



Physical Therapy Board of California

STATE AND CONSUMER SERVICES AGENCY - GOVERNOR EDMUND G. BROWN JR.

# Physical Therapy Board of California

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## Physical Therapy Board of California APPROVED MEETING MINUTES

Wednesday, February 16, 2011 – 9:30 a.m.

Thursday, February 17, 2011 – 9:00 a.m.

University of St. Augustine, San Diego Campus  
700 Windy Point Drive, Building C, Room 113C  
San Marcos, CA 92069

For the sake of clarity, the meeting minutes are organized in numerical order to reflect their original order on the agenda; however, issues were taken out of order during the meeting.

### 1. Call to Order and Roll Call.

<b>Dr. Sara Takii, Physical Therapist, President</b>	February 16, 2011 – Present February 17, 2011 – Present
<b>Dr. Debra J. Alviso, Physical Therapist, Vice-President</b>	February 16, 2011 – Present February 17, 2011 – Present
<b>Ms. Marty Jewell, PT, Ph.D.</b>	February 16, 2011 – Present February 17, 2011 – Present
<b>Mr. Donald A. Chu, PT Ph.D., ATC, CSCS</b>	February 16, 2011 – Present February 17, 2011 – Present
<b>Mr. James E. Turner</b>	February 16, 2011 – Absent both days February 17, 2011 with prior notification
<b>Ms. Karen B. Pines, LMFT</b>	February 16, 2011 – Arrived at 9:45 a.m. February 17, 2011 – Present

The Physical Therapy Board of California (Board) February 2011 meeting was called to order by Dr. Takii, Physical Therapist, at 9:31 a.m., February 16, 2011. Although Ms. Pines, LMFT was absent, a quorum was established. Ms. Pines, LMFT, arrived at 9:45 a.m. Mr. Turner was absent from the meeting and provided prior notification to the Board.

### 2. Introduction of New Board Member Donald A. Chu, PT, Ph.D. – *Dr. Sara Takii, Physical Therapist*

Dr. Takii, Physical Therapist, introduced Donald A. Chu, PT, Ph.D. Mr. Chu, PT, Ph.D., previously served on the Board from January 1999 to October 2006 where he served as President for most of his tenure. He currently is the Director of the Athercare Fitness and Rehabilitation Clinic in Castro Valley, California. He serves as adjunct faculty to the Ohlone College Physical Therapist Assistant program in Newark, California. Mr. Chu, PT, Ph.D., is a past President of the National Strength and Conditioning Association (NSCA) and has served on the Board of Directors of the National Athletic Trainers'

Association (NATA). He is a member of the Hall of Fame for the NATA, Strength and Conditioning Coaches and California State University, Hayward Athletic Hall of Fame.

### 3. Approval of Minutes

#### (A) November 2 & 3, 2010

Corrections were made to the minutes as follows:

##### Page 6, Line 307

*All healthcare practitioners as defined in the bill are required to either post in a clearly visible location within the office, or present ~~the~~ to the patient at the initial visit the following information [...]*

##### Page 7, Line 387

*He monitors approximately 60 probationers throughout California, which makes it difficult to physically visit each probationer more than quarterly.*

##### Page 10, Lines 531-532

*The Board directed Mr. Hartzell to send the questions, ~~regarding the~~ Ms. Yazigi, legal counsel, ~~was has~~ working on regarding the testing suspension to the FSBPT.*

Dr. Alviso, Physical Therapist, noted the sentence is grammatically incorrect and asked it be revised.

##### Page 12, Line 628

*Dr. Alviso, Physical Therapist, shared the "wellness" issue is also being considered by the FSBPT and the same ~~problem are arising~~ difficulty in defining "wellness" exists.*

**MOTION: To adopt the draft minutes from the November 2 & 3, 2010 meeting as amended.**

**MOVED: Ms. Jewell, PT, Ph.D.**

**SECOND: Dr. Alviso, Physical Therapist**

**VOTE: 4-0, 2 absent  
Motion carried**

#### (B) January 20, 2011

Dr. Alviso, Physical Therapist, questioned the time of adjournment because although the hearing ended at 2:15 p.m., the Board then convened in closed session. Mr. Hartzell confirmed the meeting adjourned at 5:20 p.m. after the conclusion of closed session.

