



**APPROVED  
PHYSICAL THERAPY BOARD OF CALIFORNIA  
MEETING MINUTES  
November 18, 2008**

**The Westin Los Angeles Airport  
5400 West Century Blvd  
Los Angeles, CA 90045  
(310) 216-5858**

***Tuesday, November 18, 2008***

**Call to Order and Roll Call**

President Krueger called the meeting to order at 9:05 a.m. All members were present and a quorum was established.

**1. Proposed Disciplinary Decisions**

The Board convened in CLOSED SESSION to deliberate on proposed disciplinary decisions and stipulated settlements pursuant to Government Code section 11126(c)(3).

**2. Evaluation of Executive Officer**

This item was considered in CLOSED SESSION pursuant to Section 11126(a)(1) of the Government Code.

**3. Approval of Minutes**

(A) May 1 & 2, 2008 Board Meeting

The Board reviewed the minutes. Ms. Jewell questioned whether Ms. Freedman closed the hearing? Ms. Freedman replied she did close the hearing, not the meeting. Ms. Alviso requested that the word "not" be added after "will" to page 9, line 400. The Board questioned the reference to "one to one" on page 15, lines 701 and 707. Mr. Hartzell indicated he believed it was referring to the hour conversion formula. Ms. Krueger suggested deleting lines 702, 707 and 708.

**MOTION: To approve minutes as amended.**

**Moved by: Ms. Jewell Second by: Ms. Alviso Vote: 5-0 Motion passed.**

(B) August 7, 2008 Board Meeting

The Board considered the minutes. Ms. Alviso suggested correcting page 3, line 110 so that it is grammatically correct.

**MOTION: To approve minutes with grammatical correction.**

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**Moved by: Ms. Alviso      Seconded by: Ms. Takii      Vote: 5-0      Motion passed.**

(C) October 10, 2008 Special Teleconference Board Meeting

No changes were suggested to the teleconference meeting minutes.

**MOTION: To approve minutes as written.**

**Moved by: Ms. Jewell      Seconded by: Mr. Turner      Vote: 5-0      Motion passed.**

**4. President's Report – Nancy Krueger, PT**

(A) 2009 PTBC Meeting Dates

The members considered the dates as proposed on the 2009 calendar. Ms. Salters advised the members that the meeting sites are secured for the upcoming meetings. Mr. Hartzell expressed the rationale for the two date meeting proposal.

The Board expressed no known conflicts with the calendar or the locations. Ms. Alviso questioned the date of the Strategic Planning meeting. Mr. Hartzell advised that the Department of Consumer Affairs (DCA) doesn't support traditional strategic planning for Boards. He suggested the Board consider a retreat style meeting to discuss goals and objectives of the Board and to establish a relationship between the DCA strategic plan and the Board's strategic plan.

Ms. Jewell questioned whether or not the 2009 dates are firm and was advised that the January date was confirmed for San Diego. The remaining 2009 dates could be flexible, if necessary. Ms. Salters indicated that the May meeting dates were set to accommodate Loma Linda University students.

**MOTION: To approve 2009 meeting dates and locations as proposed.**

**Moved by: Ms. Takii      Seconded by: Ms. Alviso      Vote: 5-0      Motion passed.**

(B) Update

Ms. Krueger advised the members of a letter received by Nancy Rothenberg, Vice President of PTPN expressing concern over the discontinuance of the Medical Board of California's monthly Hot Sheet, which noticed discipline actions taken by the Board. Staff advised the Board that they were aware of the issue and were taking steps to report the information.

**5. Continuing Competency Regulations - Consideration of Additional Comments Submitted and Adoption of Additions and Modifications to the California Code of Regulations, Title 16, Division 13.2, Articles 10 and 13**

Agenda item number 5 was considered following agenda item number 2. The agenda was reordered to accommodate a member of the audience.

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Marilyn Pink, questioned if CPR and ethics will be part of the 15 units required of those licensees in the initial phase. The Board replied yes, that 6 of the 15 units will be required in CPR and ethics. She also suggested that the Board overlooked modifying section 1399.96(j) since it still requires approved providers to maintain records for a period of 7 years. Mr. Hartzell explained the Board didn't intend to reduce the retention period for providers as it did for licensees. He further explained the rationale was to afford licensees access to the records for a longer time period in case of an audit.

