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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**

November 4, 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

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

November 4, 2021

1. Call to Order

The Physical Therapy Board of California (Board) meeting was called to order
by President Dr. Rabena-Amen at 9:10 a.m. and adjourned at 3:15 p.m. on
November 4, 2021.

2. Roll Call and Establishment of Quorum

Armstrong - Present

Dominguez- Present

Drummer - Absent

Eleby - Present

Ervin - Absent

McMillian - Present

Rabena-Amen - Present

All members were present with the exception of Dr. Drummer and Mr. Ervin,
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 Elizabeth Coronel
and David Bouilly, DCA SOLID WebEx Moderators.

31

32 **3. Reading of the Board’s Mission Statement**

33
34 Ms. Eleby read the Board’s mission statement: To advance and protect the
35 interests of the people of California by the effective administration of the
36 Physical Therapy Practice Act.

37
38 **4. Public Comment on Items Not on the Agenda**

39 *Please note that the Board may not discuss or take action on any matter raised*
40 *during this public comment section that is not included on this agenda, except*
41 *to decide whether to place the matter on the agenda of a future meeting.*
42 *(Government Code sections 11125, 11125.7(a).)*

43
44 The Board requested public comment on items not on the agenda, and there
45 was no public comment.

46
47 **5. Review, Discussion and Possible Board Action on Sunset Review Report**
48 **Pursuant to BPC Section 2602**

49
50 PTBC staff presented the draft 2022 Sunset Review Report (Sunset Report) to
51 the Board for review. Mr. Kaiser thanked the Sunset Subcommittee for their
52 feedback and hard work on the Sunset Review Report.

53
54 The Board provided edits and feedback throughout the Sunset Report which
55 were made during the meeting. Mr. Kaiser stated that PTBC staff will work with
56 the Sunset Subcommittee on finalizing the draft Sunset Report and present the
57 final draft version to the members at the December 9-10, 2021, meeting for their
58 consideration.

59
60 **6. Discussion and Possible Board Action Regarding Sunset Review**
61 **Subcommittee’s Recommendation on Issues to be Identified on the**
62 **Sunset Review Report Pursuant to Business and Professions Code (BPC)**
63 **Section 2602**

64
65 Mr. Kaiser reported that at the October 15, 2021, meeting, the Board met and
66 began formulating the Sunset Report and one of the discussions that was had
67 was what issues would be identified as new issues to address in the Sunset
68 Report. He stated that PTBC staff made a recommendation for the Board to
69 consider taking one of the Department of Consumer Affairs Director’s orders
70 that waived an in-person evaluation by a physician or surgeon to continue direct
71 access care and remove the words “in-person” in statute or by means of the
72 Sunset Report.

73
74 Mr. Kaiser stated that discussion was had by the Board, and members
75 suggested possibly removing direct access completely as it is a barrier to care
76 for California consumers of physical therapy services. Mr. Kaiser stated that as
77 part of that conversation, the Board directed PTBC staff to have conversations
78 with stakeholders for their feedback. Mr. Kaiser stated that PTBC staff had
79 conversations with both the California Medical Association (CMA) and the
80 California Physical Therapy Association (CPTA). He added that the CPTA was
81 in support of the idea and have put together a task force in their Legislative
82 Affairs Committee to modernize the practice act and one of the items to be
83 modernized would be direct access.
84

85 Mr. Kaiser reported that PTBC staff had a meeting with members of the CMA
86 and while they were supportive in the idea of removing the word "in-person" in
87 statute to allow for telemedicine vehicles to achieve the medical plan of care,
88 they were resistant with the idea of removing direct access all together. Mr.
89 Kaiser added that CMA questioned why this was necessary and that they see
90 the physician or surgeon signing off on the plan of care as an additional
91 safeguard to consumer protection. He stated that CMA was interested in the
92 idea of looking at the 12 visits or 45 days to see if an adjustment could be made
93 with the timeframes. Mr. Kaiser said that through the AB 1000 legislation that
94 created direct access, there were several consumer safeguards built into the
95 language and one of CMA's concerns was if PTBC removed direct access
96 altogether, those safeguards that were put in place to benefit the consumer
97 would be removed as well. Mr. Kaiser reported that through CMA there would
98 certainly be contention and resistance if the Board was to move forward with
99 trying to remove direct access or have unrestricted access.
100

101 Mr. Kaiser reported that there was discussion with CMA on the norms in the
102 nation; 20 states in the United States have direct access and there are 27 states
103 similar to California, that have some kind of conditional direct access, whether
104 that be through a number of visits in time; certifying a physical therapists
105 qualifications; or through limiting what types of services could be provided
106 through direct access. Mr. Kaiser added that it was a good conversation and he
107 appreciated CMA's feedback.
108

109 Mr. Kaiser stated that he did not recommend the Board address any contentious
110 topics or issues in the PTBC's Sunset bill and that this topic could be worthy of

111 legislation in the future, however he did not recommend addressing it during the
112 Sunset process and having to unnecessarily expose our sunrise to such a hot
113 topic issue.

