



Physical Therapy Board of California

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

Physical Therapy Board of California

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Board Members

Debra Alviso, PT, DPT, President
Martha Jewell, Ph.D., PT,
Vice-President
Donald Chu, Ph.D., PT, ATC, CSCS
Sara Takii, PT, DPT, MPA
James Turner, MPA
Carol Wallisch, MA, MPH

Physical Therapy Board of California APPROVED Meeting Minutes

Strategic Planning Session

Department of Consumer Affairs
1747 North Market Blvd., Hearing Room
Sacramento, CA 95834
November 6, 2012 9:00 a.m.

Board Staff

Rebecca Marco, Executive Officer
Liz Constancio, Manager
Jason Kaiser, Manager
Sarah Conley, Executive Associate
Analyst

Regular Meeting

Department of Consumer Affairs
2005 Evergreen St., Hearing Room
Sacramento, CA 95815
November 7, 2012 8:30 a.m.
November 8, 2012 8:30 a.m.

Note: This meeting was held in Sacramento due to severe budget restraints.

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.

Strategic Planning – November 6, 2012

1. Call to Order and Roll Call

The Physical Therapy Board of California (Board) strategic planning session and meeting were called to order by Dr. Alviso at 9:04 a.m. All members were present with the exception of Dr. Takii, and a quorum was established. Also present at the meeting were Rebecca Marco, Executive Officer; Laura Freedman, Legal Counsel; Jason Kaiser, Manager; Liz Constancio, Manager; Elsa Ybarra, Consumer Protection Services Lead; Sophia Cornejo, Application and Licensing Services Lead; and, Sarah Conley, Executive Associate for the Administrative Services Program.

2. Strategic Planning Session

Board Members and staff participated in a strategic planning session, which included identifying Board goals and objectives for the next five years.

3. Closed Session

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

(B) Pursuant to Government Code section 11126(e)

US Equal Employment Opportunity Commission (EEOC) Charge
Number: 555-2012-00027

- (C) Pursuant to Government Code section 11126(a)(1)
Appointment, Employment, Evaluation of Executive Officer
Pursuant to Government Code section 11126(c)(1)

Public notes for these items are located under agenda item 5.

Regular Meeting – November 7 & 8, 2012

4. **Special Order of Business – November 7, 2012 8:45 a.m.**
Hearing on Petitions for Early Termination of Probation
(A) Azita Yazdani, PT
(B) Abraham Ortiz III, PT

After submission of the matters, the Board convened in closed session to deliberate per Government Code section 11126(c)(3).

Once issued, disciplinary decisions may be found on the Board's Web site at www.ptbc.ca.gov.

5. **Closed Session**

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

The Board convened in closed session to deliberate pursuant to Government Code section 11126(c)(3).

Once issued, disciplinary decisions may be found on the Board's Web site at www.ptbc.ca.gov.

- (B) Pursuant to Government Code section 11126(a)(1)
Appointment, Employment, Evaluation of Executive Officer
Pursuant to Government Code section 11126(c)(1)

Dr. Alviso announced the Board appointed Jason Kaiser as Interim Executive Officer, effective the day after the current Executive Officer retires. Additionally, the Board appointed Dr. Jewell and Ms. Wallisch to the Executive Officer Search Committee to assist the Board in activities required for appointing a new Executive Officer.

6. **Approval of August 1 & 2, 2012 Meeting Minutes – Sarah Conley**

MOTION: To adopt the draft August 1 & 2, 2012 meeting minutes as presented.

MOVED: Mr. Turner

SECOND: Ms. Wallisch

VOTE: 5-0 Motion carried

7. President's Report – *Dr. Debra Alviso*

Dr. Alviso expressed her appreciation for the following: 1) Board Members and staff for their preparation for, and participation in, strategic planning; 2) Board Members' input on the Sunset report; Mr. Turner for assisting staff with capping the budget line items; and Ms. Wallisch for assisting staff with the 2012 Sunset Review Report Addendum.

Dr. Alviso informed the Board that she, Ms. Marco and Board staff met with the Senate Committee on Business, Professions and Economic Development (BP&ED) regarding Sunset, and the outcome of this meeting will be discussed further under Ms. Marco's report.