Piccola Ford-Levine of Lanterman State Hospital inquired about requirements to gain Board approval for providers. The Board explained that the requirements wouldn't be developed until by those approving providers - the approval agencies - once the regulations are adopted. She also asked whether there would be a grace period for those licensees that don't comply with the continuing competency requirement once in effect. The Board replied that failure to comply will be a violation and there is no grace period. Lastly, she was advised it would be the licensee's responsibility to provide proof of completion.

Ms. Alviso asked if section 1399.52 could be reordered to be consistent with section 1399.50. Ms. Freeman replied that this could be done without a 15-day notice. Ms. Alviso also thought "Board" should be defined in section 1399.90 of the proposed text. Ms. Freedman replied that "Board" was defined as the Physical Therapy Board of California in section 1398.3 of the regulations. Ms. Alviso requested that section be included when the licensees are notified of the new language once adopted into regulation.

**MOTION: To approve the language as modified.**

**Moved by: Ms. Jewell      Seconded by: Mr. Turner      Vote: 5-0      Motion passed.**

**MOTION: To authorize the Executive Officer to make any non substantive changes that DCA or the Office of Administrative Law (OAL) may require.**

**Moved by: Ms. Jewell      Seconded by: Ms. Takii      Vote: 5-0      Motion passed.**

Rosario Marin, Secretary of the State and Consumer Service Agency visited the Board and expressed her appreciation for the Board's attendance at the Professionals Achieving Consumer Trust Summit.

**6. Disciplinary Guidelines Regulation - Consideration of Modified Guidelines and Modified Language in Section 1399.15 of Title 16 of the California Code of Regulations**

Ms. Ybarra referred the members to the briefing paper included in the agenda book and explained that the modifications were due to AB 2111 being chaptered into law. Ms. Freedman suggested the members view the guidelines as modified.

**MOTION: To approve the modifications to the text of the model guidelines, assuming there are no adverse comments received during the notice period. To adopt the amended regulatory changes and delegate to the Executive Officer the authority to make non substantive changes to the modified text as DCA or OAL may require.**

**Moved by: Ms. Takii      Seconded by: Mr. Turner      Vote: 5-0      Motion passed.**

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**7. Executive Officer's Report – Steven K. Hartzell**  
(A) Update

Mr. Hartzell referred members to the briefing paper and the memorandum issued by Carrie Lopez, DCA Director included in the agenda book. He explained that there were recent concerns expressed by the press regarding the policy of DCA boards and bureaus related to performing criminal history background checks on applicants, asking licensees about convictions upon renewal, and placing disciplinary actions on the Internet. Mr. Hartzell further advised the Board that the PTBC has been fingerprinting licensees for the purpose of processing background checks for criminal history through the Department of Justice (DOJ) since the Board began licensing however he indicated that this issue could affect those licensees who have no electronic fingerprint record on file with DOJ. He also explained that since 2002 the Board has required licensees to respond to questioning about criminal convictions as a condition of renewal. Finally, the Board does and has been posting disciplinary actions on the PTBC website for several years.

He concluded that DCA is seeking the support of the Board to cooperate with the any action necessary to ensure that enforcement and public disclosures are complied with.

**MOTION: To support the efforts of DCA in addressing enforcement and public disclosure issues.**

**Moved by: Ms. Jewell    Seconded by: Ms. Takii    Vote 5-0    Motion passed.**

Mr. Hartzell explained that AB2111 language combined the physical therapist assistant application and licensing fees, which can be addressed by regulation but he does not see an urgent need since it will impact so few applicants.

He also advised the members of the upcoming opportunity to participate in a pilot program that will provide for renewal payments by credit cards.

(B) FY 2007 – 2008, FY 2008 – 2009 Budget

Mr. Hartzell explained that personnel costs are down because of the issuance of the Executive Order.

(C) Newsletter Update

Mr. Hartzell expressed he was hopeful to have a newsletter ready for publication in January. Ms. Marco added that staff would need articles from the members to meet that deadline.

Mr. Hartzell presented the Continuity of Operations/Continuity of Government Plan (COOP/COG plan) and explained it would be set in place in the event of an emergency or natural disaster.

