



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, August 3, 2011

Thursday, August 4, 2011

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

For the sake of clarity, the meeting minutes are organized numerically 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.

Dr. Sara Takii, Physical Therapist, President  
Dr. Debra J. Alviso, Physical Therapist, Vice-President  
Ms. Marty Jewell, PT, Ph.D.  
Mr. Donald A. Chu, PT, Ph.D., ATC, CSCS  
Mr. James Turner

Dr. Sara Takii, Physical Therapist, President	August 3, 2011 – Present August 4, 2011 – Present
Dr. Debra J. Alviso, Physical Therapist, Vice-President	August 3, 2011 – Present August 4, 2011 – Present
Ms. Marty Jewell, Ph.D., PT	August 3, 2011 – Present August 4, 2011 – Present
Mr. Donald A. Chu, Ph.D., PT, ATC, CSCS	August 3, 2011 – Present August 4, 2011 – Present
Mr. James E. Turner	August 3, 2011 – Present August 4, 2011 – Present

The Physical Therapy Board of California (Board) August 2011 meeting was called to order by Dr. Takii, Physical Therapist, at 9:05 a.m., August 2, 2011. All members were present and a quorum was established. Shela Barker, Board Legal Counsel, was present.

### 2. Disciplinary Decisions

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

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

### 3. Approval of the May 11 & 12, 2011 Board Meeting Minutes

The Board determined the minutes accurately reflect actions of the Board.

**MOTION:** To adopt the draft minutes from the May 11 & 12, 2011 Board meeting as presented.

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

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

**VOTE:** 5-0 Motion carried

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

**(A) Statistics**

The Board requested staff provide data on how many U.S. trained physical therapist applicants sit for the physical therapist assistant exam. Mr. Jason Kaiser shared the licensing statistics report format will be modified with the implementation of fixed-date testing.

**(B) Continuing Competency Audits**

Mr. Kaiser informed the Board staff has increased the continuing competency audit sample to twenty percent of the license renewals received within the month.

**5. Consumer Protection Services Enforcement Report**

**(A) Report on Conviction and Continuing Competency Cases – Cristy Livramento**

Ms. Cristy Livramento presented a report on conviction cases and cases pertaining to continuing competency non-compliance. Dr. Alviso, Physical Therapist, inquired whether an applicant with a conviction is permitted to take the National Physical Therapy Exam (NPTE) and the California Law Exam (CLE). Ms. Livramento responded the applicant proceeds through the application process; however, the enforcement investigation must conclude prior to a license being issued. It is possible for the Board to deny a license if the circumstances justify such action.

**(B) Citation and Fine Report – Carole Phelps**

Ms. Carole Phelps presented a citation and fine report. Ms. Phelps explained staff is preparing additional language for citations regarding continuing competency non-compliance. The intent of the language is to educate licensees on what constitutes a mitigating circumstance.

**(C) Performance Measures – Elsa Ybarra**

Ms. Elsa Ybarra presented FY 2010/11 Performance Measures. Staff is focusing on completing investigations and concluding discipline for aging enforcement cases. In addition, staff discussed coordinating a training session for the Department of Investigation (DOI) and the Attorney General's office (AG) to encourage collaboration and establish investigation expectations. The Board inquired whether additional

categories for the Consumer Affairs System (CAS) could be established. Ms. Ybarra explained the implementation of BreEZe should offer the Board the opportunity.

**(D) Disciplinary Summary – Elsa Ybarra**

The Board had nothing to discuss on this agenda item.

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

**(A) Report on the DCA Monthly Teleconferences of Board Presidents**

Dr. Takii, Physical Therapist, provided an update on BreEZe. The Department of Finance (DOF) is working to finalize the vendor contract by the end of August. If the project remains on schedule, the Department of Consumer Affairs (DCA) will commence implementation of BreEZe in 2012.

**(B) 2011 PTBC Meeting Dates**

The Board must address critical issues prior to the November Board meeting; therefore, an additional Board meeting was scheduled for September 14, 2011. The agenda for the September 14<sup>th</sup> Board meeting will include a closed session item, an update on the sunset review report progress, and Board consideration of appointing a permanent Executive Officer. The Board also added August 24<sup>th</sup> to the 2011 calendar as the deadline to submit sunset review recommendations to Board staff.

