



1

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**

December 9-10, 2021 9:00 a.m.

Department of Consumer Affairs
2005 Evergreen Street, Hearing Room
Sacramento, CA 95815

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.

5

6

Thursday, December 9, 2021

7

8

1. Call to Order

9

10

The Physical Therapy Board of California (Board) meeting was called to order
by President Dr. Rabena-Amen at 9:31 a.m. and recessed at 5:25 p.m. on
December 9, 2021.

11

12

13

14

2. Roll Call and Establishment of Quorum

15

16

Armstrong - Absent

17

Dominguez- Present

18

Drummer - Present

19

Eleby - Absent

20

Ervin - Absent

21

McMillian - Present

22

Rabena-Amen - Present

23

24

All members were present with the exception of Dr. Armstrong, Ms. Eleby, 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.

25

26

27

28

29

30

31

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

33
34 Dr. Drummer 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 – Jason Kaiser**

49 PTBC staff presented the draft Sunset Review Report to the Board for review.
50 Mr. Kaiser thanked the Sunset Subcommittee for their feedback and hard work
51 on the Sunset Review Report. The Board provided edits throughout the Sunset
52 Review Report which were made during the meeting.
53

54 **6. Discussion and Possible Board Action Regarding Sunset Review**
55 **Subcommittee's Recommendation on Issues to be Identified on the**
56 **Sunset Review Report Pursuant to Business and Professions Code**
57 **(BPC) Section – Jason Kaiser**
58

59 PTBC staff presented the issues to be addressed in the draft Sunset Review
60 Report to the Board for further review. The Board provided edits and feedback
61 throughout the Sunset Review Report Issues Section which were made during
62 the meeting.
63

64 **7. Closed Session**

- 65 (A) Pursuant to Government Code section 11126(c)(3), the Board will
66 convene to Deliberate on Disciplinary Actions and Decisions to be
67 Reached in Administrative Procedure Act Proceedings
68 (B) Pursuant to Government Code section 11126(a)(1), the Board will
69 convene to Consider the Evaluation of Performance of the Executive
70 Officer
71

The Board entered closed session at 4:55 p.m. and reconvened into open session to recess at 5:25 p.m. on December 9, 2021.

8. 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.

9. Recess

The Board recessed at 5:25 p.m. on December 9, 2021.

Friday, December 10, 2021

10. Call to Order

The Physical Therapy Board of California (Board) meeting was called to order by President Dr. Rabena-Amen at 9:01 a.m. and recessed at 1:38 p.m. on December 10, 2021.

11. Roll Call and Establishment of Quorum

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

All members were present with the exception of Dr. Armstrong, Ms. Eleby, 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.

12. 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.

13. 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.

14. Review, Discussion and Possible Board Action on Sunset Review Report Pursuant to BPC Section 2602 – Jason Kaiser

PTBC staff presented the draft Sunset Review Report to the Board for further review . The Board provided edits and feedback throughout the Sunset Review Report which were made during the meeting.

MOTION: Adopt the proposed 2021 Sunset Review Report as revised, delegate to the Board President the authority to review and proof the revised version and authorize the Executive Officer to make any non-substantive changes to the 2021 Sunset Review Report and submit the Report to the Legislature.

M/S: Rabena-Amen/Dominguez

VOTE: Armstrong - Absent
Dominguez- Aye
Drummer - Aye
Eleby - Absent
Ervin - Absent
McMillian - Aye
Rabena-Amen – Aye
4-0 Motion Carried

15. Discussion and Possible Board Action Regarding Sunset Review Subcommittee's Recommendation on Issues to be Identified on the Sunset Review Report Pursuant to Business and Professions Code (BPC) Section – Jason Kaiser

PTBC staff presented the issues to be addressed in the draft Sunset Review

Report to the Board for further review. The Board provided edits and feedback throughout the Sunset Review Report Issues Section which were made during the meeting.

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

Dr. Rabena-Amen presented the 2021 Adopted Meeting Calendar to the members. There were no further discussion or changes to the 2021 adopted meeting calendar.

(B) 2022 Proposed Meeting Calendar

Mr. Kaiser stated that he is hopeful that the March 23-24, 2022, Board meeting will be held in-person, however it depends on the pandemic and if PTBC is unable to meet in-person, the meeting would be held via WebEx, or in Sacramento in lieu of Southern California. Mr. Kaiser solicited the members for feedback on the proposed 2022 meeting dates. There were no changes to the proposed 2022 calendar. Mr. Kaiser added that the calendar can be amended throughout the year as well.