**MOTION: To approve implementation of the COOP/COG Plan.**

**Moved by: Ms. Jewell    Seconded by: Ms. Takii    Vote: 5-0    Motion passed.**

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Mary Everett, president of the Occupational Therapy Board of California reported on a plan being developed that identifies the role of the occupational therapist in the event of a national disaster. She offered to present her plan to the Board at their meeting in January 2009.

**8. Consumer and Professional Associations and Intergovernmental Relations Report – Steven K. Hartzell**

**(A) California Physical Therapy Association (CPTA)**

Ms. DeFoe reported the CPTA is receiving comments of concern from payors regarding documentation inadequacies and she requested the Board include an article in the newsletter regarding adequate documentation. Ms. DeFoe volunteered to assist with developing the article. Ms. Alviso expressed concern with the legalities of including a community standard, which doesn't exist in law.

She also indicated that the CPTA conference had 960 attendees and that the 2009 conference is scheduled for Oct 2 and 3, 2008 in Pasadena.

**9. Federation of State Boards of Physical Therapy Annual Meeting – Debra Alviso, PT & Sara Takii, PT**

Ms. Takii referred the Board to the report included in the agenda book. Ms. Takii indicated Ms. Alviso participated in a pre-conference workshop, which offered the attendees an opportunity to compare their state practice act to the Model Practice Act. She expressed appreciation for the Practice Act of California in comparison to some of the other states. Ms. Takii reported she also attended conferences/seminars on the FSBPT 's Coursework Evaluation Tool (CWT), Professional Problem-Based Ethics, Categorizing Grounds for Discipline and Developing Disciplinary Guidelines. She went on to apprise the members of the motions considered by the delegate assembly. She expressed special enthusiasm for the development of an ethics/ethical decision-making course available for remediation. Ms. Krueger expressed interest in the course extending beyond remediation purposes.

Ms. Alviso commented on ensuring that the ethics course serve as a course for continuing competency in addition to remediation.

Mr. Hartzell advised he is exploring the possibility of the FSBPT assisting with examination development of the California Law Exam.

**10. Consumer Protection Services Report – Nancy Krueger, PT**

Ms. Krueger commented on the decline in accusations since FY 07/08 in the last quarter. Ms. Alviso inquired about the cause of the decline in the filing of accusations. Mr. Hartzell responded that the most significant cause was the failure to get cases investigated and added that since the Division of Investigation is now fully staffed the cases should receive more investigative attention. Ms. Krueger inquired about the status of expert consultant training. Mr. Hartzell replied staff was in the process of developing training to administer in the northern and southern California annually.

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**11. Department of Consumer Affairs Professionals Achieving Consumer Trust Proclamation (PACT)**

Ms. Jewell expressed concern about the proclamation statement that the Board will ensure a supply of licensees. Patricia Harris, Deputy Director of Board/Bureau Relations introduced herself and offered a response to concern expressed by Ms. Jewell Ms. Harris explained that the focus of that part of the proclamation is to prevent any barriers to entry affecting the workforce, which would in turn affect consumers. Ms. Freedman indicated that there was no statutory authority to support a board function of supplying licensees but that the board would have authority to address the issue as described by Ms. Harris.

Ms. Freedman suggested that the Board could request an amendment to the proclamation to reflect Ms. Harris' explanation. Ms. Jewell concurred that the supply of licensees is the role of education institutions.

**MOTION: To approve as written and explained but, if possible, to request massaging the sentences regarding the workforce supply to be consistent with the legislative mandate of the Board.**

**Moved by: Mr. Turner Second by: Ms. Alviso Vote: 5-0 Motion passed.**

The board noted it failed to take public comment before its vote. Mary Evert, CBOT president agreed with the concerns being expressed. The Board considered whether to reconsider its action after the public comment and declined.

**12. Rulemaking – Rebecca Marco**

(A) Approval of 2009 Rulemaking Calendar

Ms. Marco presented the 2009 Rulemaking Calendar and advised the Board that there would be another opportunity to amend the calendar at the January 2009 meeting since the calendar was not due until February.

