



#### **Board Members**

##### **President**

Alicia Rabena-Amen, PT, DPT

##### **Vice-President**

Katarina Eleby, M.A.

##### **Members**

Jesus Dominguez, PT, PhD

Daniel Drummer, PT, DPT

Tonia McMillian

Vacant, Professional Member

Vacant, Public Member

## **Physical Therapy Board of California Adopted Meeting Minutes**

September 17, 2020 9:00 a.m.

Department of Consumer Affairs  
Public WebEx and Teleconference  
Platform

#### **Board Staff**

Jason Kaiser, Executive Officer

Sarah Conley, Manager

Liz Constancio, Manager

Elsa Ybarra, Manager

Brooke Arneson, Executive  
Analyst

For the sake of clarity, agenda items discussed during the meeting follow their original order on the agenda in these minutes though some agenda items may have been taken out of order during the meeting.

### **Thursday, September 17, 2020**

#### **1. Call to Order**

The Physical Therapy Board of California (Board) meeting was called to order by President Dr. Rabena-Amen at 9:18 a.m. and adjourned at 4:04 p.m. on September 17, 2020.

#### **2. Roll Call and Establishment of Quorum**

Dominguez- Present  
Drummer – Present  
Eleby – Present  
McMillian – Present  
Rabena-Amen - Present

All members were present, and a quorum was established. Also present at the meeting were: Michael Kanotz, PTBC Legal Counsel; Jason Kaiser, Executive Officer; Brooke Arneson, Board staff, and Trisha St. Clair, DCA SOLID Webcast Moderator.

Dr. Drummer read the Board's mission statement: To advance and protect the interests of the people of California by the effective administration of the Physical Therapy Practice Act.

#### **3. Public Comment on Items Not on the Agenda**

*Please note that 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 whether*

*to place the matter on the agenda of a future meeting. (Government Code sections 11125, 11125.7(a).)*

The Board requested public comment on items not on the agenda, and there was no public comment.

**4. Review and Approval of June 25, 2020 Meeting Minutes – Brooke Arneson**

Ms. Arneson presented the draft June 25, 2020, meeting minutes. Dr. Drummer asked that Mr. Kanotz's title of "DCA Legal Counsel", be edited to specify that he is the "Boards Legal Counsel." Dr. Drummer stated on page 25, that Ms. Kalis's name was misspelled.

**MOTION:** Adopt the proposed June 25, 2020, Meeting Minutes as amended.

**M/S:** Dominguez/McMillian

**VOTE:** Dominguez- Aye  
Drummer – Aye  
Eleby – Aye  
McMillian – Aye  
Rabena-Amen - Aye  
5-0 Motion carried

**5. President's Report**

**(A) 2020 Adopted Meeting Calendar**

Mr. Kaiser suggested keeping the proposed December 10-11, 2020, meeting on the calendar and at this time anticipated that it would be a WebEx format and if Board business mandated that it would not be a two-day meeting, the meeting would be held on December 10<sup>th</sup>.

Dr. Drummer added that the CPTA Conference would be held on October 3-4<sup>th</sup>, 2020 and that it would be a virtual event.

**(B) 2021 Proposed Meeting Calendar**

Mr. Kaiser stated that the 2021 proposed meeting calendar was provided for informational purposes and no adoption of the 2021 calendar was necessary at this time. Mr. Kaiser added that due to the pandemic, he proposed leaving the 2021 calendar dates as they are on the calendar and re-visiting them at the next meeting to make any changes.

Dr. Syms informed the Board that the CPTA Annual Conference for 2021 will be October 9-10, and it is still to be determined if it will be an in-person meeting or virtual event.

## **6. Executive Officer's Report**

### **(A) Administrative Services**

Mr. Kaiser reported that the Board is currently recruiting for a few vacancies; and with COVID, teleworking and staff redirected to contact tracing, having these vacancies filled is of the utmost importance. Mr. Kaiser stated that the Board is recruiting for a Probation Monitor within the Consumer Protection Unit; a Staff Services Analyst to be the Board Member's Liaison in the Administrative Services Unit; and an Office Technician in the Application Unit.

Mr. Kaiser updated the members that the Board's Assistant Executive Officer position has been filled by Ms. Elsa Ybarra and he extended his congratulations to her.