Dr. Alviso reported Ms. Marco will be retiring as of December 23, 2012 and acknowledged the Board will be faced with quite a challenge losing her. Dr. Alviso thanked Ms. Marco for her high standard of service to the Board and the consumers of California. All Members expressed their appreciation for Ms. Marco's service and noted they are saddened to lose such great leadership.

(A) 2013 Meeting Calendar

Ms. Marco recommended moving the May meeting from Los Angeles to Sacramento as a cost-saving measure; moving the meeting would result in a savings of approximately \$6,000.

Ms. Freedman advised the Board this would be in conflict with the statute which mandates the Board meet in specific locations annually; however, she also noted relocating the meetings to Sacramento would be reasonable given the severe budget restraints facing the Board and since the Board offers other avenues of public access such as webcasting.

The Board scheduled a teleconference for December 12, 2012 to discuss recruitment of an Executive Officer, and to elect Board Officers since not all members were present.

MOTION: To adopt the 2013 meeting calendar, as amended, moving the May meeting from Los Angeles to Sacramento, and adding a teleconference on December 12, 2012.

MOVED: Dr. Jewell

SECOND: Mr. Turner

VOTE: 5-0 Motion carried

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

Ms. Marco informed the Board that Mr. Kaiser and Ms. Constancio met with Jeff Sears, DCA Personnel Officer, regarding establishing an expert consultant position pursuant the BSA audit finding. Mr. Sears and his staff were discouraging and noted it could be 2016 before this could be implemented. The result of this meeting will be reported in the six-month update to the BSA, which is due December 26, 2012.

Ms. Marco informed the Board that Senate BP&ED staff were receptive to reviewing the proposed revisions to the Physical Therapy Practice Act, and agreed to assist the Board however they can, including finding an author. Ms. Marco noted the reduction of enforcement

staff identified in her report is incorrect and should reflect only analytical staff. Prior to September 30, 2012, the Board had 8.2 analytical staff in the enforcement unit, which has since been reduced to 4.7 staff.

9. Administrative Services Report – Liz Constancio

(A) Budget

Robert de los Reyes, DCA Budget Analyst, was in attendance to report with Ms. Constancio.

Ms. Constancio reported that staff has identified, with the assistance of Mr. Turner, spending limits for each line item to compensate for the over-expenditure of the Attorney General (AG) line item. To date, staff has identified over \$130,000 within other line items to redirect to AG line item. Dr. Alviso questioned whether the Board can increase its AG budget line item allotment. Ms. Constancio explained staff can make internal budget modifications to supplement the AG budget line item; however, increasing the allotted amount requires approval of a Budget Change Proposal (BCP).

Ms. Marco reported this is not a new issue; last fiscal year AG costs equated to \$472,667, well above the budget amount of \$285,668. One contributing factor to the high AG costs for the current-fiscal year is the pending 8-10 Interim Suspension Orders (ISO) currently in process. Ms. Freedman noted that this number is high for an entire fiscal year, and to have this many for one quarter is extremely unusual.

Mr. Turner questioned whether the Board's Division of Investigation (DOI) budget line item allotment is adequate. Ms. Constancio and Mr. de los Reyes explained DOI is pro rata and the allotted amount is determined based on the Board's expenditures from the prior two years.

Mr. de los Reyes explained the process for a board to make a current year augmentation to its budget due to an anticipated deficiency. The process includes identifying cost-saving measures, such as redirecting resources to compensate for an over-expenditure, which is reviewed by oversight agencies such as the DCA, and the State and Consumer Services Agency (Agency). Mr. de los Reyes further explained if a current-year budget augmentation for under \$200,000 is submitted, it requires approval from a board's oversight agencies; however, if the request exceeds the amount of \$200,000, approval must be obtained from the Legislature.

Dr. Alviso questioned how the Board can remedy the discrepancy between the AG budget allotment and what is actually spent since it appears there is a pattern of increased AG costs. Mr. de los Reyes explained the Board would need to increase its AG budget line item allotment, which is done through the BCP process. Mr. de los Reyes noted the Board submitted a BCP last year to address this issue, which was denied; therefore, the DCA anticipates the Board submitting a BCP again this year.

