individually since some, or  
14 all, may **not** apply.

15  
16  
17 **PROCURING LICENSE BY FRAUD B&P CODE 2235, 2660(h)<sup>1</sup>**

18  
19 **Discipline:**

20 Revocation or cancellation is the only suitable discipline in as much as the license would  
21 not have been issued but for the fraud or misrepresentation.

22  
23 Also may cite: Refer to statute(s) for appropriate penalties. B&P Code 498, 499, 581,  
24 582, 583, 2660(g)

25  
26 **CRIMINAL CONVICTION B&P CODE 2236, 2660(h)<sup>1</sup>**

27  
28 Note: If the conviction relates to the use or abuse (i.e. possession, possession for sale,  
29 trafficking, etc.) of a controlled substance for DUI or related offenses, or if the conviction was  
30 attributed to the use of a controlled substance or alcohol (i.e. disorderly conduct) the “Uniform  
31 Standards Related to Substance Abuse” shall be imposed.

32  
33  
34 Also may cite Refer to related statutes: B&P Code 490, 2660(d), 2661, CCR 1399.24(d)

35  
36 **CONVICTION RELATED TO DRUGS B&P CODE 2237, 2660(h)<sup>1</sup>**

37  
38 **Discipline:**

39 Minimum: Revocation, stayed, 30 days suspension, 3 years probation

40 Maximum: Revocation

41  
42 Conditions of Probation in Addition to Standard Conditions: ~~A, B, D, E, H, N, O, P, Q, R,~~  
43 ~~S, T, U, W~~

1) All “Standard Probation Conditions”

2) “Probation Conditions Specific to Violation” for consideration are: A, B, C, F, M, N, P, T, U, V, W

“Probation Conditions Specific to Violation” should be considered individually since some, or all, may not apply.

Note: If the conviction relates to the use or abuse (i.e. possession, possession for sale, trafficking, etc.) of a controlled substance for DUI or related offenses, or if the conviction was attributed to the use of a controlled substance or alcohol (i.e. disorderly conduct) the “Uniform Standards Related to Substance Abuse” shall be imposed.

NOTE: Outright revocation for conviction of illegal sales of controlled substances unless extensive mitigation appears.

**VIOLATION OF DRUG STATUTES B&P CODE 2238, 2660(h)<sup>1</sup>**

**Discipline:**

Minimum: Revocation, stayed, 30 days suspension, 3 years probation

Maximum: Revocation

Conditions of Probation in Addition to Standard Conditions: A, B, D, E, H, , N, O, P, Q, R, S, T, U, W

1) All “Standard Probation Conditions”

2) “Probation Conditions Specific to Violation” for consideration are: A, B, C, F, M, N, P, T, U, V, W

“Probation Conditions Specific to Violation” should be considered individually since some, or all, may not apply.

The “Uniform Standards Related to Substance Abuse” shall be imposed.]

NOTE: Outright revocation for conviction of illegal sales of controlled substances unless extensive mitigation appears.

**SELF ABUSE OF DRUGS OR ALCOHOL B&P CODE 2239, 2660(h)<sup>1</sup>**

**Discipline:**

Minimum: Revocation, stayed, S-suspension until the ability to practice safely is determined, Ccommunity Sservice, Pparticipation in D-diversion Pprogram, 5 years probation or until satisfactory completion of the Ddiversion Pprogram, whichever is longer.

Maximum: Revocation

<sup>1</sup> B&P Code 2660(h) authorizes the Physical Therapy Board of California to cite the Medical Practice Act.

1 ~~Conditions of Probation in Addition to Standard Conditions: A, B, D, E, H, K, M, N, O,~~  
2 ~~P, Q, R, S, T, U, W~~

3  
4 1) All “Standard Probation Conditions”

5 2) “Probation Conditions Specific to Violation” for consideration are: A, B, C, F, J, L, M, N,  
6 P, T, U, V, W

7  
8 “Probation Conditions Specific to Violation” should be considered individually since some, or  
9 all, may **not** apply.

10

11

12 [The “Uniform Standards Related to Substance Abuse” shall be imposed.]

13

14

15 Refer to related statutes: B&P Code 2660(e), 2660(f)

16

## 17 **MAKING FALSE DOCUMENTS B&P CODE 2261, 2660(h)<sup>1</sup>**

18

### 19 **Citation:**

20 Minimum Fine: \$100

21 Maximum Fine: \$5,000

22

### 23 **Discipline:**

24 Minimum: Revocation, stayed, 30 days suspension, 3 years probation

25 Maximum: Revocation

26

27 ~~Conditions of Probation in Addition to Standard Conditions: A, B, D, E, F, G, H, U~~

28

29 1) All “Standard Probation Conditions”

30 2) “Probation Conditions Specific to Violation” for consideration are: A, B, C, D, E, F,

31

32 “Probation Conditions Specific to Violation” should be considered individually since some, or  
33 all, may **not** apply.

34

35 Refer to related statutes: B&P Code 810, 2262, 2660(h)<sup>1</sup>

36

## 37 **ALTERATION OF MEDICAL RECORDS B&P CODE 2262, 2660(h)<sup>1</sup>**

### 38 **Citation:**

39 Minimum Fine: \$100

40 Maximum Fine: \$5,000

41

### 42 **Discipline:**

43 Minimum: Revocation, stayed, 30 days suspension, 3 years probation

44 Maximum: Revocation

<sup>1</sup> B&P Code 2660(h) authorizes the Physical Therapy Board of California to cite the Medical Practice Act.

1  
2 ~~Conditions of Probation in Addition to Standard Conditions: A, D, G, H, U~~

3  
4 1) All “Standard Probation Conditions”

5 2) “Probation Conditions Specific to Violation” for consideration are: A, C, E, F

6  
7 “Probation Conditions Specific to Violation” should be considered individually since some, or  
8 all, may **not** apply.

9  
10 Refer to related statutes: B&P Code 810, 2261, 2660(h)<sup>1</sup>

11  
12 **VIOLATION OF PROFESSIONAL CONFIDENCE B&P CODE 2263,**  
13 **2660(h)<sup>1</sup>**

14  
15  
16 **Citation:**  
17 Minimum Fine \$100,  
18 Maximum Fine \$5,000

19  
20 **Discipline:**  
21 Minimum: Revocation, stayed, 30 days suspension, 3 years probation  
22 Maximum: Revocation

23  
24 ~~Conditions of Probation in Addition to Standard Conditions: U~~

25  
26 1) All “Standard Probation Conditions”

27 2) “Probation Conditions Specific to Violation” for consideration are: V (course should  
28 include HIPPA requirements)

29  
30  
31 “Probation Conditions Specific to Violation” should be considered individually since some, or  
32 all, may **not** apply.

33  
34  
35 **AIDING AND ABETTING UNLICENSED PRACTICE B&P CODE 2264, 2660(h)<sup>1</sup>**

36  
37 **Citation:**  
38 Minimum Fine: \$100  
39 Maximum Fine: \$5,000

40  
41 **Discipline:**  
42 Minimum: Revocation, stayed, 5 days suspension, 3 years probation  
43 Maximum: Revocation

44  
<sup>1</sup> B&P Code 2660(h) authorizes the Physical Therapy Board of California to cite the Medical Practice Act.

1 ~~Conditions of Probation in Addition to Standard Conditions: B, E, F, H, K, L, M~~

2

3 1) All "Standard Probation Conditions"

4 2) "Probation Conditions Specific to Violation" for consideration are: B, D, F, J, K, L

5

6 "Probation Conditions Specific to Violation" should be considered individually since some, or  
7 all, may not apply.

8

9

10 Refer to related statutes and/or regulation: B&P Code 2630, 2660(j), CCR 1399

11

12

13 **FALSE OR MISLEADING ADVERTISING B&P CODE 2271, 2660(h)<sup>1</sup>**

14

15 **Citation:**

16 Minimum Fine: \$100,

17 Maximum Fine \$5,000

18

19 **Discipline:**

20 Minimum: Public Reproval

21 Maximum: Public Reproval

22

23 Refer to related statues and/or regulation: B&P Code 651, 2660(a), 17500, CCR 1398.10

24

25 **EMPLOYMENT OF RUNNERS, CAPPERS AND STEERERS B&P CODE**

26 **2273, 2660(h)<sup>1</sup>**

27

28 **Citation:**

29 Minimum Fine: \$100

30 Maximum Fine: \$5,000

31

32 **Discipline:**

33 Minimum: Revocation, stayed, 30 days suspension, 3 years probation

34 Maximum: Revocation

35

36 ~~Conditions of Probation in Addition to Standard Conditions: G, U~~

37

38 1) All "Standard Probation Conditions"

39 2) "Probation Conditions Specific to Violation" for consideration are: E.

40

41 "Probation Conditions Specific to Violation" should be considered individually since some, or  
42 all, may not apply.

43

44

45 **MISUSE OF TITLES UNAUTHORIZED USE OF MEDICAL DESIGNATION**

46 **B&P CODE 2274, 2660(h)<sup>1</sup>**

1 B&P Code 2660(h) authorizes the Physical Therapy Board of California to cite the Medical Practice Act.

1

2 **Citation:**

3 Minimum Fine: \$100,  
4 Maximum Fine: \$5,000

5

6 **Discipline:**

7 Minimum: Revocation, stayed, 30 days suspension, 3 years probation  
8 Maximum: Revocation

9

10 Conditions of Probation in Addition to Standard Conditions: NONE -A, U

11

12 **VIOLATION OF PROFESSIONAL CORPORATION ACT B&P CODE 2286,**  
13 **2660(h)<sup>1</sup>**

14

15 **Citation:**

16 Minimum Fine: \$100  
17 Maximum Fine \$5,000

18

19 **Discipline:**

20 Minimum: Public Reprimand  
21 Maximum: Revocation

22

23 Conditions of Probation in Addition to Standard Conditions: NONE

24

25 *Refer to related statute: B&P Code 2691*

26

27 **IMPERSONATION OF APPLICANT IN EXAM B&P CODE 2288, 2660(h)<sup>1</sup>**

28

29

30 **Discipline:**

31 Revocation or denial of license

32

33 *Refer to related statutes: B&P Code 584, 2660.7*

<sup>1</sup> B&P Code 2660(h) authorizes the Physical Therapy Board of California to cite the Medical Practice Act.

34

35

36

37

38 **IMPERSONATION PRACTICE OF MEDICINE B&P CODE 2289, 2660(h)<sup>1</sup>**

39

40 **Discipline:**

41 Minimum: Revocation, stayed, 180 days suspension, 7 years probation  
42 Maximum: Revocation

43

44 Conditions of Probation in Addition to Standard Conditions: A, D, E, F, H, I, K, M, O,  
P, U, V

1) All "Standard Probation Conditions"

2) "Probation Conditions Specific to Violation" for consideration are: A, C, D, F, G, J, L, M,

N, O

"Probation Conditions Specific to Violation" should be considered individually since some, or all, may not apply.

(Term "F" to be used only when self employed or owner )

**AUTHORIZATION TO INSPECT PATIENT RECORDS B&P CODE 2608.5**

**Citation:**

Minimum Fine: \$100

Maximum Fine: \$5,000

**Discipline:**

Minimum: Public Reproval

Maximum: Revocation

Conditions of Probation in Addition to Standard Conditions: NONE

Refer to related statute and/or regulation: B&P Code 2660 (h), CCR 1399.24

**TOPICAL MEDICATIONS B&P CODE 2620.3**

**Citation:**

Minimum Fine: \$100

Maximum Fine: \$5,000

**Discipline:**

Minimum: Public Reproval

Maximum: Revocation

Conditions of Probation in Addition to Standard Conditions: NoneONE

Refer to related regulations: CCR 1399.77, 1399.78, 1399.79

~~**AUTHORIZATION TO INSPECT PATIENT RECORDS B&P CODE 2608.5**~~

~~**Citation:**~~

~~Minimum Fine: \$100~~

~~Maximum Fine: \$5,000~~

~~**Discipline:**~~

~~Minimum: Public Reproval~~

~~Maximum: Revocation~~

1  
2 ~~Conditions of Probation in Addition to Standard Conditions: None~~

3  
4 Also may cite: B&P 2660 (h)

5  
6 **CERTIFICATION TO PENETRATE TISSUE FOR THE PURPOSE OF**  
7 **NEUROMUSCULAR EVALUATION B&P CODE 2620.5**

8  
9 **Citation:**  
10 Minimum Fine: \$100  
11 Maximum Fine: \$5,000

12  
13 **Discipline:**  
14 Minimum: Revocation, stayed, 5 days suspension, 3 years probation  
15 Maximum: Revocation

16  
17 ~~Conditions of Probation in Addition to Standard Conditions: D~~

18  
19 1) All "Standard Probation Conditions"  
20 2) "Probation Conditions Specific to Violation" for consideration are: C

21  
22 "Probation Conditions Specific to Violation" should be considered individually since some, or  
23 all, may not apply.

24  
25 Refer to related regulation: CCR 1399.61

26  
27  
28 **PATIENT RECORD B&P CODE 2620.7**

29  
30 **Citation:**  
31 Minimum Fine: \$100  
32 Maximum Fine: \$5,000

33  
34 **Discipline:**  
35 Minimum: Public Reproval  
36 Maximum: Revocation

37  
38 ~~Conditions of Probation in Addition to Standard Conditions: A, H, V~~

39  
40 1) All "Standard Probation Conditions"  
41 2) "Probation Conditions Specific to Violation" for consideration are: A, F, O

42  
43 "Probation Conditions Specific to Violation" should be considered individually since some, or  
44 all, may not apply.

45  
46  
47 Refer to related regulation: ~~CCR 1399.85~~ 1398.13

1  
2 **DEFINITIONS “PHYSICAL THERAPIST”, “PHYSIOTHERAPIST”,**  
3 **“PHYSICAL THERAPY IST TECHNICIAN” , “PHYSICAL THERAPY”**  
4 **INTERCHANGEABLE TITLES B&P CODE 2622**

5  
6 **Citation:**  
7 Minimum Fine: \$100  
8 Maximum Fine: \$5,000

9  
10 **Discipline:**  
11 Minimum: Public Reproval  
12 Maximum: Revocation

13  
14  
15 Refer to related statutes: B&P Code 2630, 2633

16  
17  
18 **UNLICENSED PRACTICE - PHYSICAL THERAPIST ASSISTANT**  
19 **PRACTICING AS A PHYSICAL THERAPIST B&P CODE 2630**

20  
21 **Citation:**  
22 Minimum Fine: \$1,000  
23 Maximum Fine: \$5,000

24  
25 **Discipline:**  
26 Minimum: Revocation, stayed, 30 days suspension, 5 years probation  
27 Maximum: Revocation

28  
29 ~~Conditions of Probation in Addition to Standard Conditions:~~ B, E, F, H

30  
31 1) All “Standard Probation Conditions”  
32 2) “Probation Conditions Specific to Violation” for consideration are: B, D, F, O

33  
34 “Probation Conditions Specific to Violation” should be considered individually since some, or  
35 all, may not apply.

36  
37  
38 Refer to related statutes and/or regulations: B&P Code 2264, 2660(j)(h)<sup>1</sup>  
39 , CCR 1398.44, 1400.2, 1400.3

40  
41  
42 **UNLICENSED PRACTICE - IMPROPER SUPERVISION OF A PHYSICAL**  
43 **THERAPY AIDE B&P CODE 2630**

44  
45 **Citation:**  
46 Minimum Fine: \$100

<sup>1</sup> B&P Code 2660(h) authorizes the Physical Therapy Board of California to cite the Medical Practice Act.

1 Maximum Fine: \$5,000

2  
3 **Discipline:**

4 Minimum: Revocation, stayed, 30 days suspension, 5 years probation

5 Maximum: Revocation

6  
7 Conditions of Probation ~~in Addition to Standard Conditions: A, E, H, K, M~~

8  
9 1) All "Standard Probation Conditions"

10 2) "Probation Conditions Specific to Violation" for consideration are: A, F, J, L

11  
12 "Probation Conditions Specific to Violation" should be considered individually since some, or  
13 all, may **not** apply.

14  
15  
16 Refer to related statutes and/or regulation: B&P Code 2264, 2660 (h)<sup>1</sup>  
17 (j), CCR 1399

18  
19  
20 **AUTHORIZED USE OF TITLE "P.T." AND "PHYSICAL THERAPIST"**  
21 **PERMITTED TITLES & OTHER DESIGNATIONS: DOCTORAL DEGREE**  
22 **B&P CODE 2633**

23  
24 **Citation:**

25 Minimum Fine: \$100

26 Maximum Fine: \$5,000

27  
28 **Discipline:**

29 Minimum: Revocation, stayed, 30 days suspension, 5 years probation

30 Maximum: Revocation

31  
32 Conditions of Probation ~~in Addition to Standard Conditions: , E~~

33  
34 1) All "Standard Probation Conditions"

35 2) "Probation Conditions Specific to Violation" for consideration are: A,

36  
37 "Probation Conditions Specific to Violation" should be considered individually since some, or  
38 all, may **not** apply.

39  
40  
41  
42 **REQUIREMENTS FOR A PHYSICAL THERAPIST APPLICANT LICENSED**  
43 **IN ANOTHER STATE ~~WRITTEN EXAMINATION NOT REQUIRED &~~**  
44 **PHYSICAL THERAPIST LICENSE APPLICANT STATUS**  
45 **B&P CODE 2636.5**

**Comment [YE8]:** Title will read: Requirements for A Physical Therapist Applicant Licensed in Another State & Physical Therapist License Applicant Status (Disregard strikethrough at beginning of title)

<sup>1</sup> B&P Code 2660(h) authorizes the Physical Therapy Board of California to cite the Medical Practice Act.

1 **Citation:**

2 Minimum Fine: \$100  
3 Maximum Fine: \$5,000

4  
5 **Discipline:**

6 Minimum: Issue Initial Probationary License  
7 Maximum: Deny Application

8  
9  
10 *Refer to related regulation: CCR 1399.10*

11  
12  
13 **PHYSICAL THERAPIST LICENSE APPLICANT GRADUATE PRACTICE**  
14 **B&P CODE 2639 (ALSO SEE 2640)**

15  
16 **Citation:**

17 Minimum Fine: \$100  
18 Maximum Fine: \$5,000

19  
20 **Discipline:**

21 Minimum: Issue Initial Probationary License  
22 Maximum: Deny Application

23  
24 *Refer to related regulation: CCR 1399.10*

25  
26 **COMPUTER ADMINISTERED TESTING/PHYSICAL THERAPIST**  
27 **LICENSE APPLICANT STATUS B&P CODE 2640**

28  
29  
30 **Citation:**

31 Minimum Fine: \$100  
32 Maximum Fine: \$5,000

33  
34 **Discipline:**

35 Minimum: Issue Initial Probationary License  
36 Maximum: Deny Application

37  
38 *Refer to related regulations: CCR 1398.11, 1399.10*

39  
40 **~~AUTHORIZED USE OF TITLE – PHYSICAL THERAPY STUDENT~~**  
41 **IDENTIFICATION AS STUDENT OR INTERN B&P CODE 2650.1**

42  
43 **Citation:**

44 Minimum Fine: \$100  
45 Maximum Fine: \$5,000

46  
47 **Discipline:**

1 Minimum: Issue Initial Probationary License  
2 Maximum: Deny Application

3  
4

5 Refer to related regulation: CCR 1398.37

6  
7 **REQUIREMENTS OF APPLICANTS FROM GRADUATES FROM**  
8 **FOREIGN SCHOOLS B&P CODE 2653**

9

10 **Citation:**

11 Minimum Fine: \$100  
12 Maximum Fine: \$5,000

13

14 **Discipline:**

15 Minimum: Issue Initial Probationary License  
16 Maximum: Deny Application

17

18 Refer to regulations: CCR 1398.26, 1398.26.5

19  
20

21 **NUMBER OF PHYSICAL THERAPIST ASSISTANTS SUPERVISED**  
22 **B&P CODE 2655.2**

23

24 **Citation:**

25 Minimum Fine: \$100  
26 Maximum Fine: \$5,000

27

28 **Discipline:**

29 Minimum: Revocation, stayed, 5 days suspension, 3 years probation  
30 Maximum: Revocation

31

32 ~~Conditions of Probation in Addition to Standard Conditions: A, E, K, L~~

33

34 1) All "Standard Probation Conditions"

35 2) "Probation Conditions Specific to Violation" for consideration are: A, J, K

36

37 "Probation Conditions Specific to Violation" should be considered individually since some, or  
38 all, may not apply.

39

40 **PHYSICAL THERAPIST ASSISTANT'S QUALIFICATIONS FOR**  
41 **LICENSURE B&P 2655.3**

42

43 **Discipline:**

44 Minimum: Issue Initial Probationary License  
45 Maximum: Deny Application

46

47 The "Uniform Standards Related to Substance Abuse" shall be imposed.]

1  
2  
3 **PRACTICE AUTHORIZED (PHYSICAL THERAPIST ASSISTANT)**  
4 **B&P CODE 2655.7**

5  
6 **Citation:**  
7 Minimum Fine: \$100  
8 Maximum Fine: \$5,000

9  
10 **Discipline:**  
11 Minimum: Public Reproval  
12 Maximum: Revocation

13  
14 ~~Conditions of Probation in Addition to Standard Conditions:~~

15  
16 Refer to related statute and/or regulation: ~~B&P Code 2630, CCR 1398.44, B&P Code~~  
17 ~~2630~~

18  
19 **AUTHORIZED USE OF TITLES BY P.T.A., “PHYSICAL THERAPIST**  
20 **ASSISTANT”, “PHYSICAL THERAPY ASSISTANT”**  
21 **B&P CODE 2655.11**

22  
23 **Citation:**  
24 Minimum Fine: \$100  
25 Maximum Fine: \$5,000

26  
27 **Discipline:**  
28 Minimum: Issue Initial Probationary License  
29 Maximum: Deny Application

30  
31  
32 **STUDENTS PERFORMING PHYSICAL THERAPY B&P 2655.75**

33  
34 **Citation:**  
35 Minimum Fine: \$100  
36 Maximum Fine: \$5,000

37  
38  
39 Refer to related regulation: CCR 1398.52

40  
41  
42 **PERFORMANCE AS A GRADUATE PRACTICE (“PHYSICAL THERAPIST**  
43 **ASSISTANT APPLICANT”)- PENDING EXAMINATION RESULTS**  
44 **B&P CODE 2655.91**

45  
46 **Citation:**  
47 Minimum Fine: \$100

1 Maximum Fine: \$5,000

2

3 **Discipline:**

4 Minimum: Issue Initial Probationary License

5 Maximum: Deny Application

6

7 Refer to related statute and/or regulation: B&P 2655.93, CCR 1399.12

8

9

10 **PHYSICAL THERAPIST ASSISTANT APPLICANT B&P CODE 2655.93**

11

12 **Citation:**

13 Minimum Fine: \$100

14 Maximum Fine: \$5,000

15

16 **Discipline:**

17 Minimum: Issue Initial Probationary License

18 Maximum: Deny Application

19

20

21 Refer to related statute and/or regulation: B&P 2655.91, CCR 1399.12

22

23

24 **ADVERTISING IN VIOLATION OF SECTION 17500 B&P CODE 2660(a)**

25

26 Refer to related statute and/or regulation: B&P Code 651, 2271, 17500, CCR 1398.10

27

28

29

30 **PROCURING A LICENSE BY FRAUD OR MISREPRESENTATION**

31 **B&P CODE 2660(b)**

32

33 **Discipline:**

34 Minimum: Issue Initial Probationary License

35 Maximum: Deny Application

36

37

38 Refer to related statutes: B&P Code 498, 499, 581, 582, 583, 2235, 2660(h)

39

40

41 **CONVICTION OF A CRIME B&P CODE 2660(d)**

42

43 Note: If the conviction relates to the use or abuse (i.e. possession, possession for sale,  
44 trafficking, etc.) of a controlled substance for DUI or related offenses, or if the conviction was  
45 attributed to the use of a controlled substance or alcohol (i.e. disorderly conduct) then imposition  
46 of the "Uniform Standards Related to Substance Abuse" shall be imposed.

