



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

May 9 & 10, 2012

Wednesday, May 9, 2012 8:30 a.m.
Thursday, May 10, 2012 8:00 a.m.

Loma Linda University, Randall Visitors Center
11072 Anderson St.
Loma Linda, CA 92350

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

The Physical Therapy Board of California (Board) May 2012 meeting was called to order by Dr. Alviso at 8:37 a.m. All members were present and a quorum was established. Also present at the meeting were Shela Barker, Legal Counsel; Rebecca Marco, Executive Officer; and, other Board staff, including Sarah Conley, Liz Constancio, Jason Kaiser, Monny Martin and Elsa Ybarra.

Before meeting activities commenced, Mr. Turner complemented staff on the quality work they have been producing and the amount of work they have been able to accomplish.

2. Approval of February 8 & 9, 2012 Board Meeting Minutes

Corrections were made to the minutes as follows:

Page 3, Line16

[...] on qualification method. Mr. Kaiser responded the data is available, but must be collected manually.

Page 8, Lines 43-44

Dr. Alviso expressed concern regarding the way the minutes captured the discussion of the changes to the proposed Physical Therapy Practice Act. It appears the Board may have adopted the changes, when in actuality the changes that were captured in the minutes are solely for the proposed Physical Therapy Practice Act which will be provided to the Legislature for its consideration. The proposed Physical Therapy Practice Act has not been enacted.

The following note will be added to the minutes:

It should be noted the proposed Act is DRAFT language only and has not been introduced to the Legislature. This language must go through the legislative process to be enacted.

Page 10, Lines 46-50

In light of the passage of Business and Professions Code section 2674, I move that the previously passed motion of August 4, 2011², directing the Board's staff to refrain from taking action to conclude investigations of complaints received alleging violations of the Moscone-Knox Professional Corporations Act be rescinded in its entirety.

Page 14, Line 7

(d) Any offense committed or attempted in any other state or against the laws of the United [...].

Page 18, Line 8

Ms. Kaiser presented a briefing paper identifying obstacles within the Continuing Competency [...].

MOTION: To adopt the draft February 8 & 9, 2012 meeting minutes as edited.

MOVED: Dr. Jewell

SECOND: Ms. Wallisch

VOTE: 6-0 Motion carried

3. Application and Licensing Services Report – Jason Kaiser

(A) Statistics

Mr. Kaiser presented the Application and Licensing Services report. He advised the Board the format was updated to specifically reflect fixed-date testing data. The Board expressed concern with the high number of delinquent licenses. Mr. Kaiser explained delinquent status does not necessarily mean a licensee is practicing with a delinquent license. This statistic would include licensees who are no longer practicing for various reasons, e.g., retired, medical reasons, practicing out of state or country, active military. Ms. Marco informed the Board the Department of Consumer Affairs (DCA) is looking at addressing the definitions of expired licenses to accurately reflect the reason for expiration with the implementation of BreEZe; therefore, staff will present information on this at the next meeting.

Dr. Jewell questioned why the National Physical Therapist Examination (NPTE) pass rate is significantly lower in this report than in previous reports. Mr. Kaiser explained the lower average test scores may be due to the recent implementation of new versions of the NPTE,

which gives credibility to the concern regarding the widespread use of recall as a testing strategy.

Ms. Marco solicited feedback on the foreign educated statistics from Dr. Jewell. Dr. Jewell responded she would like to see the number of foreign educated physical therapists who sit for physical therapist assistant exam. Mr. Kaiser explained the data she is requesting was not specifically tracked, so there is nothing to report at this time; however, staff has recently implemented a method to track the information for the future.

(B) Continuing Competency Audit Monthly Statistics

Mr. Kaiser presented Continuing Competency Audit Monthly statistics and noted there has been a significant decrease in the number of "failed" audits due to 1) staff changing its approach to audits by allowing licensees, in specific circumstances, to come into compliance, and 2) licensees becoming more informed of the requirements.

4. Consumer Protection Services Enforcement Report

(A) Performance Measures

Dr. Alviso inquired as to why the actual number of days for Intake and Investigation is so far under target. Ms. Ybarra explained this may be due to the fact that the type of complaints received did not require an investigation.