Mr. Turner questioned whether other boards are facing similar problems with their budget. Mr. de los Reyes responded enforcement costs are a trouble area for most boards' budgets.

Ms. Marco noted that in addition to the AG budget line item having insufficient funds to support actual costs, the impact to the Board's budget does not allow the Board to obtain approval for additional staffing, which it is in dire need of.

Mr. Turner will continue to be the Board liaison for budget issues.

(B) Outreach

Ms. Marco noted Korey Landry's diligence in getting the new website up and running. Ms. Landry explained the website has specific standards; however, the Board utilized those options available to create a user-friendly and informative site.

Ms. Marco informed the Board staff has received a lot of positive feedback on the newsletter and commended Ms. Landry for her efforts. Ms. Landry reported she is preparing the next newsletter and requests articles by the first week in December.

10. Application & Licensing Services Report – Liz Constancio

Ms. Constancio reported California applicants were not affected by hurricane Sandy.

Ms. Marco requested a Board Member work with staff to explore the various roles of the American Physical Therapy Association (APTA), FSBPT and the Board in approving instructors and facilities for foreign educated applicants' clinical service period in an attempt to improve the approval process. Dr. Jewell will be the Board liaison for this project.

11. Consumer Protection Services Enforcement Report – Jason Kaiser

(A) Performance Measures

Mr. Kaiser reported the DCA is working on performance based budgeting which has delayed the visual representation of the performance measures; however, the data is provided in the enforcement statistics spreadsheet. Mr. Kaiser noted the increase in Interim Suspension Orders (ISO) the Board has issued in first quarter of the fiscal year. Dr. Jewell questioned why the Board has such an increase in ISO's

Dr. Alviso requested Ms. Freedman explain the process of issuing an ISO. Ms. Freedman explained the traditional method of taking action against a licensee is to file an accusation; however, in cases of severe threat to public safety, the Administrative Procedures Act (APA) permits the Executive Officer to file an ISO. The ISO is brought before an Administrative Law Judge (ALJ), with or without the licensee present, who then decides whether it should be issued. The ISO can be issued to remove the licensee's ability to practice or limit it. The ISO is, as its name states, interim until the matter comes before the Board to make a decision, which occurs after the regular formal discipline process.

Mr. Kaiser noted staff may not be able to continue meeting its performance measure goals with the drastic reduction in staff.

Ms. Marco informed the Board currently there are 65 licensees on probation, 14 of the 65 are in the Board's substance-abuse recovery program. Staff will add probation statistics to the enforcement report for all subsequent meetings.

(B) Disciplinary Summary

There was no Board discussion on this item.

12. Uniform Standards Regarding Substance-Abusing Healing Arts Licensees (SB 1441) Language for Board Consideration and Possible Action for Section Number(s) to be Determined of Division 13.2 of Title 16 of the California Code of Regulations – Jason Kaiser

Mara Faust, Deputy Attorney General, Attorney General's Office Board Liaison, was present with Mr. Kaiser to present on the application of the various Uniform Standards regulatory language options. Ms. Faust explained that currently the Attorney General's Office (AG) uses a combination of all three options. Each option has positive and negative elements. Option One provides the Board the greatest discretion; however, it also permits the greatest chance for a due process complaint by licensees. Option Two defers the decision-making to experts - Maximus, but removes some of the Board's discretion in the decision and is expensive for the licensee. Option Three places the entire burden of proof on the Board.

Ms. Faust reported that she believed both the Acupuncture Board and the Physician Assistant Committee selected Option Two, and both programs utilize Maximus. The Board of Pharmacy's AG Liaison rewrote the definition of "substance-abusing licensee" significantly narrowing the qualifiers to a small group. Since there is question whether this can be done, the AG Liaison for the Board of Pharmacy requested no decision be made until an AG opinion is issued, which could take quite some time.

Considering all the options, Ms. Faust recommended Option Two.

Ms. Freedman provided background on the Uniform Standards, and explained there is no standard definition of a "substance-abusing licensee" or a simple method of determining such. Therefore, the three regulatory language options are attempts to define "substance-abusing licensee" or to provide a method of determining such.

Ms. Freedman explained while there is no specific deadline for the Board to adopt one of the three Options, or choose another avenue, the DCA Director would like to see the Uniform Standards put into place.

