



Board Members

President

Alicia Rabena-Amen, PT, DPT

Vice-President

Katarina Eleby, M.A.

Members

Dayle C. Armstrong, Ph.D., P.T., MS, DPT

Jesus Dominguez, PT, PhD

Daniel Drummer, PT, DPT

Johnathon Ervin

Tonia McMillian

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

September 16, 2021 9:00 a.m.

Department of Consumer Affairs
Public WebEx and Teleconference
Platform

Board Staff

Jason Kaiser, Executive Officer

Elsa Ybarra, Assistant Executive Officer

Sarah Conley, Manager

Liz Constancio, 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 16, 2021

1. Call to Order

The Physical Therapy Board of California (Board) meeting was called to order by President Dr. Rabena-Amen at 9:08 a.m. and adjourned at 4:10 p.m. on September 16, 2021.

2. Roll Call and Establishment of Quorum

Armstrong - Present
Dominguez- Present
Drummer - Absent
Eleby - Present
Ervin - Present
McMillian - Present
Rabena-Amen - Present

All members were present with the exception of Dr. Drummer, and a quorum was established. Also present at the meeting were: Michael Kanotz, PTBC Legal Counsel; Jason Kaiser, Executive Officer; Elsa Ybarra, Assistant Executive Officer; Brooke Arneson, Board staff, and David Bouilly, and Trisha St. Clair, DCA SOLID Webcast Moderators.

3. Reading of the Board's Mission Statement

Dr. Dominguez 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.

4. 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.

5. Review and Approval of June 24, 2021, Meeting Minutes – Brooke Arneson

Ms. Arneson presented the draft June 24, 2021, meeting minutes.

Dr. Armstrong requested that on page 14 under Agenda Item 7(A) Administrative Services, an amendment be made to read "Ms. Pearl Her." Dr. Rabena-Amen requested that on page 15 a sentence be added to refer the members to the appropriate agenda item.

MOTION: Adopt the proposed June 24, 2021, Meeting Minutes as amended.

M/S: Rabena-Amen/Armstrong

VOTE: Armstrong - Aye
Dominguez- Aye
Drummer - Absent
Eleby - Aye
Ervin - Aye
McMillian - Aye
Rabena-Amen – Aye
6-0 Motion Carried

6. President's Report –Alicia Rabena-Amen
(A) 2021 Adopted Meeting Calendar

Mr. Kaiser reported that PTBC received the 2022 Sunset Review Report (Sunset Report) template from the Legislature and stated that two additional meetings would need to be added to the 2021 calendar in October and November to finalize and work on the Sunset Report so the report could be adopted at the December 2021 Board meeting. Mr. Kaiser stated that Sunset Report was due to the Legislature on January 5, 2022. Mr. Kaiser suggested scheduling a meeting the third week of October and the third week of November and asked members for their availability. After discussion amongst the members, a meeting on October 15, 2021, and on November 4, 2021, was added to the 2021 meeting calendar to address the Sunset Report.

MOTION: Add two meeting dates to the 2021 Meeting Calendar: October 15, 2021, and November 4, 2021.

M/S: Rabena-Amen/Dominguez

VOTE: Armstrong - Aye
Dominguez- Aye
Drummer - Absent
Eleby - Aye
Ervin - Aye
McMillian - Aye
Rabena-Amen – Aye
6-0 Motion Carried

Mr. Kaiser recommended leaving the December 9-10, 2021, meeting date on the calendar as a two-day meeting so that the Sunset Report could be finalized and adopted at the meeting.

(B) 2022 Proposed Meeting Calendar

Mr. Kaiser reported that a Sunset Review hearing date could be expected in late

March or during April 2022, and that the hearing date will be added to the 2022 proposed meeting calendar once confirmed.

7. **Executive Officer's Report** – *Jason Kaiser*
 - (A) Administrative Services
 - i. Staffing

Mr. Kaiser welcomed Monet Dyson as a member of the applications and licensing team and reported that she will be handling intake of applications for initial licensure and provide additional support to applications and licensing staff.

Mr. Kaiser reported that the PTBC is currently recruiting for (1) Limited Term Full Time Staff Services Analyst (SSA) and (1) Limited Term Full Time Office Technician (OT) within the Application Services Unit, as well as (1) Limited Term Full Time Analyst (SSA/AGPA) to serve as the Board regulations analyst and (1) Staff Services Manager I to serve as the manager over the Consumer Protection Services Unit.

Mr. Kaiser provided an update on the State Employees COVID-19 Testing. He stated that on July 26, 2021, Governor Gavin Newsom implemented measures to encourage state employees and health care workers to get vaccinated. Mr. Kaiser added that CalHR is implementing COVID19 testing of all unvaccinated state employees working on site as an additional health and safety standard to protect the state workforce and the public we serve, and to ensure that employees critical to the continuity of state operations will be able to perform their duties. Those employees who have not provided vaccination verification to CalHR will be required to test for COVID-19 weekly. The CalHR rules for COVID-19 vaccination verification and testing apply to Board and Committee/Advisory Committee members if they physically report to a DCA office and/or attend meetings in-person.

Dr. Dominguez asked how members provide vaccination status to DCA. Mr. Kaiser stated that the Board members would be working with the Board liaison and would receive an email that will direct members to a portal where members can upload their proof of vaccination for COVID. He added that for those members who do not have proof of vaccination they would be required to be tested before being allowed to attend a Board meeting.