(B) Disciplinary Summary

The Board had nothing to discuss on this agenda item.

5. President's Report

(A) 2012/2013 Board Meeting Calendar

The Board reviewed the remaining meeting dates and locations for 2012 and confirmed dates and locations for 2013. All members indicated they would be available for the set meeting dates and locations; however, Dr. Jewell noted she will not be able to attend the August 2012 meeting if DCA does not reimburse her travel cost. Staff will discuss this issue with the DCA.

Dr. Jewell inquired as to whether Board representatives will be permitted to attend the 2012 Annual Conference of the California Physical Therapy Association (CPTA). Ms. Marco indicated she will discuss travel restrictions under her report.

(B) President's Activities Since Last Meeting

Dr. Alviso thanked Loma Linda University for hosting the meeting.

Dr. Alviso introduced a new process for tracking both short and long term topics and issues that arise at meetings. The document on which the topics and issues are being maintained is called the Parking Lot and this document is a running list that will be updated following each meeting.

Dr. Alviso complimented staff on the implementation of providing agenda materials electronically and hopes there is a smooth transition from the hard copy book to the electronic version.

6. Legal Counsel's Report

(A) Stipulated Settlements

Ms. Barker provided a brief training on Stipulated Settlements and clarified the differences between Stipulated Settlements and Proposed Decisions. Ms. Barker explained a Stipulated Settlement is essentially a negotiated compromise between the Board and the licensee and would be a disciplinary step prior to a hearing. Settlements are generally handled by the Deputy Attorney General (DAG) with assistance from the Executive Officer and Consumer Protection Services staff.

Ms. Barker explained the DAG refers to the Model Guideline for Issuing Citations and Imposing Discipline for what the Board is looking for in regards to consequences for specific violations; therefore, the Guidelines document is a highly important tool. Ms. Barker proceeded to explain the overall process of negotiating a Stipulated Settlement and what the Board's role is in voting on a Stipulated Settlement. Ms. Barker noted the Board has the right to confer with legal counsel and with the DAG in making the decision if questions arise. It is not necessary to hold a vote until a meeting of the entire Board because of a question, but this option should be used if there is concern with the probationary terms, such as the agreed upon terms not providing sufficient public protection. Public protection is the main purpose and whether the goal is reached through a Stipulated Settlement or Proposed Decision, as long as the goal is achieved, it does not matter how the Board gets there.

(B) Update on FSBPT Contract

Ms. Barker informed the Board of the Federation of State Boards of Physical Therapy (FSBPT) contract status. Shortly after the February meeting, Ms. Barker was informed the Department of General Services (DGS) was going to deny the amendments to the current contract due to a procedural oversight by the DCA on the last contract amendment previously signed in 2010. The DCA had not submitted the previous contract amendment to DGS for approval, so DGS does not have the current version of the contract to make the new amendments submitted in 2012. As soon as Ms. Barker became aware of the situation, she wrote a letter explaining the issue to the FSBPT.

Ms. Barker explained she spoke with the DGS' legal counsel and they both agreed drafting a new contract would be the cleanest way to resolve the issue. Board staff has submitted the "new" contract to the DCA who will, upon its approval, submit the contract to the DGS for its approval. Ms. Barker indicated she was confident the contract would be approved quickly, hopefully by the end of this month, due to no major amendments. Ms. Barker also noted the contract was written for a term of five years.

(C) Board Consideration of Standard Motion Language

Ms. Barker presented standard motion language specifically for proceeding with regulatory packages; however, as Ms. Barker becomes more familiar with the workings of the Board, she will be able to provide more standard motion language for other items. Standard motion language will ensure the Board provides the appropriate authority for staff to carry out its directives.

7. Executive Officer's Report

Ms. Marco addressed specific items from her written report, beginning with personnel. The Consumer Protection Services Program continues to be short-staffed due to losing two analysts; however, recently the CPS Program welcomed a new analyst. Ms. Marco also provided an update on the Special Investigator position which remains vacant.