**MOTION: To adopt the draft minutes from the January 20, 2011 meeting as amended.**

**MOVED: Dr. Alviso, Physical Therapist**

**SECOND: Mr. Chu, PT, Ph.D.**

**VOTE: 4-0, 2 absent  
Motion carried**

**4. Consumer Protection Services Enforcement Report – *Elsa Ybarra***

**(A) Statistics**

Minutes on agenda items 4(A) and 4(B) have been combined; see agenda item 4(B).

**(B) Disciplinary Summary**

Ms. Elsa Ybarra explained the Department of Consumer Affairs (DCA) began posting the Performance Measures, which reflect the Board's enforcement statistics, on its website. Mr. Hartzell added staff will be reviewing the goals of each Performance Measure for enforcement and making recommendations at the next Board meeting. Mr. Hartzell also shared Board enforcement staff and Dr. Alviso, Physical Therapist, attended the National Certified Investigator/Inspector Training. Those who attended the training appreciated the opportunity and felt the training was valuable. Mr. Hartzell reported enforcement staff currently conducts in-house desk investigations, but with this training, the future goal is for staff to also complete the in-house investigative reports. Ms. Jewell, PT, Ph.D., stated that she likes the enforcement report formatting.

**5. Application & Licensing Services Report – *Jason Kaiser***

Mr. Hartzell introduced Mr. Jason Kaiser who is representing the Licensing Services Unit in the absence of Ms. Ilda Romo.

**(A) Statistics**

The Licensing and Application Services Unit is approaching one of the busiest times of year with many upcoming graduations for those schools within California and throughout the U.S. The deadline for the foreign educated applicants to register for the National Physical Therapy Exam (NPTE-i) is quickly approaching. In addition, foreign educated applicants have shown a lot of interest in taking the NPTE-i in May.

Ms. Jewell, PT, Ph.D., expressed concern the Board is unable to track delinquent licensees and whether or not they are continuing to practice. Mr. Hartzell responded he encourages the public to verify licenses on the Board's website and to report a licensee if his or her license is delinquent. Mr. Kaiser explained the small change in the statistical report focuses on delinquent licenses primarily reflects those licensees who are no longer practicing. Since the Board does not have a license status for a licensee no longer practicing, the data is included with those delinquent licenses.

Ms. Jewell, PT, Ph.D., questioned why graduation statistics on pages 6 and page 9 do not coincide? Mr. Kaiser explained page 6 includes statistical information for a period of 6 months, while page 9 is for 12 months. In addition, the information on page 9 is

received from the Federation of State Boards of Physical Therapy (FSBPT), while the information on page 6 is accumulated by the Board, so there may be slight discrepancies possibly due to the Board receiving data later than the FSBPT.

**(B) National Physical Therapy Exam Restrictions Lifted for PTA Applicants Who Graduated From a PT Program in the Restricted Countries**

Physical Therapist Assistant applicants educated in Egypt, India, Pakistan, and the Philippines are permitted to take the exam on a regular basis since the FSBPT has lifted the testing restriction for these applicants.

**(C) Continuing Competency Audits**

Mr. Kaiser updated the Board on the implementation of continuing competency audits. Staff is currently conducting audits for those licensees whose license expired in October, November, or December of 2010. The audits are currently being conducted on approximately 10% of all licensees renewing each month but the percentage of audits may increase. Licensees, overall, are responding to the audit letters and are able to provide proof they are in compliance with the continuing competency requirement for licensure renewal. There continues to be some confusion as to the classes that qualify to meet the continuing competency requirement.

Mr. Hartzell shared feedback he has heard within the physical therapy community such as some licensees do not feel the need to comply with the continuing competency requirement and have expressed intent to certify for renewal completion of the continuing competency requirement, even if they have not. Mr. Hartzell explained those licensees who knowingly violate the requirement will likely have an accusation filed against them.