47

48 Imposition of the "Uniform Standards Related to Substance Abuse" shall be imposed.]

1  
2 Refer to related statutes and/or regulation: B&P Code 490, 2236, 2237, 2660(h)<sup>1</sup>  
3, 2661, CCR 1399.24

4  
5  
6 **HABITUAL INTEMPERANCE B&P CODE 2660(e)**

7  
8 [The “Uniform Standards Related to Substance Abuse” shall be imposed.]

9  
10  
11 Refer to related statute: B&P Code Section 2239, 2660 (h)<sup>1</sup>

12  
13 **ADDICTION TO HABIT- FORMING DRUGS B&P CODE 2660(f)**

14  
15 Note: If the conviction relates to the use or abuse (i.e. possession, possession for sale,  
16 trafficking, etc.) of a controlled substance for DUI or related offenses, or if the conviction was  
17 attributed to the use of a controlled substance or alcohol (i.e. disorderly conduct) the “Uniform  
18 Standards Related to Substance Abuse” shall be imposed.

19  
20  
21 Refer to related statute: B&P Code 2239

22  
23  
24 **GROSS NEGLIGENCE B&P CODE 2660(g)**

25  
26 Refer to related statutes: B&P Code 725, 2234(b), 2660(h)<sup>1</sup>

27  
28  
29 **VIOLATION OF THE PHYSICAL THERAPY OR MEDICAL PRACTICE ACTS**  
30 **B&P CODE 2660(h)**

31  
32 **Citation:**  
33 Minimum Fine: \$100  
34 Maximum Fine: \$5,000

35  
36 **Discipline:**  
37 See specific statute violated.

38  
39 Note: B&P Code 2660(h) authorizes the Physical Therapy Board of California to cite  
40 violations of the Medical Practice Act; therefore whenever violations of the Medical  
41 Practice Act are cited B&P 2660(h) must also be cited

<sup>1</sup> B&P Code 2660(h) authorizes the Physical Therapy Board of California to cite the Medical Practice Act.

1  
2 **AIDING OR ABETTING A VIOLATION OF THE PHYSICAL THERAPY**  
3 **PRACTICE ACT OR REGULATIONS B&P CODE 2660(j) i**

4  
5 **Citation:**

6 Minimum Fine: \$100  
7 Maximum Fine: \$5,000

8  
9 **Discipline:**

10 Minimum: Public Reproval  
11 Maximum: Revocation

12  
13  
14 **AIDING OR ABETTING UNLAWFUL PRACTICE B&P CODE 2660 (j)**

15  
16 **Citation:**

17 Minimum Fine: \$100  
18 Maximum Fine: \$5,000

19  
20 **Discipline:**

21 Minimum: Public Reproval  
22 Maximum: Revocation

23  
24  
25 Refer to related statutes: B&P Code 2264, 2660(h) <sup>1</sup>

26  
27  
28  
29 **FRAUDULENT, DISHONEST OR CORRUPT ACT SUBSTANTIALLY**  
30 **RELATED B&P CODE 2660(k)**

31  
32 **Citation:**

33 Minimum Fine: \$100  
34 Maximum Fine: \$5,000

35  
36 **Discipline:**

37 Minimum: Revocation, stayed, 5 days suspension, 3 years probation  
38 Maximum: Revocation

39  
40 Conditions of Probation ~~in Addition to Standard Conditions: -G~~

41  
42  
43  
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<sup>1</sup> B&P Code 2660(h) authorizes the Physical Therapy Board of California to cite the Medical Practice Act.

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48

21) All "Standard Probation Conditions"  
32) "Probation Conditions Specific to Violation" for consideration are: E

"Probation Conditions Specific to Violation" should be considered individually since some, or all, may not apply.

Refer to related statute: B&P Code 810.

**INFECTION CONTROL GUIDELINES B&P CODE 2660(I)**

**Citation:**  
Minimum Fine: \$100  
Maximum Fine: \$5,000

**Discipline:**  
Minimum: Public Reproval  
Maximum: Revocation

~~Conditions of Probation in Addition to Standard Conditions: -A, B, C, E, F, H, J, V~~

231) All "Standard Probation Conditions"  
242) "Probation Conditions Specific to Violation" for consideration are: A, B, D, F, I, J

"Probation Conditions Specific to Violation" should be considered individually since some, or all, may not apply.

**VERBAL ABUSE OR SEXUAL HARRASSMENT- B&P CODE 2660(m)**

**Citation:**  
Minimum Fine: \$100  
Maximum Fine: \$5,000

**Discipline:**  
Minimum: Public Reproval  
Maximum: Revocation

~~Conditions of Probation in Addition to Standard Conditions: -A, B, C, E, H, I, V~~

421) All "Standard Probation Conditions"  
432) "Probation Conditions Specific to Violation" for consideration are: A, B, F, G, T

"Probation Conditions Specific to Violation" should be considered individually since some, or all, may not apply.

1 **SUBVERSION OF EXAMINATION B&P 2660.7**

2  
3 *Also may cite: B&P Code 123, 584, 2288*

4  
5  
6 **PRESUMPTION REGARDING CONSENT TO SEXUAL ACTIVITY**  
7 **MISCONDUCT WITH PATIENT OR CLIENT**  
8 **B&P CODE 2660.1**

9  
10 Note: Pursuant to CCR 1399.15 any findings the licensee committed a sex offense or  
11 been convicted of a sex offense, the order shall revoke the license. The proposed  
12 decision shall not contain an order staying the revocation of the license.

13  
14 *Refer to related statute and/or regulation: B&P Code 726, 1399.15*

15  
16  
17  
18 **DENIAL OF LICENSE IN SPECIFIED CIRCUMSTANCES - REGISTERED**  
19 **SEX OFFENDER (APPLICANT) B&P 2660.5**

20  
21 **Discipline:**  
22 Denial of License

23  
24  
25 **SUBVERSION OF EXAMINATION B&P 2660.7**

26  
27  
28 *Refer to related statutes: B&P Code 123, 584, 2288, 2660 (h) (i)(k)*

29  
30  
31 **CONVICTION OF CRIME B&P CODE 2661**

32  
33 A conviction demonstrates a lack of judgment and unwillingness to obey a legal  
34 prohibition and also exhibits characteristics and actions that do not demonstrate that  
35 he/she exercises prudence and good judgment and therefore is substantially related to  
36 the qualifications, functions and duties as a licensee.

37  
38 Note: B&P Code 2661 should be cited in conjunction with a conviction violation since it  
39 defines the conviction being of substantial relationship of the qualifications, functions and  
40 duties, and should not stand alone as its own cause.

41  
42  

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*1 B&P Code 2660(h) authorizes the Physical Therapy Board of California to cite the Medical Practice Act.*

1 Refer to related statutes and/or regulations: B&P Code 490, 2236, 2660(d), CCR  
2 1399.23, 1399.24

3  
4

5 **DEMONSTRATION OF CONTINUING COMPETENCY REQUIREMENT**  
6 **B&P CODE 2676**

7  
8 **Citation:**  
9 Minimum Fine: \$100  
10 Maximum Fine: \$5,000

11  
12 **Discipline:**  
13 Minimum: Public Reproval  
14 Maximum: Revocation

15  
16

17 Refer to related statute: B&P Code 2684

18  
19

20 **EXPIRATION AND RENEWAL OF LICENSES, & DISCLOSURE OF**  
21 **MISDEMEANOR OR CRIMINAL OFFENSE & CONTINUING**  
22 **COMPETENCY REQUIREMENTS B&P CODE 2684**

23  
24 **Citation:**  
25 Minimum Fine: \$100  
26 Maximum Fine: \$5,000

27  
28 **Discipline:**  
29 Minimum: Public Reproval  
30 Maximum: Revocation

31  
32

32 Refer to related statute: B&P Code ~~Section~~ 2630, 2676

33  
34  
35  
36

37 **PHYSICAL THERAPY CORPORATION B&P CODE 2691**

38

39 Refer to related statute: B&P Code ~~Section~~ 2286 Note: If a licensee violates this section it  
40 would be a criminal offense; therefore, also see ~~also~~ B&P Code 2236.

41

42 **UNPROFESSIONAL CONDUCT- CORPORATION B&P CODE 2692**

43  
44 **Citation:**  
45 Minimum Fine: \$100  
46 Maximum Fine: \$5,000

1  
2 **Discipline:**  
3 Minimum: Public Reproval  
4 Maximum: Revocation  
5

6  
7 **ADVERTISING IN VIOLATION OF SECTION 2660(a), B&P CODE 17500**

8  
9 *Refer to related statutes and/or regulation: B&P Code 651, 2271, 2660(a), CCR 1398.10*

10  
11  
12 **VIOLATION OF PROBATION**

13  
14 **Discipline:**

15  
16 *NOTE: The maximum penalty should be given for repeated similar offenses or for*  
17 *probation violations revealing a cavalier or recalcitrant attitude.*

18  
19 Implementation of Original Stayed Order.

20  
21 **~~HEALTH AND SAFETY CODE~~**

22  
23 **~~PATIENT'S ACCESS TO HEALTH CARE RECORDS H&S 123110~~**

24  
25 **Citation:** \_\_\_\_\_  
26 **Minimum Fine:** \_\_\_\_\_ \$100  
27 **Maximum Fine:** \_\_\_\_\_ \$5,000

28  
29 **Discipline:**  
30 **Minimum:** \_\_\_\_\_ Revocation, stayed, 5 days suspension, 3 years probation  
31 **Maximum:** \_\_\_\_\_ Revocation

32  
33 **Conditions of Probation in Addition to Standard Conditions:** ~~G~~

1 **TITLE 16, CALIFORNIA CODE OF REGULATIONS**

2  
3 **FILING OF ADDRESSES CCR 1398.6**

4  
5 **Citation:** \_\_\_\_\_

6 **Minimum Fine:** \_\_\_\_\_ \$100

7 **Maximum Fine:** \_\_\_\_\_ \$5,000

8

9

10 *Also may cite Refer to statute: B&P Code 136*

11

12 **ADVERTISING CCR 1398.10**

13

14 *Also may cite Refer to statute(s) for appropriate penalties: B&P Code 651, 2271,*  
15 *2660(a)(h)<sup>1</sup>, H&S 17500*

16

17

18 **PHYSICAL THERAPY AIDE, APPLICANT, STUDENT AND INTERN**

19 **IDENTIFICATION CCR 1398.11**

20

21 *Also may cite Refer to statute(s) for appropriate penalties: B&P Code 680*

22

23 **PATIENT RECORD DOCUMENTATION REQUIREMENT**

24 **CCR 1398.13**

25

26 *Also may cite Refer to statute(s) for appropriate penalties: B&P Code 2620.7 .*

27

28 **APPLICATIONS OF FOREIGN GRADUATES CCR 1398.26**

29

30 **Citation:** \_\_\_\_\_

31 **Minimum Fine:** \_\_\_\_\_ \$100

32 **Maximum Fine:** \_\_\_\_\_ \$5,000

33

34

35 *Also may cite Refer to statute(s) for appropriate penalties: B&P Code 2653*

36

37 **CLINICAL SERVICE REQUIREMENTS FOR FOREIGN EDUCATED**

38 **APPLICANTS CCR 1398.26.5**

39

40 *Also may cite Refer to statute(s) for appropriate penalties.: B&P Code 2653*

41

42

43

44

<sup>1</sup> B&P Code 2660(h) authorizes the Physical Therapy Board of California to cite the Medical Practice Act.

1 **IDENTIFICATION AND SUPERVISION OF PHYSICAL THERAPIST STUDENTS**  
2 **AND INTERNS DEFINED CCR 1398.37**

3  
4 Also may cite Refer to statute(s) for appropriate penalties: B&P Code 2650.1

5  
6 **CRITERIA FOR APPROVAL OF PHYSICAL THERAPY FACILITIES TO**  
7 **SUPERVISE THE CLINICAL SERVICE OF FOREIGN EDUCATED**  
8 **APPLICANTS CCR 1398.38**

9  
10 Also may cite Refer to statute(s) for appropriate penalties: B&P Code 2653

11  
12 **SUPERVISION OF PHYSICAL THERAPIST ASSISTANTS CCR 1398.44**

13  
14 **Citation:** \_\_\_\_\_

15 **Minimum Fine:** \_\_\_\_\_ \$100

16 **Maximum Fine:** \_\_\_\_\_ \$5,000

17  
18 **Discipline:**

19 **Minimum:** \_\_\_\_\_ Revocation, stayed, 5 days suspension, 3 years probation

20 **Maximum:** \_\_\_\_\_ Revocation

21  
22 **Conditions of Probation in Addition to Standard Conditions:** \_\_\_\_\_ A, E, H, K, L

23  
24  
25 Refer to statute(s) for appropriate penalties: B&P Code 2660(h), 2655.2

26  
27  
28 **IDENTIFICATION AND SUPERVISION OF PHYSICAL THERAPIST ASSISTANT**  
29 **STUDENTS AND INTERNS DEFINED CCR 1398.52**

30  
31 **Citation:** \_\_\_\_\_

32 **Minimum Fine:** \_\_\_\_\_ \$100

33 **Maximum Fine:** \_\_\_\_\_ \$5,000

34  
35  
36 Refer to statute(s) for appropriate penalties: B&P Code 2655.75

37  
38  
39 **REQUIREMENTS FOR USE OF AIDES CCR 1399**

40  
41 Also may cite Refer to statute(s) for appropriate penalties: B&P Code 2264, 2630,  
42 2660(j)(h)<sup>1</sup>

<sup>1</sup> B&P Code 2660(h) authorizes the Physical Therapy Board of California to cite the Medical Practice Act.

1  
2 **SUPERVISION OF PHYSICAL THERAPISTS LICENSE APPLICANTS**

3 **CCR 1399.10**

4  
5 **Citation:**

6 Minimum Fine: \$100  
7 Maximum Fine: \$5,000

8  
9 **Discipline:**

10 Minimum: Revocation, stayed, 5 days suspension, 3 years probation  
11 Maximum: Revocation

12  
13 ~~Conditions of Probation in Addition to Standard Conditions: —A, E, H, K, L~~

14 1) All “Standard Probation Conditions”

15 2) “Probation Conditions Specific to Violation” for consideration are: A, F, J, K, M

16 “Probation Conditions Specific to Violation” should be considered individually since some, or  
17 all, may not apply.

18  
19  
20 ~~Also may cite Refer to related statute(s) for appropriate penalties: B&P Code 2636.5,~~  
21 ~~2639, 2640~~

22  
23  
24 **SUPERVISION OF PHYSICAL THERAPIST ASSISTANT LICENSE**  
25 **APPLICANTS CCR 1399.12**

26  
27 **Citation:**

28 Minimum Fine: \$100  
29 Maximum Fine: \$5,000

30  
31 **Discipline:**

32 Minimum: Revocation, stayed, 5 days suspension, 3 years probation  
33 Maximum: Revocation

34  
35 ~~Conditions of Probation in Addition to Standard Conditions: —A, E, H, K, L~~

36  
37 1) All “Standard Probation Conditions”

38 2) “Probation Conditions Specific to Violation” for consideration are: A, F, J, K, M

39  
40 “Probation Conditions Specific to Violation” should be considered individually since some, or  
41 all, may not apply.

42  
43  
44 ~~Also may cite Refer to related statute(s): B&P Code 2665.93-2655.91~~

1  
2 **REQUIRED ACTIONS AGAINST REGISTERED SEX OFFENDERS**

3 **CCR1399.23**

4  
5 **Discipline:**

6  
7 Revocation or Denial of License

8  
9 Also may cite Refer to related statute(s) for appropriate penalties: B&P Code 480, 726,  
10 2660.1, 2660.5, 2608, 2660.1, 2660.2, 2661

11  
12  
13 **PROHIBITING ANOTHER PARTY FROM COOPERATING OR DISPUTING**  
14 **A COMPLAINT CCR 1399.24 (a)**

15  
16 **Citation:**

17 Minimum Fine: \$100

18 Maximum Fine: \$5,000

19  
20 **Discipline:**

21 Minimum: Public Reproval

22 Maximum: Revocation

23  
24 Standard Conditions Only

25  
26  
27 **FAILURE TO PROVIDE CERTIFIED DOCUMENTS CCR 1399.24 (b)**

28  
29  
30 Refer to statute for appropriate penalties: B&P Code 2608.5

31  
32  
33 **FAILURE TO COOPERATE IN BOARD INVESTIGATION 1399.24 (c)**

34  
35 **Citation:**

36 Minimum Fine: \$100

37 Maximum Fine: \$5,000

38  
39 **Discipline:**

40 Minimum: Public Reproval

41 Maximum: Revocation

42  
43  
44 Standard Conditions Only

1  
2 **FAILURE TO REPORT TO BOARD CRIMINAL OR DISCIPLINARY**  
3 **INFORMATION CCR 1399.24 (d)**

4  
5  
6 Refer to related statutes for appropriate penalties: B&P Code 141, 490, 2661, 2660(d)

7  
8  
9 **FAILURE TO COMPLY WITH SUBPOENA ORDER CCR 1399.24 (e)**

10  
11 **Citation:**

12 Minimum Fine: \$100  
13 Maximum Fine: \$5,000

14  
15 **Discipline:**

16 Minimum: Public Reproval  
17 Maximum: Revocation

18  
19 Standard Conditions Only

20  
21  
22 **CERTIFICATION REQUIRED - ELECTROMYOGRAPHY CCR 1399.61**

23  
24 Also may cite Refer to statute(s) for appropriate penalties: B&P Code 2620.5

25  
26  
27 **ADMINISTRATION OF MEDICATIONS CCR 1399.77**

28 Also may cite Refer to statute(s) for appropriate penalties and related regulations: B&P  
29 Code 2620.3, CCR 1399.78, 1399.79

30  
31  
32 **AUTHORIZATION AND PROTOCOLS REQUIRED FOR TOPICAL**  
33 **MEDICATIONS CCR 1399.78**

34  
35 Also may cite Refer to statute(s) for appropriate penalties and related regulations: B&P  
36 Code 2620.3, CCR 1399.77, 1399.79

37  
38 **AUTHORIZED TOPICAL MEDICATIONS CCR 1399.79**

39  
40 Also may cite Refer to statute(s) for appropriate penalties and related regulations:: B&P  
41 Code 2620.3, CCR 1399.77, 1399.78

42  
43 **PATIENT RECORD DOCUMENTATION REQUIREMENT**  
44 **CCR 1399.85**

45  
46 Also may cite: B&P Code 2630.7

1  
2 **CONTINUING COMPETENCY REQUIRED CCR 1399.91**

3  
4  
5 Also may cite Refer to statute(s) for appropriate penalties: *B&P Code 2676, 2684*

6  
7 **CONTENT STANDARDS FOR CONTINUING COMPETENCY CCR 1399.92**

8  
9 Also may cite Refer to statute(s) for appropriate penalties: *B&P Code 2676, 2684*

10  
11  
12 **CONTINUING COMPETENCY SUBJECT MATTER REQUIREMENTS AND**  
13 **OTHER LIMITATIONS CCR 1399.93**

14  
15 Also may cite Refer to statute(s) for appropriate penalties: *B&P Code 2676, 2684*

16  
17 **AUTHORIZED PATHWAYS FOR OBTAINING CONTINUING**  
18 **COMPETENCY HOURS CCR 1399.94**

19  
20 Also may cite Refer to statute(s) for appropriate penalties: *B&P Code 2676, 2684*

21  
22 **STANDARDS FOR APPROVED AGENCIES CCR 1399.95**

23  
24 **Citation:**

25 Minimum Fine: \$100  
26 Maximum Fine: \$5,000

27  
28 **Maximum:**

29  
30 Revocation of recognition as an approved agency

31  
32  
33 Refer to related statute: *B&P Code 2676*

34  
35  
36 **STANDARDS FOR APPROVED PROVIDERS CCR 1399.96**

37  
38 **Citation:**

39 Minimum Fine: \$100  
40 Maximum Fine: \$5,000

41  
42 **Maximum:**

43  
44 Revocation of recognition as an approved provider

45  
46  
47 Refer to related statute: *B&P Code 2676*

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**RECORD KEEPING (CONTINUING COMPETENCY) CCR 1399.97**

*Refer to statute(s) for appropriate penalties: B&P Code 2676, 2684*

**INACTIVE STATUS (CONTINUING COMPETENCY) CCR 1399.98**

*Refer to statute(s) for appropriate penalties: B&P Code 2676, 2684*

**EXEMPTION FROM CONTINUING COMPETENCY REQUIREMENTS**

**CCR 1399.99**

*Refer to statute(s) for appropriate penalties: B&P Code 2676, 2684*

**SPONSORING ENTITY REGISTRATION AND RECORDKEEPING REQUIREMENTS CCR 1400.1**

*Refer to statute for appropriate penalties: B&P Code 901*

**OUT OF STATE PRACTITIONER AUTHORIZATION TO PARTICPATE IN SPONSORED EVENT CCR 1400.2**

*Refer to statute(s) for appropriate penalties: B&P Code 901*

**TERMINATION OF AUTHORIZATION AND APPEAL (OUT OF STATE PRACTITIONER'S AUTHORIZATION) CCR 1400.3**

*Refer to statute for appropriate penalties: B&P Code 901*

1 **HEALTH AND SAFETY CODE**

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**PATIENT'S ACCESS TO HEALTH CARE RECORDS H&S 123110**

**Citation:**

Minimum Fine: \$100  
Maximum Fine: \$5,000

**Discipline:**

Minimum: Revocation, stayed, 5 days suspension, 3 years probation  
Maximum: Revocation

Conditions of Probation in Addition to Standard Conditions: NONE-~~C~~

1 Probation conditions are divided into three categories: 1) Standard Conditions  
2 that the Board expects generally appear in all probation cases; and 2) Specific  
3 Conditions that depend on the nature and circumstances of the particular case;  
4 and 3) Conditions Specific to Alcohol and/or Controlled Substance. The standard  
5 conditions generally appearing in every probation case are as follows:

6  
7 **Standard Probation Conditions**  
8 :

9  
10 **1. License Revocation, Sstayed**

11 The Respondent's license shall be revoked, with the revocation stayed.

12  
13  
14 **2. License Suspension**

15 The Respondent's license shall be suspended for [insert specific  
16 number of days, months]. See specific violation for recommended time  
17 of suspension.  
18

19  
20 Note: This term is not meant to be used for punitive purposes but should  
21 be used as an educational consequence to ensure Respondent's  
22 understanding of his or her actions,

23  
24 **3. Cost Recovery**

25  
26 The Respondent<sup>s</sup> is ordered to reimburse the Board the actual and  
27 reasonable investigative and prosecutorial costs incurred by the Board in  
28 the amount of \$ \_\_\_\_\_ ~~(to be determined by actual investigative and~~  
29 ~~prosecutorial costs)~~. Said costs shall be reduced, however, and the  
30 remainder forgiven, if Respondent pays \_\_\_\_\_% of said costs, or  
31 \$ \_\_\_\_\_ ~~(to be determined by actual investigative and prosecutorial~~  
32 ~~costs)~~, within thirty (30) days of the effective date of this Decision and  
33 Order. In the event Respondent fails to pay within thirty (30) days of the  
34 Decision, the full amount of costs shall be immediately due and payable.  
35 Failure to pay the ordered reimbursement, or any agreed upon payment,  
36 constitutes a violation of the probation order. ~~The filing of bankruptcy by~~  
37 ~~Respondent shall not relieve Respondent of his/her responsibility to~~  
38 ~~reimburse the Board.~~ If Respondent is in default of his responsibility to  
39 reimburse the Board, the Board will collect cost recovery from the  
40 Franchise Tax Board, the Internal Revenue Service, or by any other  
41 means of attachment of earned wages legally available to the Board.  
42 ~~Failure to fulfill the obligation could also result in attachment to~~  
43 ~~Department of Motor Vehicle registrations, license renewals, or both.~~

44  
45 Note: Costs ~~are determined by~~ represent the actual investigative and  
46 prosecutorial costs.