MOTION: Adopt the Proposed 2022 Meeting Calendar

M/S: Drummer/Dominguez

VOTE: Armstrong - Absent
Dominguez- Aye
Drummer - Aye
Eleby - Absent
Ervin - Absent
McMillian - Aye
Rabena-Amen – Aye
4-0 Motion Carried

17. Discussion and Possible Board Action on the 2022 Rulemaking Calendar
–Brooke Arneson

Ms. Arneson presented the proposed 2022 rulemaking calendar for Board consideration and stated that the Office of Administrative Law (OAL) uses these rulemaking calendars to anticipate upcoming projected rulemaking workload for the year.

Mr. Kaiser added that many of the rulemaking packages have been on the Board's rulemaking calendars for the previous few years and that the two new rulemaking items that the Board would be pursuing this year is retired license status and continuing competency.

MOTION: Adopt the 2022 Rulemaking Calendar as required by Government Code Section 11017.6

M/S: McMillian/Drummer

VOTE: Armstrong - Absent
Dominguez- Aye
Drummer - Aye
Eleby - Absent
Ervin - Absent
McMillian - Aye
Rabena-Amen – Aye
4-0 Motion Carried

18. Discussion Regarding Waivers Issued by the Director of the California Department of Consumer Affairs – Jason Kaiser

(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
- i. Ninth Extension DCA Waiver DCA-21-194

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

- a. First Extension DCA Waiver DCA-20-57
- b. Second Extension DCA Waiver DCA-21-165
- c. Third Extension DCA Waiver DCA-21-187
- d. Fourth Extension DCA Waiver DCA-21-200

(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
 - i. Ninth Extension DCA Waiver DCA-21-202
- (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
 - g. Seventh Extension DCA Waiver DCA-21-197

Ms. Arneson provided the members with an update on the three extensions of the waivers issued by the Director of DCA. Mr. Kaiser added that while most of the waivers have expired or will expire before the end of the year, the effects of the waivers on staff workload will be felt until mid-2022.

19. 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 he is encouraging all the members and PTBC staff to attend this year's FSBPT Regulatory training.

Dr. Dominguez added that FSBPT's LIF and Annual Meeting is currently scheduled to be held in-person. He stated that the LIF training is scheduled to be held July 23-24, 2022, in Alexandria, VA and the Annual Meeting and Delegate Assembly will be held in Orange County, CA.

(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 on the COVID-19 safety measures and encouraged PTBC staff and members to coordinate both in-person meetings and teleconference meeting logistics with DCA to ensure that all safety protocols were being met.

279 Ms. Miller reported that 2021 is a mandatory sexual harassment training
280 year for members and all employees and this training can be accessed via
281 DCA's Learning Management System (LMS). In addition, Ms. Miller stated
282 that members can now register for the Board Member Orientation Training
283 in LMS as well and the 2022 training dates are listed.

284
285 Dr. Rabena-Amen stated that the December Board meeting is being held
286 in-person and PTBC was not able to offer a hybrid WebEx/In-Person
287 meeting because the Evergreen Hearing Room does not have the technical
288 capability to have WebEx, and asked Ms. Miller if DCA is addressing this
289 issue. Ms. Miller responded that DCA's Communications Team is looking
290 into the Evergreen Hearing Room option however currently, DCA HQ1 and
291 HQ2 are the only Hearing Rooms that have the option to have WebEx
292 currently. Dr. Rabena-Amen asked Ms. Miller to relay to DCA on behalf of
293 the Board, to have the WebEx option available at the DCA Evergreen
294 Hearing Room. Mr. Kaiser added that PTBC staff has been in constant
295 contact with DCA to discuss modernizing the Evergreen Hearing Room to
296 allow for the in-person/WebEx hybrid model for meetings. He stated that it
297 is beneficial for all of the Boards and Bureaus within DCA.

298
299 (C) California Physical Therapy Association (CPTA)
300

301 Ms. Stacy DeFoe, Executive Director for the California Physical Therapy
302 Association, presented on behalf of CPTA.

303
304 Ms. DeFoe thanked the Board for offering the WebEx option to attend Board
305 meetings remotely throughout the pandemic and would be in favor of hybrid
306 meetings going forward.

307
308 Ms. DeFoe reported that CPTA is planning on having the annual conference
309 in-person on September 24-25, 2022, in Anaheim, CA. She added that
310 there will be an in-person exhibit hall and invited the Board to participate.

311
312 Ms. DeFoe thanked Mr. Kaiser for participating in CPTA's Webinar
313 Wednesday in July which was developed during the pandemic to provide
314 education for California PT's and PTA's.