**6. President's Report – Dr. Sara Takii, Physical Therapist**

**(A) DCA Meeting with the Presidents of the Boards Report**

Dr. Takii, Physical Therapist, shared DCA is continuing to hold teleconferences with the board Presidents and Executive Officers. The last teleconference was focused primarily on issues related to the new administration, specifically surrounding the budget. Another topic of discussion was the Office of Statewide Planning and Development (OSHPAD) collecting data on trends for all health-related occupations to develop future workforce predictions. The Medical Board of California (MBC) has created a survey template for this study. The plan is for the results of the survey to be available in 2012. There has also been a call for board Presidents to participate in an Executive Officer (EO) Evaluation Committee to revise the EO evaluation form. Dr. Takii, Physical Therapist, shared two concerns the Board had when completing the EO evaluation, 1) the absence of goal setting and 2) how the EO works with DCA. Cindy Kanemoto, DCA staff, is developing a new approach to the EO evaluation form basing it on identified core competencies.

**(B) 2011/2012 Proposed PTBC Meeting Dates**

Ms. Marco shared Board staff has contacted physical therapist and physical therapist assistant schools for their interest in hosting a Board meeting in 2012; the 2011 Board

meeting calendar has already been established. There was a positive response from the schools and many offered to hold a meeting. Given the location of some of the schools and the Board calendar template, Ms. Marco asked the Board members if they would be willing to move some dates around to accommodate the schools' schedules. Dr. Takii, Physical Therapist, shared she would like to encourage flexibility so the Board can meet at the schools and Mr. Chu, PT, Ph.D., concurred. All the members agreed the meeting dates could be flexible to accommodate the schools' schedules.

Mr. Hartzell shared a recent issue arose regarding the rulemaking file for amendments to California Code of Regulations (CCR), Section 1398.44, but it is not on this meeting's agenda, so he requested the Board schedule a future teleconference. There is a timeline staff must follow with the rulemaking file, so the teleconference needed to be scheduled as soon as possible, but also allowing enough time to properly notice the agenda pursuant to the Open Meeting Act. The Board determined March 1<sup>st</sup> from 1:00 p.m. to 2:30 p.m. would be an available time for all members. In addition, the (Administrative Procedures Act) APA requires the Board allow a 15-day comment period for any amendments made to the modified text of proposed regulations, so Mr. Hartzell suggested scheduling a second teleconference date in the event the Board receives public comment regarding changes to the amended language on March 1<sup>st</sup>. The Board determined March 17<sup>th</sup> would be available for all members. Both dates were added to the 2011 meeting calendar.

Ms. Jewell expressed concern regarding available resources for both the California Physical Therapy Association (CPTA) Annual Meeting and the FSBPT Annual Meeting because they fall on the same dates this year. Mr. Hartzell agreed this does present a conflict, so Board staff and members will need to be split between the two meetings. Ms. Pines, LMFT, shared she may not be available for the May Board meeting.

## **7. Executive Officer's Report – *Steven K. Hartzell***

### **(A) Outreach**

Ms. Marco provided the Board with a handout showing each tabbed section on the Board's Web site and the number of hits each of those sections received. Ms. Jewell, PT, Ph.D., asked why the "Consumers" section received one million hits. Mr. Kaiser explained the license verification screen is located under that section, which is one of the most utilized tools on the Board's Web site. Ms. Jewell asked if there was a way to truly identify if a user is a consumer, employer, licensee, or applicant. Ms. Marco explained she has been working with the DCA Internet Team about conducting user surveys to determine who the user is and their interests.

Ms. Marco asked the Board members if they would like Web site updates at all future meetings. Dr. Alviso, Physical Therapist, expressed she would like to see what the "hot" items are, such as continuing competency. Mr. Chu, PT, Ph.D., asked if continuing competency could be highlighted on the Web site so it stands out for users. Ms. Marco responded she has been working with the DCA Internet Team and at one point the Internet Team was planning to re-design all boards' Web sites, and they advised it could be added at then. She will contact them to verify the implementation date of the new Web sites, and if it is scheduled in the near future, changes such as highlighting continuing competency may be completed at then as well.