47  
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49  
Comment [YE9]: Deleted since this is not legally enforceable.

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**4. Obey All Laws**

Respondent shall obey all federal, state and local laws, the statutes and regulations governing the practice of physical therapy and remain in full compliance with any court ordered criminal probation. This condition applies to any jurisdiction with authority over Rrespondent, whether it is inside or outside of California.

Further, Rrespondent shall, within five (5) days of any arrest, submit to the Board in writing a full and detailed account of such arrest.

**5. Compliance with Orders of a Court**

The Rrespondent shall be in compliance with any valid order of a court. Being found in contempt of any court order is a violation of probation.

**6. Compliance with Criminal Probation and Payment of Restitution**

Respondent shall not violate any terms or conditions of criminal probation and shall be in compliance with any restitution ordered, payments or other orders.

**7. Quarterly Reports**

Respondent shall submit quarterly reports under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all conditions of probation.

**8. Probation Monitoring Program Compliance**

Respondent shall comply with the Board's probation monitoring program.

**9. Interview with the Board or its Designee**

Respondent shall appear in person for interviews with the Board, or its designee, upon request at various intervals.

**10. Notification of Probationer Status to Employers**

~~The Rrespondent shall notify all present and/or future employers of the reason for and the terms and conditions of the probation by providing a copy of the Initial Probationary License, Statement of Issues, Accusation, and the Decision and Order, or Stipulated Settlement to the employer, and submit written employer confirmation of receipt to the Board within 10 days. The notification(s) shall include the name, address and phone number of the employer, and, if different, the name, address and phone number of the work location.~~

1 Prior to engaging in the practice of physical therapy, Respondent shall  
2 provide a true copy of the Initial Probationary License Decision and  
3 Order, Statement of Issues or, Accusation, Decision and Order, or  
4 Stipulated Decision and Order as appropriate to his or her employer,  
5 supervisor, or contractor, or prospective employer or contractor, and at  
6 any other facility where Respondent engages in the practice of physical  
7 therapy before accepting or continuing employment.

8  
9 Respondent shall provide the probation monitor the names, physical  
10 addresses, mailing addresses, and telephone numbers of all employers  
11 and supervisors, or contractors, and shall inform the probation monitor in  
12 writing of the facility or facilities at which Respondent will be engaging  
13 in the practice of physical therapy for purposes of allowing the probation  
14 monitor to communicate with the employer, supervisor, or contractor  
15 regarding the Respondent's work status, performance and monitoring.

16  
17 The information will be provided in writing to the probation monitor within  
18 ten (10) calendar days and will include written employer confirmation of  
19 receipt.

20  
21 **11. Notification of Change of Name or Address**

22  
23 The Respondent shall notify the Board, in writing, of any and all of name  
24 and/or address changes within ten (10) days of the change.

25  
26  
27 **12. Restriction of Practice - Temporary Services Agencies**

28  
29 The Respondent shall not work for a temporary services agency or  
30 registry.

31 OR:

32  
33 **NOTE:** If Respondent's restrictions are limited to a certain number of  
34 registries and/or temporary service agencies:

35  
36 The Respondent's work for a temporary services agency or registry  
37 shall be limited as follows:

38  
39 1) Respondent shall be limited to work for (indicate # of temporary  
40 services or registries) temporary service agency or registry.

41  
42 2) This work must be approved by the Probation Monitor.

43  
44 3) Respondent must disclose this disciplinary proceeding as described  
45 above in Condition # [include appropriate term] to the temporary service  
46 agency or registry.

1 4) Respondent must disclose this disciplinary proceeding, as described  
2 above in Condition # [include appropriate term] to the supervisor at the  
3 facility where physical therapy care is being performed.

4  
5 Respondent must notify his ~~or~~ her Pprobation Mmonitor or Board's  
6 designee, in writing, of any change in registry or temporary service. The  
7 Respondent must have written approval by the Pprobation Mmonitor  
8 prior to commencing work at a new registry or temporary service agency.  
9

10 **13. Restriction of Practice - Clinical Instructor of Physical Therapy  
11 Student Interns or Foreign Educated Physical Therapist License  
12 Applicants Prohibited-**

13  
14 Respondent shall not supervise any physical therapy student interns,  
15 foreign educated physical therapist license applicants or other  
16 individuals accumulating hours or experience in a learning capacity in  
17 physical therapy during the entire period of probation. Respondent shall  
18 terminate any such supervisory relationship in existence on the effective  
19 date of ~~this probation~~ the Decision and Order.

20  
21  
22 **14. Prohibited Use of Aliases**

23  
24 Respondent shall not use aliases and shall be prohibited from using any  
25 name which is not his ~~or~~ her legally-recognized name or based upon a  
26 legal change of name.  
27

28 **15. Intermittent Work**

29  
30 If ~~the~~ Rrespondent works less than 192 hours as a physical therapist or  
31 a physical therapist assistant in the physical therapy profession in a  
32 period of three (3) consecutive months, those months shall not be  
33 counted toward satisfaction of the probationary period. ~~The~~  
34 Rrespondent is required to immediately notify the probation monitor or  
35 his or her designee if he/she works less than 192 hours in a three-month  
36 period.  
37

38 ~~If probationer is complying with all other terms, probation shall not be  
39 tolled.~~

**Comment [EB10]:** Recommend this is deleted since it is not the intent of this term.

40  
41  
42  
43 **16. Tolling of Probation**

44  
45 The period of probation shall run only during the time Rrespondent is  
46 practicing or performing physical therapy within California. If, during  
47 probation, Rrespondent does not practice or perform within California,  
48 Rrespondent is required to immediately notify the probation monitor in  
49 writing of the date ~~that~~ Rrespondent is practicing or performing physical

1 therapy out of state, and the date of return, if any. Practicing or  
2 performing physical therapy by the Rrespondent in California prior to  
3 notification to the Board of the Rrespondent's return will not be credited  
4 toward completion of probation. Any order for payment of cost recovery  
5 shall remain in effect whether or not probation is tolled.

6  
7 ~~If probationer is complying with all other terms, probation shall not be~~  
8 ~~tolled.~~

**Comment [EB11]:** Recommend this is deleted since it contradicts the intent of this term

9  
10 **17. Violation of Probation**

11  
12 Failure to fully comply with any component of any of the probationary  
13 terms and conditions is a violation of probation.

14  
15 If Rrespondent violates probation in any respect, the Board, after giving  
16 Rrespondent notice and the opportunity to be heard, may revoke  
17 probation and carry out the disciplinary order that was stayed. If an  
18 accusation or petition to revoke probation is filed against Rrespondent  
19 during probation, the Board shall have continuing jurisdiction until the  
20 matter is final, and the period of probation shall be extended until the  
21 matter is final.

22  
23  
24 **18. Request to Surrender License Due to Retirement, Health or Other**  
25 **Reasons**

26  
27 Following the effective date of ~~this probation~~ the Decision and Order, if  
28 Rrespondent ceases practicing or performing physical therapy due to  
29 retirement, health or other reasons or is otherwise unable to satisfy the  
30 terms and conditions of probation Rrespondent may request to surrender  
31 his or her license to the Board. The Board reserves the right to evaluate  
32 the Rrespondent's request and to exercise its discretion whether to grant  
33 the request, or to take any other action deemed appropriate and  
34 reasonable under the circumstances. Upon formal acceptance of the  
35 tendered license, the terms and conditions of probation shall be tolled  
36 until such time as the license is no longer renewable; ~~the Rrespondent~~  
37 makes application for the renewal of the tendered license or makes  
38 application for a new license.

39  
40  
41 **19. Completion of Probation**

42  
43 Respondent shall comply with all financial obligations required by this  
44 Order (e.g., cost recovery, restitution, probation costs) not later than 180  
45 calendar days prior to completion of probation unless otherwise specified  
46 in Order. Upon successful completion of probation, Rrespondent's  
47 license shall be fully restored.

1 **20. California Law Examination - Written Exam on the Laws and**  
2 **Regulations Governing the Practice or Performance of Physical**  
3 **Therapy**  
4

5 Within ninety (90) ~~D~~days of the effective date of this ~~D~~ecision ~~and~~  
6 ~~O~~rders, respondent shall take and pass the Board's written examination  
7 on the laws and regulations governing the practice of physical therapy in  
8 California. If ~~R~~espondent fails to pass the examination, ~~R~~espondent  
9 shall be suspended from the practice of physical therapy until a repeat  
10 examination has been successfully passed. Respondent shall pay the  
11 costs of all examinations.  
12

13 **21. Practice or Performance of Physical Therapy While on Probation**  
14

15 It is not contrary to the public interest for ~~the~~ ~~R~~espondent to practice  
16 and/or perform physical therapy under the probationary conditions  
17 specified in the disciplinary order. Accordingly, it is not the intent of the  
18 Board that this order, the fact that ~~the~~ ~~R~~espondent has been disciplined,  
19 or ~~that the~~ ~~R~~espondent is on probation, shall be used as the sole basis  
20 for any third party payor to remove ~~R~~espondent from any list of  
21 approved providers.  
22

23 **22. Probation Monitoring Costs**  
24

25 Respondent shall reimburse all costs incurred by the Board for probation  
26 monitoring during the entire period of probation. Respondent will be  
27 billed at least quarterly. Such costs shall be made payable to the  
28 Physical Therapy Board of California and sent directly to the Physical  
29 Therapy Board of California. Failure to make ordered reimbursement  
30 within sixty (60) days of the billing shall constitute a violation of the  
31 probation order.  
32



~~the patient care, at least once quarterly as well as in addition to quarterly monitoring visits at the office or place of practice).~~

Additionally, the supervisor shall have full and random access to all patient records of Respondent. The supervisor may evaluate all aspects of Respondent's practice regardless of Respondent's areas of deficiencies.

Each proposed supervisor shall be a California licensed physical therapist who shall submit written reports to the Board upon request on a quarterly basis verifying that supervision has taken place as required and include an evaluation of Respondent's performance. It shall be Respondent's responsibility to assure that the required reports are filed in a timely manner. Each supervisor shall have been licensed in California for at least five (5) years and not have ever been subject to any disciplinary action by the Board. An administrative citation and fine does not constitute discipline and therefore, in and of itself is not a reason to deny approval of an individual as a supervisor.

**Comment [YE12]:** Changes made to give the probation monitor the discretion when to request a report from the supervisor.

The supervisor shall be independent, with have no prior business or professional relationship with Respondent and the supervisor shall not be in a familial or personal relationship with or be an employee, partner or associate of Respondent. If the supervisor terminates or is otherwise no longer available, Respondent shall not practice until a new supervisor has been approved by the Board. All costs of the supervision shall be borne by Respondent.

**Comment [EB13]:** There will be no costs incurred by the probationer since the supervising PT will be an employee of the practice.

If Respondent is placed on probation due to substance or alcohol abuse, then the supervisor shall meet the following additional requirements:

The supervisor shall sign an affirmation that he or she has reviewed the terms and conditions of the licensee's disciplinary order and agrees to supervise the licensee as set forth in the manner directed by the Board. The supervisor shall have face-to-face contact with the licensee in the work environment on a frequent basis as determined by the Board, but at least once per week. The supervisor shall interview other staff in the office regarding the licensee's behavior, if applicable. The supervisor shall review the licensee's work attendance and behavior.

The supervisor shall orally report any suspected substance abuse to the Board and the licensee's employer within one (1) business day of occurrence. If occurrence is not during the Board's normal business hours the oral report must be within one (1) hour of the next business day. The supervisor shall submit a written report to the Board within 48 hours of occurrence.

The supervisor shall complete and submit a written report monthly or as directed by the Board. The report shall include: the licensee's name; license number; supervisor's name and signature; supervisor's license number; worksite location(s); dates licensee had face-to-face contact with supervisor; worksite staff

1 interviewed, if applicable; attendance report; any change in behavior and/or  
2 personal habits; any indicators that can lead to suspected substance abuse.

**Comment [EB14]:** Staff recommends this part of the term is moved to section #3 probation terms specific to Alcohol and/or Controlled Substance

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4  
5  
6 **B. Restriction of Practice – Prohibition of Home Care**

7  
8 The Respondent shall not provide physical therapy services in a patient's  
9 home.

10  
11  
12 **~~C. Restriction of Practice – Prohibition Not to Treat a Specific Patient~~**  
13 **~~Population~~**

14  
15 The respondent shall not treat any \_\_\_\_\_  
16 (Name the specific patient population)

17  
18 ~~Failure to comply with any component of this condition as specified above is a~~  
19 ~~violation of probation.~~

20  
21  
22 **~~CD. Restriction of Practice – Prohibition of Solo Practice~~**

23  
24 The Respondent shall be prohibited from engaging in the solo practice of  
25 physical therapy.

26  
27 This condition applies only to a physical therapist since a physical therapist  
28 assistant may not perform physical therapy without supervision.

29  
30 In cases where Respondent's ability to function independently is in doubt as a  
31 result of a deficiency in knowledge or skills or as a result of questionable  
32 judgment, this condition should be included. Solo practice means a physical  
33 therapy business or practice where only Respondent provides patient care.

34  
35  
36 **~~E. Restriction of Practice – Presence of Another Physical Therapist Required~~**

37  
38 ~~**Physical Therapists:** The respondent shall be prohibited from working any~~  
39 ~~shift in which there is no other physical therapist on duty.~~

40  
41 ~~**Physical Therapist Assistants:** The respondent shall be prohibited from~~  
42 ~~working a shift for which there is not a physical therapist on duty.~~

43  
44  
45 **~~DF. Restriction of Practice - Prohibition of Self-Employment or Ownership~~**

46  
47 Respondent shall not be the sole proprietor or partner in the ownership of any  
48 business that offers physical therapy services. Respondent shall not be a  
49 Board member or an officer or have a majority interest in any corporation that

1 offers or provides physical therapy services.

2  
3 **EG. Restriction of Practice - Prohibition of Direct Billing of Third-Party Payers**

4  
5 Respondent shall not have final approval over any physical therapy billings  
6 submitted to any third-party payers in any employment.

7  
8  
9  
10 **FH. Restriction of Practice - Monitoring**

11  
12 ~~Within thirty (30) days of the effective date of this decision, the respondent shall~~  
13 ~~select a licensed physical therapist to serve as the professional practice~~  
14 ~~monitor during the period of probation and submit the name of the licensed~~  
15 ~~physical therapist selected for approval by the Board or its designee. The~~  
16 ~~professional practice monitor shall be selected from an established pool of~~  
17 ~~physical therapists licensed to practice in the State of California who are~~  
18 ~~currently serving as trained expert consultants to the Board. If there is no~~  
19 ~~practice monitor available from the pool of physical therapists, the respondent~~  
20 ~~may provide the probation monitor with the name and license number of a~~  
21 ~~physical therapist for approval if deemed appropriate.~~

22  
23 Within fifteen (15) calendar days of the effective date of this Decision and  
24 Order, Respondent shall submit to the Board, for its prior approval, the name  
25 and qualifications of one or more proposed licensed physical therapist to serve  
26 as a practice monitor by which Respondent's practice would be monitored. The  
27 Board will advise Respondent within fourteen (14) business days whether or  
28 not the proposed practice monitor and plan of monitoring are approved.  
29 Respondent shall not practice until receiving notification of Board approval of  
30 Respondent's choice of a practice monitor. The professional practice monitor  
31 shall not be someone with a conflict of interest in reviewing the licensee's  
32 practice. A conflict of interest is one that may interfere with the ability to fairly  
33 assess the licensee's Respondent's practice and provide the probation monitor  
34 with a non biased report. This includes, but is not limited to, a business partner  
35 or family member of the licensee Respondent. The practice monitor shall be  
36 independent, with no prior business or personal relationship with Respondent  
37 and the practice monitor shall not be in a familial relationship with or be an  
38 employee, partner or associate of Respondent.

39  
40  
41 After the practice monitor has been approved by the Board, the professional  
42 practice monitor in conference with the Board's probation monitor will establish  
43 the schedule upon which clinical visits will be made to Respondent's place of  
44 employment to review Respondent's current practice and Respondent's  
45 adherence to the terms of probation. The professional practice monitor shall  
46 report to the Board's probation monitor on compliance with the terms and  
47 conditions of the Respondent's probation after each clinical visit. The practice  
48 monitor shall have full and random access to all patient records of Respondent at  
49 all times, or for copying on premises, and shall retain all records for the entire

1 term of probation. The practice monitor may evaluate all aspects of  
2 Respondent's practice regardless of Respondent's areas of deficiencies.

3  
4 The report shall indicate whether Respondent's practices are within the  
5 standards of practice of physical therapy and/or billing, and whether respondent  
6 is practicing physical therapy safely, and/or billing appropriately.

7  
8 Each practice monitor shall have been licensed in California for at least five (5)  
9 years and not have ever been subject to any disciplinary action by the Board. An  
10 administrative citation and fine does not constitute discipline and therefore, in  
11 and of itself is not a reason to deny approval of an individual as a practice  
12 monitor. The proposed practice monitor shall submit written reports to the Board  
13 on a quarterly basis, or another time basis as agreed upon by the probation  
14 monitor, verifying that he/she has monitored Respondent as required and include  
15 an evaluation of Respondent's performance. It shall be Respondent's  
16 responsibility to assure that the required reports are filed in a timely manner.

**Comment [EB15]:** This language is from the Uniform Standards #7, and will have to be changed so that there are no modifications to the language.

17  
18 ~~The practice monitor shall be independent, with no prior business or relationship~~  
19 ~~with Respondent and the practice monitor shall not be in a familial relationship~~  
20 ~~with or be an employee, partner or associate of Respondent. If the practice~~  
21 ~~monitor terminates or is otherwise no longer available, Respondent shall not~~  
22 ~~practice until a new practice monitor has been approved by the Board. All costs~~  
23 ~~associated with the practice monitor shall be paid by the Respondent.~~

24  
25  
26 If Respondent is placed on probation due to substance or alcohol abuse, then the  
27 practice monitor shall meet the following additional requirements:

28  
29 The practice monitor shall sign an affirmation that he or she has reviewed the  
30 terms and conditions of the licensee's disciplinary order and agrees to monitor  
31 the licensee as set forth in the manner directed by the Board. The practice  
32 monitor shall have face-to-face contact with the licensee in the work environment  
33 as determined by the Board, but at least once per week. The practice monitor  
34 shall interview other staff in the office regarding the licensee's behavior, if  
35 applicable. The practice monitor shall review the licensee's work attendance and  
36 behavior.

37  
38 The practice monitor shall orally report any suspected substance abuse to the  
39 Board and the licensee's employer within one (1) business day of occurrence. If  
40 occurrence is not during the Board's normal business hours the oral report must  
41 be within one (1) hour of the next business day. The practice monitor shall submit  
42 a written report to the Board within 48 hours of occurrence.

43  
44 The practice monitor shall complete and submit a written report monthly or as  
45 directed by the Board. The report shall include: the licensee's name; license number;  
46 practice monitor's name and signature; practice monitor's license number; worksite  
47 location(s); dates licensee had face-to-face contact with practice monitor; worksite  
48 staff interviewed, if applicable; attendance report; any change in behavior and/or  
49 personal habits; any indicators that can lead to suspected substance abuse.

**Comment [EB16]:** This language has been recommended by staff to move to Section 3 which is more appropriate since it includes the specific terms and conditions regarding alcohol and/or controlled substance

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**Gi. Restriction of Practice - Third Party Presence**

During probation, Respondent shall have a third party present while examining or treating \_\_\_\_\_ (name the specific patient population). Respondent shall, within ten (10) days of the effective date of the Decision and Order, submit to the Board or its designee for its approval the name(s) of the person(s) who will act as the third party present. ~~The~~ Respondent shall execute a release authorizing the third party present to divulge any information that the Board may request. The person(s) acting in the role of the third party present shall be provided with a copy of the Initial Probationary License Decision and Order, Statement of Issues or Accusation, Decision and Order, or Stipulated Decision and Order ~~Accusation and Decision and Order.~~

**H. Restriction of Practice - Prohibition Not to Treat a Specific Patient Population**

Respondent shall not treat any \_\_\_\_\_.  
(name the specific patient population)

**I. Restriction of Practice – ~~Incompetence~~ Prohibition from Performing Specified Physical Therapy Procedures**

During probation, Respondent is prohibited from performing or supervising the performance of \_\_\_\_\_ (specific physical therapy procedure; on a specific patient population). After the effective date of this Decision and Order, the first time that a patient seeking the prohibited services makes an appointment, Respondent shall orally notify the patient that Respondent does not perform \_\_\_\_\_ (e.g. a specific physical therapy procedure; on a specific patient population). Respondent shall maintain a log of all patients to whom the required notification was made. The log shall contain the: 1) patient's name, address and phone number; 2) patient's medical record number, if available; 3) the full name of the person making the notification; 4) the date the notification was made; and 5) a description of the notification given. Respondent shall keep this log in a separate file or ledger, in chronological order, shall make the log available for immediate inspection and copying on the premises at all times during business hours by the ~~professional~~ practice monitor or the Board's probation monitor, and shall retain the log for the entire term of probation. Failure to maintain a log as defined in the section, or to make the log available for immediate inspection and copying on the premises during business hours is a violation of probation.

