



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

May 8, 2013 8:30 a.m.

May 9, 2013 8:30 a.m.

Department of Consumer Affairs,
Headquarters 2 (HQ2)
1747 North Market Blvd., Hearing Room
Sacramento, CA 95834

Board Staff

Jason Kaiser, Interim Executive
Officer
Liz Constancio, Manager
Elsa Ybarra, Manager
Sarah Conley, Executive Associate
Analyst

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) meeting was called to order by Dr. Alviso at 8:30 a.m. All members were present and a quorum was established. Also present at the meeting were Jason Kaiser, Interim Executive Officer; Liz Constancio, Manager; Elsa Ybarra, Manager; Sarah Conley, Executive Associate Analyst; and, other Board staff.

2. Approval of February 13 & 14, 2013 Meeting Minutes – Sarah Conley

Corrections were made to the minutes as follows (underline indicates new text and strikethrough indicates deleted text):

On page 3, Line 17, the following edit was made:

Mr. Kaiser informed the Board that due to the failure of SB 924 and the sunset of Business and Professions Code section 2674 [...].

On page 5, Lines 38-46, the following edit was made:

Dr. Chu expressed concern with the way the minutes captured Ms. Freedman's explanation of why the Board should refrain from involving itself with issues relating to the practice of physical therapy. Therefore, paragraph 3 on page 5 was replaced with the following:

After Dr. Chu's presentation, Dr. Alviso requested Ms. Freedman provide a brief explanation about legal issues regarding the Board's involvement in issues related to practice. Ms. Freedman explained that there are a few issues that can cause concern. The first is that the Board could, by issuing practice standards, inadvertently create underground regulation in violation of the Administrative Procedures Act. Another is that, if staff contacts multiple Board members about an issue outside of a Board meeting, there could be a violation of the Bagley-

Keene Open Meeting Act. Finally, she advised that, should the question result in an enforcement action, a Board member that got involved in the issue might have to recuse himself or herself from voting on that matter.

Ms. Freedman also explained that a legal opinion is one option available that avoids all of these concerns. Resources are, however, a limitation with regard to that option.

On page 8, Lines 21-22, the following edit was made:

Unfortunately, since they needed more discussion, ~~the~~ and the deadline to file the Guidelines was quickly approaching [...].

MOTION: To adopt the draft February 13 & 14, 2013 meeting minutes as amended.

MOVED: Ms. Wallisch

SECOND: Mr. Turner

VOTE: 6-0 Motion carried

3. **President's Report – Dr. Debra Alviso**
 - (A) **Adopted 2013 Meeting Calendar**
 - (B) **Proposed 2014 Meeting Calendar**

Dr. Alviso informed the Board of her involvement in Board activities since the last meeting, one of the most prominent was representing the Board with Ms. Wallisch and Mr. Kaiser at the sunset hearing before the a joint committee comprised of the Assembly Business, Professions, and Consumer Protection Committee, and the Senate Business, Professions, and Economic Development Committee. Dr. Alviso shared the Committees' responses were favorable, and commended and thanked the other members and staff for their work on sunset.

The Board reviewed the adopted the 2013 meeting calendar and the proposed 2014 meeting calendar. All members indicated they had no conflicts or concerns with the remaining dates in 2013, or the proposed 2014 calendar. The Board will plan to adopt a 2014 calendar at the next meeting.

4. **Executive Officer's Report – Jason Kaiser**

Mr. Kaiser informed the Board staff will be developing a 1-year follow-up response to the Bureau of State Audits (BSA). All of the concerns identified by the BSA for the Board have been addressed except for hiring a civil servant employee to serve as an expert consultant. Dr. Jewell requested the status of determining whether a civil servant employee, also a licensed physical therapist, could serve as an expert consultant. Mr. Kaiser explained Board staff has been working with the DCA, and the DCA is concerned with creating a new position, which Board staff feels is necessary to meet the current qualifications necessary to serve as an expert consult for the Board. Although this remains an outstanding issue, immediate action was taken by abbreviating the in-house expert consultant's contract so that it is the same as the other experts' contracts; this addressed a specific aspect of the issue cited by the BSA. Dr. Jewell suggested the obstacles with implementing the BSA's recommendation be included in the one-year response to the BSA.

