



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

President

Debra Alviso, PT, DPT

Vice-President

Katarina Eleby

Members

Jesus Dominguez, PT, PhD

Daniel Drummer, PT, DPT

Alicia Rabena-Amen, PT, MPT

James Turner, MPA

Physical Therapy Board of California

APPROVED Meeting Minutes

May 13, 2015 9:00 a.m.

May 14, 2015 9:00 a.m.

Board Staff

Jason Kaiser, Executive Officer

Elsa Ybarra, Manager

Brooke Arneson, Associate

Analyst

**Loma Linda University
Randall Visitors Center
11072 Anderson Street
Loma Linda, CA 92350**

For convenience, subjects discussed during the meeting follow their original order on the agenda in these minutes. Please note, 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 9:15 a.m. on May 13, 2015. All members listed above were present, with the exception of Carol Wallisch and a quorum was established. Also present at the meeting were Laura Freedman, Legal Counsel; Angelique Scott, Legal Counsel; Jason Kaiser, Executive Officer; Elsa Ybarra, Consumer Protection Services Manager, Brooke Arneson, Associate Analyst.

2. **Special Order of Business – May 13, 2015 9:00 a.m. Regulatory Hearing on Fees; Proposed Language to Amend Section 1399.50 and 1399.52 of Article 7, Division 13.2. Title 16 of the California Code of Regulations**

The Board held the regulatory hearing for proposed language to adopt CCR 1399.50 and 1399.52. No public comment was received and the hearing was closed.

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

M/S: Alviso/Eleby

VOTE: 6-0 Motion carried

During discussion Dr. Dominguez suggested striking redundant language. Question also arose about the rationale for combining the application and license fee for the physical therapist assistant as opposed to them being two separate fees as they are for the physical therapist. Mr. Kaiser suggested the legislature could have taken into consideration the lesser salary of the physical therapist assistant when combining the fees but advised this was strictly an assumption because research failed to disclose the reasoning. Dr. Alviso responded the fees are to support the processes and if there is no difference in processing a physical therapist's application and license from that of a physical therapist assistant application and license, the fees should be the same for both licensees. She requested the issue be considered in future legislative planning. The Board made no modifications to the proposed language.

**3. Special Order of Business – May 13, 2015 9:15 a.m.
Regulatory Hearing on English Proficiency Requirements; Proposed
Language to Amend Section 1398.25 and Add Section 1398.26.3 to Article 2,
Division 13.2, 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 1398.25 and adopt section 1398.26.3 into the California Code of Regulations. No public comment was received and the hearing closed.

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

M/S: Rabena-Amen/Turner

VOTE: 6-0 Motion carried

The Board then considered three written comments received via email during the 45-day comment period. After discussion the Board made no modifications to the proposed language. The comments and the Board's response will be addressed in

the Final Statement of Reasons to be included in the final rulemaking file.

4. **Special Order of Business – May 13, 2015 9:30 a.m.**
 - (A) **Hearing on Petition for Termination of Probation – Victor Rusenescu, PT**
 - (B) **Hearing on Petition for Reinstatement of License – Suresh Kumar Ahuja**

After submission of the matter(s), 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 website at www.ptbc.ca.gov.

5. **Closed Session**

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

Once issued, disciplinary decision can be found on the Board’s website at www.ptbc.ca.gov.

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

No discussion occurred on this item.

- (C) **Pursuant to Government Code section 11126(c)(1)
Prepare, approve, grade or administer examinations**

No discussion occurred on this item.

6. **Approval of Meeting Minutes**

- (A) **February 11 & 12, 2015**

Ms. Arneson presented the February 2015 minutes for the Board’s consideration. The Board identified minor amendments to the minutes.

MOTION: To adopt the draft February 11 &12, 2015 meeting minutes as amended.

M/S: Turner/Dominguez

VOTE: 6-0 Motion carried

(B) March 15, 2015 Teleconference Meeting

Ms. Arneson presented the March 2015 teleconference meeting minutes for the Board's consideration.

MOTION: To adopt the draft March 15, 2015 meeting minutes as presented.

M/S: Drummer/Dominguez

VOTE: 6-0 Motion carried

7. Consumer and Professional Associations and Intergovernmental Relations Reports

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

A representative from FSBPT was not present at the meeting.

(B) Department of Consumer Affairs (DCA)

A representative from DCA was not present at the meeting.

(C) California Physical Therapy Association (CPTA)

No report was presented.

8. President's Report - *Dr. Debra Alviso*

(A) 2015 Meeting Calendar

The Board reviewed the 2015 calendar that was adopted at the November 2014

meeting and Ms. Rabena-Amen indicated her preference to move the November 5th-6th meeting to the 4th and 5th. Dr. Alviso agreed and the November Board meeting was moved to Wednesday, November 4th and Thursday, November 5th.