**(C) 2012 Proposed PTBC Meeting Calendar**

The Board added July 31<sup>st</sup> to the August 1<sup>st</sup> and 2<sup>nd</sup> Board meeting dates for Strategic Planning. Also, the Board moved the fall meeting to October 25<sup>th</sup> & 26<sup>th</sup>.

**7. PTBC Budget Report – *Taylor Schick, DCA Budget Manager*  
*Robert de los Reyes, DCA Budget Analyst***

Mr. Robert de los Reyes presented a summary of the FY 2010/11 Board budget, a preview of the FY 2011/12 Board budget, and provided future budget recommendations. The presentation previewed next fiscal year's budget; however, Mr. Taylor Schick explained the DCA Budget Office typically looks ahead five years. If the DCA's Budget Office foresees a structural imbalance within the coming years, the Board may be prompted to consider fee increases. The Board is currently required to cut approximately \$13,000 from the overall budget, which is much less than the original projection of approximately \$120,000.

The Board may rearrange its discretionary funds within the budget line items; however, Board staff should communicate these considerations with the DCA Budget Office to ensure appropriate funds are available within each line item. A budget change proposal is required when the Board determines an increase or decrease of appropriations is needed. At this time, there is no repayment of the money the State borrowed from the Board.

Due to Executive Order B-06-11 issued by Governor Brown, all out-of-state travel has been restricted. The Board may submit an exemption request; however, the intent of the Order is to restrict California's "presence" for what may be considered unnecessary affairs.

## 8. Executive Officer's Report – *Rebecca Marco*

Ms. Rebecca Marco specifically addressed a few items from her written Executive Officer report. The Board received exemption approval for the Enforcement Staff Services Manager I position, which has been filled by Jason Kaiser. Under Legislation and Regulation, the proposed rulemaking amendments to the regulation, Satisfactory Documentary Evidence of Equivalent Degree for Licensure as a Physical Therapist or Physical Therapist Assistant (§ 1399.26.1), requiring the FSBPT Coursework Evaluation Tool in lieu of ELEERS is at the State and Consumer Services Agency (Agency), then, if approved, will be reviewed by the Office of Administrative Law (OAL).

Ms. Marco shared all travel is strictly prohibited unless the Board receives a specific exemption from the Governor. Ms. Jewell, PT, Ph.D., shared attendance of Board members and staff at the CPTA Annual Conference and the FSBPT Annual Meeting is mission critical for the Board and urged staff to pursue a travel exemption. Ms. Marco responded she will work on the justifications for the exemption request and asked Ms. Jewell, PT, Ph.D. to assist her.

The travel restriction not only affects the Board's attendance at meetings, but settlement conferences as well. Mr. Steven Hartzell, the Board's former Executive Officer, was the first and only Executive Officer to attend settlement conferences. Though this was not a common practice for any other board, the Board has found the Executive Officer's attendance at settlement conferences allows for clear communication with the AG and Administrative Law Judge (ALJ), and the Board's active involvement results in increased probationer compliance.

**MOTION:** To direct that the Executive Officer seek authorization for exemption from the Executive Order restricting travel to permit the Executive Officer to attend settlement conferences base upon his/her determination of necessity, taking into consideration the DCA's disciplinary priority guidelines and the cost savings of not taking the case to hearing.

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

**SECOND:** Mr. Turner

**VOTE:** 5-0 Motion carried

The recently revised supervision and patient records regulation language went into effect July 14, 2011. This actuated a review of the CLE to identify questions which may have been affected by the new regulation language. The CLE has not been updated since 2005. Ms. Marco shared the exam has not been updated recently for rewriting an exam is an extremely expensive and time-consuming process. Mr. Brian Stiger, DCA Acting Director, communicated the DCA will assist the Board with updating the CLE by approving travel for subject matter experts and aid in negotiating the testing contract because the CLE is a significant part of ensuring public protection.

## 9. Outreach Report – *Korey Landry*

Ms. Korey Landry presented a report on the Board's Outreach Program. The Board requested staff research the cause of schools' disinterest in the educational value of

hosting a Board meeting. Dr. Takii, Physical Therapist, suggested staff contact the laws and ethics professor(s) at each school. In addition, Dr. Alviso, Physical Therapist, recommended the Board utilize Facebook and Twitter as a means of communication with physical therapist and physical therapist assistant students to encourage school participation. The limited communication between schools and the Board became apparent when the new supervision regulations went in to effect. The professors were confused as to what the students should study to prepare for the CLE. Although the students need to be versed in the new regulation language, they also have to pass the CLE. The professors were unaware the Board addressed the out-dated supervision questions on the CLE.