Mr. Kaiser also extended his congratulations to two staff members at the Board: Ms. Angel Otley in the Applications Unit was promoted to a Staff Services Analyst and Mr. Vincent Azar in the Enforcement Unit was promoted to an Associate Governmental Program Analyst.

### **(B) Board Member Appointments**

Mr. Kaiser reported that the Department would be using PTBC's Board Member Tracking Chart and providing it to other Boards and Bureau's and the Executive team as a template for tracking Board Member appointments and thanked staff for their hard work on the document.

### **(C) Strategic Plan**

Mr. Kaiser reported that staff have continued to work on the goals and objectives identified in the strategic plan and are making headway and progress despite the pandemic. Mr. Kaiser added that a new analyst at SOLID; Ms. Tricia St. Clair, was assigned to the Board to help with the action plan identified in the Strategic Plan.

### **(D) PTBC Relocation**

Mr. Kaiser reported that construction in the new suite is about 90% completed and due to the pandemic; California Prison Industry Authority

(CALPIA), responsible for providing the cubicle furniture in the new suite, are short staffed so the Board's projected move-in date has been delayed to the first or second week of November 2020 provided that there are no further holdups.

Dr. Drummer asked if there were any updates from the Speaker of the Assembly on new appointments to the Board. Mr. Kaiser responded that staff have had conversations with DCA and the Deputy Director of Board and Bureau Relations, Carrie Holmes, regarding the Board member vacancies and the Board has been assured that the vacancies are being worked on being filled; however, there are no projected timelines to provide to the Board at this time.

**7. Discussion Regarding Waivers Issued by the Director of the California Department of Consumer Affairs**

**(A) DCA Waiver DCA-20-01 Continuing Education**

**a. First Extension- DCA Waiver-20-27**

**b. Second Extension- DCA Waiver DCA-20-53**

**(B) DCA Waiver DCA-20-02 Reinstatement of Licensure**

**(C) DCA Waiver DCA-20-09- Examination Requirement for Continued Physical Therapy**

**a. First Extension- DCA Waiver-20-28**

**b. Second Extension- DCA Waiver DCA-20-46**

**(D) DCA Waiver DCA-20-25- Extending Time to Satisfy Examination Requirements**

Mr. Kaiser reported on the waivers and the extensions applicable to physical therapist and physical therapist assistant licensees that were granted during the state of emergency resulting from COVID-19.

Mr. Kaiser stated that the waiver most pertinent to the Board's licensing population was the renewal waivers and the continuing education waivers. Both waivers have received a first and second extension; which is currently in effect. Mr. Kaiser stated that if a licensee's license should expire during that length of time stated in the waiver, they are exempt from having to provide the continuing education requirement during the renewal period; however, after the order expires the licensee will be expected to fulfill their 30 hours requirement in the following 6 months. Mr. Kaiser added that the waiver for reinstatement of licensure affects licensees in retired license status.

Mr. Kaiser stated that for applicants, there is a waiver to extend examination requirements which will allow for an application to be extended for an additional 6 months; which could allow an applicant two more attempts at satisfying the examination requirements.

Dr. James Syms asked for licensees, whose license is soon to be expired, how do they check the continued education box in the renewal application. Mr. Kaiser responded that the waiver is an opportunity to provide an accommodation to our licensees during this time, and the question on the renewal application is asking the licensee if they are in compliance with the continuing competency regulation. Mr. Kaiser added that since the waivers are in effect during this time of renewal, a licensee can clearly mark yes, they are in compliance with the continuing competency regulation on the renewal form. Mr. Kaiser stated that a licensee is still expected to complete their continuing competency requirement within 6 months of the end of the waiver.

**8. Board Meeting Training – Changing Hats: Conflicts Between Professional Interests and Public Protection in Board Decision-Making – Rebecca Allensworth – As Provided by FSBPT**

Ms. Allensworth presented a prerecorded virtual training for members on Changing Hats: Conflicts between Professional Interests and Public Protection in Board Decision-Making.

**9. Consumer and Professional Associations and Intergovernmental Relations Reports**

**(A) Federation of State Boards of Physical Therapy (FSBPT)**

There was no representative on behalf of FSBPT. Mr. Kaiser stated that due to the pandemic, the Leadership Issues Forum was held virtually on July 22<sup>nd</sup> and the Board participated. Mr. Kaiser added that content that is usually provided during this meeting will be provided every two weeks until the FSBPT Delegate Assembly, which is scheduled for October 22-24<sup>th</sup>, 2020. Mr. Kaiser added that FSBPT provided numerous webinars over the past two weeks and they will be shared with the Board as Board Member Training. Mr. Kaiser stated that a report on the Delegate Assembly would be provided at the December 2020 meeting.