Ms. Marco presented the newsletter proof designed by the DCA Publication, Design, and Editing Team for Board review. Ms. Pines strongly suggested the newsletter be made available on-line instead of being mailed. Ms. Marco explained it is the Board's decision as to how the newsletter is distributed to licensees. Mr. Hartzell shared, at this time; the Board is still transitioning to sharing information electronically, so the Board does not have a substantial database of e-mails for licensees. When BreEZe is implemented, the Board will obtain e-mails on a regular basis, but until then, Mr. Hartzell recommends at least notifying licensees the newsletter is on-line through regular mail. There are a couple options which include mailing a post card; doing so would require less postage than mailing the entire newsletter and save the printing costs. Another option is sending a notice with the license renewal form notifying licensees the newsletter will be, or is available on-line. Either way, Mr. Hartzell suggests notifying licensees through the newsletter this may be the last issue mailed and suggest licensees go to the Board's Web site to sign-up for e-mail notifications. In addition to the newsletter, staff has been working on commencing a Facebook page. There is concern the Facebook page will require constant attention and maintenance to keep people's interest. The Board would like the Facebook page to move forward and directed staff to implement the Board's page and include a notice in the newsletter.

Ms. Marco asked the Board for feedback regarding the flow of information which is an item addressed on the Board's Strategic Plan. The Board appreciated receiving items in a timely manner; however, it is a slight challenge organizing all meeting materials when items are sent separately. Due to an attempt to get the most current information to the Board in a timely manner, and without causing extraneous printing costs to the members, staff will continue to work towards getting information to the Board in a timely manner both in electronic format and hard copy as well, unless members indicate otherwise to staff.

**(B) FY 2010/2011 Budget**

Minutes on agenda items 7(B) and 7(C) have been combined; see agenda item 7(C).

**(C) FY 2011/2012 Budget**

Mr. Hartzell shared the Board has a tight budget at this time. Governor Brown cancelled the plan to sell state buildings, which left a budget short fall. Though the Board is a special funds agency, the State is borrowing \$1.5 million from the Board's finds. The money must be returned to the Board in the event the Board is in desperate need of the funds; however, the Department of Finance (DOF) is not approving increases in the budget.

Dr. James Dagostino, Physical Therapist, representing the CPTA expressed concern about the State using the licensees' fees for things unrelated to the Board. Mr. Hartzell explained by law all fees paid by applicants and licensees cannot be used for anything other than the operational costs of the Board, so if the Board needed the borrowed money, the State would have to return the funds. The funds are invested by the State, but not necessarily used; this type of State borrowing occurs on an ongoing basis for many different types of funds. Because of the state of the Board's budget, Mr. Hartzell shared he may not retire until next fiscal year so the Board would not have to incur the cost associated with his retirement during this fiscal year.

**(D) Update on PTBC Staffing**

Governor Brown has issued Executive Order B-3-11 implementing a statewide hiring freeze. Details of what the Executive Order does and does not allow is still being determined. The Executive Order does pose a challenge to the Board's future staffing plans. An immediate concern which prevents the progress of the Board's staffing plan is some staff is included as operating costs in the Board's budget. The Board could pursue a Budget Change Proposal (BCP); however, given the Board would have to provide a comprehensive report on staffing, there is a possibility the Board could lose staff given the current staffing structure. In addition to clerical and analytical staff changes, Mr. Hartzell shared the Board also needs to add managerial staff. Currently, there are only two managers, the Executive Officer and Assistant Executive Officer, with approximately thirty staff members, which is a large burden given the numerous other responsibilities both are required to perform.

**(E) Announcement of Retirement**

Mr. Hartzell announced he will be retiring around June 30, 2011. The Board will consider selection of an Executive Officer, and the process will be addressed under agenda item #20.

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

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

Representatives from the CPTA indicated they had nothing to report or discuss.