Ms. Marco brought the new budget report format to the Board's attention, which included an index of each budget line item. The Board expressed appreciation for the clear expression of information and staff should continue to report in this format. Ms. Marco complemented Ms. Constancio on creating the new budget report format.

Ms. Marco reported staff was recently made aware that Chapter 547, Statutes of 2011 (AB 415) amended Business and Professions Code section 2290.5 expanding the definition of health care provider to include any person licensed under Division 2 of the Business and Profession Code. Ms. Marco requested Ms. Barker provide input on the issue.

Ms. Barker explained the analyses of AB 415 do not mention expanding the telehealth authority beyond what had previously existed, and that previous authority did not extend to physical therapists. Moreover, most of the amendments were made to the Health and Safety Code and the Welfare Code to eliminate payment obstacles for physicians offering telehealth services.

Ms. Barker advised the Board the DCA Legal Office is currently reviewing the issue, but has not yet provided an official opinion. Ms. Barker requested the Board refrain from any action until the DCA Legal Office makes its determination.

Ms. Marco reported SB 1273, as amended on April 9, 2012, would have created an Athletic Trainers Committee within the Physical Therapy Board to license and regulate athletic trainers. SB 1273 was heard by the Senate Committee on Business, Professions and Economic Development on April 16, 2012 and failed to pass with a vote of 2-1. James Syms, CPTA

President, inquired whether the opinion of the bill in the Executive Officer's report, "While the bill leaves a lot of room for amendments, the testimony [at the Senate Business, Professional and Economic Development Committee hearing] seemed to indicate there was justification for licensure to ensure consumer protection," is the Board's official opinion, or the Executive Officer's opinion. Ms. Marco explained the information provided in her report is her opinion being provided to the Board for consideration. Dr. Syms requested that since this is in the Board's materials for public consumption, a distinction be made between the two.

Ms. Marco informed the Board Budget Letter 12-05 addressing out-of-state travel was released on April 20, 2012. This supersedes BL 11-06 and no longer restricts requests to those defined as mission critical (i.e. mandated) and allows for submission of out-of-state travel that represents a benefit to the state and consumers. Since travel to the Federation of State Boards of Physical Therapy (FSBPT) is not considered mission critical as defined, it will require approval by the Governor. Justification for travel to the FSBPT annual conference must be strong, clear, and convincing and must clearly identify the individual's role in the meeting (i.e., speaker, voting member, panel member, participant, or observer). Staff will make completing the justification a priority; however, assistance from Board members may be required.

Ms. Marco informed the Board staff will be collaborating with the Occupational Therapy Board to put on a WebEx for Kaiser. This WebEx is being put on at the request of Kaiser for licensees in the Rehabilitation Department.

(A) Update on Audit of the Board by the Bureau of State Audits

Ms. Marco updated the Board on the status of the audit. Ms. Marco explained that though she cannot disclose any details of the audit, she can say she feels confident enough to recommend the Board delegate the responsibility of responding to the audit findings to staff.

MOTION: To allow Board delegate to prepare response to audit findings.

MOVED: Dr. Chu

SECOND: No second. Motion died.

Dr. Jewell expressed concern regarding not having the Board President involved with responding to the findings to represent the Board.

MOTION: To delegate preparation of the response to the findings in the audit report to the Board President and staff.

MOVED: Dr. Jewell

SECOND: Mr. Turner

VOTE: 5-0, 1 Abstention

Motion carried

Dr. Syms, licentiate, inquired about the cost to the Board (its licensees) in dollars and resources. Ms. Marco explained staff did not track actual time spent by staff on the audit; however, Ms. Marco wanted to express her appreciation for the auditors' professionalism, and for understanding the value of staff's time. The audit will be paid for from the Board's budget over two fiscal years. Ms. Marco noted she has inquired as to whether the Board will be charged for the full estimated amount, but has not received an official response.