Ms. Jewell expressed concern regarding a layperson making a determination whether to pursue a substance violation. Ms. Marco responded staff follows the same fact-finding process for all cases prior to the decision whether to file an accusation; the Uniform Standards would not apply until after the accusation was filed. Ms. Freedman noted the Uniform Standards would not apply to licensees who self-refer in the diversion program because self-referral is not compelled by Board action.

Dr. Chu questioned whether the 30-day suspension of practice would occur with the Uniform Standards when the licensee is undergoing the intake evaluation. Monny Martin, Board Probation Monitor, explained the 30-day suspension of practice is a requirement of the Uniform Standards, not Maximus. Mr. Martin reported the 30-day suspension of practice period is time waiting for the results of the clinical assessment, and time to provide two negative drug tests, which must be completed before allowing the licensee to resume practice.

Ms. Marco noted the process for Option Two is the same process the Board currently uses. If the Board suspects a licensee is a substance-abusing licensee, the Board stipulates the licensee gets tested by Maximus. If the licensee is identified as a substance-abusing licensee, the licensee enters the Board's substance abusing recovery program, which has already been applying the Uniform Standards; however, if the licensee is not found to be a substance-

abusing licensee, the licensee would not enter the diversion program, but would likely be placed on probation.

Ms. Freedman clarified that currently staff may stipulate to the same terms contained within the Uniform Standards, but the Administrative Law Judge (ALJ) and the Board could change those terms; however, should the Board adopt the Uniform Standards, the ALJ and the Board would be tied to the terms in the Uniform Standards. Ms. Faust noted there have been instances when ALJ's allowed a licensee to determine his/her own rehabilitation program in lieu of Maximus and often times these programs are unsuccessful, so the AG would like to avoid such a situation.

The Board determined Option Two was the most favorable of the three presented.

MOTION: To adopt Option Two: Impose Uniform Standards Contingent upon Post-Hearing Clinical Evaluation proposed regulatory language.

MOVED: Dr. Jewell

SECOND: Mr. Turner

VOTE: 5-0 Motion carried

The Board directed staff to move forward with rulemaking process.

13. Continuing Competency Report – Jason Kaiser

(A) Statistics

Mr. Kaiser informed the Board staff has reduced the audit level from 20% to 10% with increased compliance, and that the Continuing Competency program continues to have a substantial backlog due to limited staff.

(B) Withdraw of Approval Agency Recognition for:

Mr. Kaiser provided background on the Record Compliance Template and explained most course providers responded; however, two did not, which are listed under 13(B)(i) and 13(B)(ii). Mr. Kaiser explained in detail the efforts made to contact the providers to obtain compliance. The Board staff was unable to verify compliance, as explained in the agenda item briefing papers.

i. Vital Spark, LLC

ii. Gateway International, LLC

MOTION: Terminate recognition of Vital Spark, LLC; and, Gateway International, LLC and post this on the website.

MOVED: Dr. Chu

SECOND: Mr. Turner

VOTE: 5-0 Motion carried.

14. Consumer and Professional Associations and Intergovernmental Relations Report

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

Ms. Everhart reported the next quarterly Executive Officer and Bureau Chief meeting is November 15th. Topics of discussion include: travel reimbursements and approvals; personnel-related issues; and, introduction of the new DCA Deputy Director of Enforcement, Mike Gomez. Ms. Everhart also noted the DCA is working on board appointments.

(B) California Physical Therapy Association (CPTA)

James Syms, PT, DPT, CPTA President, brought the following items before the Board:

1. What is the Board's plan for handling the complaints regarding physical therapists working for physicians when Business and Professions Code section 2674 sunsets on January 1, 2013?

Ms. Freedman cautioned the Board this question is in regards to what may be pending enforcement matters, which the members should not involve themselves in; therefore, Ms. Marco should respond on behalf of the Board. Moreover, Ms. Marco's response should be limited to explaining the complaint process. Ms. Marco explained if the Board receives complaints regarding physical therapists working for physicians, the complaints will be acknowledged and prioritized using the Complaint Prioritization Guidelines provided by the DCA.

2. Requested the Board provide a mechanism to assist licensees with questions relating to the practice of physical therapy.