(B) Applications

Mr. Kaiser referred members to Agenda Item 14 for a detailed Applications report.

(C) Licensing/Continuing Competency

Mr. Kaiser referred members to Agenda Item 14 and 15 for a detailed Licensing/Continuing Competency report.

(D) Consumer Protection Services

Mr. Kaiser referred members to Agenda Item 16 for a detailed Consumer Protection Services report.

(E) Outreach

Mr. Kaiser referred members to Agenda Item 13(B) for a detailed Outreach report.

(F) PTBC Relocation

Mr. Kaiser reported that PTBC's move is about 99% complete; however, some minor logistical items that were reported at the last meeting have yet to be completed. Mr. Kaiser stated that PTBC is still waiting on equipment to implement the new phone system and that COVID-19 has certainly been a factor in the delays that PTBC is experiencing. Mr. Kaiser added that he is hopeful that he will be able to provide a final report (100%) on our relocation at the December meeting.

8. Division of Investigation Updates and Processes

Ms. Emily Kendrick, Northern Area Commander and Laura Sweet, Specialist, provided members with an overview and update of the Division of Investigation processes.

9. 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 DCA-20-27
- b. Second Extension DCA Waiver DCA-20-53
- c. Third Extension DCA Waiver DCA-20-69
- d. Fourth Extension DCA Waiver DCA-20-89
- e. Fifth Extension DCA Waiver DCA-21-117
- f. Sixth Extension DCA Waiver DCA-21-134
- g. Seventh Extension DCA Waiver DCA-21-152
- h. Eighth Extension DCA Waiver DCA-21-175

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

- a. First Extension DCA Waiver DCA-20-57

- b. Second Extension DCA Waiver DCA-20-187
- (C) DCA Waiver DCA-20-09 Examination Requirement for Continued Physical Therapy Treatment
 - a. First Extension DCA Waiver DCA-20-28
 - b. Second Extension DCA Waiver DCA-20-46
 - c. Third Extension DCA Waiver DCA-20-75
 - d. Fourth Extension DCA Waiver DCA-20-95
 - e. Fifth Extension DCA Waiver DCA-21-122
 - f. Sixth Extension DCA Waiver DCA-21-148
 - g. Seventh Extension DCA Waiver DCA-21-169
 - h. Eighth Extension DCA Waiver DCA-21-189
- (D) DCA Waiver DCA-20-25 Extending Time to Satisfy Examination Requirements
 - a. First Extension DCA Waiver DCA-20-66
 - b. Second Extension DCA Waiver DCA-20-78
 - c. Third Extension DCA Waiver DCA-21-107
 - d. Fourth Extension DCA Waiver DCA-21-131
 - e. Fifth Extension DCA Waiver DCA-21-155
 - f. Sixth Extension DCA Waiver DCA-21-177

Mr. Kaiser reported that there have been a number of extensions on the waivers issued by the Director of DCA since their implementation.

Mr. Kaiser stated that DCA waiver DCA-21-175 is the eighth extension and specifies that if your license expires or has expired between March 31, 2020 through September 30, 2021, your continuing competency proof will now be due by January 31, 2022.

Mr. Kaiser reported that the examination requirement for continued physical therapy treatment is a result of AB 1000, Temporary Direct Access. He added that the law states you can see a physical therapist without the involvement of a physician or a diagnosis for 12 visits or 45 days; whichever comes first. However, after you get to the point to continue treatment, the patient would be required to do an in-person examination with their physician and have their physician sign off on the plan of care for the physical therapist to continue to provide services. Mr. Kaiser added that the statute states that the examination must be an in-person examination, and through the Director's waiver, PTBC waived the in-person portion to utilize telemedicine due to the pandemic and providing better access to care. Mr. Kaiser stated that this waiver has been extended eight times and this waiver expires October 31, 2021, however PTBC is working with DCA and the Director and it could be extended further, given the opportunity. Mr. Kaiser added that the Board

may want to consider addressing this issue further in the Sunset Review process and amend the statute regarding the in-person examination and making it a permanent circumstance, especially with the idea of telehealth and the ability for practitioners to utilize telemedicine. Mr. Kaiser stated that the PTBC has not seen any issues or negative ramifications from this waiver.

10. 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.

Dr. Dominguez stated that all FSBPT meetings this year have been held virtually and the Delegate Assembly will be held virtually and is scheduled on October 23, 2021. He added that the FSBPT meetings for 2022 will hopefully be held in-person and the Annual Meeting and Delegate Assembly is scheduled to be in Orange County, CA on October 27-29, 2022.

Dr. Dominguez reported that the FSBPT Board Member and Administrative Training is scheduled May 20-22, 2022, in-person and the Leadership Issues Forum is scheduled to be held in-person in Alexandria Virginia.

Mr. Kaiser reported that PTBC is preparing for the Delegate Assembly coming up in October 21-23, 2022, and Dr. Armstrong and Mr. Ervin will be attending on behalf of the Board.

Mr. Kaiser stated that there was a 3-day regulatory training course held in August 2021 and Dr. Armstrong attended. Mr. Kaiser stated he was working with FSBPT to try and have all members take this training as it is very beneficial to members in their role on the Board. Mr. Kaiser added that they will be holding these trainings virtually and in-person in 2022.

