



Physical Therapy Board of California

BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY - GOVERNOR EDMUND G. BROWN JR.

# Physical Therapy Board of California

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## Board Members

Debra Alviso, Physical Therapist, DPT,  
President

Martha Jewell, Physical Therapist, Ph.D.,  
Vice-President

Sara Takii, Physical Therapist, DPT, MPA  
Katarina Eleby  
James Turner, MPA  
Carol Wallisch, MA, MPH

## Physical Therapy Board of California APPROVED Meeting Minutes

August 7, 2013

August 8, 2013

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

## Board Staff

Jason Kaiser, 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 8:40 a.m. The following members were present: Dr. Alviso, Ms. Eleby, Mr. Turner, and Ms. Wallisch. Dr. Jewell and Dr. Takii were excused from this meeting with prior approval from Dr. Alviso. Also present at the meeting were Laura Freedman, Legal Counsel; Jason Kaiser, Executive Officer; Elsa Ybarra, Manager; Sarah Conley, Executive Associate Analyst; and, other Board staff.

### 2. Board Member and Staff Appointments

- (A) Thanks to Don Chu
- (B) Welcome to Katarina Eleby
- (C) Formal Welcome to New Executive Officer

Dr. Alviso announced a number of Board and staff changes: the departure of Dr. Donald Chu, Ph.D., PT, ATC, CSCS, from the Board as his term ended June 1, 2013; the appointment of Ms. Eleby to the Board, and the appointment of Jason Kaiser as Executive Officer.

Dr. Chu was appointed to the Board in November 2010 and completed his term in June of 2013. He had previously served a term as a Board Member from January 1999 to October 2006, serving as President for much of this term. In 2007 he was a member of the Board Continuing Competency Task Force, drafting the regulations of the initial continuing competency requirement for physical therapy in California.

Katarina Eleby, of Carson, California was appointed to the California Physical Therapy Board on

May 29, 2013. Ms. Eleby has been manager of operations at the African American Board Leadership Institute since 2012. She was a volunteer for Karen Bass for Congress in 2012 and executive co-chair for the International Studies Student Association at California State University, Long Beach in 2011. Ms. Eleby also served as an intern in the Office of California State Assembly Speaker Karen Bass in 2010 and was a sales assistant at Salt and Pepper Sales from 2006 to 2012.

Mr. Kaiser has been with the Board since November 2009. Since then, he has worked in various capacities in Application and Licensing Services, Consumer Protection Services and Continuing Competency Services. He initiated the Board's continuing competency audit process and has been a key representative of the Board in the BreZE project. In December 2012, Mr. Kaiser accepted the position of Interim Executive Officer with the retirement of Rebecca Marco.

Dr. Alviso ceremonially administered the oath of office to Ms. Eleby and Mr. Kaiser.

**3. Special Order of Business – August 7, 2013  
Regulatory Hearing on Proposed Language for Guidelines for Issuing Citations and Imposing Discipline/Uniform Standards Regarding Substance-Abusing Healing Arts Licensees, Section 1399.15 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) section 1399.15 regarding the Guidelines for Issuing Citations and Imposing Discipline, and the Uniform Standards Regarding Substance-Abusing Healing Arts Licensees. No public comment was received.

After the hearing closed, the Board reviewed the proposed language, and the revised Guidelines, which is incorporated by reference in proposed 1399.15.

The following edits were made to the proposed regulatory language:

1. In subdivision (c)(2), add "(Uniform Standards)" after "(4/2011)" so that the text reads, "The Substance Abuse Coordination Committee's *Uniform Standards Regarding Substance Abusing Healing Arts Licensees (4/2011)* ("Uniform Standards"), which are hereby incorporated by reference, shall be used in applying the probationary conditions imposed pursuant to this subsection."

The following edits were made to the Model Guidelines:

1. On page 2, delete Donald Chu, PT, PhD, and replace with Katarina Eleby.
2. On page 2, change revision date from May 2013 to August 2013.