114
115 Dr. Rabena-Amen asked if the CMA discussed their direct access experiences
116 with the 12 visits/45-day restrictions and if it has created any barriers or access
117 to care issues. Mr. Kaiser responded that CMA did acknowledge that with the
118 pandemic, there is a difficulty and backlog in patients being able to see a doctor
119 or physician face-to-face and they are greatly utilizing telemedicine at this time.
120 Mr. Kaiser added that CMA is amenable to the idea of removing the in-person
121 language from the direct access statute. He also said that CMA did mention
122 that the 12 visits/45-day direct access timeframe seemed short and questioned
123 where those came from, and Mr. Kaiser responded that CPTA and the
124 Legislature looked at average timeframes for the length of typical physical
125 therapy course of treatment to determine the timeframes in the direct access
126 statute.

127
128 Dr. Dominguez stated that with the Director's waiver adding telemedicine to the
129 direct access statute, it removes a potential barrier to being able to see a
130 physician to continue a consumer plan of care. He suggested also researching
131 booking lead times (how long is it taking physicians to see patients) and look at
132 if that is another barrier to the consumer for access to care. Ms. Eleby agreed
133 with Dr. Dominguez that it is worth pursuing however, this is an issue to address
134 post Sunset Review as she did not want any controversial topics addressed in
135 the Sunset Review process. Dr. Armstrong added that she agreed that it is
136 worth researching the 12 visits/45-days and that she did not want to pursue
137 eliminating direct access during the Sunset Review process.

138
139 Mr. Kaiser stated that it is PTBC staff's recommendation to remove the word "in-
140 person" from the AB 1000 direct access statute. The members agreed to this
141 amendment and directed staff to work with the Sunset Subcommittee and Board
142 counsel on this proposed language for presentation at the December meeting.

143
144 Mr. Kaiser reported that at the October meeting, the Board recommended
145 pursuing an extension of PTBC's statutory fee caps and asked PTBC staff
146 research what the fees were in other states and professions. He reported that
147 California does not have the highest renewal fees in the United States, and
148 many jurisdictions have similar fees to PTBC. Mr. Kaiser added that PTBC staff

149 researched the fees of other Boards and Bureau's within DCA and a number of
150 Boards have higher fees than PTBC such as the Medical Board of California,
151 Board of Chiropractic Examiners and the California Board of Registered
152 Nursing, and especially boards with smaller licensing populations such as the
153 Osteopathic Medical Board of California and the Podiatric Medical Board of
154 California.

155
156 Mr. Kaiser stated that his recommendation would be to ask the legislature for a
157 \$500 statutory cap, and this is not indicative of what the PTBC will be asking for
158 in a fee increase, however it gives PTBC room for the future. Mr. Kaiser added
159 that in the past the PTBC must justify the increase in fees whether it be through
160 a cost benefit analysis and/or show that PTBC's fund would reach insolvency
161 without a fee increase. Members agreed with this recommendation. Mr. Kaiser
162 added that PTBC will work the Legislature and Committee on the statutory fee
163 cap amount.

164
165 Mr. Kaiser reported that another issue that PTBC staff brought to the Board as
166 an issue to be addressed in Sunset Review was the idea of adding WebEx
167 language to our meeting statute, not to replace in-person meetings, however to
168 be in addition to the in-person meetings which will increase public access and
169 participation.

170
171 Mr. Kaiser stated that there was a recent bill that was passed AB 361 (Rivas)
172 Chapter 165, Statutes of 2021 that extended the PTBC's ability to meet
173 remotely, however it is still uncertain what the Legislature's plan is moving
174 forward for remote access to public meetings and there is nothing new to report
175 to the Board at this meeting. Mr. Kaiser suggested reiterating staff's original
176 recommendation to amend the statutory language to require the Board to not
177 only meet in-person in Southern California and Northern California but to add a
178 WebEx online platform component requirement to provide further access to the
179 public for those that cannot travel or would not be able to attend in-person.

180
181 Dr. Rabena-Amen asked PTBC staff to contact DCA and the Legislature and
182 ask what their plan is during the next legislative session regarding WebEx or
183 utilizing an online platform at meetings going forward. Mr. Kaiser responded
184 that PTBC staff are already working on having these conversations and will
185 provide the Board with an update at the December meeting. Members agreed
186 to pursue this as a new issue to address in the Sunset Report.

187
188 **7. Public Comment on Items Not on the Agenda**

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190 *during this public comment section that is not included on this agenda, except*
191 *to decide whether to place the matter on the agenda of a future meeting.*
192 *[Government Code sections 11125, 11125.7(a).]*
193

194 There was no public comment.
195

196 **8. Agenda Items for Future Meeting**
197

198 December 9-10, 2021
199 Department of Consumer Affairs
200 WebEx
201

202 Mr. Kaiser stated that members have asked for a presentation of services from
203 DCA's Regulatory Unit and a presentation of services by the Deputy Attorney
204 General's Office by our Deputy Attorney General liaison, Mr. John Gatchett at
205 the next meeting
206

207 **9. Closed Session**

208 (A) Pursuant to Government Code section 11126(c)(3), the Board will
209 Convene to Deliberate on Disciplinary Actions and Decisions to be
210 Reached in Administrative Procedure Act Proceedings.

211 (B) Pursuant to Government Code section 11126(a)(1), the Board will
212 Convene to Consider the Evaluation of Performance of the Executive
213 Officer.
214

215 The Board entered closed session at 11:08 a.m. and reconvened into open
216 session at 1:01 p.m. on November 4, 2021.
217

218 **10. Adjournment**
219

220 The meeting adjourned at 3:15 p.m. on November 4, 2021.
221
222