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

Ms. Brianna Miller with Board and Bureau Relations provided the Board with an update on behalf of DCA. Ms. Miller reported that DCA is receiving many questions about when and how boards will meet again in person and whether they can continue to meet remotely. She added that as the law and Executive Orders stand today, after September 30th all boards and committees will be required to return to in-person meetings with publicly noticed meeting locations. However, due to ongoing changes in the

pandemic, there is legislation pending that would extend the ability to meet remotely until January 31, 2022. Ms. Miller stated that DCA is doing all they can to assist boards and bureaus to plan safely for in-person meetings and will keep PTBC informed of any changes to meeting requirements.

Ms. Miller reported that to combat the spread of COVID-19, and protect vulnerable communities, California is implementing enhanced safety measure for state employees and workers in healthcare settings. She added that state employees must show proof of vaccination or will be subject to regular COVID-19 testing and will be required to wear appropriate PPE. Ms. Miller stated that board and committee members are considered state employees and must follow health and safety protocols if they plan to visit a DCA location or attend an in-person meeting. She added that members must verify vaccination or follow face covering and testing protocols in accordance with that location's requirements. Ms. Miller reported that DCA's testing program is expected to roll out later this month and members will receive details and instructions when available.

Ms. Miller reported that as it pertains to health care settings to further protect Californians and health care workers, the California Department of Public Health (CDPH) recently issued two public health orders. The first, requires workers in health care settings to be fully vaccinated or receive their second dose by September 30th. The second public health order directs hospitals skilled nursing facilities and intermediate care facilities to verify that visitors are fully vaccinated or have tested negative for COVID-19 in the prior 72 hours before indoor visits. Ms. Miller reminded licensees to thoroughly read the CDPH public health orders and regularly check their local public health department's website for additional vaccination requirements. She added that questions from licensees about the health care worker requirements can be directed to the CDPH.

Ms. Miller stated that statewide guidance for the use of face coverings from the CDPH remains in place unless a local health jurisdiction issues a stricter health ordinance tailored for the situation in their communities. She added that many counties have revised health orders requiring face masks to be worn both vaccinated and unvaccinated individuals while indoors and DCA encourages all members and the public to visit DCA's COVID-19 website for updates and resources on the state's reopening plan, public health guidance, vaccination resources, vaccine distribution and more.

Ms. Miller provided an update on required board member trainings and the DCA's Learning Management System (LMS). She reminded members that 2021 is a mandatory sexual harassment prevention training year which

means all employees and Board members are required to take the training this year. She added that to access this training, members will use the LMS, which is DCA's training portal. Ms. Miller stated that profiles have been created for each member in the LMS and PTBC's Executive Officer has been notified of the step's members will need to take to login and access the training. She added that Board and Bureau Relations is happy to assist members with any questions or concerns members may have with using the LMS and ultimately, the LMS will be used to house member training records and may also be used to sign up for other mandatory trainings.

Ms. Miller added that board members can now register for the Board Member Orientation training via the LMS, and newly appointed and reappointed board members are required to attend the Board Member Orientation training within a year of appointment or reappointment. Ms. Miller reported that the final training of 2021 will be held via WebEx on October 13th and if any members wish to join, even as a refresher, DCA is happy to assist with registering for the training.

(C) California Physical Therapy Association (CPTA)

Ms. Tameka Island, Executive of Professional Affairs for the California Physical Therapy Association, presented on behalf of CPTA.

Ms. Island reported that CPTA will be hosting its hopefully final virtual Annual Conference this year on October 9-10, 2021, and that the early bird registration will end Monday, September 20, 2021, after which prices will increase by \$50.

Ms. Island reported that CPTA's 2022 Annual Conference is projected to be held in Anaheim, CA on September 24-25, 2022, and that CPTA and American Physical Therapy Association (APTA) are celebrating APTA's 100 years of service and on January 1, 2022, the CPTA will have a float in the Rose Parade.

Ms. Island thanked the Board and PTBC's Executive Officer and staff for its open door policy in regards to all communications with CPTA and stated that they have appreciated the ability to reach out with questions related to the public health emergency, public health orders and the exchange of information with the Board to provide valuable information to licensees and

students which has been especially helpful over the past couple of years and it is much appreciated.

11. Legislation Report

(A) 2021/22 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. 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 105 (Holden) The Upward Mobility Act of 2021: Boards and Commissions: Civil Service: Examinations: Classifications

Ms. Arneson reported that AB 105 was recently amended in the Senate on August 31, 2021, and stated that the recent amendments expanded the bill's targeted group to include disabled populations and veterans' forces. She added that the assembly concurred with the Senate's amendments on September 8th with 58 ayes and 12 noes and on September 9th the bill went to engrossing and enrolling.

- ii. AB 107 (Salas) Licensure: Veterans and Military Spouses

Ms. Arneson reported that AB 107 was recently amended in the Senate on September 2, 2021, and stated that the recent amendments included requiring a board to revoke a temporary license if the board finds that the temporary license holder engaged in unprofessional conduct and also they clarified the time frame for the issuance of temporary license for the Board of Professional Engineers Land Surveyors and Geologists and included additional coauthors.

Ms. Arneson stated that PTBC does have an exemption to this bill since the PTBC already has a process in place for an expedited license according to the provisions of the bill. She added that the assembly concurred with the Senate's amendments on September 9th with 77 ayes and 0 noes and the bill went to engrossing and enrolling.