**(B) Department of Consumer Affairs (DCA) – Executive Office**

Ms. Carrie Holmes, Deputy Director for Board and Bureau Relations provided the Board with an update on behalf of DCA. Ms. Holmes reported that in July 2020 the DCA Budget Office and Office of Information Services launched four new budget expenditure and revenue reports utilizing FISCAL information which are very informative and easy to generate. Ms. Holmes added that DCA is working on three additional reports which will be available soon.

Ms. Holmes added that another DCA priority is improving the timeline and transparency for regulations and the DCA Regulations Unit was created to directly assist Boards and an online tracking system, Sharewell, is currently being tested to help provide timelines, and streamline the rulemaking process and review. Ms. Holmes stated that the testing cohort for Sharewell has been completed and DCA is currently working with the pilot group and soliciting feedback from them to help make the online system as useful as possible and soon a rollout schedule will be available.

Ms. Holmes stated that DCA has been busy issuing waivers for licensees during the pandemic and 56 waivers have been currently issued. Ms. Holmes added that DCA is looking at areas where changes can be made on an ongoing basis after the pandemic for efficiencies and welcomed any feedback from Boards.

Ms. Holmes reported that the Board's current Board member vacancies are on DCA's radar and DCA is doing all they can to help fill those vacancies. Ms. Holmes thanked Mr. Kaiser for his help with this issue. Ms. Holmes added that the applicant pool for public members can be small so if any Board members know of anyone that might be a great fit, please encourage them to put in an application. Ms. Holmes stated that DCA would be sending out a communications toolkit next week to help Boards spread the word about appointments on social media.

### **(C) California Physical Therapy Association (CPTA)**

Dr. James Syms represented the CPTA and provided an update to the Board. Dr. Syms stated that PTBC is invited to be an exhibitor at the virtual annual conference on October 3-4, 2020.

Dr. Syms reported that CPTA submitted in writing, an inquiry regarding the physical therapist removal of drains or iv's and asked if there was a status update on the Board's response to that inquiry. Mr. Kaiser responded that the Board received the inquiry and that the Board is almost done with their response as it has been necessary to work with DCA Legal Counsel assigned to the Board. Mr. Kaiser added that once the Board has the response formalized it will be sent to the Association hopefully within the next 30 days.

## **10. Legislation Report – Brooke Arneson**

### **(A) 2019/20 Legislative Session Summary**

Ms. Arneson presented the legislative report and provided the members with an update on how the COVID-19 pandemic has impacted the legislative calendar and stated that there was a 75% decrease in the number of bills that went to the Governor's Office for signature this year compared to last year. Ms. Arneson referred the members to the legislative summary in the meeting materials and discussed the current status and changes to each bill since the last Board meeting as follows:

- i. AB 888 (Low) Opioid Prescriptions: Information: Nonpharmacological Treatments for Pain

Ms. Arneson reported that AB 888 is dead as it did not pass out of the Senate by the deadline.

- ii. AB 1263 (Low) Contracts: Consumer Services: Consumer Complaints

Ms. Arneson reported that AB 1263 is dead as it did not pass out of the Senate by the deadline however the provisions outlined in this bill were amended into SB 1474 which extends the Boards Sunset year by one year and will be discussed later in the legislation report.

- iii. AB 1616 (Low) Department of Consumer Affairs: Boards: Expunged Convictions

Ms. Arneson reported that this bill is dead as it did not pass out of the Senate by the deadline.

- iv. AB 1665 (Bonta) Athletic Trainers

Ms. Arneson reported that AB 1665 is dead as it did not pass out of the Senate by the deadline and that a copy of the Board's opposition letter was included in the meeting materials.

- v. AB 1850 (Gonzalez) Worker Classification: Employees and Independent Contractors

Ms. Arneson reported that AB 1850 is dead as it did not pass out of the Senate by the deadline.

- vi. AB 2028 (Aguiar-Curry) State Agencies: Meetings

Ms. Arneson reported that AB 2028 is dead as it did not pass out of the Senate by the deadline.