The Board again considered posting disciplinary decisions on Facebook since it contributes to the Board's consumer protection mission. The majority of the Board agreed to direct staff to proceed with this new process.

Ms. Landry requested Board members submit newsletter article ideas to staff in preparation for drafting the next newsletter. This is the first newsletter to be solely posted on the Board's Web site. The deadline to submit article ideas is mid-September. Mr. Chu, PT, Ph.D., recommended soliciting experts to assist with revising the CLE. Dr. Takii, Physical Therapist, suggested petitioning schools to hold a Board meeting at their campus.

## **10. Consumer and Professional Associations and Intergovernmental Relations Report**

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

Dr. James Syms, Physical Therapist, CPTA President, advocated for the Board to be in attendance at the CPTA Annual Conference since it is one of the most productive ways to reach the licensee population. Also, the CPTA continues to offer a toolkit designed to assist those physical therapists planning to/or are in the process of changing their employment status.

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

Ms. Jewell, PT, Ph.D., and Dr. Alviso, Physical Therapist, attended the FSBPT NPTE Summit and will provide information and recommendations to the Board at the November 2011 Board meeting.

## **11. Update on Practice of Physical Therapy in Corporate Setting – *Rebecca Marco***

Dr. Takii, Physical Therapist, provided a brief history of the issue involving the practice of physical therapy in corporate settings.

Mr. Stiger petitioned the Board to postpone taking action on complaints received against physical therapists working for physicians. Mr. Stiger explained the Legislature has had insufficient time to research the intent and application of the Moscone-Knox Professional Corporation Act. Additionally, Mr. Stiger requested the Board consider current economic conditions, and the limited resources the Board has to fully pursue investigations considering the uncertainty surrounding the Moscone-Knox Professional Corporation Act. Mr. Stiger acknowledged the confusion which has occurred within the licensee community regarding the Board's approach to addressing these complaints.

Mr. Chu, PT, Ph.D., questioned why the Board should refrain from continuing investigations and pursuing action when other groups are fully engaged in action to amend current law, for example, the introduction of the bill AB 783. Additionally, Ms. Jewell, PT, Ph.D., inquired as to why the Board should merit AB 783, and like legislation, when the Legislature has intentionally abrogated it. Ms. Jewell, PT, Ph.D., noted though the subjects of these complaints may not cause public harm, the subject's patients are potentially receiving inadequate care.

Ms. Barker presented a concern some physical therapists may use this employment arrangement to relegate responsibility to the physician if an investigation reveals a violation against them.

Mr. Stiger reiterated he encourages the Board to collect information and educate physical therapists about the issues surrounding their possible employment situation and all cases should be investigated as deemed appropriate by the Board. The cases involving physical therapists working for physicians; however, should be suspended until the law is clarified.

Rosielyn Pulmano representing the Senate Business, Professions and Economic Development Committee urged the Board to support Mr. Stiger's recommendations.

Dr. Alviso, Physical Therapist, asked Mr. Stiger to clarify his request of the Board to either refrain from *conducting* investigations, or from *concluding* investigations. Mr. Stiger confirmed he is requesting the Board abstain from *concluding* investigations.

To gain further information on this issue, Mr. Chu, PT, Ph.D., suggested the Board track the work demographic of all subjects.

**MOTION:** To direct staff to include data gathering on subjects' work demographics on all future complaints, and to note the pattern of referrals that have occurred.

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

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

*(Mr. Chu, PT, Ph.D. withdrew this motion and introduced a new motion.)*

Ms. Barker notified the Board a motion so broad was not sufficiently noticed on the agenda; therefore, to continue, the motion must be amended. Mr. Chu, PT, Ph.D., withdrew the current motion and introduced a new motion.

**MOTION:** To direct staff to include data gathering on work demographics for subjects who work for corporations and look for a referral pattern.