315
316 Ms. DeFoe reported that CPTA is celebrating 100 years of APTA this year
317 and this is also 50 years of CPTA, as CPTA was established in 1971 and
318 that there would be a float in the January 1st Rose Parade.

319
320 **20. Discussion and Possible Board Action for the Increase in the Exempt**
321 **Level of the Executive Officer – Alicia Rabena-Amen**
322

323 Dr. Rabena-Amen presented the Executive Officer (EO) Exempt Level
324 Allocation package to the members. She reiterated that this request is critical
325 due to the PTBC's EO not being in the correct classification. She referred the
326 members to the timeline in the meeting materials and stated that this is the 5th
327 request the Board has submitted.
328

329 Mr. Kaiser added that the last request the PTBC made was in September
330 2019, and in March of 2020 at the beginning of the pandemic, California
331 identified a potential financial crisis and PTBC received notification in response
332 to the September request, that the request was denied due to financial
333 concerns for California but asked the Board to consider resubmitting the
334 request once the financial crisis was alleviated. Mr. Kaiser added that the
335 financial crisis anticipated never happened and that currently, California is
336 sitting on a surplus. Mr. Kaiser stated that the Board is very familiar with this
337 package, and it is just a matter of updating the data and resubmitting based on
338 the recommendation that CALHR made in their denial.
339

340 Dr. Rabena-Amen thanked DCA, Business, Consumer Services and Housing
341 Agency for their support on this request and stated that she was in support of
342 resubmitting the package now. She asked if it was necessary to reconvene
343 the EO Exempt Level Subcommittee, or if the Board should just move forward
344 with resubmitting the package as included in the meeting materials.
345

346 Mr. Kaiser stated that the EO Exempt Level Subcommittee only has one
347 member, as the second member is no longer on the Board, and asked if the
348 President would like to appoint a second member to the Committee or would
349 the members like to start the process of resubmittal. Members unanimously
350 supported the idea of resubmitting the package with the updated data.

351 **MOTION:** As requested by CalHR, I move to request support of
352 DCA, Office of Human Resources to work with PTBC
353 staff and appropriate agencies in obtaining an exempt
354 level change that is appropriate to the PTBC's
355 Executive Officer position allocation and organization
356 structure.
357

358 **M/S:** Drummer/McMillian
359

360 **VOTE:** Armstrong - Absent

361 Dominguez- Aye
362 Drummer - Aye
363 Eleby - Absent
364 Ervin - Absent
365 McMillian - Aye
366 Rabena-Amen – Aye
367 4-0 Motion Carried
368

369 **21. Board Member Elections**
370 **(A) President**

371 **NOMINATION:** Dr. Rabena-Amen nominated Ms. McMillian as
372 Board President.

373 **NOMINEE:** Ms. McMillian
374

375 Ms. McMillian declined the nomination for Board President.
376

377 **NOMINATION:** Dr. Rabena-Amen nominated Dr. Drummer as
378 Board President.

379 **NOMINEE:** Dr. Drummer
380

381 Dr. Drummer declined the nomination for Board President.
382

383 **NOMINATION:** Dr. Rabena-Amen nominated Dr. Dominguez as
384 Board President.

385 **NOMINEE:** Dr. Dominguez
386

387 Dr. Dominguez declined the nomination for Board President.
388

389 **NOMINATION:** Dr. Dominguez nominated Dr. Rabena-Amen as
390 Board President.

391 **NOMINEE:** Dr. Rabena-Amen

392 **MOTION:** To elect Dr. Rabena-Amen as Board President.

393 **M/S:** Dominguez/McMillian
394

395 Dr. Rabena-Amen accepted the nomination.
396

397 **VOTE:** Armstrong - Absent
398 Dominguez- Aye
399 Drummer - Aye
400 Eleby - Absent
401 Ervin - Absent
402 McMillian - Aye

403 Rabena-Amen – Aye
404 4-0 Motion Carried
405

406 Dr. Alicia Rabena-Amen elected President for 2022.
407

408 **(B) Vice-President**

409 **NOMINATION:** Ms. McMillian nominated Dr. Drummer as Board
410 Vice-President.
411 **NOMINEE:** Dr. Drummer
412

413 Dr. Drummer declined the nomination for Board Vice-President.
414

415 **NOMINATION:** Ms. McMillian nominated Dr. Dominguez as
416 Board Vice-President.
417 **NOMINEE:** Dr. Dominguez
418

419 Dr. Dominguez declined the nomination for Board Vice-President.
420

421 **NOMINATION:** Dr. Rabena-Amen nominated Ms. McMillian as
422 Board Vice-President.
423 **NOMINEE:** Ms. McMillian
424 **MOTION:** To elect Ms. McMillian as Board Vice President.
425 **M/S:** Rabena-Amen/Dominguez
426

427 Ms. McMillian accepted the nomination.
428

429 **VOTE:** Armstrong - Absent
430 Dominguez- Aye
431 Drummer - Aye
432 Eleby - Absent
433 Ervin - Absent
434 McMillian - Aye
435 Rabena-Amen – Aye
436 4-0 Motion Carried
437

438 Ms. McMillian elected Vice-President for 2022.
439

440 **(C) FSBPT Delegate**

441 **NOMINATION:** Dr. Drummer nominated Dr. Armstrong as
442 FSBPT Delegate.