- iii. AB 225 (Gray, Gallagher, & Patterson) DCA: Boards: Veterans: Military Spouses: Licenses

Ms. Arneson reported that AB 225 failed the deadline on July 14, 2021, and became a 2-year bill which could be acted upon in January 2022.

iv. AB 305 (Maienschein) Veteran Services: Notice

Ms. Arneson reported that AB 305 was ordered to inactive on September 1, 2021, at the request of Senator Eggman which means the bill is essentially dead for this session.

v. AB 339 (Lee & Christina Garcia) Local Government: Open and Public Meetings

Ms. Arneson reported that AB 339 was amended on September 3, 2021, and the most recent amendments removed a cross reference to the United States Code and instead required local agencies to conduct meetings to consistent with any applicable language access and other non-discrimination obligations. She added that the amendment prior to this on August 25, 2021, addressed chaptering issues. Ms. Arneson stated that the Senate amendments were both concurred on September 9, 2021, with 25 ayes and 8 noes and it went to engrossing and enrolling.

vi. AB 657 (Cooper) State Civil Service System: Personal Services Contracts: Professionals

Ms. Arneson reported that AB 657 failed the deadline on July 14, 2021, and became a 2-year bill which could be acted upon in January 2022.

Dr. Rabena-Amen asked how this bill would affect the PTBC and Mr. Kaiser responded that it would affect the way PTBC hires our expert consultants. Mr. Kaiser added would it have a detrimental effect or a negative effect is hard to say with the way the language is written at this time and while it applies to expert consultants it is also applicable to essentially any contract the Board enters into which could include reports that PTBC requires for an 820 compel when PTBC hires a physician, surgeon, psychologist, or psychiatrist to provide a report on one of our licensees. Mr. Kaiser stated this bill is mostly enforcement related, however it could affect any contract work the PTBC would utilize outside of the normal employment relationships.

- vii. AB 1273 (Rodriguez) Interagency Advisory Committee on Apprenticeship: The Director of Consumer Affairs and the State Public Health Officer

Ms. Arneson reported that this bill was amended on September 1, 2021, and those amendments clarified that the bill does not require DCA or the State Department of Public Health to establish a mandate that an accrediting entity must provide earn and learn programs; addressed chaptering issues and specified that the provisions become operative on January 1, 2024. She added that the Senate's amendments were concurred with on September 10, 2021, with 72 ayes and 0 noes and it went to engrossing and enrolling.

- viii. SB 250 (Pan) Health Care Coverage

Ms. Arneson reported that AB 657 failed the deadline on July 14, 2021, and became a 2-year bill which could be acted upon in January 2022.

- ix. SB 607 (Roth) Professions and Vocations

Ms. Arneson reported that SB 607 is the Senate's omnibus bill and was recently amended and those amendments extended the sunset dates by one year for eight boards, bureaus, and councils. It also deleted the requirement for certain post-secondary education students attending BPPE approved schools to take an ability to benefit test prior to enrollment and added chaptering language to address conflicts with another bill, AB 471. She added that these amendments were concurred with 35 ayes and 0 noes and it went to engrossing and enrolling.

- x. SB 731 (Durazo and Bradford) Criminal Records: Relief

Ms. Arneson reported that this bill as read a third time on September 2, 2021, however on September 10, 2021, it was refused passage and did not make it out of the Assembly so that bill is essentially dead.

- xi. Discussion and Possible Board Action on AB 361 (Rivas) Open Meetings: State and Local Agencies: Teleconferences

Ms. Arneson reported that this bill was recently amended, and this bill would allow the Board and local agencies to use teleconferencing without complying with certain provisions in the Bagley-Keene Open Meetings Act until January 1, 2022. Ms. Arneson added that this includes the requirement that each teleconference location be accessible to the public and that members of the public be able to address the legislative body at each teleconference location. Ms. Arneson stated that there were some additional amendments that were done in the bill recently regarding the Brown Act, and an amendment was done to add an urgency clause and it also addressed some chaptering issues that coincided with AB 339.

Ms. Arneson pointed out that many of the executive orders that Governor Newsom issued to grant Boards flexibility to meet remotely during the pandemic will be expiring soon, meaning that these flexibilities will not apply to future emergencies and other events when meeting in person could be dangerous. Ms. Arneson added that this bill would guarantee that local and state bodies would be able to temporarily hold meetings remotely and require the opportunity for the public to join via telephone or video conferencing to ensure that all members of the public can participate safely.

Ms. Arneson stated that PTBC staff are recommending a support position on AB 361.

Mr. Kaiser added that as PTBC looks at the remaining 2021 calendar and PTBC's ability to meet for purposes of the Board's Sunset Review, the intent is to try to get back to in-person meetings. Utilizing technology and leveraging WebEx and other online platforms is something PTBC should do and exercise discretion in doing it. Mr. Kaiser added that the author speaks to that in this bill and it is a reason why the bill has an expiration date of January 31, 2022, meaning that once this pandemic comes to an end it is the intent and the will of the Legislature that PTBC gets back out into the community and meet with stakeholders in person. Mr. Kaiser stated it is important to travel and still utilize WebEx style platforms to double the PTBC's exposure. He added that the PTBC has a mandate to travel to Southern and Northern California once per year and he recommended PTBC still do that; however, it would also be nice that while PTBC holds Board meetings that are in Southern California that folks from Northern California could participate via a WebEx style platform.