Mr. Kaiser explained, to aid the Consumer Protection Services program and the Application and Licensing Services program, the Board has contracted with the American Association of Retired Persons (AARP) to host members who wish to gain work experience. These individuals are paid by AARP, but work at the Board to assist them in re-entering the work force. Mr. Turner questioned how many participants of this program the Board can host, and how long they can participate. Mr. Kaiser explained they can work up to four years at one assignment, and the Board can have no more than one AARP member in each unit. Mr. Kaiser also noted AARP members are limited to twenty hours per week.

Mr. Kaiser updated the Board on the BreEZe project, specifically noting the amount of staff time necessary to ensure the successfulness of the project for the Board. The time that staff must dedicate to the BreEZe project will take them away from their regular duties, which could result in workload backlogs within the Application and Licensing Services program and the Consumer Protection Services program.

5. Administrative Services Report – Liz Constancio

(A) Budget

(B) Outreach

Ms. Constancio presented the Board's budget report and indicated she was happy to field any questions. Dr. Jewell questioned whether it was a problem for the Board that the budget reflects an over expenditure by members. Mr. Turner and Ms. Constancio explained staff is currently working on addressing this issue.

After the budget report, Ms. Constancio presented the Outreach statistics for January through March, 2013. She noted the Board has seen, overall, an eleven percent increase in users for the website. Facebook and Twitter statistics remain constant.

6. Application & Licensing Services Report – Liz Constancio

Dr. Jewell thanked staff for providing the statistics on applicants who were educated in a physical therapist program outside the U.S. and not approved by the Board, but who applied for physical therapist assistant licensure in California. The Board questioned if there was a reason for the increase in applicants who applied based on training and/or experience equivalent to that obtained in a Board approved physical therapist assistant program. Mr. Kaiser responded staff has not identified a reason for this increase. He went on to note that this group includes applicants who graduated from a physical therapist program approved by the Board who opt to apply for physical therapist assistant licensure, but does not include applicants who were educated in a physical therapist program outside the U.S. and not approved by the Board, but apply for physical therapist assistant licensure. Dr. Jewell requested staff record and report the percentage of new physical therapists that are educated in physical therapist program outside the U.S. and not approved by the Board as this data may be helpful in the future if the Board needs to look at conducting a manpower study of the profession. Furthermore, Dr. Jewell is also looking for a report on the overall make-up of the physical therapist assistant licensing population. She indicated she will work further with staff on this item.

Dr. Jewell recommended the Board focus its outreach resources on reaching out to schools that have a concerning low pass rate for the California Law Exam (CLE). Dr. Chu inquired as to whether staff can identify the schools whose graduates are not passing the CLE. Ms.

Constancio and Mr. Kaiser explained staff is currently looking into collecting data to assess whether a correlation exists between the school attended and the CLE pass rate.

Dr. Chu explained the Council for Accreditation of Physical Therapist Educations (CAPTE) has increased its accreditation of small private schools, which do not have the history and curricula as those well-established schools with physical therapist and physical therapist assistant programs. Dr. Jewell recommended, once data is collected and examined, contacting CAPTE to discuss the findings.

Ms. Constancio reported the new CLE went into effect March 5th, which has impacted the exam passing rate as illustrated by the data.

Dr. Jewell inquired whether fixed-date testing was still an obstacle for students trying to sit for the exam. Ms. Constancio explained staff needs at least three weeks to process applications; however, at one point in an attempt to be accommodating, pushed the deadline back allowing only two weeks for staff to process applications to determine exam eligibility. Mr. Kaiser added that reducing the processing time to two weeks does not allow staff enough time to realistically meet FSBPT's deadlines and meet other Board mandates. Moreover, staff has scrutinized the calendar in an attempt to, again accommodate as many programs as possible, but no matter the changes made to the calendar, the Board would still be unable to include all programs.