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

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

**VOTE:** 1 in favor, 1 abstained. 3 opposed  
Motion failed

To ensure this issue is appropriately noticed for future meetings, Ms. Barker suggested the Board specifically notice a discussion regarding gathering enforcement case data for all complaints.

Mr. Turner shared his experience working in the Legislature and suggested it may be politically advantageous for the Board to support Mr. Stiger's recommendations.

**MOTION:** For the Board to support Mr. Stiger's recommendation to, at the request of the Legislature, postpone concluding action on complaints concerning physical therapists working for physicians.

**MOVED:** Mr. Turner

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

Dr. Takii, Physical Therapist, solicited approval from Mr. Turner to amend the proposed motion to read as follows:

**MOTION:** I move, in consideration of the recommendation made by Acting Director Stiger, that where complaints arise as a result of allegations solely of violations of the Moscone-Knox Professional Corporation Act, that the Board staff not conclude any investigation of such complaints until the Legislature clarifies the law regarding the employment of licensed physical therapists in a corporate practice setting.

Mr. Turner accepted the amended motion.

Ms. Jewell suggested an addition to the current motion to require the Board place this item on each Board meeting agenda until the Board determines the issue is resolved.

**MOTION:** To direct staff to place this issue on each agenda until such time as the Board decides the issue is resolved.

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

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

A member of the public expressed concern regarding the continuity of care after September 1, 2011, the deadline the Board established for subjects to provide a plan that will remedy their current illegitimate employment situation, how the Board is addressing physical therapists working as independent contractors for physicians, and questioned the authority referenced in the letter authorizing the Board to take action against a corporation.

Ms. Barker addressed these concerns explaining independent contractors are not considered employees; therefore, the Board cannot discuss the topic for it was not noticed on the agenda. Ms. Barker continued the Board's intention in requesting an employment plan is not to insist they cease practice, but to educate those licensees working in the corporate setting in question and provide an opportunity to comply with the law. In addition, there are some legal employment arrangements established, so the Board must first determine if there is a violation by asking the licensees to self-certify their employment situation. If a physical therapy corporation is functioning unlawfully,

the Board has jurisdiction to take action against the corporation, which is the referenced authority in the letter.

Dr. Alviso, Physical Therapist, motioned to table the motion to allow the Board to hear public comment on the issue.

**MOTION:** To table the current motion for approximately 15 minutes to allow the Board to hear public comment.

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

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

**VOTE:** 5-0 Motion carried

After the Board heard comments from the public, Ms. Jewell, PT, Ph.D., motioned to move the motion from the table.

**MOTION:** To move the motion from the table.

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

**SECOND:** Mr. Turner

No vote is required when moving a motion from the table. The final vote of the Board was to determine if the motion from the table should pass.

**MOTION:** I move, in consideration of the recommendation made by Acting Director Stiger, that where complaints arise as a result of allegations solely of violations of the Moscone-Knox Professional Corporation Act, that the Board staff not conclude any investigation of such complaints until the Legislature clarifies the law regarding the employment of licensed physical therapists in a corporate practice setting. This issue shall be placed on each agenda until such time as the board decides that the issue is resolved.

**MOVED:** Mr. Turner

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

**VOTE:** 4 in favor, 1 opposed  
Motion carried

## **12. Sunset Review Pursuant to Business and Professions Code Section 2602 – Sarah Conley**

### **(A) Discussion of Report Form, Section 11 – New Issues**

#### **i. Staff recommendations for Issues to Include in the Board's Sunset Review Report**

Minutes on items 12(A)(i), 12(A)(ii) and 12(A)(iii) have been combined; see agenda item 12(A)(iii).

**ii. Staff Solicitation of Recommendations from the Board for Issues to Include in the Board's Sunset Review Report**

Minutes on items 12(A)(i), 12(A)(ii) and 12(A)(iii) have been combined; see agenda item 12(A)(iii).

**iii. Schedule Future Teleconference to Review Sunset Report**

Ms. Marco presented staff's recommendations of items to include in the Board's 2012 sunset review report. The Board expressed concern regarding the suggestion to increase the number of Board members by adding one physical therapist assistant. This would result in the Board being composed of an even number of members, and the Legislature may disapprove of the expansion due to its effect on the State's budget. However, the Board would be justified in requesting to add a member for more consumer protection with an ever growing licensee population, and representation for physical therapist assistants.