- vii. AB 2113 (Low) Refugees, Asylees, and Immigrants: Professional Licensing

Ms. Arneson reported that AB 2113 was ordered to engrossing and enrolling on September 1<sup>st</sup> and the Governor has not yet acted on it.

- viii. AB 2410 (Cunningham) Athletic Trainers

Ms. Arneson reported that AB 2410 is dead as it did not pass out of the Senate by the deadline. Ms. Arneson added that a copy of the Board's Support Letter was included in the meeting materials.

- ix. AB 2549 (Salas) Department of Consumer Affairs: Temporary Licenses

Ms. Arneson reported that AB 2549 is dead as it did not pass out of the Senate by the deadline.

- x. AB 3045 (Gray) Department of Consumer Affairs: Boards: Veterans: Military Spouses: Licenses

Ms. Arneson reported that AB 3045 is dead as it did not pass out of the Senate by the deadline.

- xi. SB 878 (Jones) Department of Consumer Affairs Licensing: Applications: Wait Times

Ms. Arneson reported that SB 878 was ordered to engrossing and enrolling on September 10<sup>th</sup> and the Governor has not yet acted on the bill.

- xii. SB 1474 (BPED Committee) Business and Professions

Ms. Arneson reported that SB 1474 would extend the Board's Sunset date by one year and also was recently amended to include provisions from AB 1263 and this bill was enrolled and presented to the Governor however he has not yet acted on the bill.

Dr. Rabena-Amen asked how AB 2113 would impact Board staff should it pass. Mr. Kaiser responded and stated that given the volume of applications that the Board receives for foreign credentials applicants, the impacts of this bill would be minor and absorbable, and the Board would be able to assist the applicant with the clinical placement and site approval. Dr. Drummer asked does AB 2113 require the applicant to declare that they are a refugee or granted asylum and Mr. Kaiser responded that yes, the bill language does require that, however there may be changes that would need



to be made to the electronic BreEZe system to implement the provisions of this bill.

Dr. Rabena-Amen asked how SB 878 would impact Board staff should it pass. Mr. Kaiser responded that this bill has been on our radar for quite some time and it is something that the Board has talked about doing voluntarily. Mr. Kaiser added that a few weeks ago the Board started posting wait times on the Board's social media so that applicants can see the intake and licensure times. Mr. Kaiser added that the requirements of this bill are still vague, and the Board wants to be able to provide this information on the applicant's tab on the website and as staff become more familiar with BreEze and the data it provides, the data can be reported with reporting timeframes monthly and then update weekly.

Mr. Kaiser reported that with SB 1474 extending the Board's Sunset by one year, the Board will now expire January 1<sup>st</sup>, 2023, and the Board will not be going through Sunset this year, it will be next year. Mr. Kaiser stated that we anticipate receiving the Sunset report in June or July of 2021, then PTBC will form a panel and strategy and will come to the Board with recommendations of changes for Sunset next year.

Dr. James Syms from CPTA, stated that regarding AB 888; CPTA wanted to invite the Board to a virtual symposium on November 7, 2020 which will identify the PT's current research involvement in pain and how important it is for prescribers to discuss non pharmacological forms of intervention. Dr. Syms added that this bill is a step forward for health care to be more preventative to opioid addiction and address opioid use before it is a problem, and this was a high-profile crisis before the pandemic. Dr. Drummer asked how individuals can join that symposium and Dr. Syms responded that it is on CPTA's website.

## **11. Rulemaking Report – Brooke Arneson**

### **(A) 2019 Rulemaking Update**

Ms. Arneson presented an overview of the rulemaking report and referred the members to the rulemaking update in the meeting materials and discussed the current status of each rulemaking item.

#### **i. Examination Passing Standard/Setting Examination Score**

Ms. Arneson reported that in June 2019, PTBC staff forwarded the pre-review regulation documents (the Initial Statement of Reasons, Notice and Proposed Language) to DCA Legal for review. Ms. Arneson added that in mid-February 2020, DCA Legal provided Board staff with their suggested edits and Board

staff resubmitted the rulemaking package for initial phase review to DCA Legal in June 2020. Ms. Arneson stated that on July 20<sup>th</sup> PTBC withdrew the rulemaking package and documents due to lack of necessity. Mr. Kaiser added that staff had extensive conversations with DCA's Office of Professional Examination Services (OPES) and setting a pass point and putting it in regulation was not specified in statute and so OPES recommended avoiding putting the exam pass point in regulation. Mr. Kaiser added that the Board would provide the exam pass point on the Board's website as information readily available to applicants.