8. Consumer and Professional Associations and Intergovernmental Relations Report

(A) Department of Consumer Affairs (DCA) – Reichel Everhart

Reichel Everhart, DCA Deputy Director of Board and Bureau Relations, introduced herself to the Board and discussed issues being addressed by the new DCA Administration. Ms. Everhart explained that in addition to herself, the DCA has a new Director, Denise Brown and Deputy Director, Awet Kidane, as well as other new Executive staff. The new DCA Administration is focusing on: 1) boards teleconferencing meetings for full public access, 2) filling Board vacancies and 3) addressing travel needs. Ms. Everhart informed the Board out-of-state travel requires the Governor's approval and although it may be helpful if the reason for the out-of-state travel is for licensing issues, or if a board has a voting role in the activity to be attended, it does not guarantee approval. In-state travel is restricted to only mission critical reasons, and Ms. Everhart shared when the DCA inquired what "mission critical" includes to the Governor's Office, the response included: 1) if Board members have a voting role in the activity to be attended, 2) enforcement and licensing issues and 3) continuing competency (in some cases). Ms. Everhart encouraged the Board and/or its staff, if they have any concerns, to contact DCA Executive staff.

(B) California Physical Therapy Association (CPTA)

Dr. Syms, CPTA President, inquired whether the Board has been added to a bill to extend its sunset date. Ms. Marco responded staff was notified the sunset extension language would be included in a bill that has already been introduced; however, no specific bill has been identified. Ms. Wallisch recommended staff pursue this issue to ensure language is in fact introduced.

Dr. Syms informed the Board of the CPTA's activities regarding physical therapists performing animal physical therapy. Dr. Syms explained consumers have been a driving force behind this issue and the CPTA and the VMA are in very early stages of looking at the issue. Dr. Takii questioned the education of the physical therapist performing animal physical therapy. Dr. Syms explained there are specific programs for physical therapists to practice on animals as a specialization and this practice is not intended for entry level physical therapists.

(C) Federation of State Boards of Physical Therapy (FSBPT)

The Board had nothing to discuss for this agenda item.

9. Practice Issues Update

Ms. Conley delivered a PowerPoint presentation identifying 1) how practice issues have been addressed in the past and how they are addressed currently, 2) obstacles in responding to practice issues and 3) potential solutions.

The Board discussed various aspects of the presentation. Dr. Jewell commented staff could respond to questions that require only directing the inquirer to the laws and regulations; however, for issues of standard of care and professional judgment, it would only be appropriate for a professional.

Dr. Alviso and Dr. Jewell discussed the use of a decision tree to assist staff in determining the appropriate resource for specific questions (e.g. Expert Consultant, Legal Counsel).

Dr. Chu expressed concern regarding the Board having a sole source of information – Expert Consultant – and suggested the Board consider re-establishing a Practice Issues Committee. The Committee would be comprised of members of the Board, who are considered experts in the profession, which would eliminate the need to employ another Expert Consultant, an additional expense for the Board.

Ms. Marco noted there seems to be an increase in the volume and depth of practice issue questions and, if the Board established a Practice Issues Committee to address the questions, it would take quite some time to get through them all. Additionally, she noted that a Practice Issues Committee would still require a substantial amount of staff time, which is one of the concerns.

Ms. Wallisch expressed concern regarding the liability of the Board utilizing an Expert Consultant. Dr. Jewell followed-up inquiring what would happen if the Board were to take action on a licensee who acted based upon incorrect information provided by a Board representative such as an Expert Consultant. Additionally, Dr. Jewell requested verification whether the members who may service on a Practice Issues Committee and who are exposed to practice issues would have to recuse themselves if the issues they addressed were cause for discipline. Ms. Barker explained she would have to conduct additional research to determine the Board's liability in providing information, and she confirmed Dr. Jewell's comment that a member would have to recuse themselves from a case if the member assisted in addressing that practice issue.

Ms. Barker strongly advised the Board against establishing a Practice Issues Committee because it may potentially restrict its enforcement abilities due to the need to recuse participating Board members in later enforcement actions related to the parties who brought the issue to the Practice Issues Committee. Recusal on a small board risks a quorum to decide matters by stipulated settlement and to vote on proposed decisions which would then become effective by operation of law 100 days after the decision is issued by the Administrative Law Judge.