MOTION: To adopt a position of support for AB 361 and authorize the Executive Officer to draft a letter of support to be submitted to the bill's author, the chair of the Assembly Business and Professions Committee and the Governor should the bill in its current status be enrolled.

M/S: Dominguez/McMillian

VOTE: Armstrong - Aye
Dominguez- Aye
Drummer - Absent
Eleby - Aye
Ervin - Aye
McMillian - Aye
Rabena-Amen – Aye
6-0 Motion Carried

12. Rulemaking Report

(A) 2021 Rulemaking Update for Pending or Proposed Regulations (Title 16, California Code of Regulations (16 CCR)):

- i. Proposed Amendments to 16 CCR section 1399.15 –“Guidelines for Issuing Citations and Imposing Discipline,” 6th Edition

Ms. Arneson reported that the Disciplinary Guidelines were approved by Agency on June 30, 2021, and the Notice was filed with the Office of Administrative Law (OAL) on July 2, 2021. She added that the 45-day public comment period commenced on August 31, 2021, and there were no public comments received and no public hearing was requested so PTBC is currently working on the final rulemaking package which will be submitted to DCA Legal for their review shortly.

- ii. Proposed Amendments to 16 CCR section 1398.26.1 -- Satisfactory Documentary Evidence of Equivalent Degree for Licensure as a Physical Therapist or Physical Therapist Assistant/Coursework Tool

Ms. Arneson reported that PTBC staff are still working on putting together the initial phase review rulemaking package and that will be forwarded to DCA Legal soon for their initial phase review.

Dr. Rabena-Amen asked for clarification on where PTBC is in the rulemaking process and what needs to happen for it to go forward. Ms. Arneson responded that the initial phase review includes doing the initial statement of reasons; proposed language; Notice; and any including any documents incorporated by reference and then will need to go to DCA's Executive Unit and DCA Legal. She added that Agency now also requires additional review and this rulemaking package is in its initial stage review and is about about four steps along in the rulemaking process and has quite a bit of ways to go. Ms. Arneson stated that the rulemaking report does not show the amount of back and forth that goes on between PTBC staff and DCA Legal.

Mr. Kaiser added that two significant regulation packages have been PTBC's focus and once those two packages that are a lot further along in the process are completed, these additional rulemaking packages will move along much more quickly.

Dr. Rabena/Amen expressed concern about the rulemaking timelines and asked how long the Board should expect for regulations to go through. Mr. Kaiser stated that the dates are misleading and its not just the addition of the regulatory unit, but there was a reprieve of an authority we used to have when it came to approval on regulations where Agency did not require additional review however, that did create issues and now Agency is requiring approval before the language can be noticed. Mr. Kaiser stated that historically speaking regulations took one year usually to move along however that isn't occurring now with our current regulations.

Dr. Rabena-Amen asked that DCA's Regulatory Unit at the upcoming Board meeting, give the Board a presentation on their services and regulation timelines so the Board has realistic expectations with PTBC's regulatory packages and is further educated on the process and timeframes. Members agreed with Dr. Rabena-Amen request for a presentation of services from DCA's Regulatory Unit and Mr. Kaiser stated that he would work with DCA on facilitating that request at the next meeting.

- iii. Proposed Amendments to 16 CCR sections 1398.21, 1398.21.1, 1398.22, 1398.23, 1398.24, 1398.25, 1398.26.5, 1398.27, 1398.28, 1398.47, 1399.10, 1399.12 -- Clinical Service Requirements for Foreign Educated Applicants Completing a Supervised Clinical Practice in the United States

Ms. Arneson reported that PTBC staff are still working on putting together the initial phase review rulemaking package and that will be forwarded to DCA Legal soon for their initial phase review.

- iv. Proposed Amendments to 16 CCR 1399.20-1399.22 -- (AB 2138 implementation) Substantial Relationship Criteria; Rehabilitation Criteria for Denial and Reinstatement of Licensure; and Rehabilitation Criteria for Suspensions and Revocations

Ms. Arneson reported that this rulemaking package is very close to being approved by OAL. She added that the final rulemaking package was submitted to OAL for approval on June 29, 2021, and OAL has until December 9th to approve or deny the package. Ms. Arneson stated that currently PTBC staff are waiting on approval of the 399 Fiscal Impact Statement from the Department of Finance and once OAL has that the regulation will be officially amended. Ms. Arneson added that PTBC asked for a justification to OAL for it to become effective upon filing with the Secretary of State instead of having to wait until the normal processing timeline of January 1, 2022.

- v. Update Regarding the Development of a Possible Retired License Status Regulation and Fee

Ms. Arneson stated that under Agenda Item 12(C) the Board would be looking at proposed language for their consideration and further discussion and possible Board action.

- vi. Update Regarding the Development of Possible Amendments to the Board's Continuing Competency Regulations

Ms. Arneson reported that PTBC staff are in the research phase and anticipate bringing proposed language to the Board at a future meeting date.