1 In addition to the required oral notification, after the effective date of this  
2 Decision and Order, the first time that a patient who seeks the prohibited  
3 services, presents to Respondent and each subsequent time, Respondent  
4 shall provide a written notification to the patient stating that Respondent does  
5 not perform \_\_\_\_\_ (e.g. a specific physical therapy procedure;  
6 on a specific patient population) Respondent shall maintain a copy of the  
7 written notification in the patient's file, shall make the notification available for  
8 immediate inspection and copying on the premises at all times during business  
9 hours by the ~~professional~~ practice monitor or the Board's probation monitor,  
10 and shall retain the notification for the entire term of probation. Failure to  
11 maintain the notification as defined in the section, or to make the notification  
12 available for immediate inspection and copying on the premises during  
13 business hours is a violation of probation.

14  
15 If Respondent can demonstrate competency in performing \_\_\_\_\_  
16 (e.g. a specific physical therapy procedure; on a specific patient population) to  
17 the satisfaction of ~~a the practice professional performance monitor, or another~~  
18 ~~qualified professional physical therapist, approved by~~ the Board's probation  
19 ~~monitor has approved, the practice professional performance approved~~  
20 ~~physical therapist monitor or the qualified professional~~ can recommend to the  
21 Board in writing that this term of the probation end without petitioning to modify  
22 the probation. The Board or its designee will make the decision and notify ~~the~~  
23 Respondent of its decision in writing. Until ~~the~~ Respondent has been notified  
24 in writing by the Board that this term has been terminated ~~the~~ Respondent  
25 shall continue to practice under the provision of this term.

26  
27 Respondent shall pay all costs of the evaluation.

28  
29 **JK. Restriction of Practice - No Supervision of Physical Therapist License**  
30 **Applicants, or Physical Therapist Assistant License Applicants**

31  
32 Respondent shall not supervise any physical therapist license applicants or  
33 physical therapist assistant applicants during the entire period of probation.  
34 Respondent shall terminate any such supervisory relationship in existence on  
35 the effective date of this ~~probation~~ Decision and Order.

36  
37 **KL. Restriction of Practice - No Supervision of Physical Therapist Assistants**

38  
39 Respondent shall not supervise any physical therapist assistants during the  
40 entire period of probation. Respondent shall terminate any such supervisory  
41 relationship in existence on the effective date of this Decision and Order.

42  
43 **OR**

44  
45 Respondent shall not supervise any physical therapist assistants until a course  
46 in supervising assistive personnel (as required in Term O should be used in  
47 conjunction with this term) has been completed and the supervisory privilege is  
48 ~~se~~ approved by the Board or its designee. Such approval shall be in writing to  
49 ~~the~~ Respondent. Respondent shall terminate any such supervisory

**Comment [YE17]:** Reconsider the specific type of course. Staff and in house expert have researched the internet and Contin Comp courses and have not been able to find a course in "supervising assistive personnel."

1 relationship in existence on the effective date of this Decision and Order unless  
2 otherwise indicated by the Board or its designee.

3  
4 **(Optional)**

5 ~~After one (1) year of full compliance of probation, respondent may request in~~  
6 ~~writing for the approval by the Board or its designee, to remove this condition~~  
7 ~~entirely or modify the requirement.~~

8  
9  
10 **L.M. Restriction of Practice - No Supervision of Physical Therapy Aides**

11 Respondent shall not supervise any physical therapy aides during the entire  
12 period of probation. Respondent shall terminate any such supervisory  
13 relationship in existence on the effective date of this Decision and Order.

14  
15  
16 **OR**

17  
18 Respondent shall not supervise any physical therapy aides until a course in  
19 supervising assistive personnel (as required in Term O) has been completed  
20 and the supervisory privilege is approved by the Board or its designee during  
21 the entire period of probation. Such approval shall be in writing to Respondent.  
22 Respondent shall terminate any such supervisory relationship in existence on  
23 the effective date of this Decision and Order unless otherwise indicated by the  
24 Board or its designee.

25  
26 **(Optional)**

27 If after (1) one year of full compliance of probation, respondent may request in  
28 writing for the approval by the Board or its designee, to remove this condition  
29 entirely or modify the requirement.

30  
31  
32 **N. Restriction of Practice – Administration or Possession of Controlled**  
33 **Substances**

34  
35 Respondent shall not administer or possess any controlled substances as  
36 defined in the California Uniform Controlled Substances Act. This prohibition  
37 does not apply to medications lawfully prescribed to Respondent for a bona  
38 fide illness or condition by a practitioner licensed to prescribe such medications.

39  
40  
41 **MO. Notification to Patients**

42  
43 The Respondent shall notify each patient, in writing, that his or /her license is  
44 on probation and that [INSERT LANGUAGE SPECIFIC TO CASE, e.g.  
45 professional practice monitor physical therapist] will be reviewing patient  
46 records or other specific requirement].

47  
48 Such notification shall be signed and dated by each patient prior to the  
49 commencement or continuation of any examination or treatment of each patient

**Comment [EB18]:** Revised to be consistent with Term KL allowing the flexibility to prohibit the supervising privilege.

**Comment [EB19]:** Staff has researched the availability of the course of "supervising assistive personnel", same as above in term KL.

1 by the Respondent. A copy of such notification shall be maintained in the  
2 patient's record. Respondent shall offer the patient a copy of the  
3 acknowledgement.

4  
5 The notification shall include the following language unless the Board or its  
6 designee agrees, in writing, to a modification:

7  
8 The Physical Therapy Board of California (PTBC) has placed  
9 ~~physical therapist~~ license number [INSERT LICENSE #], issued  
10 to [INSERT LICENSEE NAME], on probation.

11  
12 As a condition of probation, the above-named ~~physical therapist~~  
13 licensee must notify patients that [INSERT LANGUAGE  
14 SPECIFIC TO CASE, e.g. ~~professional~~ practice monitor will be  
15 reviewing patient records or other specific requirement]. In  
16 addition, ~~the physical therapist~~ Respondent is required to notify  
17 and obtain written acknowledgement from each patient of this  
18 condition. A copy of the acknowledgement shall be offered to  
19 the patient and placed in the patient's record.

20  
21 Information regarding PTBC license disciplinary actions may be  
22 accessed online at [www.ptbc.ca.gov](http://www.ptbc.ca.gov).

23  
24 **NP. Notification of Probationer Status to Employees**

25  
26 If Respondent is an employer of ~~other physical therapist or physical therapist~~  
27 ~~assistants~~, Respondent shall, notify all present or future employees of the reason  
28 for and terms and conditions of the probation. Respondent shall do so by providing  
29 a copy of the Initial Probationary License, Statement of Issues, Accusation, and  
30 Decision and Order to each employee and submit confirmation of employee receipt  
31 to the Board within ten (10) days. The confirmation(s) provided to the Board shall  
32 include the name, address, and phone number of the employees.

33  
34 **QV. Education Course(s)**

35  
36 Within thirty (30) days of the effective date of this Decision and Order,  
37 Respondent shall submit to the Board, or its designee, for prior approval, a  
38 physical therapy remedial educational program (including date, title, and length  
39 of course(s) in the content of \_\_\_\_\_ (~~e.g.~~ specify course  
40 subject) which shall not be less than eight (8) ~~20~~ hours. Respondent shall  
41 supply documentation verifying satisfactory completion of coursework. ~~This will~~  
42 ~~be signed by the instructor(s) of the courses and evidence, of passing grades~~  
43 ~~on exams/tests given by the instructor.~~ Respondent shall be responsible for  
44 costs incurred of the course(s). Course hours shall not satisfy the Continuing  
45 Competency requirements pursuant to B&P 2676 as a condition for renewal of  
46 license.

47  
48 If Respondent fails to provide documentation verifying satisfactory completion  
49 of the coursework, Respondent shall be suspended from the practice of

1 physical therapy until documentation verifying satisfactory completion of the  
2 coursework is provided.

3  
4  
5 **U. Community Services**

6  
7 ~~The respondent shall be required to provide community service without~~  
8 ~~compensation within the State of California as part of the probation. The~~  
9 ~~respondent shall submit for prior approval a community service program to the~~  
10 ~~Board or its designee.~~

11 *Notes:*

12 ~~When community service is substituted for suspension from practice, 160 hours of~~  
13 ~~community service shall be considered equivalent to 30 days of actual suspension.~~

14  
15 ~~Always add this specific condition whenever community service is substituted for~~  
16 ~~suspension.~~

17  
18  
19  
20 **P.W. Psychiatric Evaluation**

21  
22 Within thirty (30) calendar days of the effective date of this Decision **and**  
23 **Order**, and on whatever periodic basis thereafter may be required by the  
24 Board or its designee, ~~R~~respondent shall undergo and complete a psychiatric  
25 evaluation (and psychological testing, if deemed necessary) by a Board-  
26 appointed Board certified psychiatrist, who shall consider any information  
27 provided by the Board or designee and any other information the psychiatrist  
28 deems relevant, and shall furnish a written evaluation report to the Board or its  
29 designee indicating whether Respondent is mentally fit to practice physical  
30 therapy safely. Psychiatric evaluations conducted prior to the effective date of  
31 the Decision **and Order** shall not be accepted towards the fulfillment of this  
32 requirement. Respondent shall pay all cost of all psychiatric evaluations, ~~and~~  
33 ~~psychological testing,~~ and any required additional follow up visits.

34  
35 Respondent shall comply with all restrictions or conditions recommended by  
36 the evaluating psychiatrist within fifteen (15) calendar days after being notified  
37 by the Board or its designee. Failure to undergo and complete a psychiatric  
38 evaluation and psychological testing, or comply with the required additional  
39 conditions or restrictions, is a violation of probation.

40  
41 (Option: Condition Precedent)

42 Respondent shall not engage in the practice of physical therapy until notified  
43 by the Board or its designee that ~~R~~respondent is mentally fit to practice  
44 physical therapy safely. The period of time ~~that R~~respondent is not practicing  
45 physical therapy shall not be counted toward completion of the term of  
46 probation.

47  
48  
49 **QX. Psychotherapy**

1 Within sixty (60) calendar days of the effective date of this Decision and Order,  
2 Respondent shall submit to the Board or its designee for prior approval the  
3 name and qualifications of a Board certified psychiatrist or a licensed  
4 psychologist who has a doctoral degree in psychology and at least five (5)  
5 years of postgraduate experience in the diagnosis and treatment of emotional  
6 and mental disorders. Upon approval, Respondent shall undergo and  
7 continue psychotherapy treatment, including any modifications to the  
8 frequency of psychotherapy, until the Board or its designee deems that no  
9 further psychotherapy is necessary.

10  
11  
12 The psychotherapist shall consider any information provided by the Board or its  
13 designee and any other information the psychotherapist deems relevant and  
14 shall furnish a written evaluation report to the Board or its designee.  
15 Respondent shall cooperate in providing the psychotherapist any information  
16 and documents that the psychotherapist may deem pertinent. Respondent  
17 shall have the treating psychotherapist submit quarterly status reports to the  
18 Board or its designee. The Board or its designee may require Respondent to  
19 undergo psychiatric evaluations by a Board-appointed Board certified  
20 psychiatrist.

21  
22 If, prior to the completion of probation, Respondent is found to be mentally  
23 unfit to resume the practice of physical therapy without restrictions, the Board  
24 shall have continued jurisdiction over Respondent's license and the period of  
25 probation shall be extended until the Board determines ~~that~~ Respondent is  
26 mentally fit to resume the practice of physical therapy without restrictions.  
27 Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

28  
29  
30 *Note:*

31 *This condition is for ~~these~~ cases where the evidence demonstrates ~~that the~~*  
32 *Respondent has had an impairment (impairment by mental illness, alcohol abuse*  
33 *and/or drug self-abuse) related to the violations but is not at present a danger to*  
34 *Respondent's patients.*

35  
36 **R. Medical Evaluation**

37  
38 Within thirty (30) days of the effective date of this Decision and Order, and  
39 on a periodic basis thereafter, as may be required by the Board or its  
40 designee, Respondent shall undergo a medical evaluation by a Board  
41 appointed physician and surgeon, who shall furnish a medical report to the  
42 Board or its designee. ~~The~~ Respondent shall pay the cost of the medical  
43 evaluation.

44  
45 If Respondent is required by the Board or its designee to undergo medical  
46 treatment, Respondent shall within thirty (30) days of the requirement submit  
47 to the Board or its designee for its prior approval the name and qualifications  
48 of a physician and surgeon of Respondent's choice. Upon approval of the  
49 treating physician and surgeon, Respondent shall undergo and continue  
50 medical treatment until further notice from the Board or its designee.

1 Respondent shall have the treating physician and surgeon submit quarterly  
2 status reports to the Board or its designee indicating whether ~~the~~  
3 Respondent is capable of practicing physical therapy safely.

4  
5 *Optional Condition*

6  
7 Respondent shall not engage in the practice of physical therapy until notified  
8 by the Board or its designee of its determination ~~that~~ Respondent is  
9 medically fit to practice safely.

10  
11 **SZ.** **Medical Treatment**

12  
13 Within fifteen (15) days of the effective date of this Decision and Order,  
14 Respondent shall submit to the Board or its designee for its prior approval  
15 the name and qualifications of a physician of Respondent's choice. Upon  
16 approval, Respondent shall undergo and continue medical treatment until the  
17 Board or its designee deems that no further medical treatment is necessary.  
18 Respondent shall have the treating physician submit quarterly status reports  
19 to the Board or its designee indicating whether Respondent is capable of  
20 practicing physical therapy safely. The Board or it designee may require  
21 Respondent to undergo periodic medical evaluations by a Board appointed  
22 physician. ~~The~~ Respondent shall pay the cost of the medical treatment.

23  
24  
25 **Conditions Specific to Alcohol and Controlled Substance**

**Comment [EB20]:** Changes to this section will be made to reflect the Uniform Standards as written.

26  
27  
28  
29 **IQ.** **Prohibition of Possession or Use of Controlled Substances**  
30 **Abstain from Use of Alcohol, Controlled Substances and Dangerous**  
31 **Drugs**

32  
33 Respondent shall abstain completely from ~~the~~ personal use, ~~or~~ possession,  
34 injection, ~~or~~ consumption ~~of~~ by any route, including inhalation, of all  
35 ~~psychotropic (mood altering) drugs, including of~~ controlled substances as  
36 defined in the California Uniform, Controlled Substances Act, ~~dangerous drug~~  
37 ~~as defined by Section 4211-4022 of the Business and Professions Code, or~~  
38 ~~any drugs requiring a prescription.~~ This prohibition does not apply to  
39 medications lawfully prescribed to Respondent for a bona fide illness or  
40 condition by a practitioner licensed to prescribe such medications. Within fifteen  
41 (15) calendar days of receiving any lawful prescription medications,  
42 Respondent shall notify the probation monitor recovery program in writing of the  
43 following: prescriber's name, address, and telephone number; medication  
44 name and strength, issuing pharmacy name, address, and telephone number,  
45 and specific medical purpose for medication. Respondent shall also provide a  
46 current list of prescribed medication with the prescriber's name, address, and  
47 telephone number on each quarterly report submitted. Respondent shall  
48 provide the probation monitor with a signed and dated medical release covering  
49 the entire probation period.

1  
2 Respondent shall identify for the Board's approval a single coordinating  
3 physician and surgeon who shall be aware of Respondent's history of  
4 substance abuse and who will coordinate and monitor any prescriptions for  
5 Respondent for dangerous drugs, ~~and controlled substances, psychotropic or~~  
6 ~~mood altering drugs.~~ Once a Board-approved physician and surgeon has been  
7 identified, Respondent shall provide a copy of the ~~accusation and decision~~  
8 ~~Initial Probationary License Decision and Order, Statement of Issues or~~  
9 ~~Accusation, Decision and Order, or Stipulated Decision and Order~~ to the  
10 physician and surgeon. The coordinating physician and surgeon shall report to  
11 the Board or its designee on a quarterly basis Respondent's compliance with  
12 this condition. ~~If any substances considered addictive have been prescribed,~~  
13 ~~the report shall identify a program for the time limited use of such substances.~~

14  
15 The Board may require that only a physician and surgeon who is a specialist in  
16 addictive medicine be approved as the coordinating physician and surgeon.

17  
18 If Respondent has a positive drug screen for any substance not legally  
19 authorized, Respondent shall be ordered by the Board to cease any practice  
20 and may not practice unless and until notified by the Board. If the Board files a  
21 petition to revoke probation or an accusation based upon the positive drug  
22 screen, Respondent shall be automatically suspended from practice pending  
23 the final decision on the petition to revoke probation or accusation. This period  
24 of suspension will not apply to the reduction of this probationary period.

25  
26  
27  
28 **UR. Prohibition of the Use of Alcohol**

29  
30 Respondent shall abstain completely from the use of alcoholic beverages.

31  
32  
33 **VS. Biological Fluid Testing**

34  
35 Respondent shall immediately submit to and pay for any random and directed  
36 biological fluid or hair sample, breath alcohol or any other mode of testing  
37 required by testing, at respondent's cost, upon the request of the Board or its  
38 designee. Respondent shall be subject to a minimum of fifty two (52), but not  
39 to exceed, one-hundred and four (104) random tests per year within the first  
40 year of probation, and a minimum of thirty six (36) random tests per year  
41 thereafter, for the duration of the probationary term. Respondent shall make  
42 daily contact as directed by the Board to determine if he or she must submit to  
43 drug testing. Respondent shall have the test performed by a Board-approved  
44 laboratory certified and accredited by the U.S. Department of Health and  
45 Human Services on the same day that he or she is notified that a test is  
46 required. This shall insure that the test results are sent immediately to the  
47 Board. Failure to comply within the time specified shall be considered an  
48 admission of a positive drug screen and constitute a violation of probation. If  
49 the test results in a determination that the urine was too diluted for testing, the

1 result shall be considered an admission of a positive urine screen and  
2 constitutes a violation of probation. If an "out of range result" a positive result is  
3 obtained, the Board may require Respondent to immediately undergo a  
4 physical examination and to complete laboratory or diagnostic testing to  
5 determine if any underlying physical condition has contributed to the diluted  
6 result and to ~~cease practice~~ suspend Respondent's license to practice. Any  
7 such examination or laboratory and testing costs shall be paid by Respondent.  
8 An "out of range result" positive result is one in which, based on scientific  
9 principles, indicates Respondent attempted to alter the test results in order to  
10 either render the test invalid or obtain a negative result when a positive result  
11 should have been the outcome. If it is determined Respondent altered the test  
12 results, the result shall be considered an admission of a positive urine screen  
13 and constitutes a violation of probation and Respondent must cease practicing.  
14 Respondent shall not resume practice until notified by the Board. If Respondent  
15 tests positive for a banned substance, Respondent shall be contacted and  
16 instructed to leave work and ordered to cease ~~any~~ all practice. Respondent  
17 shall not resume practice until notified by the Board. All alternative drug testing  
18 sites due to vacation or travel outside of California must be approved by the  
19 Board prior to the vacation or travel.

#### 20 21 **WT. Diversion Drug & Alcohol Recovery Monitoring Program**

22  
23 Within fifteen (15) calendar days from the effective date of this eDecision and  
24 Order, Respondent shall enroll and participate in the Board's Diversion drug &  
25 alcohol recovery monitoring program at Respondent's cost until the diversion  
26 drug & alcohol recovery monitoring program determines that participation in  
27 the Diversion drug & alcohol recovery monitoring program is no longer  
28 necessary.

29  
30 Respondent shall comply with all components of the diversion drug & alcohol  
31 recovery monitoring program. This includes the fact that the Board may  
32 receive reports on all aspects of Respondent's participation in the drug &  
33 alcohol recovery monitoring program. Respondent shall sign a release  
34 authorizing the drug & alcohol recovery monitoring program to report all  
35 aspects of the drug & alcohol recovery monitoring program as requested by  
36 the Board or its designee.

37  
38 Failure to comply with requirements of the Diversion drug & alcohol recovery  
39 monitoring program, terminating the program without permission or being  
40 expelled for cause shall constitute a violation of probation by Respondent and  
41 shall be immediately suspended from the practice of physical therapy.

42  
43 If Respondent is not accepted into the drug & alcohol recovery monitoring program  
44 for any reason, then the following probation condition shall apply.

45  
46 Upon order of the Board, Respondent shall undergo a clinical diagnostic evaluation.  
47 Respondent shall provide the evaluator with a copy of the Board's Decision prior to  
48 the clinical diagnostic evaluation being performed.

1 Any time Respondent is ordered to undergo a clinical diagnostic evaluation,  
2 Respondent's license shall be suspended ~~cease practice~~ for a minimum of one (1)  
3 month pending the results of a clinical diagnostic evaluation. During such time,  
4 Respondent shall submit to random drug testing at least two (2) times per week.

5  
6 Respondent shall cause the evaluator to submit to the Board a written clinical  
7 diagnostic evaluation report within ten (10) days from the date the evaluation was  
8 completed, unless an extension, not to exceed thirty (30) days, is granted to the  
9 evaluator by the Board. The cost of such evaluation shall be paid by Respondent.

10  
11 Respondent's license shall be suspended ~~cease practice~~ until the Board determines  
12 that he or she is able to safely practice either full-time or part-time and has had at  
13 least one (1) month of negative drug test results. Respondent shall comply with any  
14 restrictions or recommendations made as a result of the clinical diagnostic  
15 evaluation.

16  
17 Note: This condition should be imposed when Respondent's license is placed  
18 on probation for substance or alcohol abuse violations.

19  
20 In the event the Board's diversion program is unavailable, respondent shall  
21 participate in a diversion program approved by the Board or its designee.

## GLOSSARY OF TERMS

**Accusation** - Charges filed against a licensee alleging violation(s) of the Physical Therapy Practice Act.

**Business and Professions Code (B&P)** - The statutes in law that governing the practice of physical therapy. The Physical Therapy Practice Act begins with section 2600 of the Business and Professions Code. There are some sections of law named in this document that affect the practice of physical therapy but are not included in the Physical Therapy Practice Act. The Physical Therapy Practice Act can be accessed through the Physical Therapy Board of California website at [www.ptb.ca.gov](http://www.ptb.ca.gov).

**California Code of Regulations (CCR)** - Regulations define the statutes (laws) that governing the practice of physical therapy. The regulations specific to physical therapy are located in Title 16, Chapter 13.2, Article 6 of the California Code of Regulations and can be accessed through the Physical Therapy Board of California website at [www.ptb.ca.gov](http://www.ptb.ca.gov).

**Citation** - A means of addressing relatively minor violations, which would not warrant discipline in order to protect the public. Citations are not disciplinary actions, but are matters of public record.

**Decision** - The order of the Board in a disciplinary action.

**Default Decision** - Licensee fails to respond to Accusation by filing a Notice of Defense or fails to appear at an administrative hearing resulting in a default decision.

**Diversion** - ~~While the Board does not divert licensees from discipline, monitor the compliance with probationary terms dealing with substance abuse.~~

**Comment [EB21]:** The revised guidelines no longer include the word "diversion", therefore changed definition and added appropriate term "rehabilitation" to the Glossary.