Dr. Syms, licentiate, commented the licensing community sees the Board as the experts and looks to the Board for guidance. Dr. Syms questioned why the Board cannot interpret its own laws and regulations.

Ms. Barker provided an example of a kind of question the Board cannot respond to and explained that a professional's decision, if questioned and brought before a hearing, must be justified to a judge.

Dr. Alviso explained this is also a consumer protection issue in that the Board cannot make up requirements, but instead all requirements are put through a process which provides public notice of potential changes to be made by the Board allowing for public input.

Mitch Kaye, PT, expressed frustration with the current method of responding to practice issues. Mr. Kaye inquired whether there is a way to 1) determine who (staff) provided a response to the question submitted to the Board, and 2) appeal a response to the Board itself.

Dr. Alviso acknowledged Mr. Kaye's frustration and indicated the Board cannot address the issue at this time; however, she did explain the Board is working on addressing concerns with responding to practice issues. Dr. Alviso also noted that there is no option to appeal a response provided by staff to the Board itself because then it would truly appear to be an underground regulation.

Dr. Jewell noted the importance of staff providing timely responses to those who have practice issue inquiries.

10. Legislative Report – Sarah Conley

(A) Adoption of Administrative Manual Policy Regarding Board President Taking Interim Positions on Pending Legislation

Ms. Conley presented a policy to be added to the Board's Administrative Manual that would allow the Board President to take interim positions on behalf of the Board on pending legislation between meetings. The Board discussed the policy, and then adopted it as presented.

MOTION: To authorize the Board President to take interim positions on pending legislation according to the Administrative Manual policy as presented.

MOVED: Dr. Jewell

SECOND: Dr. Chu

VOTE: 6-0 Motion carried

(B) Relevant 2011-2012 Bills with Staff Recommendations to Board

Ms. Conley updated the Board on the status of pending legislation being followed by staff. Staff recommended the Board take an Oppose position on SB 1374 which would provide that any person who relies upon a written order, ruling, approval, interpretation, or enforcement policy of a state agency shall not be liable or subject to punishment for a violation of a civil statute or regulation in a judicial or administrative proceeding. The Board adopted the legislative positions as recommended by staff and, for AB 2570, as amended from Support to Watch.

MOTION: To adopt all positions as discussed and delegate the authority to the Board President to take interim legislative positions according to the Administrative Manual policy.

MOVED: Dr. Chu

SECOND: Dr. Jewell

VOTE: 6-0 Motion carried

Mr. Turner requested staff include existing law in the bill analyses to clearly portray the changes proposed.

11.2012 Rulemaking Calendar – Sarah Conley

Ms. Conley presented the 2012 Rulemaking Calendar with an update on each of the rulemaking items. Ms. Conley explained staff re-prioritized items on the Rulemaking Calendar prior to the last meeting; however, staff failed to request the Board adopt the changes made to the Rulemaking Calendar. Ms. Conley requested the Board adopt the changes made to the Rulemaking Calendar by staff.

MOTION: To adopt the priority amendments as recommended by staff on the 2012 Rulemaking Calendar.

MOVED: Mr. Turner

SECOND: Ms. Wallisch

VOTE: 6-0 Motion carried

12. Uniform Standards Related to Substance Abuse and Guidelines for Issuing Citations and Imposing Discipline Modified Text for Board Consideration and Possible Action for Section 1399.15 of Division 13.2 of Title 16 of the California Code of Regulations – Elsa Ybarra

Ms. Ybarra presented the modified text for CCR 1399.15, Uniform Standards Related to Substance Abuse and Guidelines for Issuing Citations and Imposing Discipline (Guidelines) and a Legal Opinion issued by the DCA Legal Office regarding the implementation of Uniform Standards for Substance-Abusing Licensees (Uniform Standards). Ms. Ybarra explained the DCA Legal opinion referenced both a Legislative Counsel opinion and an Attorney General

opinion stating the healing arts boards do not have the discretion to modify the content of the specific terms of conditions of probation that make up the Uniform Standards.