12. **(C) Rulemaking Report – Discussion and Possible Board Action regarding License Renewal Exemption: Retired License Status Regulation – Heather Hoganson, Regulatory Attorney, Department of Consumer Affairs**
- i. Proposed Addition of regulation as 16 CCR section 1399.14.1 or other placement as needed – Retired License Status**
 - ii. Proposed Amendments to 16 CCR section 1399.50 Physical Therapist Fees and CCR section 1399.52 Physical Therapist Assistant Fees regarding Establishing a Retired License Application Fee**

Mr. Kaiser reported that new proposed language was presented for Board consideration regarding retired license status and the language had been through the second level of DCA Legal review. Mr. Kaiser stated that DCA Legal identified a few issues regarding the authoritative statute and what would be required for the Office of Administrative Law (OAL) approval. Mr. Kaiser stated that BPC 464 states that the Board shall promulgate through regulation and shall include specific requirements and the previous retired license proposed language presented to the Board did not include the same outline as the statute and was not as easily interpreted. Mr. Kaiser added that DCA Legal reviewed the proposed language and edited it to help ease the process of approval through OAL and this will prevent a delay later in the rulemaking process.

Ms. Heather Hoganson, Regulatory Attorney at the Department of Consumer Affairs, reported that there were two new forms for Board consideration which will allow licensees to either place their licenses in retired status or restore a retired license to active status within 5 years of retirement. Ms. Hoganson added that the revised regulatory text also specifies that the application fee for retired license status will be \$100, which was determined in consultation with DCA's Budget Office based on the actual cost to process the retired application which is new compared to the previous proposed language.

Ms. Hoganson stated that DCA Legal has revised the proposed text to mirror the enabling statute more closely and the proposed text specifies that the retired licenses do not have to meet continuing competency requirements and there is a five-year window to restore a retired license before having to submit a new initial license application which mirrors the Board's inactive license status. Ms. Hoganson added that this proposed regulatory change would create a new article 1.5 for license status regulations and DCA Legal recommended that the CCR be 1399.18 rather than the previous draft which was CCR 1399.14.1.

Mr. Kaiser stated staff agreed with the creation of the new article which would make the code more consistent and easier to understand. Mr. Kaiser added that the changes to the proposed language are for legal compliance and the proposed language is operational and functional and allows PTBC to start issuing retired licenses again for those that need it while still recovering some of the administrative costs.

Mr. Kaiser stated that the proposed language also solves the issue about how long a license can be in retired license status as the language specifies that if a retired license remains in retired status for longer than five years, they would need to reapply for licensure, and if they returned to active status before the five years, they would need to pay the existing renewal fee, and attest that they have 30 hours of continuing competency pursuant to the continuing competency regulations.

Ms. Eleby asked why the application form to apply for retired status was an attestation versus submitting proof of completion of continuing competency. Mr. Kaiser responded that it is similar to the renewal process where PTBC asks a licensee, when they return to active status, to attest under penalty of perjury, that they have completed their continuing competency but do not need to provide it unless it is asked for. Mr. Kaiser added that this was for ease of use and to get the licensee back into the profession and not create an unnecessary barrier to licensure. Mr. Kaiser added that when PTBC returns to doing continuing competency audits, retired licensees returning to active status could be audited at a higher percentage level to ensure compliance if need be.

Mr. Kaiser added that the information on the forms would be incorporated by reference and that the forms design would change so they were consistent with other PTBC forms. Mr. Kaiser stated that PTBC staff also recommends the motion to proceed with the proposed language and incorporate the forms by reference.

MOTION: Approve the proposed regulatory changes and direct the Executive Officer to take all steps necessary to reinitiate the rulemaking process and authorize the Executive Officer to make any technical or non-substantive changes to the rulemaking package, notice

the proposed text for a 45-day comment period and if no adverse comments are received, and no hearing is requested, adopt the proposed regulatory changes and delegate to the Executive Officer the completion of the rulemaking file.

M/S: Rabena-Amen/Armstrong

VOTE: Armstrong- Aye
Dominguez- Aye
Drummer – Absent
Eleby – Aye
Ervin – Aye
McMillian – Aye
Rabena-Amen - Aye
6-0 Motion carried

13. Administrative Services Quarterly Update

(A) Budget Report

Mr. Kenneth Meiss, PTBC's budget analyst presented the Budget Report and reported that on June 29, 2020, the PTBC was required to allocate one full-time position (applications analyst) to the Contact Tracing Program and the Contact Tracing Program ended on June 30, 2021. Mr. Meiss added that the PTBC has expended \$104,112 in labor costs allocated to the Contact Tracing Program.

Dr. Rabena-Amen asked if the salary for the contact tracing position was a set salary by DCA or did all those allocated to the contact tracing program get paid the same salary. Mr. Meiss responded that DCA Budget's Office has a matrix on how these costs are determined. Mr. Kaiser added that in the beginning of the pandemic, PTBC was asked to provide either an SSA or AGPA employee to the Contact Tracing Program and the mandate was 5% of PTBC's existing staff; however, because PTBC has a relatively small staff, it was only necessary to redirect one employee to the Contact Tracing Program. Mr. Meiss added that there is the potential that PTBC may possibly get those costs reimbursed at the close of the Contact Tracing Program.