**Health and Safety Code (H&S)** - Statutes of law contained in the Health and Safety Code that affect the practice of physical therapy. These statutes can be accessed through the Physical Therapy Board of California website at [www.ptb.ca.gov](http://www.ptb.ca.gov).

**Initial Probationary License** - The Board may in its sole discretion issue a probationary license to any applicant for licensure who is guilty of unprofessional conduct but who has met all other requirements for licensure.

**Interim Suspension Order** - An order issued upon petition, suspending a licensee from all or a specified part of his or her physical therapy practice.

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**Petition to Revoke Probation** - Charges filed against a probationer seeking revocation of their physical therapy license based upon violation(s) of probation.

**Probation Tolerated** - Credit for time served towards the probationary period does not begin until the probationer commences practice in the State of California.

~~**Public Letter of Reprimand or Public Reapproval** – A formal public letter of reapproval reprimand issued by the Board, pursuant to B&P Code, section 2660.3, which could be in lieu of filing a formal accusation is considered disciplinary action.~~

In lieu of filing a formal accusation, the board may, pursuant to B&P code, section 2660.3, upon stipulation or agreement by the licensee, issue a public letter of reprimand. If the licensee does not agree to the issuance of the letter, the board shall not issue the letter and may proceed to file a formal accusation. A public letter of reprimand is considered disciplinary action.

~~**Public Reapproval** – A formal public reapproval, issued by the Board pursuant to B&P Code, section 495, may be issued for an act constituting grounds for suspension or revocation of a license. This requires filing of a formal accusation. A public reapproval is considered disciplinary action.~~

**Rehabilitation** – Disciplinary action taken which includes monitoring rehabilitation through the compliance with probationary terms dealing with substance abuse.

**Revoked** - The right to practice is ended.

**Revoked, stayed, probation** – “Stayed” means the revocation is postponed, put off. Professional practice may continue so long as the licensee complies with specific probationary terms and conditions. Violation of probation may result in the revocation that was postponed.

**Statement of Issues** - Charges filed against an applicant to deny licensure due to alleged violation(s) of the Physical Therapy Practice Act.

**Surrender of License** - The licensee turns in the license, subject to acceptance by the Board. The right to practice is ended.

**Suspension** - The licensee is prohibited from practicing for a specific period.

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Agenda Item 12

Attachment D

1  
2  
3  
4 **Uniform Standards**  
5 **Regarding Substance-Abusing**  
6 **Healing Arts Licensees**

7  
8 **Senate Bill 1441 (Ridley-Thomas)**

9  
10 **Implementation by**  
11 **Department of Consumer Affairs,**  
12 **Substance Abuse Coordination Committee**



31 Brian J. Stiger, Director

32 April 2011

**Substance Abuse Coordination Committee**

Brian Stiger, Chair  
**Director, Department of Consumer Affairs**

Elinore F. McCance-Katz, M.D., Ph. D.  
**CA Department of Alcohol & Drug Programs**

Janelle Wedge  
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Kim Madsen  
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Richard De Cuir  
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Linda Whitney  
**Medical Board of California**

Heather Martin  
**California Board of Occupational Therapy**

Mona Maggio  
**California State Board of Optometry**

Teresa Bello-Jones  
**Board of Vocational Nursing and  
Psychiatric Technicians**

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**Osteopathic Medical Board of California**

Francine Davies  
**Naturopathic Medicine Committee**

Virginia Herold  
**California State Board of Pharmacy**

Steve Hartzell  
**Physical Therapy Board of California**

Elberta Portman  
**Physician Assistant Committee**

Jim Rathlesberger  
**Board of Podiatric Medicine**

Robert Kahane  
**Board of Psychology**

Louise Bailey  
**Board of Registered Nursing**

Stephanie Nunez  
**Respiratory Care Board of California**

Annemarie Del Mugnaio  
**Speech-Language Pathology & Audiology &  
Hearing Aid Dispenser Board**

Susan Geranen  
**Veterinary Medical Board**

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**1#1 SENATE BILL 1441 REQUIREMENT**

2

3 Specific requirements for a clinical diagnostic evaluation of the licensee, including, but not  
4 limited to, required qualifications for the providers evaluating the licensee.

5

**6#1 Uniform Standard**

7

8 If a healing arts board orders a licensee who is either in a diversion program or whose  
9 license is on probation due to a substance abuse problem to undergo a clinical diagnosis  
10 evaluation, the following applies:

11

12 1. The clinical diagnostic evaluation shall be conducted by a licensed practitioner who:

13

14 • holds a valid, unrestricted license, which includes scope of practice to conduct a  
15 clinical diagnostic evaluation;

16

17 • has three (3) years experience in providing evaluations of health professionals  
18 with substance abuse disorders; and,

19

20 • is approved by the board.

21

22 2. The clinical diagnostic evaluation shall be conducted in accordance with acceptable  
23 professional standards for conducting substance abuse clinical diagnostic evaluations.

24

25 3. The clinical diagnostic evaluation report shall:

26

27 • set forth, in the evaluator's opinion, whether the licensee has a substance abuse  
28 problem;

29

30 • set forth, in the evaluator's opinion, whether the licensee is a threat to  
31 himself/herself or others; and,

32

33 • set forth, in the evaluator's opinion, recommendations for substance abuse  
34 treatment, practice restrictions, or other recommendations related to the licensee's  
35 rehabilitation and safe practice.

36

37 The evaluator shall not have a financial relationship, personal relationship, or business  
38 relationship with the licensee within the last five years. The evaluator shall provide an  
39 objective, unbiased, and independent evaluation.

40

41 If the evaluator determines during the evaluation process that a licensee is a threat to  
42 himself/herself or others, the evaluator shall notify the board within 24 hours of such a  
43 determination.

44

45For all evaluations, a final written report shall be provided to the board no later than ten (10)  
46days from the date the evaluator is assigned the matter unless the evaluator requests  
47additional information to complete the evaluation, not to exceed 30 days.

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**91#2 SENATE BILL 1441 REQUIREMENT**

92  
93 Specific requirements for the temporary removal of the licensee from practice, in order to  
94 enable the licensee to undergo the clinical diagnostic evaluation described in subdivision (a)  
95 and any treatment recommended by the evaluator described in subdivision (a) and approved  
96 by the board, and specific criteria that the licensee must meet before being permitted to return  
97 to practice on a full-time or part-time basis.

98  
99 **#2 Uniform Standard**

100  
101 The following practice restrictions apply to each licensee who undergoes a clinical  
102 diagnostic evaluation:

- 103
- 104 1. The Board shall order the licensee to cease practice during the clinical diagnostic  
105 evaluation pending the results of the clinical diagnostic evaluation and review by  
106 the diversion program/board staff.  
107
  - 108 2. While awaiting the results of the clinical diagnostic evaluation required in Uniform  
109 Standard #1, the licensee shall be randomly drug tested at least two (2) times per  
110 week.  
111

112 After reviewing the results of the clinical diagnostic evaluation, and the criteria below, a  
113 diversion or probation manager shall determine, whether or not the licensee is safe to  
114 return to either part-time or fulltime practice. However, no licensee shall be returned to  
115 practice until he or she has at least 30 days of negative drug tests.

- 116
- 117 • the license type;
  - 118
  - 119 • the licensee's history;
  - 120
  - 121 • the documented length of sobriety/time that has elapsed since substance use
  - 122
  - 123 • the scope and pattern of use;
  - 124
  - 125 • the treatment history;
  - 126
  - 127 • the licensee's medical history and current medical condition;
  - 128
  - 129 • the nature, duration and severity of substance abuse, and
  - 130
  - 131 • whether the licensee is a threat to himself/herself or the public.
  - 132
  - 133
  - 134
  - 135
  - 136

137 **#3 SENATE BILL 1441 REQUIREMENT**

138

139 Specific requirements that govern the ability of the licensing board to communicate with the  
140 licensee's employer about the licensee's status or condition.

141

142 **#3 Uniform Standard**

143

144 If the licensee who is either in a board diversion program or whose license is on probation  
145 has an employer, the licensee shall provide to the board the names, physical addresses,  
146 mailing addresses, and telephone numbers of all employers and supervisors and shall give  
147 specific, written consent that the licensee authorizes the board and the employers and  
148 supervisors to communicate regarding the licensee's work status, performance, and  
149 monitoring.

150

151 **#4 SENATE BILL 1441 REQUIREMENT**

152  
 153 Standards governing all aspects of required testing, including, but not limited to, frequency  
 154 of testing, randomicity, method of notice to the licensee, number of hours between the  
 155 provision of notice and the test, standards for specimen collectors, procedures used by  
 156 specimen collectors, the permissible locations of testing, whether the collection process  
 157 must be observed by the collector, backup testing requirements when the licensee is on  
 158 vacation or otherwise unavailable for local testing, requirements for the laboratory that  
 159 analyzes the specimens, and the required maximum timeframe from the test to the receipt  
 160 of the result of the test.

161  
 162 **#4 Uniform Standard**

163  
 164 The following standards shall govern all aspects of testing required to determine abstention  
 165 from alcohol and drugs for any person whose license is placed on probation or in a  
 166 diversion program due to substance use:

167  
 168 **TESTING FREQUENCY SCHEDULE**

169  
 170 A board may order a licensee to drug test at any time. Additionally, each licensee shall be  
 171 tested RANDOMLY in accordance with the schedule below:

Level	Segments of Probation/Diversion	Minimum Range of Number of Random Tests
I	Year 1	52-104 per year
II*	Year 2+	36-104 per year

172  
 173  
 174 \*The minimum range of 36-104 tests identified in level II, is for the second year of  
 175 probation or diversion, and each year thereafter, up to five (5) years. Thereafter,  
 176 administration of one (1) time per month if there have been no positive drug tests in the  
 177 previous five (5) consecutive years of probation or diversion.

178  
 179 Nothing precludes a board from increasing the number of random tests for any reason.  
 180 Any board who finds or has suspicion that a licensee has committed a violation of a  
 181 board’s testing program or who has committed a Major Violation, as identified in Uniform  
 182 Standard 10, may reestablish the testing cycle by placing that licensee at the beginning of  
 183 level I, in addition to any other disciplinary action that may be pursued.

184  
 185 **EXCEPTIONS TO TESTING FREQUENCY SCHEDULE**

- 186  
 187 I. PREVIOUS TESTING/SOBRIETY  
 188 In cases where a board has evidence that a licensee has participated in a treatment  
 189 or monitoring program requiring random testing, prior to being subject to testing by  
 190 the board, the board may give consideration to that testing in altering the testing

191 frequency schedule so that it is equivalent to this standard.

192

193 II. VIOLATION(S) OUTSIDE OF EMPLOYMENT

194 An individual whose license is placed on probation for a single conviction or incident  
195 or two convictions or incidents, spanning greater than seven years from each other,  
196 where those violations did not occur at work or while on the licensee's way to work,  
197 where alcohol or drugs were a contributing factor, may bypass level I and participate  
198 in level II of the testing frequency schedule.

199

200 III. NOT EMPLOYED IN HEALTH CARE FIELD

201 A board may reduce testing frequency to a minimum of 12 times per year for any  
202 person who is not practicing OR working in any health care field. If a reduced  
203 testing frequency schedule is established for this reason, and if a licensee wants to  
204 return to practice or work in a health care field, the licensee shall notify and secure  
205 the approval of the licensee's board. Prior to returning to any health care  
206 employment, the licensee shall be subject to level I testing frequency for at least 60  
207 days. At such time the person returns to employment (in a health care field), if the  
208 licensee has not previously met the level I frequency standard, the licensee shall be  
209 subject to completing a full year at level I of the testing frequency schedule,  
210 otherwise level II testing shall be in effect.

211

212 IV. TOLLING

213 A board may postpone all testing for any person whose probation or diversion is  
214 placed in a tolling status if the overall length of the probationary or diversion period is  
215 also tolled. A licensee shall notify the board upon the licensee's return to California  
216 and shall be subject to testing as provided in this standard. If the licensee returns to  
217 employment in a health care field, and has not previously met the level I frequency  
218 standard, the licensee shall be subject to completing a full year at level I of the  
219 testing frequency schedule, otherwise level II testing shall be in effect.

220

221 V. SUBSTANCE USE DISORDER NOT DIAGNOSED

222 In cases where no current substance use disorder diagnosis is made, a lesser  
223 period of monitoring and toxicology screening may be adopted by the board, but not  
224 to be less than 24 times per year.

225

226 **OTHER DRUG STANDARDS**

227

228 Drug testing may be required on any day, including weekends and holidays.

229

230 The scheduling of drug tests shall be done on a random basis, preferably by a computer  
231 program, so that a licensee can make no reasonable assumption of when he/she will be  
232 tested again. Boards should be prepared to report data to support back-to-back testing  
233 as well as, numerous different intervals of testing.

234

235 Licensees shall be required to make daily contact to determine if drug testing is  
236 required.

237  
238 Licensees shall be drug tested on the date of notification as directed by the board.  
239  
240 Specimen collectors must either be certified by the Drug and Alcohol Testing Industry  
241 Association or have completed the training required to serve as a collector for the U.S.  
242 Department of Transportation.  
243  
244 Specimen collectors shall adhere to the current U.S. Department of Transportation  
245 Specimen Collection Guidelines.  
246  
247 Testing locations shall comply with the Urine Specimen Collection Guidelines published  
248 by the U.S. Department of Transportation, regardless of the type of test administered.  
249  
250 Collection of specimens shall be observed.  
251  
252 Prior to vacation or absence, alternative drug testing location(s) must be approved by  
253 the board.  
254  
255 Laboratories shall be certified and accredited by the U.S. Department of Health and  
256 Human Services.  
257  
258 A collection site must submit a specimen to the laboratory within one (1) business day  
259 of receipt. A chain of custody shall be used on all specimens. The laboratory shall  
260 process results and provide legally defensible test results within seven (7) days of  
261 receipt of the specimen. The appropriate board will be notified of non-negative test  
262 results within one (1) business day and will be notified of negative test results within  
263 seven (7) business days.  
264  
265 A board may use other testing methods in place of, or to supplement biological fluid  
266 testing, if the alternate testing method is appropriate.  
267

#### **PETITIONS FOR REINSTATEMENT**

269 Nothing herein shall limit a board's authority to reduce or eliminate the standards  
270 specified herein pursuant to a petition for reinstatement or reduction of penalty filed  
271 pursuant to Government Code section 11522 or statutes applicable to the board that  
272 contains different provisions for reinstatement or reduction of penalty.  
273

#### **OUTCOMES AND AMENDMENTS**

276 For purposes of measuring outcomes and effectiveness, each board shall collect and  
277 report historical and post implementation data as follows:  
278

##### **Historical Data - Two Years Prior to Implementation of Standard**

280 Each board should collect the following historical data (as available), for a period of two  
281 years, prior to implementation of this standard, for each person subject to testing for  
282 banned substances, who has 1) tested positive for a banned substance, 2) failed to

283 appear or call in, for testing on more than three occasions, 3) failed to pay testing costs,  
284 or 4) a person who has given a dilute or invalid specimen.

285

286 **Post Implementation Data- Three Years**

287 Each board should collect the following data annually, for a period of three years, for  
288 every probationer and diversion participant subject to testing for banned substances,  
289 following the implementation of this standard.

290

291 **Data Collection**

292 The data to be collected shall be reported to the Department of Consumer Affairs and  
293 the Legislature, upon request, and shall include, but may not be limited to:

294

295 Probationer/Diversion Participant Unique Identifier

296 License Type

297 Probation/Diversion Effective Date

298 General Range of Testing Frequency by/for Each Probationer/Diversion Participant

299 Dates Testing Requested

300 Dates Tested

301 Identify the Entity that Performed Each Test

302 Dates Tested Positive

303 Dates Contractor (if applicable) was informed of Positive Test

304 Dates Board was informed of Positive Test

305 Dates of Questionable Tests (e.g. dilute, high levels)

306 Date Contractor Notified Board of Questionable Test

307 Identify Substances Detected or Questionably Detected

308 Dates Failed to Appear

309 Date Contractor Notified Board of Failed to Appear

310 Dates Failed to Call In for Testing

311 Date Contractor Notified Board of Failed to Call In for Testing

312 Dates Failed to Pay for Testing

313 Date(s) Removed/Suspended from Practice (identify which)

314 Final Outcome and Effective Date (if applicable)

315

316

**317#5 SENATE BILL 1441 REQUIREMENT**

318

319Standards governing all aspects of group meeting attendance requirements, including, but  
320not limited to, required qualifications for group meeting facilitators, frequency of required  
321meeting attendance, and methods of documenting and reporting attendance or  
322nonattendance by licensees.

323

**324#5 Uniform Standard**

325

326If a board requires a licensee to participate in group support meetings, the following shall  
327apply:

328

329 When determining the frequency of required group meeting attendance, the board shall  
330 give consideration to the following:

331

332 • the licensee's history;

333

334 • the documented length of sobriety/time that has elapsed since substance use;

335

336 • the recommendation of the clinical evaluator;

337

338 • the scope and pattern of use;

339

340 • the licensee's treatment history; and,

341

342 • the nature, duration, and severity of substance abuse.

343

**344Group Meeting Facilitator Qualifications and Requirements:**

345

346 1. The meeting facilitator must have a minimum of three (3) years experience in the  
347 treatment and rehabilitation of substance abuse, and shall be licensed or certified by  
348 the state or other nationally certified organizations.

349

350 2. The meeting facilitator must not have a financial relationship, personal relationship,  
351 or business relationship with the licensee within the last year.

352

353 3. The group meeting facilitator shall provide to the board a signed document showing  
354 the licensee's name, the group name, the date and location of the meeting, the  
355 licensee's attendance, and the licensee's level of participation and progress.

356

357 4. The facilitator shall report any unexcused absence within 24 hours.

358

**359#6 SENATE BILL 1441 REQUIREMENT**

360

361 Standards used in determining whether inpatient, outpatient, or other type of treatment is  
362 necessary.

363

**364#6 Uniform Standard**

365

366 In determining whether inpatient, outpatient, or other type of treatment is necessary, the  
367 board shall consider the following criteria:

368

369 • recommendation of the clinical diagnostic evaluation pursuant to Uniform Standard #1;

370

371 • license type;

372

373 • licensee's history;

374

375 • documented length of sobriety/time that has elapsed since substance abuse;

376

377 • scope and pattern of substance use;

378

379 • licensee's treatment history;

380

381 • licensee's medical history and current medical condition;

382

383 • nature, duration, and severity of substance abuse, and

384

385 • threat to himself/herself or the public.

386

**387#7 SENATE BILL 1441 REQUIREMENT**

388

389 Worksite monitoring requirements and standards, including, but not limited to, required  
390 qualifications of worksite monitors, required methods of monitoring by worksite monitors,  
391 and required reporting by worksite monitors.

392

**393#7 Uniform Standard**

394

395 A board may require the use of worksite monitors. If a board determines that a worksite  
396 monitor is necessary for a particular licensee, the worksite monitor shall meet the following  
397 requirements to be considered for approval by the board.

398

399 1. The worksite monitor shall not have financial, personal, or familial relationship with  
400 the licensee, or other relationship that could reasonably be expected to compromise  
401 the ability of the monitor to render impartial and unbiased reports to the board. If it is  
402 impractical for anyone but the licensee's employer to serve as the worksite monitor,  
403 this requirement may be waived by the board; however, under no circumstances  
404 shall a licensee's worksite monitor be an employee of the licensee.

405

406 2. The worksite monitor's license scope of practice shall include the scope of practice  
407 of the licensee that is being monitored, be another health care professional if no  
408 monitor with like practice is available, or, as approved by the board, be a person in a  
409 position of authority who is capable of monitoring the licensee at work.

410

411 3. If the worksite monitor is a licensed healthcare professional he or she shall have an  
412 active unrestricted license, with no disciplinary action within the last five (5) years.

413

414 4. The worksite monitor shall sign an affirmation that he or she has reviewed the terms  
415 and conditions of the licensee's disciplinary order and/or contract and agrees to  
416 monitor the licensee as set forth by the board.

417

418 5. The worksite monitor must adhere to the following required methods of monitoring  
419 the licensee:

420

421 a) Have face-to-face contact with the licensee in the work environment on a  
422 frequent basis as determined by the board, at least once per week.

423

424 b) Interview other staff in the office regarding the licensee's behavior, if  
425 applicable.

426

427 c) Review the licensee's work attendance.

428

429 Reporting by the worksite monitor to the board shall be as follows:

430

431 1. Any suspected substance abuse must be verbally reported to the board and the  
432 licensee's employer within one (1) business day of occurrence. If occurrence is not  
433 during the board's normal business hours the verbal report must be within one (1)  
434 hour of the next business day. A written report shall be submitted to the board  
435 within 48 hours of occurrence.

436

437 2. The worksite monitor shall complete and submit a written report monthly or as  
438 directed by the board. The report shall include:

439

440 • the licensee's name;

441

442 • license number;

443

444 • worksite monitor's name and signature;

445

446 • worksite monitor's license number;

447

448 • worksite location(s);

449

450 • dates licensee had face-to-face contact with monitor;

451

452 • staff interviewed, if applicable;

453

454 • attendance report;

455

456 • any change in behavior and/or personal habits;

457

458 • any indicators that can lead to suspected substance abuse.

459

460 The licensee shall complete the required consent forms and sign an agreement with the  
461 worksite monitor and the board to allow the board to communicate with the worksite monitor.

462

**463#8 SENATE BILL 1441 REQUIREMENT**

464

465Procedures to be followed when a licensee tests positive for a banned substance.

466

**467#8 Uniform Standard**

468

469When a licensee tests positive for a banned substance:

470

471 1. The board shall order the licensee to cease practice;

472

473 2. The board shall contact the licensee and instruct the licensee to leave work; and

474

475 3. The board shall notify the licensee's employer, if any, and worksite monitor, if any, that  
476 the licensee may not work.

477

478Thereafter, the board should determine whether the positive drug test is in fact evidence of  
479prohibited use. If so, proceed to Standard #9. If not, the board shall immediately lift the cease  
480practice order.

481

482In determining whether the positive test is evidence of prohibited use, the board should, as  
483applicable:

484

485 1. Consult the specimen collector and the laboratory;

486

487 2. Communicate with the licensee and/or any physician who is treating the licensee; and

488

489 3. Communicate with any treatment provider, including group facilitator/s.

490

491

491 **#9 SENATE BILL 1441 REQUIREMENT**

493

494 Procedures to be followed when a licensee is confirmed to have ingested a banned  
495 substance.

496

497 **#9 Uniform Standard**

498

499 When a board confirms that a positive drug test is evidence of use of a prohibited substance,  
500 the licensee has committed a major violation, as defined in Uniform Standard #10 and the  
501 board shall impose the consequences set forth in Uniform Standard #10.