The Board discussed all the opinions presented, the Guidelines, and three options of proposed regulatory language to adopt the Uniform Standards provided by Ms. Barker. Ms. Barker explained the difference between the proposed regulatory language options. Option 1 shifts the burden of proof to the licensee, but, if adopted, would cause the highest risk for litigation. Option 2 places the burden on the clinical diagnostician (3rd party) because the determination as to whether a licensee is a substance abusing licensee would be made based on the report of the diagnostician. Ms. Barker cautioned the Board that it is the responsibility of the Board to determine if a licensee is a substance abusing licensee and that responsibility should not be delegated as in Option 2. Option 3 places the burden of proof that a licensee is a substance abusing licensee on the Board and provides the least risk for the Board of all the options; although, there is no guarantee no litigation will be filed against the Board. The Board considered the options presented by Ms. Barker and determined, at this time, to focus on the Guidelines since the deadline to complete the file is quickly approaching. The Board determined the best way to move forward with the Guidelines would be to remove the Uniform Standards from the Guidelines and address the Uniform Standards as a separate regulatory file.

The Board directed staff to remove the Uniform Standards that had been included in the Guidelines and to make the following changes:

Entire Document

Remove references to the Uniform Standards.

Page 2, Line 21

James E. Turner, MPA

Page 2, Line 22

Carol Wallisch, MA, MPH

Page 4, Line 43

The language presented contained strikethrough; therefore, the deletion made at the meeting is indicated by double strikethrough.

[...] ~~R~~respondant, for any reason[...].

Page 5, Line 20

[...] memorandaum [...].

Page 12, throughout

Licentiate licensee

Ms. Wallisch expressed concern that the term "diversion" is being removed from the title of the section; however, the term is referenced numerous times within the section. Dr. Chu noted, from previous discussions, the term diversion was to be replaced with "rehabilitation." Ms. Barker explained it is appropriate to use the term "diversion" if a licensee self-enrolls in the program because the licensee is diverting himself or herself from the adverse behavior. The term "diversion" is not appropriate for a licensee who is required to participate in a "rehabilitation" program as ordered by the Board as part of his or her probationary terms. Staff will work with Ms. Barker to clarify this.

To ensure the deadlines are met for this regulatory file, the Board scheduled a teleconference for May 30, 2012 at 12:30 p.m. to review the changes.

MOTION: To table the Uniform Standards until the next meeting and direct staff to make the changes to the Guidelines.

MOVED: Dr. Chu

SECOND: Dr. Takii

VOTE: 6-0

13. Special Order of Business – May 10, 2012 8:00 a.m.

Introduction of Board Members and Orientation for Students

The Board members introduced themselves and staff, and explained what the Board's role is as a regulatory agency.

14. Special Order of Business – May 10, 2012 8:30 a.m.

Regulatory Hearing on Proposed Language for Mandatory Fingerprinting, Sections 1398.14 and 1399.80 of Division 13.2 if Title 16 of the California Code of Regulations

Dr. Alviso opened the regulatory hearing for public comment.

Dr. Syms, CPTA President, asked the Board to address the following questions during the hearing: 1) why 30 days was chosen for a licensee to respond to the Board, 2) when the 30 day window to respond to Board inquires begins and 3) whether the Board means 30 calendar days or 30 working days. Ms. Barker advised Dr. Syms that the purpose of the public hearing was for the Board to receive comment and that it would be helpful if he framed his questions as comments on the problems/issues perceived with the regulation.

After the hearing closed, Dr. Syms also inquired as to the need of this regulation to require fingerprinting. The Board indicated this is addressed in the rulemaking file.

The Board made the following non-substantive edits to the modified text:

Page 2, Section 1399.80(a)(4)

Insert "of" needs to be inserted between "transmission" and "his."

Page 2, Section 1399.80(c)

Dr. Jewell requested staff create subsections within this section for clarity.

Page 3, Section 1399.98(b)(a)(vi)

Insert "been" between "contendere," and "convicted."

Page 3, Section 1399.98(b)(a)(vi)

Insert "and" between "country," and "disclose."