Ms. Ford-Levine expressed desire for the Board to address the description of the physical therapist assistant license. She said the problem she faces is the wallet certificate references that the physical therapy assistant license is a "certificate" of approval and that causes confusion about whether the individual is licensed. Mr. Hartzell indicated he would follow up with Ms. Ford-Levine outside the board meeting regarding the issue and determine whether a regulation change would be necessary.

(B) Rulemaking in Progress

The rulemaking in progress was addressed earlier on the agenda.

**13. Tools to Evaluate Foreign Physical Therapy Education for Licensure of Physical Therapists and Physical Therapist Assistants – Sara Takii, PT**

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Ms. Takii advised the Board that the fifth edition of the FSBPT Coursework Evaluation Tool is anticipated to be released in July 2009. She also noted that the adoption of the tool is included on the 2009 Rulemaking Calendar.

**14. Legislation Update – Steven K. Hartzell**

(A) Summary of 2008 Legislation

Ms. DeFoe advised the CPTA is planning to introduce legislation with the same language introduced in 2008 for consumer direct access. They are actively seeking support. Also, Ms. DeFoe indicated the issue of payment for electromyography by physical therapists for MediCal patients may be addressed next year.

(B) Proposed 2009 Legislation

(1) Amendment of Physical Therapy Practice Act

Mr. Hartzell reported that the proposed amendments to the Physical Therapy Practice Act had been submitted to the department and they have expressed concern with repealing licensure of the physical therapist assistant based on equivalent education and work experience and increasing the size of the Board. Ms. DeFoe indicated that the CPTA was in support of the change of the Board structure.

The Board reviewed the proposed changes in its entirety. The proposed changes are as follows:

- 2603 – Do not change the structure of the Board.

**MOTION: Remove language proposing to change the structure of the Board.**

**Moved by: Ms. Jewell    Second by: Ms. Takii    Vote: 5-0    Motion passed.**

- 2603.5, 2604 - Make consistent with section 2603.
- 2605, 2607, 2607.5, 2608 – No change
- 2608.3 – Amend language to be consistent with language proposed by the Assistive Personnel Task Force.
- 2608.5, 2611, 2612, 2614, 2615 - No changes.
- 2620(b) – Ensure that the language is consistent with the American Physical Therapy Association Guide to Practice.
- 2620.2, 2620.3, 2620.7, 2621, 2622 – No change.
- 2623 – Delete “high standard” from text and amend to require notification of initial changes only, include distribution instead of “mailed”.

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- 2625 - Delete “business”, add “viewable to all patients”.
- 2630 – No change.
- 2630.3 (d)- Delete “immediate family” suggested although not sure of impact if deleted. The Board directed Ms. Freedman to work with Mr. Hartzell on clarifying language.
- 2630.4 – Make language consistent with any future changes the Board makes as a result of the Assistive Personnel Task Force’s efforts, and amend subsection (b) to eliminate duplication of the language requiring the immediate supervision of the aide; subsection (d) generates concern it would prohibit the child of a licensed physical therapist from learning about the profession of physical therapy, which is not a desired outcome. The same issues exist as in section 2630.3(d). The Board directed Ms. Freedman to work with Mr. Hartzell on clarifying language.
- 2630.5 – Concern expressed with subsection (a), Doctor of Physical Therapy transition or bridge education program.
- 2633 – Correct subsection (e) to indicate a person shall not be advertised or identified as being a licensed physical therapist, delete “any other person” in second sentence.
- 2635 – Change “educational” to “education” in subsection (d)(2). The Board discussed the option of requiring applicants to pass the examination prior to applying for licensure.
- 2636, 2636.5, 2636.7 – No change.
- 2639 - Delete the words “physical therapist license” from subsection (a)(1) since it applies to both a physical therapist and physical therapist assistant applicant. Delete “next succeeding” from subsection (a)(3). Reference the documentation requirement for the physical therapist assistant instead of including specific language in subsection (b)(1).
- 2644, 2645, 2646, 2647, 2648 – No change.
- 2648.3 – Reference to “medicine” should be changed to “physical therapy”.
- 2650, 2651 – No change.
- 2653(a) Delete authorization for a foreign educated physical therapist to obtain a Doctor of Physical Therapy via a transition or bridge program.