ii. Guidelines for Issuing Citations and Imposing Discipline, 6<sup>th</sup> Edition

Ms. Arneson reported that with the passage of AB 2138 (Chapter 995, Statutes of 2018) it was determined that the Disciplinary Guidelines needed to be amended further and modified proposed language was presented and adopted at the June 2019 meeting and in June 2019 PTBC staff forwarded the initial rulemaking package to DCA Legal for review. Ms. Arneson added that additional modifications to the Guidelines are necessary and will be discussed further under Agenda Item 11(C).

iii. Satisfactory Documentary Evidence of Equivalent Degree for Licensure as a Physical Therapist or Physical Therapist Assistant/Coursework Tool

Ms. Arneson reported that in November 2019, PTBC staff forwarded the pre-review regulation documents (Initial Statement of Reasons, Notice and Proposed Language) to DCA Legal for review. Ms. Arneson added that Board staff have worked with DCA Legal on suggested edits and in August 2020 the initial rulemaking package was submitted to DCA Legal for review.

iv. FSBPT's Performance Evaluation Tool for Foreign Educated Physical Therapists Completing a Supervised Clinical Practice in the United States

Ms. Arneson reported that in November 2019, PTBC staff forwarded the pre-review regulation documents (Initial Statement of Reasons, Notice and Proposed Language) to DCA Legal for review. Ms. Arneson added that Board staff worked with DCA Legal on suggested edits and in August 2020 the rulemaking package was submitted to DCA Legal for initial phase review.

v. Substantial Relationship Criteria

vi. Rehabilitation Criteria for Denial and Reinstatement of Licensure

vii. Rehabilitation Criteria for Suspensions and Revocations

Ms. Arneson reported that the rulemaking package was submitted to DCA Legal for review in October 2019 and on December 26<sup>th</sup> the initial rulemaking

package was submitted to Agency and in February 2020, Agency provided the Board with non-substantive edits. Ms. Arneson added that Board staff worked with DCA Legal to address these edits and resubmitted the package back to Agency for review and it was approved April 16, 2020. Ms. Arneson stated that the Notice was published by Office of Administrative Law (OAL) on June 26, 2020, and the 45-day public comment period ended on August 21, 2020 and the Board will review written comments received on this rulemaking package under Agenda Item 11(B) and discuss any modifications that may be necessary to the rulemaking package.

Ms. Arneson reported that all other items on the rulemaking tracking form are for potential rulemaking packages that will be presented to the Board for consideration in the upcoming year.

**(B) Discussion and Possible Board Action regarding the Substantial Relationship Criteria; Rehabilitation Criteria for Denial and Reinstatement of Licensure; and Rehabilitation Criteria for Suspensions and Revocations regulation – Clay Jackson**

Mr. Clay Jackson, the Boards assigned regulatory attorney reported on the suggested modifications necessary to the AB 2138 rulemaking package as deemed by both DCA and OAL. Mr. Jackson stated that in January 2019, DCA worked with the Attorney General's Office and others to form a template that all the Boards could use for the AB 2138 regulations.

Mr. Jackson stated that the first rulemaking package was submitted in November 2019 by the California Veterinary Medical Board (VMB), and when it went to OAL they requested numerous changes, therefore, the rulemaking package needed to be withdrawn and it also necessitated that the other DCA Boards make the same changes to their proposed rulemaking packages in order for them to be approved by OAL.

Mr. Jackson referred members to the text and presented the suggested edits by OAL in the meeting materials:

BPC 1399.20(2) adding "to be substantially" to address OAL's suggestion so that references to substantial relationship could be addressed together in one regulation.

BPC 1399.20(b)(2) striking "and" which was deemed by OAL as a nonsubstantive change.

Adding BPC 480 to the "Authority Cited."

BPC 1399.21(a), OAL believed that the term “eligible” was unclear and it could be viewed as referring to other eligibility requirements for licensure, rather than referring to fitness or suitability for licensure.

Dr. Drummer suggested that in 1399.21(a) the sentence needed an “and” or an “or not” following the suggested edit to make the sentence an appropriate sentence and link the sentence. Mr. Jackson stated that it would be a non-substantive change. Mr. Kanotz, Board’s legal counsel, added that he didn’t suggest adding the “and” to this subsection. Dr. Drummer suggested adding a comma to the section. Mr. Jackson stated the comma was in the original revision done last year. Mr. Kaiser added that it is a preference of style; and Dr. Drummer responded that the comma should be included in this subsection.