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

Dr. Alviso, Physical Therapist, shared the FSBPT Finance Committee approved the current budget. Dr. Takii, Physical Therapist, shared she resigned from the FSBPT Foreign Education Standards Committee. Ms. Jewell, PT, Ph.D., reported she is on the FSBPT Exam Security Committee (ESC). The ESC is looking at issues such as credential evaluations being an adequate screening tool for exam eligibility, the effect retake policies have on applicants retaining questions. In addition, long-term topics include equity of access, actual education equivalency, and level of practice which could be addressed by conducting an across countries study. Also some states may have to look at the need for temporary licenses.

**(C) DCA Director's Report – DCA Representative**

Kim Kirchmeyer, Deputy Director of Board and Bureau Relations thanked Board staff for participating in the National Certified Investigator/Inspector Training and thanked Mr. Hartzell and Dr. Takii, Physical Therapist, for serving on the EO Evaluation Committee, to revise the EO evaluation form. Ms. Kirchmeyer shared, Mr. Brian Stiger, DCA Acting Director will maintain his position as Acting Director, and so he asks all projects under his direction to continue. Governor Brown issued Executive Order B-1-11 which required DCA to reduce the number of cell phones used by staff by 50% and the other 50%, which DCA is permitted to keep, are required to be justified for continued use. DCA requests all boards continue with establishing expert consultant contracts. Ms. Kirchmeyer shared questions regarding the Board's implementation of regulations, which stemmed from the Consumer Protection Enforcement Initiative (CPEI) and

Chapter 548, Statutes of 2008 (SB 1441), may be included in the Sunset Review report the Board is required to complete in the near future. Ms. Kirchmeyer then shared the BreEZe project is continuing to progress; the vendors are required to submit their proposal by the end of February 2011.

**9. Sunset Review Pursuant to Business and Professions Code Section 2602 – Steven K. Hartzell**

Mr. Hartzell explained the Legislature will soon be sending questions to the staff and will be requiring responses during the upcoming Sunset Review. Those questions may be provided for Board review at the May Board meeting.

**10. 2011 Rulemaking Calendar – Rebecca Marco**

Ms. Marco presented the 2011 Rulemaking Calendar to the Board and noted, since the printing of the calendar, she has added an additional item, *Defining the Title Doctor of Physical Therapy*. Since there are numerous items to address on the calendar, Ms. Marco prioritized each one with a 1, 2, or 3 and asked the Board members whether they concur with her recommendations. Dr. Takii, Physical Therapist, asked why *Practice of Physical Therapy in Veterinarian Medicine* was not added, and why *Delegation of Authority* was listed with such high priority. Ms. Marco explained the Board does not have statutory authority to address *Practice of Physical Therapy in Veterinary Medicine*, but has asked the Veterinary Medical Board of California to address this issue, which they have recently formed a task force to do. *Delegation of Authority* was listed as a high priority due to conflicting tasks specifically delegated to the EO, as often is the case, and he/she may not be available to address all tasks.

**MOTION: To adopt the rulemaking calendar as amended and prioritized.**

**MOVED: Dr. Alviso, Physical Therapist**

**SECOND: Mr. Chu, PT, Ph.D.**

**VOTE: 5-0, 1 absent  
Motion carried**

**11. Disciplinary Decisions**

The Board convened in CLOSED SESSION to deliberate on disciplinary actions pursuant to Government Code Section 11126(c)(3).

Disciplinary decisions will be available on the Board's Web site at [www.ptbc.ca.gov](http://www.ptbc.ca.gov).

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

**(A) Revisions to the Physical Therapy Practice Act Update**

Mr. Hartzell provided an update on the Physical Therapy Practice Act (Act). He explained the Act revisions are primarily to reorganize language for clarity; move any authority still in the Medical Practice Act; and, to formally include the Board within the scope of the Health Quality Enforcement Section.