MOTION: To adopt the modified text as edited and delegate to the Executive Officer the authority to make any technical or non-substantive changes that may be required in completing the rulemaking file.

MOVED: Dr. Jewell

SECOND: Mr. Turner

VOTE: 6-0

15. Special Order of Business – May 10, 2012 9:00 a.m.

Hearing on Modification of Probation – Joy M. Miller, PT

After submission of the matter, the Board convened in closed session to deliberate pursuant to Government Code section 11126(c)(3). Disciplinary decisions are available on the Board's Web site at www.ptbc.ca.gov.

16. Notice to Consumers Draft Regulatory Language for Board Consideration and Possible Action for Section Number(s) To Be Determined – Sarah Conley

Ms. Conley presented draft regulatory language for Board consideration for a proposed regulatory action to require licensees to post a Notice to Consumers. The Board made the following amendments:

Page 1, Line 10

Physical ~~t~~Therapists and ~~p~~Physical ~~t~~Therapist ~~a~~Assistants are licensed and regulated by the [...].

Page 1, Line 25

(1) Prominently posting the notice as provided by the Board on at least an 8 ½ by 11 [...].

Page 1, Lines 29-33

(2) Including the notice language as provided by the board in this section in a written statement provided during the initial evaluation. An acknowledgment signed and dated by the patient or the patient's representative and shall be retained in that patient's medical records, stating the patient understands physical therapists and physical therapist assistants are licensed and regulated by the board.

MOTION: To accept the amendments to subsection (b)(2) as recommended Legal Counsel.

MOVED: Dr. Jewell

SECOND: Dr. Takii

VOTE: 6-0 Motion carried

MOTION: To approve the proposed regulatory language for noticing and set it for hearing at the August meeting.

MOVED: Dr. Jewell

SECOND: Ms. Wallisch

VOTE: 6-0 Motion carried

17. Required E-mail Submission Draft Regulatory Language for Board Consideration and Possible Action for Section 1398.6 of Division 13.2 of Title 16 of the California Code of Regulations – Sarah Conley

Ms. Conley presented draft regulatory language for Board consideration for amendments to CCR 1398.6, Filing of Addresses. The Board made the following amendments:

Page 1, Lines 5-13

The language as presented contained strikethrough and underline text; therefore, the deleted proposed text is shown here with double strikethrough.

~~(a) Each licensee shall report to the board each and every change of residence address within 30 days after each change, giving both the old and new address. A licensee may provide the board with an alternate address in addition to a residence address to list as the address of~~

~~record. If a licensee uses a P.O. Box, the licensee must also submit his or her residence address. In addition to the address of residence, a licensee may provide the board with an alternate address of record. Only the address reported as the address of record will be disclosed to the public. If an alternate address is the licensee's address of record, he or she may request that the residence address not be disclosed to the public.~~

The deleted text was replaced with the following:

- (a) Address of Record: Every licensee shall provide an address to the board which will be designated as their address of record, which will be utilized for all official and formal communications from the board, and which will be disclosed to the public. A licensee need not provide a residence address as the address of record, but may use an alternative address, such as a business address or a P.O. Box, as their address of record. Every licensee shall report any change of the address of record to the board no later than thirty (30) calendar days after the address change has occurred. The report of change of address of record shall contain the old address, the new address, and the effective date of the change of address.
- (b) Residence Address. Every licensee shall provide a residence address to the board. Only if the licensee also provides an alternative address of record as described in subsection (a) above, shall the board maintain the residence address as confidential. Every licensee shall report any change of their residential address to the board no later than thirty (30) calendar days after the address change has occurred. The report of change of residential address shall contain the old address, the new address, and the effective date of the change of address.

MOTION: To adopt Legal Counsel's proposed language as amended and reorder the subsections accordingly.

MOVED: Dr. Jewell

SECOND: Dr. Chu

VOTE: 6-0 Motion carried

MOTION: To approve the proposed regulatory language for noticing and set it for hearing at the August meeting.