Mr. Meiss reported that PTBC expended a total of \$1,355,808 in Q4 (CY20/21), a \$599,405 or 30.6% decrease over last fiscal year's Q4 expenditures of \$1,955,213 (Prior Year ((PY))19/20). He added that the Year-to-date expenditures increased by \$28,709 or 5.4% over last fiscal year (PY19/20). Mr. Meiss stated that PTBC has expended \$5,277,288, which is \$28,709 or 0.0054% increase over PY 19/20 year-to-date expenditure of \$5,248,579. Mr. Meiss stated that of these expenditures, the PTBC spent \$18,281 (combined salaries) personnel services labor costs in Q4 (CY20/21).

Mr. Meiss reported that from June 29, 2020 through June 30, 2021, the PTBC has expended \$215,309 in labor costs handling COVID-19 inquiries/issues. He added that \$2,111 was expended on PPE equipment and supplies.

Mr. Meiss stated that the PTBC collected \$1,088,734 in revenues during Q4 this fiscal year (CY20/21), a \$19,777 or 1.8% increase over last fiscal year's Q4 revenues of \$1,068,957 (PY 19/20). He added that year-to-date, the PTBC collected \$6,358,941, which is \$36,661 or 0.005% decrease over PY 19/20 year-to-date revenues of \$6,322,280.

Mr. Meiss reported that based on the data collected by the DCA, Budget Office the PTBC is projected a fund reserve by the end of 2020/21. He added that while the PTBC's fund is considered "healthy", the PTBC's fund reserves will reduce in Budget Year (BY) 2022/23 and continue to decrease over the next five years by BY 2024/25. Mr. Meiss stated that this analysis is based on current revenue and expenditure trends and may change year to year with changes in future revenues and expenditures trends.

Mr. Kaiser stated that PTBC is currently at its statutory caps right now for fees and this may be an issue to identify for our Sunset Report. He added PTBC could extend the fee caps and pursue a regulatory fee increase at which time is appropriate; or pursue a fee increase as part of the Sunset Review process.

(B) Outreach Report

Ms. Beauchamps, PTBC's Communication and Education Analyst reported that PTBC had 38,600 web-hits through its home page tabs, resulting in a 1% increase over last fiscal year (Q4). She added that the "Licensees" section had the most significant increase of 8% compared to prior fiscal year (Q4). Ms. Beauchamps stated that for CY 2020-21, PTBC had an overall 6% decrease in traffic compared to FY 2019-20. She added that the 3-year milestone shows a 29% decrease from FY 2018-19 to CY 2020-21.

Ms. Beauchamps reported that PTBC had 10,798 people access our Facebook page and PTBC received 73 "likes". She added that in comparison to last fiscal year (Q4), there was a 40% decrease in traffic. She added that for CY 2020-21, PTBC had an overall 31% decrease in traffic compared to FY 2019-20. She added that the 3-year milestone shows a 46% decrease from FY 2018-19 to CY 2020-21.

Ms. Beauchamps explained that the reason for the traffic decreasing on the PTBC's website is attributed to the current pandemic and due to current trends PTBC has seen changes in Facebook usage, especially by the younger demographics. She added that PTBC is looking at utilizing other social media platforms such as Instagram and TikTok to reach our Stakeholders.

Ms. Beauchamps reported that during Quarter (Q4) PTBC had nine outreach events held virtually due to the COVID-19 pandemic. She added that PTBC provided virtual presentations to San Diego Mesa College on April 14, 2021; University of St. Augustine on April 15, 2021, and April 19, 2021; Unitek College on April 23, 2021; Cerritos College on May 5, 2021; Concorde Garden Grove Campus on May 11, 2021; Stanbridge University on June 11, 2021; Pima Medical Institute on June 15, 2021; and University of San Francisco on June 28, 2021. Ms. Beauchamps reported that for CY 2020-21, the PTBC visited (virtually) 25 PT and PTA programs in California.

Dr. Rabena-Amen asked what the projected timeline would be for completion on PTBC's new website. Ms. Beauchamps responded that usually it takes approximately three months. Mr. Kaiser added that PTBC has been working with DCA's web designer team to work on modernization of the website and better delivery of information and is hopeful that it will be completed by the end of the year.

14. Application Services Quarterly Update

(A) Program Updates

(B) Statistical Reports

Ms. Conley, Manager of the Application, Licensing and Continuing Competency Services Unit, welcomed Ms. Monet Dyson who has been appointed to the Applications Intake/Support position as a full-time Office Technician. She added that Ms. Dyson will be processing intake of initial license applications. Ms. Conley reported that Mr. Paul Harrison who was assigned to the Contact Tracing Program has returned to the Application Program.

Ms. Conley reported that on August 18th, 2021, Application Services introduced a new online application for initial licensure. She added that the new application includes updates to the original online application system that are intended to improve efficiency and communication with the applicant. Ms. Conley reported that a military information page has been added to our PTBC website and Stakeholders may access this page by clicking on the PTBC Military Resources text located on the home page. Ms. Conley added that this resource includes an email address created specifically for military matters and Paul Row is currently the contact for all military-related inquiries for both applicants and licensees.

Ms. Conley reported that the Application Services program statistics reflect a slight decrease in total applications received year to date when compared to last fiscal year which is an impact from the pandemic. She added that the total number of licenses issued remains consistent between fiscal year; and while volume of applications has increased each year, the percentage change of each category fluctuated between fiscal years.