502

503

504

505

**506#10 SENATE BILL 1441 REQUIREMENT**

507

508 Specific consequences for major and minor violations. In particular, the committee shall  
509 consider the use of a “deferred prosecution” stipulation described in Section 1000 of the  
510 Penal Code, in which the licensee admits to self-abuse of drugs or alcohol and surrenders  
511 his or her license. That agreement is deferred by the agency until or unless licensee  
512 commits a major violation, in which case it is revived and license is surrendered.

513

**514#10 Uniform Standard**

515

516 **Major Violations** include, but are not limited to:

517

518 1. Failure to complete a board-ordered program;

519

520 2. Failure to undergo a required clinical diagnostic evaluation;

521

522 3. Multiple minor violations;

523

524 4. Treating patients while under the influence of drugs/alcohol;

525

526 5. Any drug/alcohol related act which would constitute a violation of the practice act or  
527 state/federal laws;

528

529 6. Failure to obtain biological testing for substance abuse;

530

531 7. Testing positive and confirmation for substance abuse pursuant to Uniform Standard  
532 #9;

533

534 8. Knowingly using, making, altering or possessing any object or product in such a way  
535 as to defraud a drug test designed to detect the presence of alcohol or a controlled  
536 substance.

537

538 **Consequences** for a major violation include, but are not limited to:

539

540 1. Licensee will be ordered to cease practice.

541

542 a) the licensee must undergo a new clinical diagnostic evaluation, and

543

544 b) the licensee must test negative for at least a month of continuous drug testing  
545 before being allowed to go back to work.

546

547 2. Termination of a contract/agreement.

548

549 3. Referral for disciplinary action, such as suspension, revocation, or other action as  
550 determined by the board.

551

552 **Minor Violations** include, but are not limited to:

553

554 1. Untimely receipt of required documentation;

555

556 2. Unexcused non-attendance at group meetings;

557

558 3. Failure to contact a monitor when required;

559

560 4. Any other violations that do not present an immediate threat to the violator or to the  
561 public.

562

563 **Consequences** for minor violations include, but are not limited to:

564

565 1. Removal from practice;

566

567 2. Practice limitations;

568

569 3. Required supervision;

570

571 4. Increased documentation;

572

573 5. Issuance of citation and fine or a warning notice;

574

575 6. Required re-evaluation/testing;

576

577 7. Other action as determined by the board.

578

579

**580#11 SENATE BILL 1441 REQUIREMENT**

581

582Criteria that a licensee must meet in order to petition for return to practice on a full time  
583basis.

584

**585#11 Uniform Standard**

586

587**“Petition” as used in this standard is an informal request as opposed to a “Petition**  
588**for Modification” under the Administrative Procedure Act.**

589

590The licensee shall meet the following criteria before submitting a request (petition) to return  
591to full time practice:

592

593 1. Demonstrated sustained compliance with current recovery program.

594

595 2. Demonstrated the ability to practice safely as evidenced by current work site reports,  
596 evaluations, and any other information relating to the licensee’s substance abuse.

597

598 3. Negative drug screening reports for at least six (6) months, two (2) positive worksite  
599 monitor reports, and complete compliance with other terms and conditions of the  
600 program.

**601#12 SENATE BILL 1441 REQUIREMENT**

602

603Criteria that a licensee must meet in order to petition for reinstatement of a full and  
604unrestricted license.

605

**606#12 Uniform Standard**

607

608**“Petition for Reinstatement” as used in this standard is an informal request (petition)**  
609**as opposed to a “Petition for Reinstatement” under the Administrative Procedure**  
610**Act.**

611

612The licensee must meet the following criteria to request (petition) for a full and unrestricted  
613license.

614

615 1. Demonstrated sustained compliance with the terms of the disciplinary order, if  
616 applicable.

617

618 2. Demonstrated successful completion of recovery program, if required.

619

620 3. Demonstrated a consistent and sustained participation in activities that promote and  
621 support their recovery including, but not limited to, ongoing support meetings,  
622 therapy, counseling, relapse prevention plan, and community activities.

623

624 4. Demonstrated that he or she is able to practice safely.

625

626 5. Continuous sobriety for three (3) to five (5) years.

627

**628#13 SENATE BILL 1441 REQUIREMENT**

629

630If a board uses a private-sector vendor that provides diversion services, (1) standards for  
631immediate reporting by the vendor to the board of any and all noncompliance with process  
632for providers or contractors that provide diversion services, including, but not limited to,  
633specimen collectors, group meeting facilitators, and worksite monitors; (3) standards  
634requiring the vendor to disapprove and discontinue the use of providers or contractors that  
635fail to provide effective or timely diversion services; and (4) standards for a licensee's  
636termination from the program and referral to enforcement.

637

**638#13 Uniform Standard**

639

6401. A vendor must report to the board any major violation, as defined in Uniform Standard  
641 #10, within one (1) business day. A vendor must report to the board any minor  
642 violation, as defined in Uniform Standard #10, within five (5) business days.

643

6442. A vendor's approval process for providers or contractors that provide diversion services,  
645 including, but not limited to, specimen collectors, group meeting facilitators, and  
646 worksite monitors is as follows:

647

648 (a) Specimen Collectors:

649

650 (1) The provider or subcontractor shall possess all the materials, equipment, and  
651 technical expertise necessary in order to test every licensee for which he or  
652 she is responsible on any day of the week.

653

654 (2) The provider or subcontractor shall be able to scientifically test for urine,  
655 blood, and hair specimens for the detection of alcohol, illegal, and controlled  
656 substances.

657

658 (3) The provider or subcontractor must provide collection sites that are located in  
659 areas throughout California.

660

661 (4) The provider or subcontractor must have an automated 24-hour toll-free  
662 telephone system and/or a secure on-line computer database that allows the  
663 participant to check in daily for drug testing.

664

665 (5) The provider or subcontractor must have or be subcontracted with operating  
666 collection sites that are engaged in the business of collecting urine, blood,  
667 and hair follicle specimens for the testing of drugs and alcohol within the State  
668 of California.

669

670 (6) The provider or subcontractor must have a secure, HIPAA compliant, website  
671 or computer system to allow staff access to drug test results and compliance  
672 reporting information that is available 24 hours a day.

673

- 674 (7) The provider or subcontractor shall employ or contract with toxicologists that are  
675 licensed physicians and have knowledge of substance abuse disorders and the  
676 appropriate medical training to interpret and evaluate laboratory drug test results,  
677 medical histories, and any other information relevant to biomedical information.  
678
- 679 (8) A toxicology screen will not be considered negative if a positive result is obtained  
680 while practicing, even if the practitioner holds a valid prescription for the  
681 substance.  
682
- 683 (9) Must undergo training as specified in Uniform Standard #4 (6).  
684  
685

686 (b) Group Meeting Facilitators:  
687

688 A group meeting facilitator for any support group meeting:  
689

- 690 (1) must have a minimum of three (3) years experience in the treatment and  
691 rehabilitation of substance abuse;  
692
- 693 (2) must be licensed or certified by the state or other nationally certified organization;  
694
- 695 (3) must not have a financial relationship, personal relationship, or business  
696 relationship with the licensee within the last year;  
697
- 698 (4) shall report any unexcused absence within 24 hours to the board, and,  
699
- 700 (5) shall provide to the board a signed document showing the licensee's name, the  
701 group name, the date and location of the meeting, the licensee's attendance, and  
702 the licensee's level of participation and progress.  
703  
704

705 (c) Work Site Monitors:  
706

707 The worksite monitor must meet the following qualifications:  
708

- 709 (1) Shall not have financial, personal, or familial relationship with the licensee, or  
710 other relationship that could reasonably be expected to compromise the ability of  
711 the monitor to render impartial and unbiased reports to the board. If it is  
712 impractical for anyone but the licensee's employer to serve as the worksite  
713 monitor, this requirement may be waived by the board; however, under no  
714 circumstances shall a licensee's worksite monitor be an employee of the  
715 licensee.  
716
- 717 (2) The monitor's licensure scope of practice shall include the scope of practice of  
718 the licensee that is being monitored, be another health care professional if no

- 719 monitor with like practice is available, or, as approved by the board, be a person  
720 in a position of authority who is capable of monitoring the licensee at work.  
721
- 722 (3) Shall have an active unrestricted license, with no disciplinary action within the  
723 last five (5) years.  
724
- 725 (4) Shall sign an affirmation that he or she has reviewed the terms and conditions of  
726 the licensee's disciplinary order and/or contract and agrees to monitor the  
727 licensee as set forth by the board.  
728
- 729 2. The worksite monitor must adhere to the following required methods of monitoring  
730 the licensee:  
731
- 732 a) Have face-to-face contact with the licensee in the work environment on a  
733 frequent basis as determined by the board, at least once per week.  
734
- 735 b) Interview other staff in the office regarding the licensee's behavior, if applicable.  
736
- 737 c) Review the licensee's work attendance.  
738
- 739 3. Any suspected substance abuse must be verbally reported to the contractor, the  
740 board, and the licensee's employer within one (1) business day of occurrence. If  
741 occurrence is not during the board's normal business hours the verbal report must  
742 be within one (1) hour of the next business day. A written report shall be submitted  
743 to the board within 48 hours of occurrence.  
744
- 745 4. The worksite monitor shall complete and submit a written report monthly or as  
746 directed by the board. The report shall include:  
747
- 748 • the licensee's name;
  - 749
  - 750 • license number;
  - 751
  - 752 • worksite monitor's name and signature;
  - 753
  - 754 • worksite monitor's license number;
  - 755
  - 756 • worksite location(s);
  - 757
  - 758 • dates licensee had face-to-face contact with monitor;
  - 759
  - 760 • staff interviewed, if applicable;
  - 761
  - 762 • attendance report;
  - 763
  - 764 • any change in behavior and/or personal habits;

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- any indicators that can lead to suspected substance abuse.

(d) Treatment Providers

Treatment facility staff and services must have:

- (1) Licensure and/or accreditation by appropriate regulatory agencies;
- (2) Sufficient resources available to adequately evaluate the physical and mental needs of the client, provide for safe detoxification, and manage any medical emergency;
- (3) Professional staff who are competent and experienced members of the clinical staff;
- (4) Treatment planning involving a multidisciplinary approach and specific aftercare plans;
- (5) Means to provide treatment/progress documentation to the provider.

(e) General Vendor Requirements

The vendor shall disapprove and discontinue the use of providers or contractors that fail to provide effective or timely diversion services as follows:

- (1) The vendor is fully responsible for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them. No subcontract shall relieve the vendor of its responsibilities and obligations. All state policies, guidelines, and requirements apply to all subcontractors.
- (2) If a subcontractor fails to provide effective or timely services as listed above, but not limited to any other subcontracted services, the vendor will terminate services of said contractor within 30 business days of notification of failure to provide adequate services.
- (3) The vendor shall notify the appropriate board within five (5) business days of termination of said subcontractor.

**807#14 SENATE BILL 1441 REQUIREMENT**

808

809If a board uses a private-sector vendor that provides diversion services, the extent to which  
810licensee participation in that program shall be kept confidential from the public.

811

**812#14 Uniform Standard**

813

814The board shall disclose the following information to the public for licensees who are  
815participating in a board monitoring/diversion program regardless of whether the licensee is  
816a self-referral or a board referral. However, the disclosure shall not contain information that  
817the restrictions are a result of the licensee's participation in a diversion program.

818

819 • Licensee's name;

820

821 • Whether the licensee's practice is restricted, or the license is on inactive status;

822

823 • A detailed description of any restriction imposed.

824

825

**826#15 SENATE BILL 1441 REQUIREMENT**

827

828If a board uses a private-sector vendor that provides diversion services, a schedule for  
829external independent audits of the vendor's performance in adhering to the standards  
830adopted by the committee.

831

**832#15 Uniform Standard**

833

- 834 1. If a board uses a private-sector vendor to provide monitoring services for its  
835 licensees, an external independent audit must be conducted at least once every  
836 three (3) years by a qualified, independent reviewer or review team from outside the  
837 department with no real or apparent conflict of interest with the vendor providing the  
838 monitoring services. In addition, the reviewer shall not be a part of or under the  
839 control of the board. The independent reviewer or review team must consist of  
840 individuals who are competent in the professional practice of internal auditing and  
841 assessment processes and qualified to perform audits of monitoring programs.  
842
- 843 2. The audit must assess the vendor's performance in adhering to the uniform  
844 standards established by the board. The reviewer must provide a report of their  
845 findings to the board by June 30 of each three (3) year cycle. The report shall  
846 identify any material inadequacies, deficiencies, irregularities, or other non-  
847 compliance with the terms of the vendor's monitoring services that would interfere  
848 with the board's mandate of public protection.  
849
- 850 3. The board and the department shall respond to the findings in the audit report.  
851

**852#16 SENATE BILL 1441 Requirement**

853

854 Measurable criteria and standards to determine whether each board's method of dealing  
855 with substance-abusing licensees protects patients from harm and is effective in assisting  
856 its licensees in recovering from substance abuse in the long term.

857

**858#16 Uniform Standard**

859

860 Each board shall report the following information on a yearly basis to the Department of  
861 Consumer Affairs and the Legislature as it relates to licensees with substance abuse  
862 problems who are either in a board probation and/or diversion program.

863

864 • Number of intakes into a diversion program

865

866 • Number of probationers whose conduct was related to a substance abuse problem

867

868 • Number of referrals for treatment programs

869

870 • Number of relapses (break in sobriety)

871

872 • Number of cease practice orders/license in-activations

873

874 • Number of suspensions

875

876 • Number terminated from program for noncompliance

877

878 • Number of successful completions based on uniform standards

879

880 • Number of major violations; nature of violation and action taken

881

882 • Number of licensees who successfully returned to practice

883

884 • Number of patients harmed while in diversion

885

886 The above information shall be further broken down for each licensing category, specific  
887 substance abuse problem (i.e. cocaine, alcohol, Demerol etc.), whether the licensee is in a  
888 diversion program and/or probation program.

889

890 If the data indicates that licensees in specific licensing categories or with specific substance  
891 abuse problems have either a higher or lower probability of success, that information shall  
892 be taken into account when determining the success of a program. It may also be used to  
893 determine the risk factor when a board is determining whether a license should be revoked  
894 or placed on probation.

895

896The board shall use the following criteria to determine if its program protects patients from  
897harm and is effective in assisting its licensees in recovering from substance abuse in the  
898long term.

899

900 • At least 100 percent of licensees who either entered a diversion program or whose  
901 license was placed on probation as a result of a substance abuse problem  
902 successfully completed either the program or the probation, or had their license to  
903 practice revoked or surrendered on a timely basis based on noncompliance of those  
904 programs.

905

906 • At least 75 percent of licensees who successfully completed a diversion program or  
907 probation did not have any substantiated complaints related to substance abuse for  
908 at least five (5) years after completion.

## Agenda Item 14

# Physical Therapy Board of California

## PROPOSED LANGUAGE

### PHYSICAL THERAPY REGULATIONS

*(1) Add Section 1398.14 of Division 13.2 of Title 16 of the California Code of Regulations, to read as follows:*

#### **Article 1. General Provisions**

##### **1398.14 Response to Board Inquiry.**

If the board or its designee asks a licensee to provide criminal history information, a licensee shall respond to that request within 30 days. The licensee shall make available all documents and other records requested and shall respond with accurate information.

NOTE: Authority cited: Section 2615 Business and Professions Code. Reference: Section 144, 2607.5, 2615, 2634, 2635, 2655.3, 2655.92, 2660, 2660.2, 2660.5, Business and Professions Code and Section 11105 Penal Code.

*(2) Add Section 1399.80 of Division 13.2 of Title 16 of the California Code of Regulations, to read as follows:*

#### **Article 13. ~~Continuing Competency and Inactive License Status~~ Requirements for Renewal**

##### **1399.80 Fingerprint and Disclosure Requirements for Renewal of License.**

(a) As a condition of renewal for a license that expires on or after January 31, 2013, a licensee who was licensed prior to January 1, 1998, or for whom an electronic record of the submission of fingerprints no longer exists, shall furnish to the Department of Justice a full set of fingerprints for the purpose of conducting a criminal history record check and to undergo a state and federal level criminal offender record information search conducted through the Department of Justice.

(1) The licensee shall pay any costs for furnishing the fingerprints and conducting the searches.

(2) A licensee shall certify when applying for renewal whether his or her fingerprints have been furnished to the Department of Justice in compliance with this section.

(3) This requirement is waived if the license is renewed in an inactive status, or if the licensee is actively serving in the military outside the country.

(4) A licensee shall retain, for at least three years from the renewal date, either a receipt showing the electronic transmission his or her fingerprints to the Department of Justice or a receipt evidencing that the licensee's fingerprints were taken.

- (b) As a condition of renewal, a licensee shall disclose whether, since the licensee last applied for renewal, he or she has plead guilty, plead nolo contendere or has been convicted of any violation of the law, omitting infractions not involving alcohol, dangerous drugs, or controlled substances, as defined by the California Health and Safety Code section 11007, in this or any other state, the United States, or other country.
- (c) As a condition of renewal, a licensee shall disclose whether, since the licensee last applied for renewal, he or she has been denied a license or had a license disciplined by another licensing authority of this state, of another state, of any agency of the federal government, or of another country, disclose any settlement, judgment or arbitration award of over \$3000, pursuant to Business and Professions Code Section 802. or whether they have complied with the reporting requirements of B&P Code section 802.
- (d) Failure to comply with the requirements of this section renders any application for renewal incomplete and the license will not be renewed until the licensee demonstrates compliance with all requirements.
- (e) Failure to furnish a full set of fingerprints to the Department of Justice as required by this section on or before the date required for renewal of a license is grounds for discipline by the Board.

NOTE: Authority cited: Section 144, 2615, 2630, 2634, 2684 Business and Professions Code. Reference: Section 144, 802, 2615, 2630, 2634, 2635, 2660, 2655.3, 2655.92, 2660.2, 2660.5, 2684 Business and Professions Code and Section 11105 Penal Code.

*(3) Amend Section 1399.98 of Division 13.2 of Title 16 of the California Code of Regulations, to read as follows:*

**Article 13. Continuing Competency and Inactive License Status Requirements for Renewal**

**1399.98. Inactive Status.**

- (a) Upon written request, the board may grant inactive status to a licensee if, at the time of application for inactive status, the license is current and not suspended, revoked, or otherwise punitively restricted by the board.
- (b) In order to restore an inactive license to active status, the licensee shall:
  - a. submit a completed Inactive/Active application form, accompanied by evidence that the licensee has completed the required number of hours of

approved continuing competency, in compliance with this article within the last two years preceding such application. The application shall be made on forms prescribed by the board and shall contain the following:

- i. The name of the licensee.
- ii. License type.
- iii. License number.
- iv. License expiration date.
- v. A request to restore an inactive license
- vi. Disclosure whether, since the licensee last applied for renewal, he or she has plead guilty, plead nolo contendere, convicted of a crime, been denied a license or had a license disciplined by another licensing authority of this state, of another state, of any agency of the federal government, or of another country, disclose any settlement, judgment or arbitration award of over \$3000, pursuant to Business and Professions Code Section 802.
- vii. Certification under penalty of perjury of the laws of the State of California to the truth and correctness of information provided
- viii. Signature of licensee
- ix. Date

b. Pay the renewal and any continuing competency fees.

~~(b)~~ (c) The licensee shall not engage in any activity for which a license is required.

~~(c)~~ (d) An inactive license shall be renewed during the same time period in which an active license or certificate is renewed. Any continuing education requirements for renewing a license are waived.

~~(d)~~ (e) The renewal fee for an inactive license is the same as the fee to renew an active license.

~~(f)~~ To restore an inactive license to an active status, the holder shall do both of the following:

- ~~1. Pay the renewal and any continuing competency fees.~~
- ~~2. Complete continuing education equivalent to that required for a single renewal period of an active license within the last two years prior to applying to restore the license to active status.~~

(f) The inactive status of any licensee does not deprive the board of its authority to institute or continue any disciplinary or enforcement action against the licensee.

NOTE: Authority: Sections 2615 and 2676, Business and Professions Code.

Reference: Sections 700, 701, 702, 703, 704, 802, 2676 and 2684, Business and Professions Code.

**Physical Therapy Board of California  
Department of Consumer Affairs**

**INITIAL STATEMENT OF REASONS**

**HEARING DATE:** May 10, 2012

**SUBJECT MATTER OF PROPOSED REGULATIONS:**

Retroactive Fingerprinting and Disclosure Requirements, Response to Board Inquiries for Physical Therapists (PT) and Physical Therapist Assistants (PTA).

**SECTIONS AFFECTED:** Amend Title 16 California Code of Regulations as follows:

- Add Sections 1398.14 (General Provisions)
- Add Sections 1399.80 (Continuing Competency and Inactive License Status)
- Amend Sections 1399.98 (Continuing Competency and Inactive License Status)

**SPECIFIC PURPOSE OF EACH ADOPTION, AMENDMENT, OR REPEAL:**

The main purpose of the proposed language is to establish requirements that a licensee must furnish a full set of fingerprints to the Department of Justice (“DOJ”) as a condition of renewal with the Physical Therapy Board of California (“PTBC”) if the licensee was initially licensed prior to 1998 or if an electronic record of the fingerprint submission no longer exists. Generally, this proposal would:

1. set requirements and time frames for when the licensee would be required to submit criminal history information and other related records to the PTBC;
2. specify the conditions and the purpose for which a full set of fingerprints would be required;
3. establish that the licensee would be responsible for paying the costs associated with furnishing fingerprints and conducting criminal offender record searches;
4. require a licensee to certify compliance with this new fingerprinting requirement on his or her renewal form and maintain records of his or her compliance for at least 3 years;
5. authorize a waiver of these new fingerprinting requirements for licensees who are inactive or actively serving in the military outside of the country;
6. mandate that licensees disclose on the renewal form whether the licensee has been convicted of a crime, as defined, or had any disciplinary actions taken against any other license he or she holds;
7. mandate that licensees disclose on the renewal form whether the licensee has been required to report any settlement, judgment or arbitration award pursuant to B&P Code section 802
8. specify that failure to comply with these requirements or submit a full set of fingerprints to DOJ renders any application for renewal incomplete and is grounds for discipline by the PTBC; and,
9. add a new form and application requirement for activating or inactivating a license.

Proposed changes, by section, are more specifically identified as follows.

### **1. Add Sections 1398.14 Response to Board Inquiry**

This Section heading and text would provide that if the PTBC asks a licensee to provide criminal history information, the licensee must respond to the request within 30 days by making available all documents and other records requested, and specifies that the information provided must be accurate. This Section would establish the timeframe for a licensee's compliance with such PTBC inquiries and would ensure that accurate information is received from the licensee. This Section would protect consumers by assisting the PTBC's Enforcement staff in the information gathering and investigative process for determining whether a licensee is in compliance with the Physical Therapy Practice Act.

### **2. Add Sections 1399.80 Fingerprint and Disclosure Requirements for Renewal of License title and new Section.**

This heading text would inform licensees that the Sections that follow relate to fingerprinting and disclosure requirements for the renewal of a license.