(B) 2016 Meeting Calendar

The Board reviewed the proposed 2016 calendar that was presented and all members indicated that they had no conflicts with the scheduled meetings. Mr. Kaiser suggested adding testing and other pertinent administrative deadlines to the meeting calendars to avoid holding Board meetings during hectic administrative processing time frames. Dr. Alviso stated that this would be extremely helpful with the scheduling of the Board meetings.

9. Executive Officer's Report - *Jason Kaiser*

Mr. Kaiser briefly elaborated on each item addressed in his report. He stated that the Administrative Services program had completed the recruitment process for two permanent intermittent (PI) Office Technician (OT) positions within the Application and Licensing Services Program and welcomed Ms. Krystyn Lee and Mr. Slade Tobey. Mr. Kaiser also noted that recruitment was being done for one Staff Services Analyst position within the Consumer Protection Services Program. He stated that the BreEZe project has continued to tax the PTBC's time and resources. He informed the Board that Staff are currently working on three key components of the BreEZe project which are taking approximately a third of Board staff time: User Acceptance Testing (UAT), Data Validation (DV) and Organizational Change Management (OCM). Mr. Kaiser apprised the Board that due to a delay in BreEZe contract negotiations, "Go-Live" is anticipated to occur in early 2016. He noted that there will be additional costs to the Board however at this time the costs are undetermined. Mr. Kaiser informed the Board that Ms. Marco is currently working on the "PTBC Progress Notes – Fall 2015" and Board member participation is encouraged. It was noted that PTBC was in attendance at the CPTA's 2015 Student Conclave at California State University, Sacramento (CSUS). PTBC gave a presentation on the application process as well as the laws and regulations that govern the practice of physical therapy in California. Dr. Alviso questioned how many students were in attendance. Mr. Kaiser stated that 300-400 students were in attendance and 50 were in his class. Ms. Rabena-Amen inquired as to whether information was presented to students regarding PTBC's social media websites. Mr. Kaiser responded that he did communicate to students regarding PTBC's social media websites and that a spike was seen in PTBC's

social media following CPTA's 2015 Student Conclave.

10. Legislation Report - Brooke Arneson

Ms. Arneson provided a brief summary and status of the bills noticed on the agenda.

(A) AB 85 (Wilk) Open Meetings

MOTION: To adopt an Oppose position on AB 85

M/S: Drummer/Eleby

VOTE: 6-0 Motion carried

(B) AB 483 (Patterson) Healing Arts: Initial License Fees: Proration

MOTION: To adopt an Oppose Unless Amended position on AB 85

M/S: Drummer/Rabena-Amen

VOTE: 6-0 Motion carried

(C) AB 750 (Low) Business and Professions: Licenses

MOTION: To adopt a Watch position on AB 750

M/S: Turner/Eleby

VOTE: 6-0 Motion carried

(D) AB 1060 (Bonilla) Professions and Vocations: Licensure

MOTION: To adopt a Watch position on AB 1060

M/S: Dominguez/Turner

VOTE: 6-0 Motion carried

(E) AB 1351 (Eggman) Deferred Entry of Judgment: Pretrial Diversion

MOTION: To place AB 1351 on the agenda for the August 2015 meeting.

M/S: Drummer/Turner

VOTE: 6-0 Motion carried

(F) AB 1352 (Eggman) Deferred Entry of Judgment: Withdrawal of Plea

MOTION: To place AB 1352 on the agenda for the August 2015 meeting.

M/S: Drummer/Turner

VOTE: 6-0 Motion carried

11. Rulemaking - Brooke Arneson

At the November 2014 meeting, the Board adopted the 2015 Rulemaking Calendar as required by Government Code (GC) § 11017.6. Staff developed a rulemaking tracking form on which all rulemaking progress is noted and reported to the Board at its quarterly meetings. No action was requested on the presentation of the rulemaking report; however, staff requested action for specific rulemaking items; under 4(A) and 4(B).

License Renewal Exemptions: Retired Status

Ms. Arneson reported that other rulemaking items are of greater urgency; therefore staff is not moving forward with this proposal at this time.

Requirements for Graduates for Non-Accredited Programs: Tests of English as a Foreign Language (TOEFL)

Ms. Arneson reported that BPC Section 2653 was amended by SB 198 (Lieu, 2013) which added a provision requiring applicants who graduated

from non-accredited physical therapist programs to demonstrate English proficiency by achieving a score specified by the Board on the TOEFL. English proficiency (passing score on the TOEFL) is currently being verified by each credential evaluation service when an applicant's education is evaluated. This regulation will provide for specific exemptions to the TOEFL requirement and set a passing score. The Board modified the proposed language at the February 2015 Board meeting and authorized the Executive Officer to adopt the regulatory changes, as modified. Staff filed the notice with the Office of Administrative Law (OAL) on March 17th, 2015 and three written comments were received during the 45 day comment period. The anticipated effective date of this regulation is January 1, 2016. Ms. Arneson reported that the regulatory hearing was held during this Board meeting; please see agenda item 3.