3. On page 10, under the heading "Probation Participants,"
  - a. Add a new second sentence to read, "Pursuant to section 315 of the Business and Professions Code, the Board uses the Substance Abuse Coordination Committee's *Uniform Standards Regarding Substance Abusing Healing Arts Licensees* (4/2011)("Uniform Standards").
  - b. Modify the existing second (now third) sentence of the first paragraph to read, "A clinical diagnostic evaluation will be ordered as a term of probation and other Conditions Applying the Uniform Standards will also be included."
4. On page 24, add condition "K" (Restriction of Practice – No Supervision of Physical Therapist Assistants) to the Probation Condition Specific to Violation for Gross Negligence (B&P Code 2234(b), 2660(h)).
5. On page 51, replace number of days (90 with 180) for Term 3 (Cost Recovery) for consistency with Term 19 (Completion of Probation).
6. On page 67, modify the last sentence of term "T" to read, "In the event that interpretation or clarification of any of the Conditions Applying the Uniform Standards is necessary, the Uniform Standards shall be controlling."
7. On page 67, delete the introductory phrase, "if recommended by the DCE," from condition "V."
8. On page 75, add (Uniform Standards) to the title "Uniform Standards Regarding Substance Abusing Healing Arts Licensees."
9. Add the following to the Glossary of Terms:
  - a. Probation Monitor

The Probation Monitor is an employee of the Physical Therapy Board that monitors probationers to ensure compliance with the terms and conditions of Respondent's probation.
  - b. Supervising Physical Therapist (Probation Condition Term A)

The supervising physical therapist ensures the probationer adheres to the Physical Therapy Practice Act as well as the probationary conditions and practices in the same facility as the probationer. The supervising physical therapist has full and random access to probationer's patient records and evaluates all aspects of the probationer's practice. The supervising physical therapist is approved by the

Board and reports to the Board's probation monitor. The role of the supervising physical therapist may vary depending on the level of supervision set forth in the Order.

c. Practice Monitor (Probation Condition Term B)

The Practice Monitor is a licensed physical therapist that serves as a subject matter expert to review the probationer's current practice and to evaluate all aspects of the probationer's practice. The practice monitor is approved by the Board and reports to the Board's probation monitor. This monitor is used in lieu of a supervising physical therapist when the probationer holds a vested interest in the physical therapy practice.

d. Worksite Monitor (Probation Condition Term Z)

The worksite monitor is a person, usually a physical therapist, which observes for signs of substance abuse through face to face contact, interviews and attendance monitoring. The worksite monitor is approved by the Board's drug and alcohol recovery monitoring program and reports to the Board's drug and alcohol recovery monitoring program on the status of the probationer.

10. Non-substantive revisions – spelling corrections:

- a. Page 75-“CONSUMERS” (CCR 1398.15)
- b. Page 76 – “UNINSURED (B&P 802)
- c. Page 78 – “INCAPABILITY” (CCR 1398.15)
- d. Page 79 – “CONSUMERS” (CCR 1398.15)  
“PARTY” (CCR 1399.24)

**MOTION:** To approve the proposed language as amended 8/8/2013 for a 15-day public notice 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 technical or non-substantive changes that may be required in completing the rulemaking file.

**MOVED:** Ms. Eleby

**SECOND:** Mr. Turner

**VOTE:** 4-0 Motion carried

**4. Approval of May 8 & 9, 2013 Meeting Minutes – Sarah Conley**

The Board identified minor amendments to the minutes.

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

**MOVED:** Mr. Turner

**SECOND:** Ms. Wallisch

**VOTE:** 4-0 Motion carried

**5. Consumer and Professional Associations and Intergovernmental Relations Reports**

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

Dr. Alviso indicated there is no update under this item; however, she requested that all members sign-up to receive the FSBPT e-mail updates, if they have not done so already.

**(B) Department of Consumer Affairs (DCA)**

Christine Lally, Deputy Director of Board and Bureau Relations, introduced herself to the Board and expressed her excitement to work with the board. The Board welcomed Ms. Lally, and Dr. Alviso inquired as to whether the President and EO teleconferences with the DCA will continue. Ms. Lally indicated she will look into it.

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

**i. Correspondence and Request Regarding Wellness**

Dr. Alviso informed the Board the California Physical Therapy Association (CPTA), Quality Practice Committee (Committee), submitted a request for the Board to consider wellness, and briefly explained the Board's history in addressing wellness. Dr. Alviso indicated that, in response to the Committee's request, an exploratory meeting will be scheduled in coming months to determine an action plan to bring back to the Board, and requested the Board's approval to move forward.

Nancy Byl, PT, PhD, FAPTA, Chair of the Committee, informed the Board that Committee members requested that health and wellness be defined for purposes of direct access. The Committee would like to be able to distinguish clearly between physical therapy practice and wellness services. Also, the Committee is looking at health care reform and how to more effectively earlier with preventative care. Dr. Byl noted that in California's Health Care Initiative, the first goal is to maintain health and wellness, and to have healthier consumers.

Dr. Byl concurred with Dr. Alviso's recommendation to have a one day meeting to look at wellness.