#### Add Section 1399.80(a)

This Section would establish requirements that a licensee must furnish a full set of fingerprints to the Department of Justice ("DOJ") as a condition of renewal with the Physical Therapy Board of California ("PTBC") if the licensee was initially licensed prior to 1998 or if an electronic record of the fingerprint submission no longer exists. Licensees need to be made aware that certain groups of licensees will be required to be fingerprinted as a condition of license renewal, and this regulation would authorize the PTBC to require fingerprinting of these licensees. This Section would protect consumers by giving the PTBC access to currently available DOJ information relative to criminal arrests and convictions and would enable the PTBC to determine if violations of the Physical Therapy Practice Act have occurred.

#### Add Section 1399.80(a)(1)

This Section would establish that the cost of fingerprinting and conducting the criminal history record check must be paid by the licensee. This regulation is necessary to authorize assessment of costs to licensees, which is consistent with fingerprinting and record check costs that have been paid by every other licensee or applicant since 1998.

#### Add Section 1399.80(a)(2)

This Section would establish that as part of the renewal process, each licensee will be asked to certify on his or her renewal form whether or not they have submitted fingerprints to the Department of Justice as required.

#### Add Section 1399.80(a)(3)

This Section would establish an exemption from or waiver of the fingerprinting requirement if the license is on an inactive status or if the licensee is actively serving in the military outside the country.

Add Section 1399.80(a)(4)

This Section would require affected licensees to retain a receipt, as specified, of compliance with the fingerprinting requirement for a period of at least three years. This requirement is necessary to provide evidence that a licensee has complied with the fingerprinting requirement.

Add Section 1399.80(b)

This Section would mandate that if a licensee pleads guilty, pleads nolo contendere or is convicted of any violation of the law during the prior renewal cycle, the licensee must disclose that fact to the PTBC, with infractions specified that may be omitted. This reporting requirement is necessary for consumer protection and enforcement of the Physical Therapy Practice Act.

Add Section 1399.80(c)

This section would require that a licensee shall disclose whether, since the licensee last applied for renewal, he or she has been denied a license or had a license disciplined by another licensing authority of this state, of another state, of any agency of the federal government, or of another country. Many licensees hold other licenses either in California or in other states. This language would assist the PTBC in obtaining information relative to discipline taken by other corresponding state or government licensing entities. This information is necessary to determine if disciplinary action is warranted pursuant to the PTBC's authority (e.g., Sections 141 and 2660 of the Business and Professions Code). This section would also mandate disclosure of a settlement, judgment or arbitration award of over \$3000 to the PTBC pursuant to B&P Code section 802. Currently, there is no administrative consequence for a licensee failing to inform the PTBC of such an award; and, therefore, most licensees do not disclose. Disclosure would aid the PTBC in its enforcement efforts since often times patients are aware there is a complaint process for violations of the statutes governing the practice of physical therapy.

Add Section 1399.80 (d)

This Section would establish that failure to comply with these requirements would result in non-renewal of the license until the licensee complies with all of the requirements of this Section (e.g., fingerprinting, disclosure or record-keeping requirements). This requirement is needed to ensure compliance with the unprofessional conduct statutes of the Physical Therapy Practice Act and prevents possible renewal of a license for a licensee who has violated the law.

Add Section 1399.80(e)

This Section would provide that failure to furnish a full set of fingerprints as required is grounds for discipline by the PTBC. The PTBC must have the ability to enforce the requirements of the section by disciplining the license of a licensee who refuses to comply with the requirements for fingerprinting. The licensee could be in violation of the law or potentially cause patient harm if the PTBC does not have the ability to verify the criminal history of its licensees through the DOJ or take action for non-compliance.

Article 13. Requirements for Renewal  
Section 1399.98 Inactive Status  
Amend Section 1399.98(b)

This Section would be amended to require the licensee to fill out an application, prescribed by the PTBC, to restore and inactive license. This new application would ensure consistency and specificity in the application of the PTBC's requirements for categories of persons who wish to restore their inactive license.

The application would contain the following:

- A requirement for submission of the name of the licensee;
- A requirement for submission of license type;
- A requirement for submission of license number;
- A requirement for submission of license expiration date;
- A requirement for submission of a request to restore an inactive license;
- A requirement that the applicant certify under penalty of perjury under the laws of the State of California to the truth and correctness of the information provided, and sign and date the application;

**FACTUAL BASIS/RATIONALE:**

Proposed Adoption of Section 1398.14 of Division 13.2 of Title 16 of the California Code of Regulations

This proposal would require a licensee to provide timely and accurate responses to inquiries and provide necessary documents needed by the PTBC to investigate and take appropriate actions against a licensee convicted of a criminal offense that is substantially related to the practice of physical therapy.

To conduct an investigation on whether a conviction is substantially related to a licensee's scope of practice, the PTBC must review "certified" police reports, "certified" court documents and review documentation that substantiates compliance with probationary terms and rehabilitation efforts. Without this information the PTBC, staff will be forced to expend more resources in order to make a final determination as to the appropriate action. This proposed language would enable the PTBC to take appropriate enforcement action for failure to provide the necessary documentation in a timely manner. Due to the enormous volume of conviction documents that must be obtained from the various court houses throughout California and other states, it is critical that the licensee provide accurate court and case number information to the PTBC. This regulatory proposal would assist in ensuring that such information is provided.

Proposed Adoption of Section 1399.80 of Division 13.2 of Title 16 of the California Code of Regulations

Business and Professions Code Section 2602.1, 2634 provides the authority for the PTBC to investigate each and every applicant for a license, before a license is issued, in order to determine whether or not the applicant has in fact the qualifications required by the Physical Therapy Practice Act. Furthermore, Business and Professions Code

Section 2635 allows the PTBC to require the applicant to disclose any criminal history that would give cause for denial of licensure as defined in section 480 of the Business and Professions Code. Currently, the PTBC, along with other boards and bureaus, requires applicants to provide fingerprints for a background check before issuance of a license.

Recently, the Board of Registered Nursing has been the subject of a Los Angeles Times article regarding nurses who have a criminal background or are incarcerated and continue to hold a California license. Although the PTBC has always had a fingerprint requirement, it was not always an electronic submission; therefore, there may be licensees who have committed criminal acts that have not come to the attention of the PTBC. This regulation will insure that every licensee has an electronic submission on file.

### Proposed Amendments to Section 1399.98 of Division 13.2 of Title 16 of the California Code of Regulations

Existing regulations specify that if a licensee wants to activate an inactive license, the licensee must submit an application to the PTBC, accompanied by evidence that the licensee has completed the required number of hours of approved continuing competency in compliance within the last two years preceding the application for activation. This proposal is necessary to require, in addition to the above-mentioned requirement, that a licensee who was never fingerprinted by the PTBC or for whom a fingerprint record no longer exists, furnish a full set of fingerprints as a condition of activating an inactive license. Further, this regulation is necessary for the PTBC to standardize, implement or make specific the requirements for processing requests for inactivation of a license or for restoration of a license per Business and Professions Code sections 700-704.

A form prescribed by the PTBC, "APPLICATION – INACTIVE TO ACTIVE STATUS" will be required.

The form's contents are necessary for the following reasons:

#### Name of Licensee

This information is necessary so that staff knows the identity of the person whose license is being activated or inactivated.

#### License Type and Number

This information is necessary so that staff may apply the change to the appropriate record in the PTBC database.

#### License Expiration

This information is used as additional confirmation of the identity of the licensee.

#### A request to restore an inactive license

This information is required from a licensee to activate a license. By making this request the licensee informs staff of the change to restore an inactive license. This also places the applicant on notice that the request must be accompanied by evidence of continuing competency before the license can be restored, and that the continuing competency courses must have been completed within the two years preceding the application. This

is the standard for renewal of licenses and must be completed before license reactivation according to existing law, Title 16, California Code of Regulations Section 1399.98

#### Certification and Signature of licensee and date

This information is required to ensure that the individual submitting the form is in fact the licensee and certifies under penalty of perjury that the information contained in the form is true and correct. If it is determined at a later date that this is not the case, this enables the PTBC to take disciplinary action.

#### **DOCUMENT RELIED UPON**

1. Economic Impact Assessment

#### **UNDERLYING DATA**

1. A memorandum from the DCA Deputy Director of Legal Affairs, Doreathea Johnson, regarding retroactive fingerprinting was sent on January 16, 2009.
2. A memorandum from the DCA Director, Carrie Lopez, regarding retroactive fingerprinting was sent on November 5, 2008.

#### **BUSINESS IMPACT**

The PTBC does not believe that this regulation will have a significant adverse economic impact on businesses. There are approximately 750 vendors statewide, including small businesses that provide fingerprinting services. There should be no initial or ongoing cost impact upon the vendors because they are already equipped to provide the service and the fingerprinting of the applicable licensees will be extended over a two-year period. Additionally, this proposed regulation would only affect individuals for whom an electronic record of his or her fingerprints does not exist in the DOJ criminal offender record identification database and those licensees that do not comply with the proposed regulation. An individual licensee would pay an average of \$63.00 to comply with the fingerprinting requirement over its lifetime, since it is a one-time requirement.

#### **SPECIFIC TECHNOLOGIES OR EQUIPMENT**

The regulatory proposal indirectly requires the use of Live Scan because state law requires DOJ to require electronic transmission for submission of prints pursuant to Penal Code section 11077.1. Live Scan is a well-established and readily available technology for submission of fingerprints.

#### **CONSIDERATION OF ALTERNATIVES**

No reasonable alternative to the regulations would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulations.

## **TITLE 16. PHYSICAL THERAPY BOARD OF CALIFORNIA**

NOTICE IS HEREBY GIVEN that the PHYSICAL THERAPY BOARD OF CALIFORNIA (PTBC) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the:

Loma Linda University  
Randall Visitors Center  
11072 Anderson St,  
Loma Lind, CA. 92350

**May 10, 2012**

**8:30 am**

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the PTBC at its office not later than 5:00 P.M. on May 7, 2012, or must be received by the PTBC at the hearing. The PTBC, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for fifteen (15) days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

### **AUTHORITY AND REFERENCE**

Pursuant to the authority vested by sections 144, 480, 490, 802, 2615, 2632, 2655.92, of the Business and Professions (B&P) Code; Government Code section 6157 and Penal Code section 11105; the PTBC is considering changes to Division 13.2 of Title 16 of the California Code of Regulations (CCR) as follows:

### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Business and Professions Code section 2615 and 2655.92 permits the PTBC to adopt, amend or repeal such rules and regulations as may be reasonably necessary to enable it to carry into effect the provisions of the Physical Therapy Practice Act. The PTBC is proposing the following changes:

The main purpose of the proposed language is to establish requirements that a licensee must furnish a full set of fingerprints to the Department of Justice ("DOJ") as a condition of renewal with the Physical Therapy Board of California ("PTBC") if the licensee was initially licensed prior to 1998 or if an electronic record of the fingerprint submission no longer exists. Generally, this proposal would:

- (1) set requirements and time frames for when the licensee would be required to submit criminal history information and other related records to the PTBC;
- (2) specify the conditions and the purpose for which a full set of fingerprints would be required;
- (3) establish that the licensee would be responsible for paying the costs associated with furnishing fingerprints and conducting criminal offender record searches;

(4) require a licensee to certify compliance with this new fingerprinting requirement on his or her renewal form and maintain records of his or her compliance for at least 3 years;

(5) authorize a waiver of these new fingerprinting requirements for licensees who are inactive or actively serving in the military outside of the country;

(6) mandate that licensees disclose on the renewal form whether the licensee has been convicted of a crime, as defined, or had any disciplinary actions taken against any other license he or she holds; ). This section would also mandate disclosure of a settlement, judgment or arbitration award of over \$3000 to the PTBC pursuant to B&P Code section 802.

(7) specify that failure to comply these requirements or submit a full set of fingerprints to DOJ renders any application for renewal incomplete and is grounds for discipline by the PTBC; and,

(8) add a new form and application requirement for activating or inactivating a license.

Proposed changes, by section, are more specifically identified as follows.

### **1. Add Sections 1398.14 Response to Board Inquiry**

This Section heading and text would provide that if the PTBC asks a licensee to provide criminal history information, the licensee must respond to the request within 30 days by making available all documents and other records requested, and specifies that the information provided must be accurate. This Section would establish the timeframe for a licensee's compliance with such PTBC inquiries and would ensure that accurate information is received from the licensee. This Section would protect consumers by assisting the PTBC's Enforcement staff in the information gathering and investigative process for determining whether a licensee is in compliance with the Physical Therapy Practice Act.

### **2. Add Sections 1399.80 Fingerprint and Disclosure Requirements for Renewal of License title and new Section.**

This heading text would inform licensees that the Sections that follow relate to fingerprinting and disclosure requirements for the renewal of a license.

#### Add Section 1399.80(a)

This Section would establish requirements that a licensee must furnish a full set of fingerprints to the Department of Justice ("DOJ") as a condition of renewal with the Physical Therapy Board of California ("PTBC") if the licensee was initially licensed prior to 1998 or if an electronic record of the fingerprint submission no longer exists. Licensees need to be made aware that certain groups of licensees will be required to be fingerprinted as a condition of license renewal, and this regulation would authorize the PTBC to require fingerprinting of these licensees. This Section would protect consumers by giving the PTBC access to currently available DOJ information relative to criminal arrests and convictions and would enable the PTBC to determine if violations of the Physical Therapy Practice Act have occurred.

#### Add Section 1399.80(a)(1)

This Section would establish that the cost of fingerprinting and conducting the criminal history record check must be paid by the licensee. This regulation is necessary to authorize assessment of costs to licensees, which is consistent with fingerprinting and record check costs that have been paid by every other licensee or applicant since 1998.

#### Add Section 1399.80(a)(2)

This Section would establish that as part of the renewal process, each licensee will be asked to certify on his or her renewal form whether or not they have submitted fingerprints to the Department of Justice as required or whether they have complied with the reporting requirements of B&P Code section 802.

#### Add Section 1399.80(a)(3)

This Section would establish an exemption from or waiver of the fingerprinting requirement if the license is on an inactive status or if the licensee is actively serving in the military outside the country.

#### Add Section 1399.80(a)(4)

This Section would require affected licensees to retain a receipt, as specified, of compliance with the fingerprinting requirement for a period of at least three years. This requirement is necessary to provide evidence that a licensee has complied with the fingerprinting requirement in the event DOJ cannot locate a licensee's fingerprints or if the PTBC audits licensees.

#### Add Section 1399.80(b)

This Section would mandate that if a licensee has plead guilty, plead nolo contendere or has been convicted of any violation of the law during the prior renewal cycle, the licensee must disclose that fact to the PTBC, with infractions specified that may be omitted. This reporting requirement is necessary for consumer protection and enforcement of the Physical Therapy Practice Act.

#### Add Section 1399.80(c)

This section would require that a licensee shall disclose whether, since the licensee last applied for renewal, he or she has been denied a license or had a license disciplined by another licensing authority of this state, of another state, of any agency of the federal government, or of another country, disclose any settlement, judgment or arbitration award of over \$3000, pursuant to Business and Professions Code Section 802.. Many licensees hold other licenses either in California or in other states. This language would assist the PTBC in obtaining information relative to discipline taken by other corresponding state or government licensing entities. This information is necessary to determine if disciplinary action is warranted pursuant to the PTBC's authority (e.g., Sections 141 and 2660 of the Business and Professions Code).

#### Add Section 1399.80 (d)

This Section would establish that failure to comply with these requirements would result in non-renewal of the license until the licensee complies with all of the requirements of this Section (e.g., fingerprinting, disclosure or record-keeping requirements). This requirement is necessary to ensure compliance with the unprofessional conduct statutes of the Physical Therapy Practice Act and prevents possible renewal of a license for a licensee who has violated the law.

#### Add Section 1399.80(e)

This Section would provide that failure to furnish a full set of fingerprints as required is grounds for discipline by the PTBC. The PTBC must have the ability to enforce the requirements of the section by disciplining the license of a licensee who refuses to comply with the requirements for fingerprinting. The licensee could be in violation of the law or potentially cause patient harm if the PTBC does not have the ability to verify the criminal history of its licensees through the DOJ or take action for non-compliance.

Article 13. Requirements for Renewal  
Section 1399.98 Inactive Status  
Amend Section 1399.98(b)

This Section would be amended to require the licensee to fill out an application, prescribed by the PTBC, to restore and inactive license. The application language mentioned below would ensure consistency and specificity in the application of the PTBC's requirements for categories of persons who wish to restore their inactive license.

The application would contain the following:

- A requirement for submission of the name of the licensee;
- A requirement for submission of License Type;
- A requirement for submission of license number;
- A requirement for submission of license expiration date;
- A requirement for submission of a request to restore an inactive license;
- A requirement for submission of disclosure of whether, since the licensee last applied for renewal, he or she has plead guilty, plead nolo contendere, convicted of a crime, been denied a license or had a license disciplined by another licensing authority of this state, of another state, of any agency of the federal government, or of another country, disclose any settlement, judgment or arbitration award of over \$3000, pursuant to Business and Professions Code Section 802.
- A requirement that the applicant certify under penalty of perjury to the truth and correctness of the information provided, and sign and date the application;

A requirement that the applicant attach evidence that he or she has completed the required number of approved continuing education courses within the last two years preceding this application, as required by the Physical Therapy Practice Act.

### **CONSISTENCY WITH EXISTING STATE REGULATIONS**

The PTBC does not believe that the proposed regulation is inconsistent or incompatible with existing state regulations.

### **FISCAL IMPACT ESTIMATES**

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: There were approximately 23,000 Physical Therapist licenses and 5,000 Physical Therapy Assistant licenses issued since the 1998, for a **potential** impact of 28,000 licensees that will need a Livescan submission. This will create an increased work load for the Department of Justice, as well as the Federal Bureau of Investigation. The cost of this service will be paid by the licensee directly to the Livescan vendor.

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500 - 17630 Require Reimbursement: None

Business Impact: The PTBC has made an initial determination that the proposed regulatory

action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

## AND

The following studies/relevant data were relied upon in making the above determination:

The PTBC does not believe that this regulation will have a significant adverse economic impact on businesses. There are approximately 750 vendors statewide, including small businesses that provide fingerprinting services. There should be no initial or ongoing cost impact upon the vendors because they are already equipped to provide the service and the fingerprinting of applicable licensees will be extended over a two-year period. Additionally, this proposed regulation would only affect individuals for whom an electronic record of his or her fingerprints does not exist in the DOJ criminal offender record identification database and those licensees that do not comply with the proposed regulation.

Impact on Jobs/New Businesses: The PTBC has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business: Physical Therapists and Physical Therapy Assistants who have not previously been fingerprinted for the PTBC, for whom a fingerprint record no longer exists, will be required to be fingerprinted at the time of their license renewal, reactivation, or reinstatement. The cost for a person to get fingerprinted is approximately \$63.00. Of this fee, \$49.00 goes to the Department of Justice and the Federal Bureau of Investigation for conducting the background check and providing criminal record reports to the PTBC; an average of \$14.00 goes to the vendor for fingerprinting the individual. The vendor's fee ranges from \$5.00 to \$45.00 with the average fee being \$14.00. An individual licensee would pay an average of \$63.00 to comply with this regulation over its lifetime, since it is a one-time requirement.

Effect on Housing Costs: None

## **RESULT OF ECONOMIC IMPACT ANALYSIS**

The PTBC has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

## **EFFECT ON SMALL BUSINESS**

The PTBC has determined that the proposed regulations would not have a significant economic impact on small businesses. There are approximately 750 vendors statewide, including small businesses, which provide fingerprinting services. There should be no initial or ongoing cost impact upon the vendors because they are already equipped to provide the service, and the fingerprinting of the applicable licensees will be extended over a two-year period. Additionally, this proposed regulation would only affect individuals for whom an electronic record of his or her fingerprints does not exist in the DOJ criminal offender record identification database and those licensees that do not comply with the proposed regulation.

## **RESULTS OF THE ECONOMIC IMPACT ASSESSMENT**

### **CONSIDERATION OF ALTERNATIVES**

The PTBC must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

### **INITIAL STATEMENT OF REASONS AND INFORMATION**

The PTBC has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

### **TEXT OF PROPOSAL**

Copies of the exact language of the proposed regulations and the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the PTBC at 2005 Evergreen Street Suite 1350, Sacramento, California 95815.

### **AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE**

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the Final Statement of Reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

### **CONTACT PERSON**

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Jason Kaiser  
Address: 2005 Evergreen Street Suite 1350  
Sacramento, California 95815

Telephone No: (916) 561-8278  
Fax No: (916) 263-2560  
E-Mail Address: [jason.kaiser@dca.ca.gov](mailto:jason.kaiser@dca.ca.gov)

The backup contact person is:

Name: Elsa Ybarra  
Address: 2005 Evergreen Street Suite 1350  
Sacramento, California 95815

Telephone No: (916) 561-8262  
Fax No: (916) 263-2560  
E-Mail Address: [elsa.ybarra@dca.ca.gov](mailto:elsa.ybarra@dca.ca.gov)

Website Access: Materials regarding this proposal can be found at [www.ptbc.ca.gov](http://www.ptbc.ca.gov)

(3/13/2012)

## Agenda Item 16

1 Proposed Regulatory Change

2 The Physical Therapy Board of California proposes to add Section to be Determined to  
3 Division 13.2 of Title 16 of the California Code of Regulations, to read:

4 Section to be Determined. Notice to Consumers.

5 (a) A licensed physical therapist engaged in the practice of physical therapy shall  
6 provide notice to each patient of the fact that physical therapists and physical  
7 therapist assistants are licensed and regulated by the board. The notice shall  
8 include the following statement and information:

9 NOTICE TO CONSUMERS

10 Physical therapists and physical therapist assistants are licensed and regulated by the  
11 Physical Therapy Board of California.

12 If you have questions or complaints, you may contact the Board via:

- 13 • Internet at [www.ptbc.ca.gov](http://www.ptbc.ca.gov)
- 14 • Phone at 1-800-832-2251
- 15 • Writing to the following address:

16  
17 Physical Therapy Board of California  
18 2005 Evergreen Street, Suite 1350  
19 Sacramento, California 95815  
20  
21

22 (b) The notice required by this section shall be provided by one of the following  
23 methods:

24  
25 (1) Prominently posting the notice as provided by the Board on at least an 8 ½ by 11  
26 sheet of paper in an area visible to patients on the premises where the licensee  
27 provides the licensed services.

28  
29 (2) Including the notice language as provided by the board in a written statement  
30 provided during the initial evaluation, signed and dated by the patient or the  
31 patient's representative and retained in that patient's medical records, stating the  
32 patient understands physical therapists and physical therapist assistants are  
33 licensed and regulated by the board.

34  
35 (c) Failure to comply with this section constitutes unprofessional conduct.

- 1 NOTE: Authority cited: Section 2615, Business and Professions Code. Reference:
- 2 Sections 138 and 680, Business and Professions Code.

*California Code of Regulations §--- requires all licensed physical therapists to post this notice.*

# NOTICE TO CONSUMERS

Physical therapists and physical therapist assistants are licensed and regulated by the Physical Therapy Board of California.