Fee Increase

Ms. Arneson reported that at the February 2015 Board meeting, staff presented that the Board is in urgent need of a fee increase to enable the Board to effectively sustain operations necessary for protecting consumers through its licensing and enforcement functions and avoid insolvency in fiscal year 2017/18. The Board, by motion, directed staff to conduct further assessment of the fund condition and research details of a fee increase, including costs associated with BreZE implementation, then bring those findings back to the next Board meeting. The Board modified the proposed language at the February 2015 Board meeting and authorized the Executive Officer to adopt the regulatory changes, as modified. Staff filed the notice with the Office of Administrative Law (OAL) on March 20th, 2015 and no comments were received during the 45 day comment period. The anticipated effective date of this regulation is January 1, 2016. Ms. Arneson reported that the regulatory hearing was held during this Board meeting; please see agenda item 2.

12. Administrative Services Report – Jason Kaiser

- (A) Budget** – Mr. Kaiser directed the Board to the budget reports included in the agenda book and the Briefing Paper distributed to members as a handout. He went on to advise that staff is imposing internal cost saving measures to assist with compensation for its overexpenditure of Attorney General costs. Mr. Turner commented that the Briefing Paper demonstrates

strong support of the fee increase. Mr. Kaiser also indicated this was his first opportunity to see the BreEZe associated costs and there were additional costs to come.

(B) Outreach – Mr. Kaiser focused the Board on the report included in the agenda materials and commented on the Board’s ability to collect email addresses which should enable staff to reach out to more licensees and encourage becoming Facebook friends to keep abreast of Board activities real-time. James Syms, PT expressed disappointment with the Board’s inability to enhance its outreach efforts by attending conferences and symposiums and expressed a compelling argument for the value of outreach but acknowledged the Board’s resource and Executive Order imposed limitations.

13. Application & Licensing Services Report - *Liz Constancio*

In Ms. Constancio’s absence, Mr. Kaiser presented the Application and Licensing Services report. He advised the Board there would be an adjustment to the 2016 exam deadline calendar; therefore, there would be a process change in the submission of applications. The application will now be accepted without the inclusion of the Certificate of Completion (P1E form) since getting this completed timely by the school sometimes delays the applicant from qualifying for eligibility to sit for the exam.

14. Consumer Protection Services Report - *Elsa Ybarra*

Ms. Ybarra reported Board staff and the Attorney General’s office will be conducting expert consultant training in the second week of November, 2015 and again in February, 2016, in conjunction with the Board meeting, to encourage Board member attendance. She also indicated existing expert consultants would be invited to attend the training as a refresher.

Ms. Ybarra noted the staff was consistent with or above their performance measures in the areas within their control and directed members to the Outside Control Calculations report distributed as a handout. The report identified the number of days a final disposition case was with the Board versus an outside control agency such as the Department of Consumer Affairs’ Division of Investigation, the Attorney Generals’ office or the Office of Administrative Hearings. Mr. Kaiser added there were many variables which skews the data, i.e. extremely

egregious cases where DOI and AG are working simultaneously, waiting on criminal disposition, difficulty locating a subject or receiving records from the subject resulting in the issuance of subpoenas, etc. Ms. Ybarra noted the total number of disposition cases in FY 09/10 was 8 for the entire year, less than the total number of disposition cases in just the month of March in current year. Ms. Ybarra asked if there was interest in seeing different data, additional data or continual data on days within the Board versus an outside agency. Dr. Alviso responded it would be interesting to see periodically but not necessary ongoing.

James Syms, PT asked about the process for filing an injunction with the Superior Court pursuant to BPC 2672. He inquired whether this process could be a speedier resolution regarding a violation of the Physical Therapy Practice Act. Legal counsel advised Dr. Syms that the Board could not engage in a discussion regarding this topic since it was not on the agenda nor could she offer legal advice on the issue. Dr. Syms requested it be considered for discussion in the future.

15. Public Comment on Items Not on the Agenda

Please note the board may not discuss or take action on any matter raised during this public comment section that is not included on this agenda, except to decide to place the matter on the agenda of a future meeting. [Government Code sections 11125 and 11125.7(a)]

Mitch Kaye, PT asked the Board reconsider discussion of wellness for a future agenda item.

James Syms, PT expressed gratitude to the Board for conducting its meeting at Loma Linda University and offering opportunity for student attendance. The Board reciprocated with gratitude of Dr. Syms and Loma Linda University for hosting the meeting.

16. Agenda Items for Next Meeting – August 19 & 20, 2015 Sacramento, CA

The Board indicated it did not have any specific items at this time for the August, 2015 meeting.

17. Adjournment

The Board concluded the meeting on Thursday, May 14, 2015 and adjourned at approximately 2:10 p.m.