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**MOTION: Delete provision for a foreign educated physical therapist to earn a Doctor of Physical Therapy by completing a transition or bridge program.**

**Moved by: Ms. Krueger    Seconded by: Ms. Takii    Vote 4-1    Motion passed.**

- 2654, 2655 – No change.
- 2655.3 subsection C – Correct grammar.
- 2660 – Correct parallel structure, delete second “practice” and add “in” between negligence in the practice in subsection (h).
- 2660.2, 2660.3 – No change.
- 2660.4 - Add “from the Board” to the first line.
- 2660.5, 2660.6, 2660.7 – No change.
- 2660.8(a)(5) – Correct to read surrender “the” license instead of “of a”.
- 2660.6, 2660.7, 2660.8 – No change.
- 2661 – Delete the word “order” from underlined text.
- 2661.7, 2672, 2682 – No changes.
- 2688 - Correct physical therapist assistant applicant and license fees.

**MOTION: Approval for staff to proceed with legislative changes as directed.**

**Moved by: Ms. Jewell    Seconded by Ms. Takii    Vote: 5-0    Motion passed.**

**MOTION: Publish the proposed changes so that comments received from licensees shall be made available to the Board prior to the next meeting**

**Moved by: Ms. Jewell    Seconded by Ms. Takii    Vote: 5-0    Motion passed.**

### **15. Newsletter Update**

The Board addressed the newsletter during discussion of agenda item 7.

### **16. Review & Action on Recommendations by the Assistive Personnel Task Force**

*Nancy Krueger, PT*

Ms. Jewell complimented the task force for an excellent job. The Board did not have adequate time to discuss the language in depth; therefore, staff suggested that the item be included on the next agenda

**MOTION: Place on agenda for next meeting, distribute for public comment.**

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**Moved by: Ms. Jewell    Seconded by: Ms. Takii    Vote: 5-0    Motion passed.**

The task force's minutes were considered and Mitch Kaye noted he was appointed to the wellness committee. Ms. Krueger concurred. The minutes will be corrected to reflect this. Ms. Jewell suggested editorial changes.

**MOTION: The Board expressed appreciation to the task force for a job well done.  
Moved by: Ms. Jewell    Seconded by: Ms. Takii    Vote 5-0    Motion passed.**

**17. Application & Licensing Services Report**

Ms. Romo offered the report included in the agenda book. The Board expressed concern with only 75% of the physical therapy candidates from California programs passing the licensing exam.

**18. Election of 2009 Board President and Vice President**

Ms. Jewell nominated Ms. Krueger for president.  
Ms. Krueger nominated Ms. Jewell for vice president.  
Ms. Takii nominated Ms. Alviso for vice president.

Ms. Krueger was elected president and Ms. Jewell was elected vice president

**19. Election of 2009 Federation of State Board of Physical Therapy Delegate and Alternate Delegates**

Ms. Takii was elected delegate and Mr. Turner first alternate delegate.

All Board members, Executive Officer and Legal Counsel were appointed as subsequent alternate delegates.

**20. Agenda Items for Next Meeting**

The rulemaking calendar, proposed amendments to the Physical Therapy Practice Act, public comment on the language developed by the Assistive Personnel Task Force and presentation by Mary Everett of the California Board of Occupational Therapy will be on the agenda for the January 2009 meeting.

**21. Public Comment on Items not on the Agenda**

There was no public comment.

**22. Adjournment**

Ms. Krueger adjourned the Physical Therapy Board of California meeting at 6:55 p.m.

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Moved by: Ms. Jewell, Seconded by Ms. Alviso, to accept the minutes as corrected. The following corrections were made to the minutes: Page 2, line 73, strike last sentence of paragraph (lines 73,74, and 75); Line 220, add an “s” to Board in the agenda title; Line 224, “she” should be changed to Ms. Alviso; Line 248, should read northern and southern California; Line 303, add “with” between introduce and legislation; Line 323, add Marty’s last name Jewell and Sara’s last name Takii to the motion; Line 350, after the word “changes” add “the Board makes” and remove the word “made”; Line 418 and 419, delete editorial remark in brackets; Line 431, add the below sentence before the motion to the end of Line 429, “The Board did not have adequate time to discuss the language in depth; therefore, staff suggested that the item be included on the next agenda”. Vote: 5-0 Motion carried.

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Nancy Krueger, PT – President

Date