BPC 1399.21(b) OAL viewed the stricken text to be unclear in specifying the circumstances when the regulation would apply. OAL changed the text from a catch-all approach to where each application is specified. The cited sections are an exhaustive list of the sections that authorize the Board to deny a license.

BPC 1399.21(b)(1) “professional misconduct” was suggested to be added.

BPC 1399.21(b)(3) due to the addition of the practice act references in paragraph (b), OAL considered this change to be a necessary conforming change to account for the additional grounds for denial apart from Section 480.

BPC 1399.22(b) OAL viewed the stricken text to be unclear in specifying the circumstances when the regulation would apply. OAL changed the text from a catch-all approach to where each application is specified. The cited sections are an exhaustive list of the sections that authorize the Board to discipline a license.

BPC 1399.22(b)(1) “disciplinary actions” was suggested to be added.

BPC 1399.22(b)(5) strike “divisions” and replace with subsection.

Mr. Jackson reported that all edits that were suggested by OAL have been made to the Board’s proposed language.

**MOTION:** Approve the proposed regulatory text for Title 16, CCR sections 1399.20, 1399.21, and 1399.22, and direct staff to submit the text to the Director of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review, and, if no adverse comments are received, authorize the Executive

Officer to take all steps necessary to amend the preceding rulemaking package, initiate a revised rulemaking process, make any non-substantive technical or grammatical changes to the package, and set the matter for hearing.

**M/S:** Drummer/McMillian

**VOTE:** Dominguez- Aye  
Drummer – Aye  
Eleby – Aye  
McMillian – Aye  
Rabena-Amen - Aye  
5-0 Motion carried

**(C) Discussion and Possible Board Action regarding the Guidelines for Issuing Citations and Imposing Discipline, 6th Edition regulation – Clay Jackson**

Mr. Clay Jackson, the Boards assigned regulatory attorney reported on the suggested modifications necessary to the proposed Disciplinary Guidelines rulemaking package as deemed by both DCA. Mr. Jackson stated that in the most recent review, two sections were identified for modification and require consideration by the Board:

“Substance Abuse Rehabilitation Program”- Overview of Participant Requirements and Costs- Staff proposed to delete all reference to costs associated with the Substance Abuse Rehabilitation Program to avoid having amend CCR section 1399.15 each time the costs escalate. The costs are set by the contracted vendor of the program and not by the Board.

Mr. Jackson agreed with the proposal to delete all reference to costs associated with the Substance Abuse Rehabilitation Program. Mr. Kaiser added that these costs are better listed on the Board’s website that is tailored to an individual’s circumstances and updated frequently with costs as they change; therefore, the use of hyperlinks is more clear.

Dr. Drummer stated that he liked the hyperlinks directing people to the specific places to find the information they needed.

Dr. Drummer suggested under “Random Biological Testing” adding the word “costs” directly after the word “RBT.” The Board agreed

with this edit. Mr. Kaiser stated the edit would be made to the proposed language.

Dr. Drummer suggested striking “all charge different fees and” under the “Professional Support Group Meeting Fees.” The Board agreed with this edit. Mr. Kaiser stated the edit would be made to the proposed language.

“Probation Conditions Specific to Violation”- New section “BB.” Biological Fluid Testing- language was stricken in error. Staff proposed to restore it back to its original state.

Dr. Drummer suggested striking “associated with this condition” from the last sentence in the first paragraph of BB. Biological Testing. The Board agreed with this suggestion. Mr. Kaiser stated the edit would be made to the proposed language.

Dr. Drummer suggested striking “a minimum range of” in the second sentence under BB. Biological Testing. The Board agreed with this edit and Mr. Kaiser stated the edit would be made to the proposed language.

Dr. Drummer suggested striking “drug testing” from the third paragraph under BB. Biological Testing and replacing it with “biological testing” since that is the language that is used consistently. The Board agreed with this edit. Mr. Kaiser stated the edit would be made to the proposed language.

Dr. Drummer suggested replacing test “results” with test “sample” on the fifth paragraph under BB. Biological Testing. In addition, Dr. Drummer suggested, striking “urine screen” and replacing with “positive result.” The Board agreed with this edit. In addition, the Board agreed with making this paragraph a new paragraph to break it up for clarity. Mr. Kaiser stated the edit would be made to the proposed language.