443 **NOMINEE:** Dr. Armstrong
444
445 Mr. Kaiser spoke on behalf of Dr. Armstrong and declined the nomination
446 for FSBPT Delegate.
447
448 **NOMINATION:** Ms. McMillian nominated Ms. Eleby as FSBPT
449 Delegate.
450 **NOMINEE:** Ms. Eleby
451 **M/S:** McMillian/Drummer
452
453 Mr. Kaiser spoke on behalf of Ms. Eleby and accepted the nomination
454 for FSBPT Delegate.
455
456 **NOMINATION:** Dr. Drummer nominated Mr. Ervin as FSBPT
457 Delegate.
458 **NOMINEE:** Mr. Ervin
459 **M/S:** Drummer/Dominguez
460
461 Mr. Kaiser spoke on behalf of Mr. Ervin and accepted the nomination
462 for FSBPT Delegate.
463
464 Mr. Kanotz, PTBC's Legal Counsel, recommended the members vote for
465 their preferred candidate.
466
467 **VOTE:** Armstrong - Absent
468 Dominguez- Mr. Ervin
469 Drummer – Mr. Ervin
470 Eleby - Absent
471 Ervin - Absent
472 McMillian – Ms. Eleby
473 Rabena-Amen – Ms. Eleby
474
475 2 votes for Ms. Eleby and 2 votes for Mr. Ervin.
476 Mr. Kanotz recommended a revote.
477
478 Dr. Drummer added that Mr. Ervin is relatively
479 new to the Board, and it is custom for a newer
480 member to be the FSBPT Delegate because of
481 the experience it provides. He added that Ms.
482 Eleby would be an excellent mentor to Mr. Ervin.
483
484 Armstrong - Absent
485 Dominguez- Mr. Ervin

486 Drummer – Mr. Ervin
487 Eleby - Absent
488 Ervin - Absent
489 McMillian – Mr. Ervin
490 Rabena-Amen – Mr. Ervin
491 4-0 Motion Carried
492

493 Mr. Ervin elected FSBPT Delegate for 2022.
494

495 **(D) FSBPT Alternate Delegate**

496 **NOMINATION:** Dr. Drummer nominated Dr. Armstrong as
497 FSBPT Alternate Delegate.

498 **NOMINEE:** Dr. Armstrong
499

500 Mr. Kaiser spoke on behalf of Dr. Armstrong and declined the nomination
501 for FSBPT Alternate Delegate.
502

503 **NOMINATION:** Ms. McMillian nominated Ms. Eleby as Board
504 Vice-President.

505 **NOMINEE:** Ms. Eleby

506 **MOTION:** To elect Ms. Eleby as FSBPT Alternate
507 Delegate.

508 **M/S:** McMillian/Drummer
509

510 Mr. Kaiser spoke on behalf of Ms. Eleby and accepted the nomination
511 for FSBPT Alternate Delegate.
512

513 **VOTE:** Armstrong - Absent
514 Dominguez- Aye
515 Drummer - Aye
516 Eleby - Absent
517 Ervin - Absent
518 McMillian - Aye
519 Rabena-Amen – Aye
520 4-0 Motion Carried
521

522 Ms. Eleby elected FSBPT Alternate Delegate for 2022.
523

524 **(E) FSBPT Back-up Alternate Delegate**

The Board determined to use the procedure of establishing back-up alternate delegates in reverse alphabetical order by last name of Board members.

Backup Alternate Delegates for 2022 are:

Dr. Rabena-Amen

Ms. McMillian

Dr. Drummer

Dr. Dominguez

Dr. Armstrong

22. 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 11:46 a.m. and reconvened into open session to adjourn at 1:38 p.m. on December 10, 2021.

23. Public Comment on Items Not on the Agenda

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

24. Agenda Items for Future Meeting – March 23-24, 2022
TBD

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

25. Adjournment

The meeting adjourned at 1:38 p.m. on December 10, 2021.