Dr. Chu noted the FSBPT's fixed-dated testing schedule for the national exam is heavily impacting west coast physical therapy programs as they do not graduate until almost June and with the FSBPT's and the Board's processing deadlines it is almost impossible for applicants to take the summer exam. These applicants then have to wait until fall, delaying their licensure and ability to work. Mr. Kaiser explained the Board has been encouraging applicants to submit their application and receive license applicant status while waiting for the completion of the application process.

7. Consumer Protection Services Report – *Elsa Ybarra*

Ms. Ybarra presented the Performance Measure data as well as other enforcement statistics. She noted that the intake of cases is at the target of nine days, which is an increase; however, this should improve as the Consumer Protection Services program just welcomed a new permanent-intermittent employee who will be supporting the analysts, including processing case intake. Ms. Ybarra also pointed out that the timeline for investigations is close to the Board's target, but this is good given the loss of staff in the CPS program. As the Performance Measures illustrate, the loss of CPS staff is starting to show; however, she commended the existing staff for all their continued hard work.

Dr. Jewell requested that the Performance Measures report be reformatted for clarity. Mr. Kaiser explained the DCA provides this report; however, he will recommend the report be reformatted.

Ms. Kaiser announced Ms. Ybarra accepted the manager position for the CPS program, and noted she is very deserving of the promotion.

8. Continuing Competency Report – *Karin Thompsen*

Ms. Thompsen presented the Continuing Competency report and explained the high number of pending audits for February and March is because staff just started auditing those licensees,

so they are waiting for responses from them.

Dr. Alviso suggested using outreach media to remind licensees of the necessity to maintain their continuing competency records.

9. Consumer and Professional Associations and Intergovernmental Relations Reports
(A) Department of Consumer Affairs (DCA) – Reichel Everhart

Ms. Everhart notified the Board that the DCA Director scheduled a teleconference with the board presidents and executive officers for May 14th at 10:00 a.m.

(B) California Physical Therapy Association (CPTA)

Representatives from the CPTA indicated they had nothing to bring before the Board under this agenda item.

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

i. Motions for Submission to the Resolutions Committee for the 2013 Delegate Assembly

The Board determined it did not have any recommendations for motions to submit to the FSBPT for consideration for the 2013 Delegate Assembly.

10. Legislation Report – Sarah Conley

Dr. Alviso noted that she and Dr. Jewell requested a representative from the DCA Legislative and Policy Review unit attend the meeting to address questions the Board may have regarding the legislative process. This request was prompted by the need for a clearer understanding of the legislative process as the Board's proposed revisions to the Physical Therapy Practice Act was finally carried by an author – Senator Price, and with other important bills of interest for the Board being addressed this session. Normally, the Deputy Director of Legislative and Policy Review, Tracy Rhine, would be available to the Board; however, as this meeting fell at a very busy legislative time, Ms. Everhart and Ryan Arnold, the DCA legislative analyst assigned to the Board, were available to respond to questions regarding the legislative process.

Ms. Everhart and Mr. Arnold explained that the DCA is an agency under the direction of the Governor, therefore, it cannot take a position or recommend a board or bureau take a position on an issue without approval from the Governor. The Board; however, is semi-autonomous and may take a position on issues, including legislation, as it wishes. They did mention that the DCA would appreciate the Board keeping the DCA apprised of the Board's positions on issues and legislation.

They went on to explain that although the DCA cannot take a position that is not already approved by the Governor, staff, specifically the Board's assigned legislative analyst is available to assist the Board in any way possible as far as process and keeping up to date on legislation.