Dr. Syms requested the Board further consider the following two issues: 1) medication regimen reviews in home health, and 2) whether an aide can document in the patient record, and encouraged the Board to consider a method to address practice-related questions. Additionally, Dr. Syms suggested these issues may be material for the Board's newsletter.

3. Requested clarification of the budget issues since the Board is self-funded through license fees, and yet the Board does not have access to its fund, or reserve money.

Ms. Marco explained for the Board to access the fund, it has to go through the Budget Change Proposal (BCP) process; however, the Board has been unsuccessful in gaining support from the Department of Finance (DOF) because it does not meet the Governor's criteria for approval. Ms. Marco went on to note, the current Administration is sensitive to public perception, and although the Board is a self-funded agency, the public may not differentiate the Board's budget from the State's budget.

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

Dr. Alviso presented a briefing paper on the results of the 2012 FSBPT Delegate Assembly bringing the Board's attention to two specific motions that may be of interest: 1) Establishing a Minimum Data Set (MDS) to collect nationwide workforce data, and 2) license portability amongst the various physical therapy licensing jurisdictions.

15. 2011-2012 Legislative Session Summary – Sarah Conley

(A) AB 2570 – Licensees: Settlement Agreements
Author(s): Assembly Member Hill

(B) SB 924 – Physical Therapists: Direct Access to Services: Professional Corporations
Author(s): Senators Price, Walters, and Steinberg

(C) SB 1236 – Professions and Vocations
Author(s): Senator Price

Ms. Conley presented the status of each bill. Ms. Wallisch questioned why SB 924 failed. Dr. Syms explained the bill failed as a result of political struggles.

16. Review of Proposed Physical Therapy Practice Act for Submission to Legislature – Sarah Conley

Ms. Conley identified a number of items for the Board's consideration regarding the proposed revisions to the Physical Therapy Practice Act. The Board made determination(s) for each item, as well as other changes, as follows:

- Section 2605(i) – Amend language to read something to the effect of “Adopt and administer a program of education in matters relevant to the practice of physical therapy.”
- Section 2620.3 – After review of the corresponding regulations, the Board determined “purchase and store” is assumed; therefore, it should be removed from the proposed revisions.
- Section 2630.5 – Pursuant to legal counsel's recommendation, keep “physical therapy” education program, in lieu of specifying physical therapist/physical therapist assistant education program.
- Section 2639 –
 - Pursuant to legal counsel's recommendation, keep “physical therapy” education program in lieu of specifying physical therapist/physical therapist assistant education program pursuant to legal counsel.
 - Amend the language regarding practicing as a license applicant by striking “license applicant” when referring to how the license applicant may practice – either as a physical therapist or a physical therapist assistant, not a physical therapist or physical therapist assistant *license applicant*.
 - Strike “documentation” to clarify that license applicants must comply with all requirements, not solely documentation requirements.
- Section 2646 – Keep current time period of five years to renew a delinquent license, instead of proposing to change it to a three-year time period.
- Section 2651 – Pursuant to legal counsel's recommendation, change “physical therapy” education program to “physical therapist” education program. This should be changed because it is specific to the core requirements to apply for a physical therapist license – not cross-referencing other sections for the requirements.
- Section 2653 – Pursuant to legal counsel's recommendation, the Board directed staff to change “physical therapy” education program to “physical therapist”

education program.

- Section 2654 – Legal counsel noted since the education program is a core requirement of applying for licensure – not cross-referencing other sections for the requirements, each program should be specifically identified. The Board did not amend this section.
- Section 2655.2 – Keep limit on the number of aides and place in appropriate section. The Board would like to see this provision in regulation rather than statute; however, it does not want to risk the delay in it being absent in statute to be added to regulation.
- Section 2660.3 – Pursuant to legal counsel’s recommendation, the Board directed staff to strike “at the discretion of the board,” in the proposed language (from B&P Code section 2233).
- Moving specific application, renewal, documentation and supervision requirements from statute to regulation – Staff recommended it conduct further review of the Board’s authority in each of the areas noted above, and then determine whether to move forward with proposing to move the specified requirements to regulation based upon that review. The Board concurred with this recommendation.

MOTION: To adopt the amendments to the proposed revisions of the Physical Therapy Practice Act pursuant to the discussions on both Nov. 7th and 8th.