Dr. Alviso inquired whether the CPTA or the American Physical Therapy Association (APTA) would have any resources that would be of assistance to the Board. Dr. Byl indicated she would look into it.

**MOTION:** To approve the Board President's recommendation to hold a single day meeting to discuss an action plan to explore wellness.

**MOVED:** Ms. Wallisch

**SECOND:** Mr. Turner

**VOTE:** 4-0 Motion carried

#### 6. **President's Report – Dr. Debra Alviso**

Dr. Alviso informed the Board she met with Mr. Kaiser and Ms. Freedman in July to discuss general Board issues. Dr. Alviso commended staff and members for their work and continued dedication with the ever-changing demands of the Board.

- (A) **Adopted 2013 Meeting Calendar**
- (B) **Proposed 2014 Meeting Calendar**

The Board rescheduled the February 2014 meeting from the 12<sup>th</sup> and 13<sup>th</sup> to the 19<sup>th</sup> and 20<sup>th</sup>. In addition, staff will work on possibly rescheduling the May 2014 meeting at the request of Dr. Takii.

#### 7. **Executive Officer's Report – Jason Kaiser**

Mr. Kaiser provided additional updates since the drafting of his report: 1) the Board has received feedback on the one-year audit response, which included primarily technical questions; the Board extended tentative offers to two individuals for the two vacant Staff Services Analyst positions in the enforcement unit, which are being offered to two individuals that are currently employed by the Board; and, the Board has been notified that mid-September 2014 has been slated for the Board's BreEZe launch date. Mr. Kaiser also informed the Board that staff has started the notification process of placing alerts on the website and social media to inform consumers, applicants, and licensees that there will be a delay in services due to the Board's systems being down to get on-line with BreEZe.

Mr. Kaiser informed the Board that staff has received the 2014 test dates for the National Physical Therapy Examination (NPTE). It appears the 2014 schedule is in keeping with prior

years. Staff is working with the FSBPT to assist applicants with the testing schedule and explain the various deadlines that are in place, e.g. FSBPT's deadline and the jurisdictional deadlines. Mr. Kaiser noted the program directors as well as applicants have expressed concern about not having access to the first available exam; however, he as well as staff has assured them that staff is processing applications as fast and efficient as possible to ensure due access to the exam. One of the issues staff is encountering is the volume of applications at one time; the Board does not have the resources to process such a large number of applications at one time. Mr. Kaiser noted staff could research employing Permanent Intermittent employees to assist Application and Licensing Services staff during peak times.

Mr. Turner inquired how the Board is able to travel for meetings, but not for the purpose of outreach. Mr. Kaiser explained that permitted travel is limited to that which is mandated by statute and deemed mission critical; outreach is not mandated by statute.

#### 8. **FSBPT Minimum Data Set – Jason Kaiser**

Mr. Kaiser explained he had received a request from the FSBPT to participate in a collection of data, which FSBPT calls a Minimum Data Set (MDS), pursuant to a motion made at the 2012 Delegate Assembly. The FSBPT's intent in collecting MDS information is to "help promote the supply and distribution of well-prepared health professionals and other workers to assure access to high quality, efficient care for the nation."

The FSBPT believes the state boards would be best suited to collect the information established in the MDS at the time of renewal; however, participation is voluntary. Mr. Kaiser shared that he recently received communications that other jurisdictions – Michigan and Utah – have chosen not to participate in this data collection effort for various reasons. One of the primary concerns is that the data collection would be a significant roadblock to timely renewal. Specifically in California, there are a number of components required to process a renewal and if another one is added, it will extend the already lengthy processing time.

Ms. Freedman identified another issue for California, which is privacy. The Board collects information to verify that applicants meet the minimum requirements for licensure; collecting additional information such as that identified for the MDS would be beyond the Board's current role. Most, if not all the categories of data the FSBPT wishes the Board to gather data is confidential. In addition, the type of information collected is information that, if collected, someone could allege is misused for discriminatory purposes in issuing licenses and/or taking enforcement action. Since the Board could be **perceived** to be making licensing and enforcement decisions based upon this protected and confidential information, even if that is not the case, she recommended against collecting it so as to minimize the argument cannot be made. Lastly, if the MDS information is voluntary collected, the Board then has to keep it protected, and respond to requests from the public about the information. If the Board finds FSBPT's goals noble and valuable, the Board could find another way to assist the FSBPT in collecting the data rather than to collect it directly.

Mr. Kaiser explained that although he appreciates the FSBPT's efforts, he thinks there may be alternative methods to collect this data, which may include FSBPT working with an agency other than the Board, or providing a link through the Board's website to the FSBPT's site with a survey.