(A) AB 186 (Maienschein) Professions and Vocations: Military Spouses: Temporary Licenses

(B) AB 213 (Logue) Healing Arts: Licensure and Certification Requirements:

Military Experience

- (C) AB 258 (Chávez) State Agencies: Veterans**
- (D) AB 809 (Logue) Healing Arts: Telehealth**
- (E) AB 864 (Skinner) Athletic Trainers**
- (F) AB 1000 (Wieckowski) Physical Therapists: Direct Access to Services**
- (G) AB 1003 (Maienschein) Professional Corporations: Healing Arts Practitioners**
- (H) AB 1057 (Medina) Professions and Vocations: Licenses: Military Service**
- (I) SB 198 (Price) Physical Therapy Board of California**
- (J) SB 381 (Yee) Healing Arts: Chiropractic Practice**
- (K) SB 306 (Price) Healing Arts: Boards**
- (L) SB 713 (Correa) Liability: Good Faith Reliance on Administrative Ruling**
- (M) Chapter 742, Statutes of 2012 (Assembly Member Atkins) Professions and Vocations: Reservist Licensees: Fees and Continuing Education**

Ms. Conley provided a brief explanation of each bill and how it may impact the Board and the profession. The Board then adopted positions for each bill.

MOTION: To take an Oppose position on AB 1000.

MOVED: Dr. Jewell

SECOND: No second, motion died

MOTION: To take a Watch position on AB 1000.

MOVED: Dr. Alviso

SECOND: Ms. Wallisch

VOTE: 5-1 Motion carried

MOTION: To adopt a Watch position on AB 186, AB 213, AB 258, AB 809, AB 864, AB 1057, SB 381, and SB 713. To adopt a Support position on SB 198 and SB 306.

MOVED: Dr. Jewell

SECOND: Dr. Takii

VOTE: 6-0 Motion carried

11. Proposed Legislation Regarding Revisions to the Physical Therapy Practice Act – Sarah Conley

Ms. Conley explained the proposed revisions have been included in a bill – SB 198. Senator Price was so graciously willing to author SB 198 on behalf of the Board, and as Senator Price is Chair of the Business, Professions and Economic Development Committee, the Committee's Chief Consultant, Bill Gage, is the consultant assigned to the bill. Therefore, staff worked with Mr. Gage and Legislative Counsel, as authorized by Mr. Gage, to prepare the revisions for bill presentation. Some concerns were identified by Legislative Counsel, so Board staff and Legislative Counsel worked out those concerns. The Board was presented SB 198 as amended May 6th to include the proposed revisions to the Physical Therapy Practice Act (Act). SB 198 contained notes from Board staff that coincided with Board staff's issue paper. The issues that were brought before the Board were the changes that were made that the Board needed to either confirm or reject, as well as other issues that were identified after additional review and consideration of the proposed revisions as drafted May 6th.

The Board reviewed the bill and addressed each issue identified by staff as follows:

Page 1, Lines 4-26 – Section 2071

Ms. Conley explained this section is in the Medical Practice Act; however, it refers to the Board, but by the Board's old name – the Physical Therapy Examining Committee. This is also true for the California Physical Therapy Association (CPTA), which is referred to in the section as the California Chapter of the American Physical Therapy Association. The Board only proposed to update the name of the Board and the CPTA in the proposed revisions. Legislative Counsel included additional amendments to the section. Since this is Medical Board's statute, staff recommended notifying Mr. Gage that these changes are being made to the Medical Practice Act and that the Board did not propose them, and if needed, notifying the Medical Board about the changes and how they came about. The Board concurred with this recommendation.

Page 2, Lines 18-19 – Section 2603

Mr. Turner questioned whether "involved in physical therapy education" implied that the educator had to be *currently* involved in education. Ms. Freedman explained she feels that it does imply the educator shall be currently involved in education. The Board made no changes to this section.

Page 2, Line 27 – Section 2603.5

(2) Possess an valid and unrestricted license in California issued pursuant to this chapter.

Including the term "valid" ensures the licensee has license that is current as well as unrestricted.

Page 5, Lines 5-7 – Section 2607.5

Staff noted that the amendment to extend the provision which allows the Board to appoint an Executive Officer is already included in the Board's sunset extension bill – SB 306. Therefore, staff recommended bringing this to Mr. Gage's attention as ask for direction on how to deal

with this duplicative provision. The Board concurred with this recommendation.