The Board then reviewed the Act and made the following amendments:

Page 5, Section 2608.5

*Failure to cooperate with the inspection or to provide the required report constitutes unprofessional conduct.*

Page 8, Section 2623

Dr. Alviso, Physical Therapist, questioned the intent of Business and Professions Code Section 2623. The Board also discussed whether or not the requirement to notify licensees should be included in statute. The Board determined the statute establishes the authority to create a professional code of conduct, and if necessary establish regulations addressing notifications of changes. The current language is too burdensome; therefore, the following language was stricken:

*The board may by regulation, prescribe, amend, or repeal any rules contained within a code of professional conduct appropriate to the establishment and maintenance of integrity and dignity in the profession. ~~In addition to the requirements contained in Chapter 4 (commencing with Section 11370) of Part 1 of Division 3 of Title 2 of the Government Code, a copy of the initial changes to the rules shall be distributed to every holder of a license under this chapter at least thirty (30) days prior to a date named for public hearing held for the purpose of receiving and considering objections to any of the proposed provisions. Every licensee of the board in this state shall be governed and controlled by the rules and standards adopted by the board.~~*

Mr. Walker agreed the language which establishes the Board's authority to create a code of professional conduct was ambiguous and made the following recommendations to the Board's revised language:

*The board may by regulation, prescribe, amend, or repeal any rules contained within a code of professional conduct appropriate to the establishment and maintenance of integrity and dignity in the profession [...]*

**MOTION: To amend Section 2623 as recommended by legal counsel.**

**MOVED: Dr. Alviso, Physical Therapist**

**SECOND: Ms. Jewell, PT, Ph.D.**

**VOTE: 5-0, 1 absent  
Motion carried**

Page 12, Section 2633.7

*During the period of clinical practice referred to in Section 2650 or in any similar period of observation of ~~related~~ related education experience involving recipients of physical therapy, a person so engaged shall be identified only as a "physical therapist student," or "physical therapist assistant student" as authorized by the board in its regulations.*

Page 14, Section 2636.7(b)

*A temporary permit to practice as a physical therapist or physical therapist assistant shall terminate upon notice thereof by certified mail, return receipt requested, if it is ~~issues~~ issued by mistake or if the application for licensure is denied.*

Page 16, Section 2646

*A license which has expired may be renewed at any time within three (3) years after its expiration on filing an application for renewal on a form prescribed by the board and payment of all accrued fees and any other fee required by Section 2686, if the licensee ~~if~~ not renewed by the expiration date [...]*

Page 16, Section 2648(a)

Ms. Jewell, PT, Ph.D., brought to the Board's attention; the Coast Guard is not included with the other military branches listed as exempt from the payment of the renewal fee while engaged in full-time training or active service. The Board determined the Coast Guard should be included in this section.

*Every licensee is exempt from the payment of the renewal fee while engaged in full-time training or active service in the Army, Navy, Air Force, ~~or~~ Marines, or Coast Guard, or in the United States Public Health Service.*

Page 17, Section 2650 (a)(1)

*Except as otherwise provided in this chapter, each applicant for a license as a physical therapist shall be a graduate of a professional degree program of an accredited [...]*

Page 27, Section 2660.6

The Board is striking Section 2660.6 because it is duplicative to what is already in regulation.

**MOTION: To strike Section 2660.6 of the proposed Act.**

**MOVE: Mr. Chu, PT, Ph.D.**

**SECOND: Dr. Alviso, Physical Therapist**

**VOTE: 5-0, 1 absent  
Motion carried**

**(B) All 2011 Legislation Which Could Have an Effect on Physical Therapy Practice or Regulation in California**

Mr. Hartzell reported it is too early to determine what legislation may have an effect on the practice or regulation of physical therapy given the last day to introduce bills is not until February 18<sup>th</sup>. Staff will have more information at the May Board meeting. Dr. Dagostino, Physical Therapist, representing the CPTA, stated the CPTA concurs with Board staff, it is too early and they are not aware of any legislation; however, the CPTA recently received a bill regarding licensing of Athletic Trainers, which they are in the process of reviewing.

**(C) Legislation to Include Telemedicine in Physical Therapy Practice**

Agenda item 12(c) was discussed under agenda item 17; see agenda item 17.