MOVED: Dr. Jewell

SECOND: Dr. Takii

VOTE: 6-0 Motion carried

18.Sponsored Free Health Care Events Modified Text for Board Consideration and Possible Action for Sections 1400-1400.3 of Title 16 of the California Code of Regulations – Jason Kaiser

Mr. Kaiser presented modified text for Section 1400-1400.3, Sponsored Free Health Care Events for Board consideration. Mr. Kaiser explained the DCA identified inconsistencies with the forms and/or requirements for all board, and recommended changes. The only change made to the language itself was updating the form name.

MOTION: To adopt the modified text as presented and delegate to the Executive Officer the authority to make any technical or non-substantive changes that may be required in completing the rulemaking file.

MOVED: Dr. Chu

SECOND: Mr. Turner

VOTE: 6-0 Motion carried

19.Board Consideration of Public Request for Regulatory Action Regarding Notification to Patient of Responsible Care Provider Pursuant to Government Code Section 11340.7

Ms. Marco presented a public request for regulatory action and noted the concerns identified in the request are frequently heard by staff. Ms. Barker explained pursuant to the Government Code 11340.7, the Board is required to respond to the requestor within thirty days; however, only the Board can authorize the type of response and the request was received between meetings. Ms. Barker further explained the Board does not have to accept the proposals; however, the Board must inform the requestor of what the Board decides to do with the request. The Board identified merit in the request and motioned to add the request to the August meeting agenda for further consideration.

MOTION: To direct staff to add this item to the August 2012 meeting agenda so the Board can determine if it wishes to address the request through regulation.

MOVED: Dr. Jewell

SECOND: Dr. Takii

VOTE: 6-0 Motion carried

20.Public Comment on Items Not on the Agenda

Note: *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 to place the matter on the agenda of a future meeting [Government Code Sections 11125 and 11125.7(a)]*

Jason Tonley, PT, DPT, OCS, from the American Board of Physical Therapy Residency and Fellowship Education (ABPTRFE), the credentialing body for the American Physical Therapy Association, requested the Board consider adding an alternate pathway to obtain continuing competency credit, which would be participation in post-graduate physical therapy residency or fellowship programs whether as a student, or as a credentialed instructor who acts as a mentor in the programs.

Dr. Tonley provided some information on the residency and fellowship programs explaining that the programs undergo an extensive review by the ABPTRFE, which evaluates the following: 1) the program itself, 2) the faculty, 3) the curriculum and 4) how the program evaluates its participants. The programs have minimum didactic and hands-on requirements set by the ABPTRFE and the ABPTRFE conducts on-site visits and reviews the programs every five years with additional reports required annually to ensure the programs are meeting the requirements.

The Board considered Dr. Tonley's request and motioned to consider the request at the August 2012 meeting.

MOTION: To add consideration of adding an additional pathway to earn continuing competency credits by participating in a residency or fellowship program whether as a student or as a mentor to the August meeting agenda.

MOVED: Dr. Jewell

SECOND: Ms. Wallisch

VOTE: 6-0 Motion carried

21. Agenda Items for Next Meeting – July 31 & August 1 & 2, 2012 – Sacramento, CA

Dr. Jewell will provide staff with a list of items she collected throughout the meeting to be considered for next meeting.

22. Closed Session

(A) Pursuant to Government Code Section 11126(c)(3) to Deliberate on Disciplinary Actions

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.

(B) Pursuant to Government Code section 11126(e) US Equal Employment Opportunity Commission (EEOC) Charge Number: 555-2012-00027

Ms. Barker had no update for the Board on this matter.

(C) Pursuant to Government Code section 11126(a)(1) Evaluation of Executive Officer

23. Adjournment

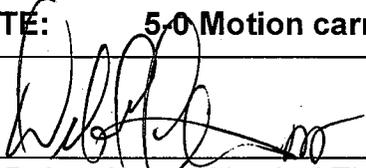
The meeting adjourned at 4:06 p.m. on Thursday, May 10, 2012.

MOTION: To adopt the draft May 9 & 10, 2012 meeting minutes as amended.

MOVED: Dr. Takii

SECOND: Mr. Turner

VOTE: 5-0 Motion carried



Dr. Debra Alviso, Physical Therapist, Board President

12/27/12
Date