MOVED: Dr. Jewell

SECOND: Mr. Turner

VOTE: 5-0 Motion carried.

Legal counsel recommended, if the Board chooses, a second motion separate from adopting the change to the proposed revisions to the Physical Therapy Practice Act, delegating authority to a Member to make changes as needed through the legislative process.

MOTION: To delegate authority to the President and Vice-President to make necessary decisions in regards to ensuring the progress of the proposed revisions of the Physical Therapy Practice Act through the legislative process, and to call a meeting of the Board if needed.

MOVED: Ms. Wallisch

SECOND: Dr. Jewell

VOTE: 5-0 Motion carried.

17. Review of Sunset Report Addendum for Submission to Legislature – Rebecca Marco

Ms. Marco explained the Board was provided electronic versions of the 2012 Sunset Report Addendum (Addendum) to review and provide feedback to staff since the Addendum is due shortly after the meeting on December 1, 2012. Dr. Jewell indicated she had a number of

comments and would provide those to staff.

The Board did, however, review Section 11 – New Issues, of the Addendum in detail because the Board's current issues, and/or position on those issues have changed; therefore, the entire section was redone.

Addendum Section 11 – Current Issues

1. Proposed Revisions to the Physical Therapy Practice Act

See minutes for agenda item 16.

2. Corporate Practice of Physical Therapy

After much consideration of the various issues regarding the physical therapy practice business arrangements, the Board determined it did not wish to pursue the issues of corporate registrations with the Board and general corporations; however, the Board did direct staff to pursue authority to require fictitious name permits. Moreover, Dr. Alviso requested staff revise the text of the fictitious name permits issue to ensure it accurately reflects the Board's intent in including the issue in the Addendum.

3. Operational Deficiencies

Ms. Marco informed the Board Senate BP&ED Committee staff invited the Board to present any issues it may be experiencing impeding its operation abilities, and noted the Board of Registered Nursing submitted an exemplary staffing issues report, which the Board may wish to model. Therefore, Board staff has begun drafting a report specifically identifying each operational deficiency.

In addition, the Board directed staff to re-order the issues in the report as follows:

1. Operational Deficiencies
2. Proposed Revisions to the Physical Therapy Practice Act
3. Fictitious Name Permits

The Board appointed Ms. Wallisch to conduct the final review of Issue #1 – Operation Deficiencies; and, Dr. Chu to conduct the final review of Issue #2 – Proposed Revisions to the Physical Therapy Practice Act, and Issue # 3 – Fictitious Name Permits.

18. Rulemaking Calendar Update – Sarah Conley

(A) Summary of 2012 Rulemaking Progress

Ms. Conley presented a summary of the progress made towards completing items on the 2012 Rulemaking Calendar. The Board indicated it had no questions on this update.

(B) Adoption of 2013 Calendar

Ms. Conley presented the proposed 2013 Rulemaking Calendar for Board consideration.

The Board added the following items to the proposed 2013 Rulemaking Calendar:

1. Evaluation Elements
2. Physical Therapy Business Requirements

MOTION: To adopt the proposed 2013 Rulemaking Calendar as amended.

MOVED: Dr. Jewell

SECOND: Mr. Turner

VOTE: 5-0 Motion carried.

**19. Special Order of Business – November 8, 2012 8:45 a.m.
Regulatory Hearing on Proposed Language for Required E-mail Filing, Section
1398.6 of Division 13.2 of Title 16 of the California Code of Regulations**

The Board held the regulatory hearing for proposed language to amend California Code of Regulations (CCR) 1398.6: Required E-mail Filing. No public comment was received.

After the public hearing closed, Ms. Freedman recommended the proposed language be amended to add the following statement:

This subsection does not require an applicant or licensee to obtain an e-mail address, it only requires that person report an existing e-mail address to the Board.

MOTION: To add language recommended by legal counsel to the proposed language.

MOVED: Dr. Jewell

SECOND: Mr. Turner

VOTE: 5-0 Motion carried

Ms. Freedman clarified the proposed regulation would not require applicants and licensees to obtain or use an e-mail address, but if they already have one, they would be required to report it to the Board.