**13. Draft Regulatory Language for Board Consideration and Possible Action for the Following Sections of Division 13.2 of Title 16 of the California Code of Regulations (Physical Therapy Board of California) –**

**(A) Model Guidelines for Issuing Citations and Imposing Discipline  
1399.15**

Mr. Spencer Walker, legal counsel, explained California Code of Regulations (CCR) 1399.15 must be amended to authorize the inclusion of the Substance Abuse Standards from Chapter 548, Statutes of 2008 (SB 1441). Mr. Walker recommended the Board President appoint a task force of two members to work on uniform standards related to substance abuse and guidelines for issuing citations and imposing discipline. These terms would apply to those licensees on probation for substance abuse problems. The task force is also tasked with going through all the terms and conditions of the Substance Abuse Standards and determining which offenses of the Business and Professions Code and California Code of Regulations would warrant the given conditions. Dr. Takii, Physical Therapist, appointed Dr. Donald Chu, PT, Ph.D., and Mr. Turner serve on the task force.

**(B) Sponsored Free Health Care Events – Chapter 270, Statutes of 2010  
(AB 2699)  
1400-1400.3**

Mr. Walker provided the Board with the background of Chapter 270, Statutes of 2010 (AB 2699). This new provision allows licensees from out of state to volunteer at free health care events in California without obtaining a California license, but an authorization to practice for the specified event instead. DCA has drafted the regulatory language to ensure consistent requirements through all licensing boards; however, there are a few items which the Board may make specific. Under CCR Section 1400.2(a), the Board may determine the fee to be paid for the processing of the authorization. Mr. Walker shared the MBC has decided upon a twenty-five (\$25) fee. Mr. Hartzell added the approximate cost to the Board to process a check is twenty-five dollars (\$25). Keeping in mind the individuals participating in these events would be doing so on a voluntary basis, it would be good to charge only a minimal fee.

The Board may also decide whether or not to have specific education and/or experience requirements under CCR Section 1400.2(c)(1)(B). Mr. Hartzell explained the requirements to practice in California are already in statute and since there is a national exam, no additional education requirements should be necessary; however, California is the only state which provides certification for Electroneuromyography, so the Board may wish to add a specific requirement to address specialty certification. The proposed language was presented to the whole Board; however, the Board delegated the review of this regulation to the same task force responsible for reviewing the Disciplinary Guidelines and the Substance Abuse Standards.

**14. Regulations to Implement Diversion Program Guidelines, Chapter 517, Statutes of 2010 (SB 1172)**

Mr. Walker explained the DCA, Division of Legislative and Policy Review is currently in the process of drafting the proposed regulations which stem from Chapter 517, Statutes of 2010 (SB 1172); therefore, they are not yet available for review.

**15. Regulations to Implement Substance Abuse Guidelines, Chapter 548, Statutes of 2008 (SB 1441)**

Minutes on agenda items 13(A) and 15 have been combined; see agenda item 13(A).

**16. Update on Actions by the FSBPT to Restrict Testing for NPTE Candidates from Specific Countries – Steven K. Hartzell**

Mr. Hartzell reported Dr. Norman Hertz will be traveling to Virginia to conduct an audit on the FSBPT's evidence regarding the integrity of the NPTE exam. Mr. Walker shared three Filipino applicants in Georgia filed an injunction against the Georgia Physical Therapy Board, which the court granted on the basis the Georgia Physical Therapy Board did not follow the Administrative Procedures Act (APA). The Court ruled, by the Georgia Physical Therapy Board adopting the FSBPT's action, the Georgia Physical Therapy Board discriminated against applicants educated in Egypt, India, Pakistan and the Philippines. The Court's ruling is in keeping with the California Board's position.

Mr. Walker explained the FSBPT was put on written notice by Ms. Claire Yazigi, legal counsel, their actions were discriminatory. Therefore, this ruling in Georgia, though it has no application in California, again notifies the FSBPT of the discriminatory actions. Mr. Walker recommends taking action against the FSBPT if they do not change their position on this matter.

Mr. Hartzell suggested gathering information for the Board to consider an alternate testing option. He added there are some issues to address when considering using an alternate test, including portability of the score to other states, and the availability of the alternate test for use by other states.