Page 6-7, Lines 39-43 and 1-22 – Sections 2620 and 2621

Mr. Gage's analysis of SB 198 indicated Senator Price would remove this section regarding scope, even though the Board has identified the revision as clarifying, if the Committee received any opposition. The Committee received a late opposition letter that specifically noted concerns with the revised scope of practice language; therefore, Senator Price informed the Committee it would be removed, and it was in the version date May 6th.

Ms. Conley explained the Board does have the option of meeting with the California Chiropractic Association (CCA) who opposed the revised scope language to try and come to an agreement for scope language to be added back in, or the Board may accept the removal of the revised scope language from the bill. Given the time restraints at this juncture of the process, and to not jeopardize the rest of the bill, the Board decided to move forward without the inclusion of the revised scope language.

Page 7, Lines 27-28 – Section 2620.2

Ms. Conley explained this section can be eliminated as it already in current Section 2620. This section was added with the revision of the scope language; however, since that has been removed, this section can be removed as well. The Board concurred with this recommendation.

Page 9, Lines 1-6 – Section 2630

This was one of the sections that used the terms "valid, unexpired, and unrevoked" that was up for discussion. The Board, as mentioned above, opted to use "valid and unrestricted."

Further discussion of this issue is later in these minutes.

Page 10-11, Lines 26-40 and 1-27 – Section 2630.5

After legal counsel advised the Board that "valid and unrestricted" would be the most appropriate terms to use to ensure licensees hold a current and clear license for the purposes of the provisions discussed, the Board amended the subsections below to include "valid and unrestricted." In addition, Ms. Conley noted Legislative Counsel added "governmentally" in subdivision (g) of Section 2630.5 to further clarify the applicable type of emergency.

(c) A physical therapist who holds an valid and unrestricted license in another jurisdiction of the United States or is credentialed to practice physical therapy in another country [...].

(d) [...] if, at the time of the consultation, lecture, or demonstration, he or she hold an valid and unrestricted physical therapist license in the state or county in which he or she resides.

(e) A physical therapist who holds an valid and unrestricted license in another jurisdiction of the United States or is credentialed to practice physical therapy in another country [...].

(f) A physical therapist assistant who has a ~~current, valid, and~~ unrestricted license in a jurisdiction of the United States

(g) A physical therapist or physical therapist assistant who has a ~~current~~, valid, and unrestricted license in a jurisdiction of the United States who is forced to leave his or her residence in a state other than California due to a governmentally declared emergency.

Page 13, Lines 28-31 and 37-38 – Section 2636.5

Ms. Conley explained “physical therapist assistant” was inadvertently omitted from subdivision (a) of this section.

(a) An applicant who has filed a physical therapy application under this section with the board for the first time may, between the date of receipt of notice that his or her application is on file and the date of receipt of his or her license, perform as a physical therapist or physical therapist assistant under the supervision of a physical therapist licensed in this state. [...].

An applicant may only qualify once to perform as a physical therapist or physical therapist assistant license applicant, as appropriate.

Page 14, Lines 4-7 – Section 2638

The Board revised this section to clarify that an applicant may take the licensing exam again if he or she fails, not a different exam for licensure.

Any applicant for licensure as a physical therapist or physical therapist assistant who fails to pass the examination required by the board may ~~take another~~ retake the licensing examination and shall pay the reexamination fee.

Page 15, Lines 7-9 – Section 2639

Ms. Conley recommended subdivision (a)(3) be removed as Section 2636.5, which sets forth the requirements to apply for a license without an examination if the applicant holds a valid and unrestricted license in another jurisdiction of the U.S., already authorizes these applicants physical therapist or physical therapist assistant license applicant status, as appropriate, pending the issuance of a license; therefore this subdivision is unnecessary.

~~(3) A person who has filed a complete application pursuant to Section 2636.5 may be issued license applicant status authorizing that individual to practice under the provisions described in paragraph (1).~~

Page 15, Lines 20-26 – Section 2639.1

Ms. Conley explained that Section 2639.1 sets forth the same requirements as Section 2635 in addition to the training and experience requirement; therefore, she recommended revising the section to reference Section 2635 instead of specifically naming each those requirements again in Section 2639.1. The Board concurred with this recommendation.