MOTION: To adopt the proposed modified text for a 15-day public comment period and delegate to the Executive Officer the authority to adopt the proposed regulatory changes, as modified, if there are no adverse comments received during the public comment period, and also 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: Ms. Wallisch

VOTE: 5-0 Motion carried

**20. Special Order of Business – November 8, 2012 9:00 a.m.
Regulatory Hearing on Proposed Language for Notice to Consumers, Section
Number 1398.15 of Division 13.2 of Title 16 of the California Code of Regulations**

The Board held the regulatory hearing for proposed language to add CCR 1398.15: Notice to Consumers. No public comment was received.

After the hearing was closed, Ms. Conley noted the Board adopted the proposed regulation Section 1398.14: Notice to Consumers; however, the Mandatory Fingerprinting regulation was already assigned this number. Therefore, staff amended the Notice to Consumers proposed section number to 1398.15. A Notice of Correction was published by the Office of Administrative Law (OAL) in the Notice Register on October 26, 2012.

MOTION: To adopt the proposed regulatory changes as noticed, and delegate to the Executive Officer the authority to make technical or non-substantive change in completing the rulemaking file.

MOVED: Dr. Jewell

SECOND: Ms. Wallisch

VOTE: 5-0 Motion carried

**21. Consideration of Physical Therapists Working as Physical Therapist Assistants –
*Dr. Martha Jewell***

Dr. Jewell presented a briefing paper to the Board regarding an FSBPT study of licensed physical therapist assistants who were educated as physical therapists outside the U.S., and noted a concern that these physical therapist assistants may practice beyond the purview of their license due to their education as a physical therapist. The FSBPT conducted a study on licensed physical therapists assistants who were educated as physical therapists, which is a small number in comparison to the number physical therapists educated as physical therapists, and found no evidence of practicing beyond the scope of a physical therapist assistant. Ms. Marco noted that, specifically referring to California, the supervising physical therapist is responsible for the physical therapist assistant, which also addresses the concern.

Dr. Jewell explained the study also looked at state laws that prohibit or permit this pathway for licensure; California law permits this pathway.

The Board and staff discussed the application process and evaluation requirement for foreign-educated physical therapists applying for a physical therapist assistant license.

22. Board Member Ethics Training – *Laura Freedman, Legal Counsel*

Ms. Freedman conducted a board member ethics training refresher session.

23. Elections

- (A) President
- (B) Vice-President
- (C) FSBPT Delegate

- (D) FSBPT Alternate Delegate (Primary)
- (E) FSBPT Alternate Delegate (Back-up)

The Board postponed this item until the December teleconference since not all members were present.

24. Public Comment on Items Not on the Agenda

Dr. Syms, speaking as a licensee on behalf of Loma Linda University, brought forth an issue regarding fixed-date testing and applicants' access to the national licensing exam. Dr. Syms highlighted points from a letter written by Larry Chinnock, PT, EdD, Physical Therapy Program Director, Loma Linda University, outlining the negative impact on applicants of the current process to approve applicants to sit for the national exam, and requested the Board reconsider this process.

Ms. Marco advised that due to statutory restrictions and feasibility issues, Board staff is limited in what it can do to accommodate applicants in this regard, and staff has exhausted all of those limited options in order to address the complications created with the implementation fixed-date testing. Pursuant to Ms. Marco's advice, the Board noted the comment, but did not take action to consider the matter further.

**25. Agenda Items for Next Meeting – February 13 & 14, 2013
Sacramento, CA**

Dr. Jewell will provide staff with a list of items she collected throughout the meeting.

26. Adjournment

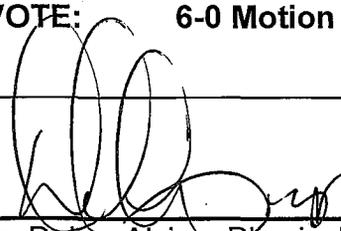
The meeting adjourned at 3:56 p.m. on Thursday, November 8, 2012.

MOTION: To adopt the draft November 6, 7 and 8, 2012 meeting minutes as presented.

MOVED: Mr. Turner

SECOND: Dr. Chu

VOTE: 6-0 Motion carried


Dr. Debra Alviso, Physical Therapist, Board President

10/23/13
Date