Ms. Barker brought presented an additional issue for the Board's consideration. In 2009 the NPTE was added in the statutory licensing requirements, so if the Board wishes to change make the reference general instead of specifically the NPTE, sunset review would provide the opportunity.

Ms. Marco recommended the Board appoint a Board member liaison for staff to contact while working on the sunset review report. Due to his prior experience with the sunset process, Mr. Chu, PT, Ph.D., agreed to act as the Board member liaison.

The Board suggested staff solicit recommendations form the public for the sunset review report. The deadline to submit all recommendations is August 24, 2011. In addition, the Board scheduled an additional meeting to discuss the progress of the sunset review report on September 14, 2011.

**13. Rulemaking Progress Report – Rebecca Marco**

Ms. Marco presented the 2011 Rulemaking Calendar with the addition of updates on all rulemaking files as requested by the Board at the May 2011 meeting. The calendar includes a possible rulemaking file to limit the number of exam attempts. Ms. Barker explained statute specifically prohibits boards from adopting regulations limiting the number of exam attempts. Ms. Jewell, PT, Ph.D., suggested adding this to suggestions for the sunset review report. Ms. Barker incited the Board pursue drafting a regulation to establish a passing score for the NPTE, for which the Board directed staff prepare language.

**14. Draft Language for Model Guidelines of Issuing Citations and Imposing Discipline, Section 1399.15 of Division 13.2 of Title 16 of the California Code of Regulations, for Board Consideration and Possible Action – Elsa Ybarra**

Ms. Ybarra presented the draft language for Model Guidelines for Issuing Citations and Imposing Discipline (Guidelines) with all amendments as suggested at the May 2011 Board meeting. The Board discussed the most recent revision of the Guidelines.

The Board and Ms. Barker agreed the last paragraph regarding revocation of a license if an individual is required to register as a sex offender did not belong under that section titled *Legal Authority*. Ms. Barker will find more appropriate placement for the language, which may require separating the language under a new California Code of Regulations (CCR) section number.

Page 10

The Board requested staff ensure the required number of drug tests is consistent throughout the entire Guidelines document.

Page 20

The Board discussed the intent of the language and whether the authority to consider public reproof as discipline applies when one, some, or all of the circumstances exist. Ms. Barker explained the language was written to include all circumstances. The Board determined the language should remain the same.

Page 24

The Board expressed concern the title False Statements of Material Fact for Application B&P Code 499 does not discern applicants' mistakes from actual intention to commit fraud. Ms. Barker clarified the inclusion of material fact excludes a situation where an applicant makes a mistake. In addition, this standard is duplicative to what is applicable to all licensees in the B&P Code.

Page 27

A reference to the Uniform Standards must be added to the note regarding the discipline for Sexual Abuse or Misconduct with a Patient or Client.

Page 34

There is a type-o in the title Unauthorized Use of Medical Designation B&P Code 2274, 2660(h).

Page 41

Imposition of the "Uniform Standards Related to Substance Abuse" shall be imposed needs to be amended to read "Uniform Standards Related to Substance Abuse shall be imposed.

Page 70

The Board requested, under O. Education Course(s), staff include the respondent shall submit the date(s) of the physical therapy remedial education program intended to take.

Page 75

There is a type-o under W. Biological Fluid Testing.

**MOTION:** To authorize staff to move forward the rulemaking process for the draft language for Model Guidelines of Issuing Citations and

**Imposing Discipline with the Board's editorial changes and delegate authority to make non-substantive changes to the revised text to the Executive Officer**

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

**SECOND:** Mr. Turner

**VOTE:** 5-0 Motion carried

**15. Draft Regulatory Language for Sponsored Free Health Care Events, Chapter 27, Statutes of 2010 (AB 2669), Sections 1400-1400.3 of Division 13.2 of Title 16 of the California Code of Regulations, for Board Consideration and Possible Action – Sarah Conley**

Ms. Barker shared the DCA and Agency is strongly recommending the Board adopt the proposed regulatory language regarding sponsored free health care events as quickly as possible. Ms. Marco explained staff does not have a recommended fee at this time, but will add the fee prior to submission to OAL. The Board questioned the intent of section 1400.2(c)(1)(B). Ms. Barker explained this language was added to the regulation template by the Medical Board of California, but it is not required by for this Board.