The Board then discussed the issue of limiting the number of exam attempts per application from three to two. Dr. Alviso, Physical Therapist, supported limiting the number of exam attempts for all applicants because at this time it is the only thing the Board has control over to ensure equality during this time. If the Board were to limit the number of exam attempts for all applicants, it would only apply to the number of attempts, not limiting the number of days, or making the test available only on specific days. Ms. Jewell, PT, Ph.D., clarified there are two separate issues involved, the first being the number of exam attempts, and the second being the exam is only offered on fixed dates for the affected applicants.

**MOTION:** To direct the Executive Officer and legal counsel to monitor activity regarding this issue in other states and, if appropriate, file a brief.

**MOVED:** Mr. Chu, PT, Ph.D.

**SECOND:** Ms. Pines, LMFT

**VOTE:** 4-0, 1 abstained, 1 absent  
Motion carried

**17. Special Order of Business – Thursday, February 17, 2011, 9:00 a.m.**  
**Telehealth/Telemedicine Presentation – Alan Chong W. Lee, PT, DPT, CWS, GCS**

Dr. Lee, Physical Therapist, presented information on telehealth including the various types of telehealth, how it is applied by those healthcare professions with authority to use it, and how other states are using telehealth in physical therapy. Refer to agenda item #17 for presentation information. At the conclusion of the presentation Tammy Richmond, MS, OTR/L, shared her experience with telehealth and pursuing telemedicine legislation for the California Board of Occupational Therapy (BOT).

The Board discussed the possibility of adding telehealth/telemedicine to physical therapists' scope of practice. To do this, the Board would need statutory authority, which the BOT is already pursuing for occupational therapists to practice telemedicine.

**MOTION:**     **The Board shall join the Occupational Therapy Board of California in their efforts to obtain an author for the telemedicine bill. The Board directs the Executive Officer, in consultation with physical therapist experts to develop statutory language for the Act authorizing physical therapists to practice telehealth, including telemedicine and telerehabilitation. The Board authorizes the President to approve the language.**

**MOVED:**     **Mr. Chu, PT, Ph.D.**

**SECOND:**   **Dr. Alviso, Physical Therapist**

**VOTE:**       **5-0, 1 absent**  
                  **Motion carried**

**18. Maximus Diversion Program Presentation – Linda Ryan, MFT, MA**

Linda Ryan, MFT, MA, Maximus Clinical Case Manager, and Ginny Matthews, RN, Maximus Project Manager presented information regarding the Physical Therapy Diversion Program. For the information presented, please refer to the presentation included as agenda item #18.

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

There were no additional public comments.

**20. Discussion of Selection of New Executive Officer – Jennifer Willis, DCA Personnel Officer**

Ms. Willis outlined the procedures for appointing a new Executive Officer. Discussions regarding specific action by Board to appoint a new Executive Officer occurred under agenda item #22, in closed session.

**21. Agenda Items for Next Meeting – Wednesday & Thursday, May 11 & 12, 2011**  
**Mount St. Mary's College, Los Angeles, CA**

Staff will review the minutes from this meeting to determine agenda items for the May Board meeting.

**22. Closed Session – Deliberation on Personnel Matters and Action on Personnel Decisions Pursuant to Government Code Section 11126(a)(1)**

- (A) Interview Candidates for Executive Officer Position (If necessary)**
- (B) Selection and Appointment of Executive Officer (If necessary)**

At the conclusion of closed session the Board announced the appointment of Rebecca Marco as Interim Executive Officer. Ms. Marco currently serves as the Assistant Executive Officer to the Board. The appointment will commence on April 1, 2011.

**23. Adjournment**

The meeting adjourned at 4:22 p.m., February 17, 2011.

**MOTION: To adopt the draft minutes from the February 16 & 17, 2011 meeting.**

**MOVED: Ms. Jewell, PT, Ph.D.**

**SECOND: Mr. Turner**

**VOTE: 5-0 Motion carried**

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**Dr. Sara Takii, Physical Therapist**

**Date**