A person having, in the opinion of the Board, training or experience, or a combination of training and experience, equivalent to that obtained in an approved physical therapist assistant education program, and who meets the requirements of Section 2635, may apply for licensure as a physical therapist assistant.

Page 16 – Sections 2644, 2646 and 2647

These sections were revised to address Legislative Counsel's concerns regarding moving all renewal requirements to regulation. The sections include the renewal requirements.

Page 16 and 17, Lines 38-41 and 1-11 – Section 2648

Ms. Conley explained Section 114.3 became effective last year requiring every board under the DCA to waive renewal requirements if the licensee is a member of military and called to active duty, as specified. The provision the Board is proposing is not consistent with Section 114.3. Ms. Freedman advised she has no concern with the provision being proposed as it is because in cases such as this the specific statute prevails. The Board decided to leave the provision as it is currently drafted.

Page 21, Lines 17-41 – Section 2653

Section 2653 was revised to address Legislative Counsel's concerns regarding moving all application requirements to regulation. Therefore, the specific licensure requirements were retained in Section 2653, and the additional requirement, which was previously approved by the Board, for applicants who were educated outside the United States at a program not approved by the Board, would be required to demonstrate English proficiency.

Page 24, Lines 28-34 – Section 2660.2, subdivision (a)

This section was revised to clearly provide the Board the authority to issue a public letter of reprimand to an applicant with the addition of subdivision (c); however, with the addition of subdivision (c), the reference to Section 2660.3 is no longer necessary. The Board struck "in accordance with Section 2660.3 or."

Pages 24 and 25 – Sections 2660.2, subdivision (c); and, 2660.3

The Board concurred with staff's addition of cost recovery to be included as a term of a public letter of reprimand, as applicable.

MOTION: To adopt the amendments described by staff and direct staff to communicate the amendments and the Board's approval to the author.

MOVED: Dr. Jewell

SECOND: Dr. Takii

VOTE: 6-0

Page 9, Lines 1-6 – Section 2630: Further Discussion

The use of "valid and unrestricted" in this section would prohibit the practice of physical therapy by licensees on probation. This issue was identified after the adoption of the changes in their entirety; therefore, the Board made a specific motion to keep the current bill language which uses "valid, unexpired, and unrevoked," and to make sure this applies to physical therapist assistants as well.

MOTION: To adopt Section 2630 as presented using the terms “valid, unexpired, and unrevoked,” and to direct staff to ensure this is the same for physical therapist assistants as well.

MOVED: Dr. Jewell

SECOND: Dr. Takii

VOTE: 6-0 Motion carried

12. Special Order of Business – May 8, 2013 11:00 a.m.

FSBPT Continuing Competency Presentation – Heidi Herbst Paakkonen, MPA

Ms. Herbst Paakkonen delivered a presentation on the FSBPT’s continuing competency model. The presentation included information on the FSBPT’s Continuing Competency Initiative; continuing competency tools and services; aPTitude, an online continuing competency system; and, strategies for how California could utilize and incorporate the tools and services to better achieve its continuing competency objectives.

13. Sunset Review – Jason Kaiser

(A) Hearing Summary

(B) Follow-up with Committees

i. Fictitious Name Permit Language

(C) Sunset Extension Legislation

Dr. Jewell informed the Board that she attended the sunset hearing and observed how supportive the Joint Committee was to the Board. The Joint Committee was complimentary of the overall performance of the Board. Dr. Jewell thanked staff for all their effort on sunset as it lead to the introduction of the proposed revisions this legislative session, prompted the Legislature to recommend that the Board’s general fund loan be repaid, and gained support for what may be a Consumer Protection Enforcement Initiative (CPEI) 2 to support the Board’s enforcement program.