Dr. James Syms, Physical Therapist, CPTA President, brought to the Board's attention the proposed language does not include physical therapist assistants. After further discussion on the necessity to include physical therapist assistants, the Board determined the proposed language should remain as is.

**MOTION:** To authorize staff to move forward with the rulemaking process for the draft language for Sponsored Free Health Care Events, Chapter 27, Statutes of 2010 (AB 2669), as amended.

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

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

**VOTE:** 5-0 Motion carried

**16. Legislation Matrix Update – Sarah Conley**

The Board expressed concern regarding the current legislation position definitions because they do not reflect the intent of the Board.

**MOTION:** To direct staff to rework legislation positions for the Board to review at the November Board meeting

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

**SECOND:** Mr. Turner

**VOTE:** 5-0 Motion carried

**17. Animal Physical Rehabilitation – Sarah Conley/ Shela Barker**

Ms. Barker reported the Veterinary Medical Board (VMB) meets August 31, 2011 and this issue may be discussed. The subcommittee is reviewing old language which does not sufficiently address the current issue; therefore, new language must be drafted. The VMB requested Board members and/or Board staff participate in developing the new language concerning animal rehabilitation. The Board was not previously aware of this invitation, so Ms. Marco will contact the VMB Executive Officer for further information.

Dr. Syms, CPTA, shared the CPTA has offered to assist the VMB, but has not received a response.

**18. Review of Draft Administrative Policy Regarding Board Member \$100 Per Day Per Diem – Sarah Conley**

The Board indicated it did not have any recommendations regarding the proposed policy. Ms. Marco noted legislation has been introduced which would require board members to maintain a log of their time worked and how that time was spent. Board members already complete such a log pursuant to its per diem policy.

**MOTION: To direct staff to add policy TRV 07-11 to the Board's Administrative Manual.**

**MOVED: Mr. Turner**

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

**VOTE: 5-0 Motion carried**

**19. National Physical Therapy Exam and California Law Exam Contract Update – Sheila Barker**

Ms. Barker reported the NPTE contract automatically renewed in July. A letter was sent to the FSBPT explaining the Board is attempting to amend the current contract to be in compliance with State law; however, the Board is trying to remain flexible when permitted. If the Board were to lose the FSBPT testing contract, applicants would be required to test in other states. Ms. Barker will continue to work with the FSBPT in an effort to reach an agreement between the Board and FSBPT.

Ms. Marco shared after contacting the FSBPT, she was notified the Board did not receive consent to publicize Mr. Norman Hertz's audit report regarding the integrity of the NPTE. Ms. Marco explained the FSBPT will be providing a formal response to the Board's request.

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

There were no additional public comments.

**21. Agenda Items for Next Meeting – Wednesday & Thursday, November 2 & 3, 2011  
Ohlone College – Newark, CA**

The Board directed staff to review the minutes for November agenda items as well as ensure to include the following items:

- Draft regulatory language establishing a pass/fail score for the NPTE
- Potential draft regulations for NPTE

- Direction on gathering employment demographic statistics to aid with investigations for all complaints
- Present new legislation position definitions
- Report on activities at FSBPT 2011 NPTE Summit
  - Report on present and future plans
  - Recommendations for potential actions taken by the Board to change the NPTE

## 22. Adjournment

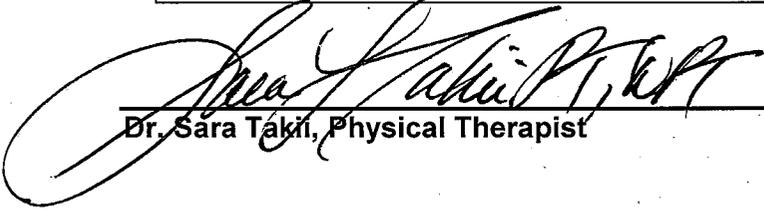
The meeting was adjourned at 4:09 p.m. on August 4, 2011.

**MOTION:** To adopt the draft August 3 & 4, 2011 Board meeting minutes as amended.

**MOVED:** Dr. Alviso

**SECOND:** Dr. Jewell

**VOTE:** 6-0 Motion carried

  
\_\_\_\_\_  
Dr. Sara Takii, Physical Therapist

12-29-2011  
\_\_\_\_\_  
Date