Ms. Conley reported that in July of 2021 a survey was emailed to all 35 Program Directors of each accredited Physical Therapy (PT) and Physical Therapy Assistant (PTA) program in California. She added that the data gathered from each school is to confirm the estimated cohort size and academic calendar for each graduating class. A total of 60% from both PT/PTA Program Directors submitted a response and the information collected can be used to assist the Applications Services program in planning and reporting purposes.

Dr. Rabena-Amen asked if this survey was mandatory or involuntary and Ms. Conley responded that this was a voluntary survey.

15. Licensing Services Quarterly Update

(A) Program Updates

(B) Statistical Reports

Ms. Conley reported that the License Maintenance Program continuously assists licensees by addressing questions and inquiries. She added that

transactions processed in quarter four of fiscal year 2020/21 (April - June) have an increase in the following areas: 6% in address changes, 6% in renewals, and 55% increase in name changes request when compared to Q4 of the prior fiscal year. Ms. Conley added that there is a reduction in duplicate requests by 22% from Q4 of 2020/21 compared to Q4 of 2019/20.

Ms. Conley reported that PTBC eliminated the pocket license and Licensing Services is still receiving a lot of inquiries regarding this which can be seen in the duplicate request data.

16. Continuing Competency Services Quarterly Update

(A) Program Updates

(B) Statistical Reports

Ms. Conley reported that the Continuing Competency Program continues to respond to licensees with questions about their continuing competency requirements and Department issued waivers. She added that although program resources have been redirected to Application Services due to operational need, staff are preparing to resume originally assigned duties soon.

17. Consumer Protection Services Quarterly Update

(A) Program Updates

(B) Statistical Reports

Ms. Carole Phelps, a PTBC analyst in the Consumer Protection Services Program reported the number of consumer complaints and arrest/conviction reports received are reported in Performance Measure 1 (Complaint Intake) and have decreased significantly from FY 2019/20. She stated that this may be partly due to the pandemic-related shutdowns, which resulted in less patient care being delivered overall.

Ms. Phelps reported that for Performance Measures 3 (Investigation Cycle Time) and 4 (AG Case Cycle Time) case aging was higher both for investigation-only cases and for cases transmitted to the AG. She added that these numbers fluctuate from year to year, and one or two very complicated cases can make these numbers increase substantially. Ms. Phelps stated that additionally, pandemic shutdowns delayed many investigations, especially

facility inspections, as well as the disciplinary hearing process, as hearings were re-scheduled to be held by video or teleconference.

Ms. Phelps reported that the five-year milestone statistics indicate an increase in the average number of days to complete an investigation, Cycle Time-No Discipline (PM3) as well as in the Cycle Time Discipline (PM4). She added as reported in prior meetings, staff continues to focus on aging cases and as a result, the closure of these older cases can skew the average.

Ms. Phelps congratulated Vincent Azar, Associated Government Program Analyst (AGPA) within CPS. He was recently awarded DCA's Superior Accomplishment Award for 2021, as a Gold Level Recipient for his work in responding to the new telework environment. He developed automated functions in QBirt and BreEZe that significantly reduce processing times and cut U.S. Mail costs for the Board. In addition to his regular duties within the Board's Enforcement Program, he's also worked with DCA's BreEZe and Office of Information Services teams on problem-solving for Department-wide issues, including solutions to DCA's License and Enforcement Workgroups.

18. Probation Monitoring Services Quarterly Update

(A) Program Updates

(B) Statistical Reports

Mr. Monny Martin, PTBC's Probation Monitor reported that for the fourth quarter, there were 67 licensees on probation for various causes from Driving Under the Influence to Sexual Misconduct. Besides the 51 licensees on probation and in the state of California, there were an additional 16 probationers tolling (out of state) and not receiving credit toward the completion of probation. He added that there were 2 licensees placed on probation in the quarter, and 3 licensees that completed probation in the quarter. Mr. Martin reported that of the 51 licensees that were not tolling, 13 were enrolled and participating in the Board's Drug and Alcohol Recovery Monitoring Program at the end of the quarter, equaling about 25% of all licensees on probation that weren't tolling.

Mr. Martin stated that the Probation Monitoring Unit continues to operate utilizing Microsoft TEAMS. He added that all probationers seem to have adjusted to having probation monitoring interviews via video conference and

things have continued to operate smoothly and there have not been any disruptions to biological fluid testing and participants in the Board's Recovery Monitoring Program continue to participate in 12-Step programs and Health Support Groups via video conference.

Mr. Martin added that over the last 3 years, there has been quite a dramatic decrease in the number of licensees being placed on probation per year. The number of licensees that were placed on probation dropped from twenty-two (22) licensees in 2018/19 to nine (9) 2019/20 and increased again to twelve (12). He stated that more than likely the reason for the reduction of licensees entering probation is because of the shutdowns caused by COVID-19 (there was only one (1) licensee placed on probation from January 1, 2020, to June 30, 2020) and the enactment of Assembly Bill (AB) 2138 July 1, 2020.

19. 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).)

There was no public comment.

20. Agenda Items for Future Meeting – December 9-10, 2021
Department of Consumer Affairs

Mr. Kaiser stated that PTBC staff would work with DCA's Regulatory Unit to have a presentation of their services at the next meeting.

21. 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

The Board entered closed session at 3:30 p.m. and reconvened into open session to adjourn at 4:10 p.m. on September 16, 2021.

22. Adjournment

The meeting adjourned at 4:10 p.m. on September 16, 2021.