Dr. Alviso explained that the Board recommended adding the authority for a Fictitious Name Permit (FNP) in the sunset report. The Committee staff had no reservations about this recommendation and was ready to include language with the other proposed revisions to the Act. The Committee staff requested language from the Board; however, after Board staff attempted to draft the language, they determined the potential complexity of the issue. For this reason and to avoid making a decision out of haste that could result in an ineffective or burdensome mandate, Dr. Alviso decided to postpone submission of FNP language until the Board has a better handle on the issue.

Therefore, Dr. Alviso recommended one or two members of the Board collaborate with staff to begin looking at the aspects of a FNP. Ms. Wallisch and Dr. Chu volunteered to work with staff in research regarding a FNP. Mr. Kaiser requested that BreEZe be a consideration in looking at a FNP.

Sheryl Low, California State University, Northridge, informed the Board that a FNP requirement may assist the schools in placing students. Currently, the schools have an extremely difficult time verifying the employment setting the students are placed in; the schools need a way to

check on facilities as they are responsible for the students' placement.

14. 2013 Rulemaking Calendar – Sarah Conley

- (A) Review and/or Update of Application and Licensing Regulations**
- (B) Continuing Competency**
- (C) Delegation Authority for Citation Informal Conferences (Cite and Fine)**
- (D) Guidelines for Issuing Citations and Imposing Discipline, and Uniform Standards Regarding Substance-Abusing Healing Arts Licensees**
- (E) Evaluation Elements**
- (F) Physical Therapy Business Requirements**
- (G) Telehealth**

Ms. Conley provided the status of each rulemaking item identified on the 2013 Rulemaking Calendar, then Ms. Ybarra addressed agenda item 14(D) in more detail as noted below.

(D) Guidelines for Issuing Citations and Imposing Discipline, and Uniform Standards Regarding Substance-Abusing Healing Arts Licensees

Ms. Ybarra identified changes that were made to incorporate the Uniform Standards for Substance-Abusing Healing Arts Licensees in the Guidelines, and changes to include violations of two pending regulations – Notice to Consumers and Required Email Filing.

The Board made the following changes to the language as it was presented:

Page 10 under Self-Referrals

If, #however, a self-referred participant is determined to be too great a risk to the public [...].

Page 25, under Note

[...] the conditions applying the Uniform Standards Regarding Substance-Abusing Healing Arts Licensees" shall be imposed.

This correction should also be made throughout the document as applicable.

Page 26

Ms. Freedman advised the abbreviated name of the "Uniform Standards Regarding Substance-Abusing Healing Arts Licensees" – Uniform Standards" – may be used if the title is previously defined in the document.

Additionally, the Board identified the title "Uniform Standards Regarding Substance-Abusing Healing Arts Licensees" should be used uniformly throughout the document.

Page 44, under Notice to Consumers

The maximum should be corrected; it is \$5,000.

Page 51, under Cost Recovery

The Board discussed whether the language should include a reduction in cost if a percentage

of the total cost recovery amount was paid in full within a specified timeframe. Ms. Freedman explained that Board is unique in how it uses cost recovery allowing respondents to pay a reduced amount if it is paid in full within the specified timeframe. The Board expressed concern that this term is required, and questioned if it was removed, would the authority still exist for a reduction in the amount of cost recovery. Ms. Freedman explained the Administrative Law Judge would still have the discretion to reduce cost recovery if it was not a standard term; therefore, the Board may wish to remove it as a standard term as it may be more useful as a settlement tool. The Board determined it did not want to include reduction of cost recovery reduction\ as a standard term.

MOTION: To strike “said costs shall be reduced, however, and the remainder forgiven, if Respondent pays _____% of said costs, or \$_____, within thirty (30) days of the effective date of this Decision and Order,” and, as advised by legal counsel, the following sentence – “In the event Respondent fails to pay within thirty (30) days of the Decision, the full amount of costs shall be immediately due and payable.”

MOVED: Dr. Chu

SECOND: Dr. Jewell

VOTE: 6-0 Motion carried

MOTION: To add “the Board or its designee may establish a payment plan for cost recovery. Respondent shall, however, complete reimbursement at least ninety (90) days prior to the expiration of probation.”