Mr. Turner inquired whether the DCA had a position on this issue or if it was doing anything regarding these workforce data collection efforts. Ms. Lally indicated she will look into it.

#### **9. Legislation Report – Sarah Conley**

Ms. Conley provided a brief explanation of each bill and how it may impact the Board, consumers, and/or the profession. Ms. Conley specifically noted that SB 198, which is sponsored by the Board, was recently amended to change the author from Senator Price, who is no longer serving in the Legislature, to Senator Lieu, and to include the Board's sunset extension provisions. The inclusion of the sunset provisions allowed the author to obtain a waiver for the bill so that it would not count toward his bill limit for the session. Senator Lieu authored a number of bills prior to his appointment to Chair the Business, Professions and Economic Development Committee to replace, now, City Counselman Price. If Senator Lieu took on all of City Counselman Price's bills, he would exceed his bill limit without the waivers. Ms. Conley went on to note that since the Board's sunset provisions were included in SB 198, they have been removed from SB 305.

Since the Board's sunset extension provisions were removed from SB 305, the Board changed its position on the bill from Support to Watch.

**MOTION: To change the position on SB 305 from Support to Watch.**

**MOVED: Ms. Wallisch**

**SECOND: Mr. Turner**

**VOTE: 4-0 Motion carried**

- (A) AB 186 (Maienschein) Professions and Vocations: Military Spouses: Temporary Licenses**
- (B) AB 258 (Chávez) State Agencies: Veterans**
- (C) AB 809 (Logue) Healing Arts: Telehealth**
- (D) AB 1000 (Wieckowski) Physical Therapists: Direct Access to Services**
- (E) AB 1057 (Medina) Professions and Vocations: Licenses: Military Service**

AB 1057 would require the Board to inquire on every application for licensure whether the applicant has serviced in the military. Mr. Turner inquired whether the applicant would be

required to answer the question since it would be a question added to the application. Ms. Freedman indicated she didn't believe choosing not to answer this question would constitute an incomplete application as it is intended to benefit the applicant if he or she chooses to identify himself or herself.

**(F) SB 198 (Price) Physical Therapy Board of California**

**(G) SB 305 (Price) Healing Arts: Boards**

## **10. Rulemaking Report – Sarah Conley**

### **(A) Rulemaking in Progress**

**i. Guidelines for Issuing Citations and Imposing Discipline, and Uniform Standards Regarding Substance-Abusing Healing Arts Licensees**

**ii. Mandatory Fingerprinting**

**iii. Notice to Consumers**

**iv. Required Email Filing**

Ms. Conley provided an update of each rulemaking item identified on the 2013 Rulemaking Calendar, then Mr. Kaiser addressed agenda item # 10(A)(ii) in more detail as noted below.

#### **iii. Notice to Consumers**

Ms. Conley specifically noted that the Notice to Consumers file was approved by the Office of Administrative Law (OAL) and will take effect October 1, 2013. Korey Landry, the Board's Outreach Coordinator, will be posting notices on various social media sites about this new regulation.

#### **ii. Mandatory Fingerprinting**

Mr. Kaiser informed the Board the rulemaking file regarding fingerprinting and disclosure requirements was disapproved by the OAL. Mr. Kaiser explained of the issues with the file was that the language was modeled after other boards; the Board's situation was different than other for other boards. Many other boards did not fingerprint any applicants for a period of time whereas the Board did fingerprint individuals, but for various reasons, such as data fall out in the transition from hard card fingerprints to electronic fingerprints, those fingerprints are no longer on file with the Board.

The Board discussed the various aspects of collecting licensees' fingerprints, such as whether to make a fingerprint certification component of renewal, or to identify the licensees that Board needs fingerprints for and contact them individually.

Ms. Freedman noted that the Board, in any case, would have to write a regulation to require

licensee fingerprints because the Board currently only has authority to require applicants to submit fingerprints as part of the initial application process. Mr. Kaiser recommended that the Board allow staff to conduct additional research to tailor the regulation to the Board's needs, and the Board concurred. Ms. Freedman advised that no action needed to be taken until after further research has been conducted and the Board wished for staff to bring the more tailored regulation back to the Board at a later date.

The Board inquired as to what the timeframe would be to identify the licensees for which the Board needs fingerprints. Mr. Kaiser anticipates the licensees could be identified in advance of the implementation of BreEZe (mid-September 2014).