If you have questions or complaints, you may contact the Board via:

- Internet at [www.ptbc.ca.gov](http://www.ptbc.ca.gov)
- Phone at 1-800-832-2251
- Writing to the following address:

Physical Therapy Board of California  
2005 Evergreen Street, Suite 1350  
Sacramento, California 95815



## Agenda Item 17

1 Proposed Regulatory Change

2 The Physical Therapy Board of California proposes to amend Section 1398.6 of Division  
3 13.2 of Title 16 of the California Code of Regulations to read:

4 1398.6. Filing of Addresses.

5 (a) Each licensee shall report to the board each and every change of residence address  
6 within 30 days after each change, giving both the old and new address. A licensee may  
7 provide the board with an alternate address in addition to a residence address to list as  
8 the address of record. If a licensee uses a P.O. Box, the licensee must also submit his  
9 or her residence address. In addition to the address of residence, a licensee may  
10 provide the board with an alternate address of record. Only the address reported as the  
11 address of record will be disclosed to the public. If an alternate address is the licensee's  
12 address of record, he or she may request that the residence address not be disclosed to  
13 the public.

14 (b) Each licensee shall report to the board each and every change of name within 30  
15 days after each change, giving both the old and new names.

16 (c) Every applicant and licensee shall file a current e-mail address with the board and  
17 shall notify the board of any and all changes of the e-mail address within 30 days of  
18 the change, giving both the old and new e-mail address. E-mail addresses are  
19 confidential information and shall not be made available to the public.

20 (e) (d) For purposes of this section, "licensee" includes any holder of an active,  
21 delinquent, suspended or expired license, approval, certification or other authorization  
22 issued by the board to practice physical therapy or electromyography which is not  
23 canceled or revoked.

24 Authority cited: Sections 136, 2615 and 2680, Business and Professions Code.

25 Reference: Sections ~~2655.42~~, 2683 and 2685, Business and Professions Code.

## Agenda Item 18

**PHYSICAL THERAPY BOARD OF CALIFORNIA**

**SPECIFIC LANGUAGE**

**Modified Text**

**Changes to the originally proposed language are shown in double underline for new text and underline with strikeout for deleted text.**

**(For ease of locating the modified text, it also has been shaded.)**

**2<sup>nd</sup> Changes to the originally proposed language are shown in broken underline text and double strike out for deleted text.**

Add Article 14, commencing with section 1400, Division 13.2 of Title 16 of the California Code of Regulations as follows:

**Article 14. Sponsored Health Care Events - Requirements for Exemption**

**§1400. Definitions**

For the purposes of section 901 of the Code:

(a) "Community-based organization" means a public or private nonprofit organization that is representative of a community or a significant segment of a community, and is engaged in meeting human, educational, environmental, or public safety community needs.

(b) "Out-of-state practitioner" means a person who is not licensed in California as a ~~vocational nurse~~ physical therapist, but who holds a current valid and active license or certificate in good standing in another state, district, or territory of the United States to practice.

NOTE: Authority cited: Section 2615, Business and Professions Code. Reference: Section 901, Business and Professions Code.

**§1400.1. Sponsoring Entity Registration and Recordkeeping Requirements**

(a) **Registration.** A sponsoring entity that wishes to provide, or arrange for the provision of, health care services at a sponsored event under section 901 of the Code shall register with the Board not later than ninety (90) calendar days prior to the date on which the sponsored event is scheduled to begin. A sponsored entity shall register with the Board, or its delegate, by submitting to the Board a completed "Registration of Sponsoring Entity Under Business & Professions Code Section 901," Form 901-A (DCA/2011). ~~(PTBC Form 901-A 5/5-11/2/11)~~, which is hereby incorporated by reference.

(b) **Determination of Completeness of Form.** The Board may, by resolution, delegate to the Department of Consumer Affairs ~~or its Executive Officer~~ the authority to receive and process "Registration of Sponsoring Entity Under Business & Professions

1 Code Section 901," Form 901-A (DCA/2011). (PTBC Form 901-A 5/5-11/2/11) on behalf  
2 of the Board. The Board or its delegatee shall inform the sponsoring entity  
3 within fifteen (15) calendar days of receipt of Form 901-A (DCA/2011). (PTBC Form  
4 901-A 5/5-11/2/11), in writing, that the form is either complete and the sponsoring entity  
5 is registered or that the form is deficient and what specific information or documentation  
6 is required to complete the form and be registered. The Board or its  
7 delegatee shall reject the registration if all of the identified deficiencies have not  
8 been corrected at least thirty (30) days prior to the commencement of the sponsored  
9 event.

10  
11 **(c) Recordkeeping Requirements.** Regardless of where it is located, a sponsoring  
12 entity shall maintain, at a physical location in California, a copy of all records  
13 required by section 901 of the Code as well as a copy of the authorization for  
14 participation issued by the Board to an out-of-state practitioner. The sponsoring entity  
15 shall maintain these records for a period of at least five (5) years after the date on which  
16 a sponsored event ended. The records may be maintained in either paper or electronic  
17 form. In addition, the sponsoring entity shall keep a copy of all records required  
18 by section 901(g) of the Code at the physical location of the sponsored event until that  
19 event has ended. These records shall be available for inspection and copying during the  
20 operating hours of the sponsored event upon request of any representative of  
21 the Board.

22 **(d) Requirement for Prior Board Approval of Out-of-State Practitioner.**  
23 A sponsoring entity shall not permit an out-of-state practitioner to participate in a  
24 sponsored event unless and until the sponsored entity has received written approval  
25 from the Board.

26  
27 **(e) A sponsoring entity shall place a notice visible to patients at every station where**  
28 **patients are being seen by a physical therapist. The notice shall be in at least 48-**  
29 **point type in Arial font and shall include the following statement and information:**

30  
31 **NOTICE**

32  
33 **Physical Therapists providing health care services at this health fair are either**  
34 **licensed and regulated by the Physical Therapy Board of California or hold a current**  
35 **valid license from another state and have been authorized to provide health care**  
36 **services in California only at this specific health fair.**

37  
38 **Physical Therapy Board of California**  
39 **916-561-8200**  
40 **www.ptbc.ca.gov**

41  
42 **(f) Report.** Within fifteen (15) calendar days after a sponsored event has  
43 concluded, the sponsoring entity shall file a report with the Board summarizing the  
44 details of the sponsored event. This report may be in a form of the sponsoring entity's  
45 choosing, but shall include, at a minimum, the following information:

- 46 **(1) The date(s) of the sponsored event;**
- 47 **(2) The location(s) of the sponsored event;**

1 (3) The type(s) and general description of all health care services provided at  
2 the sponsored event; and

3 (4) A list of each out-of-state practitioner granted authorization pursuant to  
4 this Article who participated in the sponsored event, along with the license  
5 number of that practitioner.

6 NOTE: Authority cited: Section 2615, Business and Professions Code. Reference:  
7 Section 901, Business and Professions Code.

8 **Add Section §1400.2. Out-of-State Practitioner Authorization to Participate in**  
9 **Sponsored Event) Request for Authorization to Participate.**

10 (a) Request for Authorization to Participate. An out-of-state practitioner ("applicant")  
11 may requestrequest authorization from the Board to participate in a sponsored event  
12 and provide such health care services at the sponsored event as would be permitted if  
13 the applicant were licensed by the Board to provide those services. An applicant shall  
14 requestrequest authorization by submitting to the Board a completed Form (PTBC Form  
15 901-B 5/5 11/2/11), which is hereby incorporated by reference, accompanied by a non-  
16 refundable, and non-transferrable processing fee of fifty dollars (\$50). The applicant  
17 shall also furnish either a full set of fingerprints or submit to a Live Scan process to  
18 establish the identity of the applicant and to permit the Board to conduct a criminal  
19 history record check. The applicant shall pay any costs for furnishing the fingerprints  
20 and conducting the criminal history record check. This requirement shall apply only to  
21 the first application for authorization that is submitted by the applicant if no more than  
22 four years have passed since the last Request for Authorization, PTBC Form 901-B  
23 (5/5/11) was received by the Board.

24 (b) Response to Request for Authorization to Participate. Within twenty (20)  
25 calendar days of receiving a completed request for authorization, the Board shall notify  
26 the sponsoring entity or local government entity administering the sponsored event,  
27 whether that requestrequest is approved or denied.

28 **(c) Denial of Request for Authorization to Participate.**

29 (1) The Board shall deny a requestrequest for authorization to participate if:

30 (A) The submitted PTBC Form (PTBC Form 901-B 5/5 11/2/11) is  
31 incomplete and the applicant has not responded within seven (7) calendar  
32 days to the Board'sPTBC's requestrequest for additional information.

33 (B) The applicant has not met all of the following educational and experience  
34 requirements:

35 (i) Completion of a course of instruction in vocational or practical  
36 nursing in a school accredited by the Board or another United  
37 States province, provided that the course completed is

1 substantially equivalent to that prescribed by section 2533 of this  
2 chapter.

3  
4 (ii) Taken the National League for Nursing State Board Test Pool  
5 Examination for Practical Nurses or the National Council Licensing  
6 Examination for Practical Nurses, and passed said examination  
7 with a score equal to or above the minimum passing score  
8 required by the Board for said examination.

9  
10 (B) The applicant has failed to comply with a requirement  
11 of this Article or has committed any act that would constitute grounds for  
12 denial of an application for licensure by the Board.

13  
14 (C) The applicant does not possess a current valid and active license  
15 in good standing. The term "good standing" means the applicant:

16 (i) Has not been charged with an offense for any act substantially  
17 related to the practice for which the applicant is licensed by any  
18 public agency.

19 (ii) Has not entered into any consent agreement or been subject to  
20 an administrative decision that contains conditions placed upon the  
21 applicant's professional conduct or practice, including any voluntary  
22 surrender of license.

23 (iii) Has not been the subject of an adverse judgment resulting from  
24 the practice for which the applicant is licensed that the Board  
25 determines constitutes evidence of a pattern of negligence or  
26 incompetence. The Board has not received been unable to obtain a  
27 timely report of the results of the criminal history report check for the  
28 applicant from the California Department of Justice.

29 (2) The Board may deny a request for authorization to participate if any of the  
30 following occurs:

31 (A) The request request is received less than twenty (20) calendar days  
32 before the date on which the sponsored event will begin.

33 (B) The applicant has been previously denied a request request for  
34 authorization by the Board to participate in a sponsored event.

35 (C) The applicant has previously had an authorization to participate in a  
36 sponsored event terminated by the Board.

37 (D) The applicant has participated in three (3) or more sponsored  
38 events during the twelve (12) month period immediately preceding the  
39 current application.

1 (d) **Appeal of Denial.** An applicant ~~requesting~~ requesting authorization to  
2 participate in a sponsored event may appeal the denial of such ~~request~~ request by  
3 following the procedures set forth in section 2557.3.

4  
5  
6  
7  
8  
9 (e) An out-of-state practitioner who receives authorization to practice physical  
10 therapy at an event sponsored by a local government entity shall place a  
11 notice visible to patients at every station where patients are being seen by a  
12 physical therapist. The notice shall be in at least 48-point type in Arial font and  
13 shall include the following statement and information:

14  
15  
16  
17  
18 NOTICE

19  
20 I hold a current valid license to practice physical therapy in a state other than  
21 California. I have been authorized by the Physical Therapy Board of California to  
22 provide health care services in California only at this specific health fair..

23  
24 Physical Therapy Board of California  
25 916-561-8200  
26 [www.ptbc.ca.gov](http://www.ptbc.ca.gov)  
27

28 NOTE: Authority cited: Section 2615, Business and Professions Code. Reference:  
29 Section 901, Business and Professions Code.

30 **Add Section §1400.3. Termination of Authorization and Appeal**

31 (a) **Grounds for Termination.** The Board may terminate an out-of-state  
32 practitioner's authorization to participate in a sponsored event for any of the  
33 following reasons:

34 (1) The out-of-state practitioner has failed to comply with any applicable  
35 provision of this Article, or any applicable practice ~~requirement~~ requirement or  
36 regulation of the Board.

37 (2) The out-of-state practitioner has committed an act that would constitute  
38 grounds for discipline if done by a licensee of the Board.

39 (3) The Board has received a credible complaint indicating that the out-of-  
40 state practitioner is unfit to practice at the sponsored event or has otherwise  
41 endangered consumers of the practitioner's services.

42 (b) **Notice of Termination.** The Board shall provide both the sponsoring entity or a

1 local government entity administering the sponsored event, and the out-of-state  
2 practitioner with a written notice of the termination, including the basis for the  
3 termination. If the written notice is provided during a sponsored event, the Board may  
4 provide the notice to any representative of the sponsored event on the premises of the  
5 event.

6 **(c) Consequences of Termination.** An out-of-state practitioner shall immediately  
7 cease his or her participation in a sponsored event upon receipt of the written notice of  
8 termination.

9 Termination of authority to participate in a sponsored event shall be deemed a  
10 disciplinary measure reportable to the national practitioner data banks. In addition, the  
11 Board shall provide a copy of the written notice of termination to the licensing authority  
12 of each jurisdiction in which the out-of-state practitioner is licensed.

13 **(d) Appeal of Termination.** An out-of-state practitioner may appeal the Board's  
14 decision to terminate an authorization in the manner provided by section 901(0)(2) of the  
15 Code. The requestrequest for an appeal shall be considered a requestrequest for an  
16 informal hearing under the Administrative Procedure Act.

17 **(e) Informal Conference Option.** In addition to requestingrequesting a hearing, the  
18 out-of-state practitioner may requestrequest an informal conference with the Executive  
19 Officer regarding the reasons for the termination of authorization to participate. The  
20 Executive Officer shall, within thirty (30) days from receipt of the requestrequest, hold  
21 an informal conference with the out-of-state practitioner. At the conclusion of the  
22 informal conference, the Executive Officer may affirm or dismiss the termination of  
23 authorization to participate. The Executive Officer shall state in writing the reasons for  
24 his or her action and mail a copy of his or her findings and decision to the out-of-state  
25 practitioner within ten (10) days from the date of the informal conference. The out-of-  
26 state practitioner does not waive his or her requestrequest for a hearing to contest a  
27 termination of authorization by requestingrequesting an informal conference. If the  
28 termination is dismissed after the informal conference, the requestrequest for a hearing  
29 shall be deemed to be withdrawn.

30 NOTE: Authority cited: Section 2615, Business and Professions Code. Reference:  
31 Section 901, Business and Professions Code.

32



## SPONSORED FREE HEALTH CARE EVENTS

### REGISTRATION OF SPONSORING ENTITY UNDER BUSINESS & PROFESSIONS CODE SECTION 901

In accordance with California Business and Professions Code section 901(d), a non-government organization administering an event to provide health-care services to uninsured and underinsured individuals at no cost, may include participation by certain health-care practitioners licensed outside of California if the organization registers with the California licensing authorities having jurisdiction over those professions. This form shall be completed and submitted by the sponsoring organization **at least 90 calendar days prior to the sponsored event.** *Note that the information required by Business and Professions Code section 901(d) must also be provided to the county health department having jurisdiction in each county in which the sponsored event will take place.*

#### PART 1 – ORGANIZATIONAL INFORMATION

1. Organization Name: \_\_\_\_\_

2. Organization Contact Information (*use principal office address*):

\_\_\_\_\_  
Address Line 1

\_\_\_\_\_  
Phone Number of Principal Office

\_\_\_\_\_  
Address Line 2

\_\_\_\_\_  
Alternate Phone

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Website

\_\_\_\_\_  
County

Organization Contact Information in California (*if different*):

\_\_\_\_\_  
Address Line 1

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Address Line 2

\_\_\_\_\_  
Alternate Phone

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
County

3. Type of Organization:

1 Is the organization operating pursuant to section 501(c)(3) of the Internal Revenue  
2 Code?      \_\_\_ Yes      \_\_\_ No

3  
4 If not, is the organization a community-based organization\*?  
5                      \_\_\_ Yes      \_\_\_ No

6  
7 Organization's Tax Identification Number \_\_\_\_\_  
8

9 If a community-based organization, please describe the mission, goals, and activities of  
10 the organization (*attach separate sheet(s) if necessary*): \_\_\_\_\_  
11 \_\_\_\_\_  
12 \_\_\_\_\_  
13 \_\_\_\_\_  
14 \_\_\_\_\_  
15 \_\_\_\_\_  
16 \_\_\_\_\_

17 \* A "community-based organization" means a public or private nonprofit organization that is  
18 representative of a community or a significant segment of a community, and is engaged in meeting  
19 human, educational, environmental, or public safety community needs.  
20

21 **PART 2 – RESPONSIBLE ORGANIZATION OFFICIALS**

22  
23 Please list the following information for each of the principal individual(s) who is the  
24 officer(s) or official(s) of the organization responsible for operation of the sponsoring  
25 entity.  
26

27 Individual 1:

28 _____	_____
29 Name	Title
30 _____	_____
31 Address Line 1	Phone
32 _____	_____
33 Address Line 2	Alternate Phone
34 _____	_____
35 City, State, Zip	E-mail address
36 _____	
37 County	

38  
39 Individual 2:

40 _____	_____
41 Name	Title
42 _____	_____
43 Address Line 1	Phone
44 _____	_____
45 Address Line 2	Alternate Phone
46 _____	_____
47 City, State, Zip	E-mail address
48 _____	
49 County	

1 Individual 3:

2 \_\_\_\_\_  
3 Name

\_\_\_\_\_ Title

4 \_\_\_\_\_  
5 Address Line 1

\_\_\_\_\_ Phone

6 \_\_\_\_\_  
7 Address Line 2

\_\_\_\_\_ Alternate Phone

8 \_\_\_\_\_  
9 City, State, Zip

\_\_\_\_\_ E-mail address

10 \_\_\_\_\_  
11 County

12  
13 *(Attach additional sheet(s) if needed to list additional principal organizational individuals)*

14  
15 **PART 3 – EVENT DETAILS**

16  
17 1. Name of event, if any: \_\_\_\_\_

18  
19 2. Date(s) of event (not to exceed ten calendar days): \_\_\_\_\_

20  
21 3. Location(s) of the event (be as specific as possible, including address):

22 \_\_\_\_\_  
23 \_\_\_\_\_  
24 \_\_\_\_\_  
25 \_\_\_\_\_

26  
27 4. Describe the intended event, including a list of all types of healthcare services  
28 intended to be provided (*attach additional sheet(s) if necessary*): \_\_\_\_\_

29 \_\_\_\_\_  
30 \_\_\_\_\_  
31 \_\_\_\_\_  
32 \_\_\_\_\_  
33 \_\_\_\_\_  
34 \_\_\_\_\_

35  
36 5. Attach a list of all out-of-state health-care practitioners who you currently believe  
37 intend to apply for authorization to participate in the event. The list should include the  
38 name, profession, and state of licensure of each identified individual.

39  
40 \_\_\_\_\_ *Check here to indicate that list is attached.*

41  
42  
43 **Note:**

- 44 • Each individual out-of-state practitioner must request authorization to participate  
45 in the event by submitting an application to the applicable licensing Board or  
46 Committee.

- 1
  - 2
  - 3
- The organization will be notified in writing whether authorization for an individual out-of-state practitioner has been granted.

1 This form, any attachments, and all related questions shall be submitted to:

2  
3 Department of Consumer Affairs  
4 Attn: Sponsored Free Health-Care Events  
5 Legislative and Policy Review Division  
6 1625 North Market Blvd., Ste. S-204  
7 Sacramento, CA 95834

8  
9 Tel: (916) 574-7800  
10 Fax: (916) 574-8655  
11 E-mail: lprdivision@dca.ca.gov

- 12
- 13 • I understand that I must maintain records in either electronic or paper form both  
14 at the sponsored event and for five (5) years in California, per the recordkeeping  
15 requirements imposed by California Business and Professions Code section 901  
16 and the applicable sections of Title 16, California Code of Regulations, for the  
17 regulatory bodies with jurisdiction over the practice to be engaged in by out-of-  
18 state practitioners
  - 19 • I understand that our organization must file a report with each applicable Board  
20 or Committee within fifteen (15) calendar days of the completion of the event.
- 21

22  
23 I certify under penalty of perjury under the laws of the State of California that the  
24 information provided on this form and any attachments is true and current, and that I am  
25 authorized to sign this form on behalf of the organization:

26  
27 \_\_\_\_\_  
28 Name Printed

\_\_\_\_\_

29  
30 \_\_\_\_\_  
31 Signature

\_\_\_\_\_

32  
33  
34 **PERSONAL INFORMATION COLLECTION, ACCESS AND DISCLOSURE**

35 Disclosure of your personal information is mandatory. The information on this form is  
36 required pursuant to Business and Professions Code section 901. Failure to provide  
37 any of the required information will result in the form being rejected as incomplete. The  
38 information provided will be used to determine compliance with the requirements  
39 promulgated pursuant to Business and Professions Code section 901. The information  
40 collected may be transferred to other governmental and enforcement agencies.  
41 Individuals have a right of access to records containing personal information pertaining  
42 to that individual that are maintained by the applicable Board or Committee, unless the  
43 records are exempted from disclosure by section 1798.40 of the Civil Code. An  
44 individual may obtain information regarding the location of his or her records by  
45 contacting the Deputy Director of the Legislative and Policy Review Division at the  
46 address and telephone number listed above.

## Agenda Item 19



April 3, 2012

Dr. Sara Takii, PT, DPT, MPA  
Board President  
Physical Therapy Board of California  
2005 Evergreen Street, Suite 1350  
Sacramento, CA 95815

Re: Suggestion for future legislation

Dear Dr. Takii:

Recently I ended 11 months of physical therapy, which was an unqualified disaster.

[REDACTED]

I am a disabled person. I am a very experienced patient and am astounded at how I was completely misled at [REDACTED]. I can see reading discipline actions on the PTBC website this occurs frequently. I have a suggestion as to how these wrongdoings can be prevented. You see, I've never been confused at the doctor's office or hospital as to who is the doctor and who the nurse, what everyone's basic job is, and what duties are owed to me, the patient. In physical therapy it was all a mystery!

If a physical therapy patient were required by law to sign off on, as part of their consent for treatment, an additional statement acknowledging:

- 1) Who at the clinic is a PT, a PTA, or an aide, with an explanation of these titles
- 2) Who the PT supervising their treatment is
- 3) That all PT aides must be directly supervised, with an explanation of this
- 4) The role of the PTA
- 5) How to ask for another evaluation if treatment is not going well
- 6) An explanation of proper boundaries between the therapist and patient and what sexual misconduct is

Also

7) If a patient had to sign off an acknowledgement of the treatment received at that visit, much insurance fraud could be prevented.

Item 7 might be better implemented by insurance regulators or legislated for the entire medical industry in California. I would love to agree on the services rendered on the day of my treatment and not have to argue about it later. In this day and age of computers, it should be very easy to do this.

As a disabled person, I believe strongly in patient empowerment. The PTBC website was incredibly helpful. I regret not reading it the day I started physical therapy. I imagine that greater patient understanding of what correct delivery of physical therapy is would improve quality of care and cut down on the number of complaints to the PTBC.

Thank you for taking the time to read this.

Sincerely,

A large black rectangular redaction box covers the signature and name of the sender.