MOVED: Dr. Jewell

SECOND: Dr. Takii

VOTE: 6-0 Motion carried

Page 66, sixth paragraph under Clinical Diagnostic Evaluation

Respondent may return to either full-time or part-time work if the Board determines he or she is fit to do so based upon consideration of the clinical diagnostic evaluation report and the following criteria: [...]

Page 67, Optional Language under Drug and Alcohol Recovery Monitoring Program

This condition may be waived by the board upon a written finding by the Clinical Diagnostic Evaluation (CDE) that Respondent is not a substance abusing licensee.

This should be checked throughout the document.

Pages 68-69, under Biological Fluid Testing (BFT)

Ms. Freedman advised the Board may add language to permit a reduction in the number of tests for a Respondent who was not deemed substance-abusing by the clinical diagnostic evaluation, but the Board would like to include BFT as a term of probation at a rate lower than that which is required by the Uniform Standards.

MOTION: To direct staff to work with legal counsel to add language that would allow the Board to reduce the number of BFT's for licensees on probation, but who were not deemed substance-abusing.

MOVED: Ms. Wallisch

SECOND: Dr. Jewell

VOTE: 6-0 Motion carried

Page 72-73

Include "Uniform Standards for Substance-Abusing Healing Arts Licensees" in the Glossary.

After reviewing the Guidelines, the Board directed staff to proceed to the rulemaking process.

MOTION: To direct staff to continue the rulemaking process with the edits made today and delegate to the Executive Officer the authority to make non-substantive changes as may be necessary.

MOVED: Dr. Jewell

SECOND: Dr. Takii

VOTE: 6-0 Motion carried

15. Closed Session

- (A) Pursuant to Government Code Section 11126(c)(3)
Deliberation on Disciplinary Actions
- (B) Pursuant to Government Code Section 11126(a)(1)
Appointment, Employment, Evaluation of Executive Officer
- (C) Pursuant to Government Code Section 11126(e)
US Equal Employment Opportunity Commission (EEOC) Charge
Number 555-2012-00027

**16. Special Order of Business – May 9, 2013 8:30 a.m.
Hearing on Petition for Reinstatement of License – William Skelly**

This item was postponed to the August 2013 meeting.

17. Review of Draft 2013 Strategic Plan – Sarah Conley

Ms. Conley presented the revised draft 2013 Strategic Plan and identified the revisions. The Board made the following amendments:

Page 6, Goal 2.1 (Renewals and Continuing Competency)

Evaluate the processing of renewal applications; and identify and implement process improvements, ~~and identify and eliminate redundancies and bottlenecks in the process.~~ Integrate the renewal process into the BREEZE project to insure the ability to pay renewal fees online.

Page 8, Goal 4.3 (Legislation and Regulation)

Monitor legislation and maintain regulations that may impact the Board, licensees, and the consumers of physical therapy, ~~it's licentiates and the Board.~~

MOTION: To adopt the Strategic Plan as amended at the meeting and direct staff to begin the Action Plan.

MOVED: Mr. Turner

SECOND: Dr. Takii

VOTE: 6-0 Motion carried

18. Public Comment on Items Not on the Agenda

Board President Announcement:

Dr. Alviso announced that the Board appointed Mr. Kaiser as the Executive Officer of the Board. The Board thanked Mr. Kaiser for serving as the Interim Executive Officer, and congratulated him on his new appointment.

There was no additional public comment.

**19. Agenda Items for Next Meeting – August 7 & 8, 2013
Sacramento, CA**

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

20. Adjournment

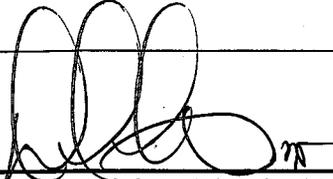
The meeting adjourned at 4:00 p.m. on Thursday, May 9, 2013.

MOTION: To adopt the draft May 8 & 9, 2013 meeting minutes as amended.

MOVED: Mr. Turner

SECOND: Ms. Wallisch

VOTE: 4-0 Motion carried



Dr. Debra Alviso, Physical Therapist, Board President

10/23/13
Date