## **(B) Proposed Rulemaking**

- i. Update of Regulations**
- ii. Physical Therapy Business Requirements**
- iii. Continuing Competency**
- iv. Delegation Authority for Citation Informal Conferences**
- v. Telehealth**
- vi. 2014 Rulemaking Calendar**

Ms. Conley presented the draft 2014 Rulemaking Calendar. The Board adopted the draft 2014 Rulemaking Calendar as presented.

**MOTION: To adopt the draft 2014 Rulemaking Calendar as presented.**

**MOVED: Mr. Turner**

**SECOND: Ms. Eleby**

**VOTE: 4-0 Motion carried**

Dr. Alviso requested that potential rulemaking items for documentation, supervision and evaluation be added to the rulemaking "parking lot" so that the Board does not lose sight of these items; these concepts stem from discussions of if/how medication regimen reviews fit within physical therapists' scope of practice and discussions of wellness.

## **11. Closed Session**

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

Once issued, disciplinary decisions may be found on the Board's website at [www.ptbc.ca.gov](http://www.ptbc.ca.gov).

**12. Special Order of Business – August 8, 2013 8:30 a.m.**  
**Hearing on Petition for Reinstatement of License – William Skelly**  
**Hearing on Petition for Modification of Probation – Pamela Wain, PT**

After submission of the matters, 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 website at [www.ptbc.ca.gov](http://www.ptbc.ca.gov).

**13. Administrative Services Report – Liz Constancio**

**(A) Budget**

Carl Nelson, the Board's budget analyst introduced himself and presented the budget report. Mr. Nelson brought the Board's attention to the Temp Help line item. Although an issue in the past, the Board was successful in staying within budget for temporary help in FY 2012/13. However, Mr. Nelson explained there is an over expenditure for overall personnel services due to permanent intermittent staff working full time, which qualifies them for benefits; the benefits cost put the Board over budget in personnel. As previously discussed, Mr. Turner and staff had been working throughout the year to establish and maintain spending caps in other areas of the budget. These spending caps allowed the Board to have a substantial savings in its Operating Expenses budget, which compensated for the over-expenditure in Personnel Services. Mr. Nelson expressed that staff diligently tracked the budget to ensure solvency for the FY 2012/13 budget.

The Board noted that this budget reflects the budget augmentation received for the Attorney General (AG) costs and questioned what next year will look like. Mr. Nelson explained that with the AG costs anticipated to remain at approximately its current level, the Board will be required to request a budget augmentation next year as well. The Board also inquired as to whether the budget will allow for travel. Ms. Constancio joined Mr. Nelson and explained she anticipates the need to restrict spending in other areas of the Board's budget to compensate for additional travel in FY 2013/14.

**(B) Outreach**

Ms. Landry presented the Outreach report. She explained there was a 100% increase in visits to the Publications page on the Board's website because it is a new tab as of the last reporting quarter; Publications were previously included with Forms. This change was prompted by input from the public as well as the Board.

**14. Application & Licensing Services Report – Sophia Cornejo**

Ms. Cornejo presented the Application and Licensing Service report. She noted that there has

been a significant increase in the number of applications submitted in May and June, which is due to popularity of the July exam.

**15. Consumer Protection Services Report – *Elsa Ybarra***

Ms. Ybarra provided a brief explanation of each component of the enforcement report provided. The Board indicated it did not have any questions.

**16. Continuing Competency Report – *Karin Thompsen***

Ms. Thompsen presented the Continuing Competency report. Ms. Thompsen informed the Board staff has been working on updating the Approval Agencies page on the website so that the Approval Agencies list also identifies which Approval Agencies approve outside Providers. Some Approval Agencies only approve their own Providers, but some approve outside Providers, so this would help Providers who are seeking approval from an Approval Agency determine which agencies to contact.

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

There was no additional public comment.

**18. Agenda Items for Next Meeting – November 6 & 7, 2013**  
Samuel Merritt University  
Oakland, CA

**19. Adjournment**

The meeting adjourned at 1:30 p.m. on Thursday, August 8, 2013.

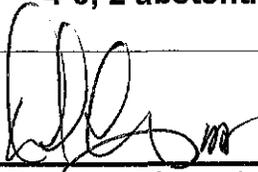
The Board adopted the August 7 & 8, 2013 meeting minutes at the November 6 & 7, 2013 meeting. The motion and vote are provided below.

**MOTION:** To adopt the August 7 & 8, 2013 meeting minutes as amended.

**MOVED:** Dr. Jewell

**SECOND:** Mr. Turner

**VOTE:** 4-0, 2 abstentions. Motion carried



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Dr. Debra Alviso, Physical Therapist, Board President

9/17/14  
Date