**MOTION:** Approve the proposed regulatory text with edits for Title 16, CCR section 1399.15, and direct staff to submit the text to the Director of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review, and, if no adverse comments are received, authorize the Executive Officer to take all steps necessary to amend the preceding rulemaking package, initiate a revised rulemaking process, make

any nonsubstantive technical or grammatical changes to the package, and set the matter for hearing if requested.

**M/S:** Drummer/McMillian

**VOTE:** Dominguez- Aye  
Drummer – Aye  
Eleby – Aye  
McMillian – Aye  
Rabena-Amen - Aye  
5-0 Motion carried

## **12. Administrative Services Quarterly Update**

### **(A) Budget Report**

Mr. Kaiser reported that recently the Board has new reports generated from FI\$Cal; the State's new accounting system that will help reconcile the Board's budget; however, there is a large learning curve in transitioning from previous reports to the FI\$Cal reports and he thanked staff for their hard work. Mr. Kaiser added that the Board is very aware of the bottom line and is receiving expected revenues despite the pandemic.

Mr. Kaiser reported that the Board is also very cognizant of its spending during this time especially with the Board's move and there were some added expenditures for the move upstairs; however, due to planning, the Board was able to manage those increased costs and put money back into the fund. Mr. Kaiser added that budget savings came from caps on line item spending; position vacancies and being hyper vigilant of the Board's spending.

Dr. Rabena-Amen asked what the Board's budget for temp help is. Mr. Kaiser responded that the Board does not have a line item for temp help. Dr. Rabena-Amen asked if the Board anticipated any new line items in the budget report and Mr. Kaiser responded that staff are always looking at that option and would need to collect 3 years of data before recommending to the budget office to have a line item amended or added.

Mr. Kaiser stated that the budget report display will change in the future because of the new reports the Board is receiving from FI\$Cal; however, staff would try to keep the formatting as consistent as possible. Mr. Kaiser added that over time adjustments have been made to line items to show a better depiction of the Board's spending.

Dr. Drummer asked if the Board is responsible for the salary of the employee who has been delegated to contact tracing due to the pandemic. Mr. Kaiser responded that yes, the Board is fiscally responsible for the salary of the position redirected for contact tracing and the Board is fortunate that only one position has had to be redirected at this time and in the future an executive order may demand additional positions.

**(B) Outreach Report**

Mr. Kaiser reported that website traffic has decreased on the Board's homepage; however, it is to be expected due to the efficient delivery of information by other tools, such as social media and listserv which disseminates information to our stakeholders.

Mr. Kaiser reported that due to the pandemic, the Board has had to cancel in-person presentations to educational programs; however, the Board has been utilizing electronic means and recently provided virtual presentations to Gurnick Academy; California State University, Sacramento; University of Pacific and is anticipating presenting at the upcoming CPTA convention.

Mr. Kaiser added that the Listserv system was recently updated, and it now allows for additional reports that the Board will be able to utilize as we learn how to use the new features of the software. Dr. Drummer asked how many current emails Listserv contains, and Mr. Kaiser responded that the Board has just under 30,000 emails in Listserv which includes both license types.

Dr. James Syms asked if there were any reports of emails being dropped in the Listserv system. Mr. Kaiser responded the Board is not aware of dropped emails occurring; however there have been situations where an interested party has thought they had their email address on file with the Board and in researching that email; staff have found that it was never officially submitted with the Board or it was entered incorrectly and never verified. Dr. Syms asked if a licensee renews their license through BreEZe does that automatically put their email on the Listserv list. Mr. Kaiser responded that the email address used to create a BreEZe account is separate from PTBC's Listserv.

**13. Application Services Quarterly Update**

(A) Program Statistics

(B) Statistical Reports

Dr. Rabena-Amen asked why the percentages in the tables do not add up and Mr. Kaiser responded that they will not add up as they are percentage categories.



Dr. Drummer asked if foreign applicants are included in Out of State and Mr. Kaiser responded yes.

Mr. Kaiser stated that there has been a significant decrease in the receipt of applications in the last quarter as a result of the pandemic which is due to the delay of graduation dates and delay of clinical placements. Mr. Kaiser added that this should be remedied in the next quarter as these issues are resolved.

Dr. Rabena-Amen questioned what non-accredited PT programs are; and Mr. Kaiser responded that they are foreign programs and any program that is not CAPTE or PACE accredited.

Dr. James Syms stated that some of the labels were missing in the tables and Mr. Kaiser responded that it is usually caused by the ADA conversion issue between the original PDF and ADA compliant version of the PDF and that the tables would be edited and updated on the Board's website.

**14. Licensing Services Quarterly Update**

- (A) Program Statistics
- (B) Statistical Reports

Dr. Drummer stated that the pie charts are very interesting and informative and added that he was surprised that California adjacent states (Oregon, Arizona, Nevada) make such a small percentage of the out of state locations for California licensees. Dr. Rabena-Amen added that she was also surprised to see that 11% of Out of Country licensees are from Japan. Mr. Kaiser added that the information displayed is based on the address of record and not their residential address.

**15. Continuing Competency Services Quarterly Update**

- (A) Program Statistics
- (B) Statistical Reports

Mr. Kaiser reported that due to the pandemic, the Board has had to redirect continuing competency resources to Application Services to help with the operational need, therefore no licensee audit data is being reported at this meeting.

**16. Consumer Protection Services Quarterly Update**

- (A) Program Statistics
- (B) Statistical Reports

Mr. Kaiser reported that the Consumer Protection Services report has remained static when comparing previous year to current year except for a few items regarding performance measures, which are affected by the pandemic in 3<sup>rd</sup> and 4<sup>th</sup> quarter. Mr. Kaiser stated that some of the cases, such as petitions, have been delayed since they could not be heard by the Board and had to be redirected to the Office of Administrative Hearings. Mr. Kaiser added that there have also been delays due to the pandemic with the Division of Investigations and Attorney General's Office as well.

**17. Probation Monitoring Services Quarterly Update**

- (A) Program Updates
- (B) Statistical Reports

Mr. Kaiser reported that the reports show the Board's probation numbers as static from year to year and as probationers exit probation, there is a steady stream of attrition and succession with the number of probationers in the high 80's to low 90's. Mr. Kaiser added that the Board will be recruiting soon for a second probation monitor, which will be a huge benefit. Mr. Kaiser stated that due to the pandemic the Board has relied on electronic means of communication with probationers such as zoom calls etc.

**18. Public Comment on Items Not on the Agenda**

*Please note that 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 whether to place the matter on the agenda of a future meeting. [Government Code sections 11125, 11125.7(a).]*

Dr. James Syms stated that the FSBPT Changing Hats training that was provided during this meeting is available on FSBPT's website as well.

Dr. James Syms asked how to get the continuing education credit for participating at the WebEx Board meeting. Mr. Kaiser responded to please request a card electronically through [pt@ptbc.ca.gov](mailto:pt@ptbc.ca.gov) and participants will receive credit for attending the Board meeting via WebEx.

Dr. James Syms thanked the Board for their hard work and dedication.

**19. Agenda Items for Future Meeting –**

December 10-11, 2020  
Department of Consumer Affairs  
2005 Evergreen Street, Hearing Room  
Sacramento, CA 95815

Dr. Drummer received a request from a licensee for a Board opinion on whether PT's are permitted to deliver or manage oxygen titration under a physician's orders since oxygen is considered a drug and PT's are not allowed to deliver medications. Mr. Kaiser responded that the Board is familiar with this request and a response to this request will be provided shortly.

Mr. Kaiser added that a public comment was made earlier in the meeting by Dr. Michael Infantino to have dry needling considered for a future board meeting.

**20. Closed Session**

- (A) Pursuant to Government Code section 11126(c)(3), the Board will Convene to Deliberate on Disciplinary Actions and Decisions to be Reached in Administrative Procedure Act Proceedings.
- (B) Pursuant to Government Code section 11126(a)(1), the Board will Convene to Consider the Evaluation of Performance of the Executive Officer
- (C) Pursuant to Government Code section 11126(e)(1) and (2)(A), the Board will convene to confer with, or receive legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the state body in the litigation.

The Board entered closed session at 3:09 p.m. and reconvened into open session to adjourn at 4:04 p.m. on September 17, 2020.

**21. Reconvene Open Session**

The Board reconvened from closed session into open session to adjourn at 4:04 p.m. on September 17, 2020.

**22. Adjournment**

The meeting adjourned at 4:04 p.m. on September 17, 2020.