

BACKGROUND PAPER FOR HEARING

PHYSICAL THERAPY BOARD OF CALIFORNIA

IDENTIFIED ISSUES, QUESTIONS FOR THE BOARD, BACKGROUND CONCERNING ISSUES, AND PRELIMINARY RECOMMENDATIONS

PRIOR SUNSET REVIEW: The Physical Therapy Board of California (Board) was last reviewed by the Joint Legislative Sunset Review Committee (JLSRC) four years ago (1997-98). The JLSRC and the Department of Consumer Affairs (DCA) identified 10 issues and made recommendations regarding them.

The JLSRC voted to: (1) continue the licensing of physical therapists (PTs), (2) continue licensing of physical therapist assistants (PTAs), (3) have the Board evaluate the feasibility of returning the certification of electromyography to the professional association, (4) require any proposal for supervision of physical therapy assistants to go through a legislative “sunrise” process prior to approval, and (5) require PTs to display their licenses or registrations in the locality they are treating patients and to notify patients who they can contact with questions or complaints regarding the licensee. The JLSRC did not adopt the recommendation of the DCA and the JLSRC staff to (6) research an appropriate approach to privatizing the Board’s diversion program by a vote of 3 to 3. The JLSRC also voted to: (7) require licensees to report criminal convictions to the Board, (8) recommend that the Board move toward implementing an electronic tracking system to obtain timely, accurate and complete licensing application data, and (9) continue the Board as the agency to administer the Physical Therapy Practice Act (Act). Finally, the JLSRC did not adopt the DCA and JLSRC staff recommendation to (10) add a public member to the Board to increase its size and change its composition from 6 members (3 licensees & 3 public members) to 7 members (4 public members and 3 licensees.) Instead the JLSRC adopted a substitute recommendation to increase the Board to 7 members by adding one licensed PT involved in the education of PTs (resulting in a Board composition of 4 licensees to 3 public members.)

On October 1, 1999, the Board submitted a report to the Legislature on the necessity of certifying PTs to perform electromyography. Based on that information the Legislature (SB 1600, Chapter 427-Statutes of 2000) removed the sunset on the provision that authorized the Board to do this certification, thereby continuing the Board’s certification of PT electroneuromyographers (EMGs) and PT kinesiographical electromyographers (KEMGs.) While legislation was enacted to require PTs to wear name tags identifying themselves as PTs, the JLSRC recommendation to provide notification to patients as to where to file complaints against PTs has not been enacted. And the JLSRC recommendation to require PTs to disclose criminal convictions to the Board has not been enacted (though the Board is seeking support for enactment of that requirement – see new Issue # 7 below.

GENERAL BACKGROUND AND DESCRIPTION OF THE BOARD:

The Board was established in 1953 and is currently composed of 7 members - 4 licensees (including educator) and 3 public members. The Board licenses approximately 16,819 physical therapists (including 25 EMGs & 30 KEMGs) and 4, 477 physical therapist assistants. The Board does not license Physical Therapy Aides, but does regulate what duties and functions may be performed under the supervision of a licensed PT. The Board has an annual budget of approximately \$2 million and a fund reserve (as of 7/1/01) of \$1,675,000.

The Board's revenues and expenditures have been stable over the past four years. The Board's annual revenues are approximately \$2.1 million with 51% coming from license renewal fees, 43% from licensing and examination fees, and 6% from interest and other miscellaneous revenue. The Board's annual expenditures are approximately \$2 million with 49% expended on investigating consumer complaints and taking disciplinary action against licensees, 36% spent on examinations, 14% spent on processing initial and renewal licenses, and just over 1% (\$22,584) expended on the Board's Diversion Program.

To be licensed as a PT, an applicant must be at least 18 years old, not have committed any acts or crimes constituting grounds for denial under general licensing provisions of the Business and Professions Code (BPC), have successfully completed specified education approved by the Commission on Accreditation of Physical Therapy Education (CAPTE) including 18 weeks of full-time clinical experience (resulting in a Bachelors, Masters, or Doctorate degrees), and passed both the National Physical Therapy Examination (NPTE) administered by the Federation of State Boards of Physical Therapy (FSBPT) and the California Law exam. Starting in 2002, the CAPTE will accredit only those educational programs that grant a post-baccalaureate degree (Masters or Doctorate).

Graduates of an educational program that is not approved by the CAPTE must have their education determined to be equivalent to that of an approved PT educational program, and must also complete a period of clinical service not to exceed 9 months under the direction and supervision of a California licensed PT. The Board reports that the occupational analysis of the profession is performed by the FSBPT, and that an update of the occupational analysis that was last done in 1996 is currently in progress. To be additionally certified as either an EMG or a KEMG, a PT must complete regular or extension course work pertinent to electromyography from an accredited or approved public university, state college or private postsecondary institution, and pass a California certification exam.

To be licensed as a PTA, an applicant must obtain an Associate degree in a physical therapist assistant program with both didactic and clinical work in and related to physical therapy, and must pass the Physical Therapist Assistant Licensure Applicant (PTALA) exam. Currently, there are no mandatory continuing education (CE) requirements for renewal of either a PT or PTA license.

Reciprocity and temporary licensure. California recognizes the approval of physical therapy educational programs by the CAPTE of the American Physical Therapy Association (APTA.) CAPTE has approved programs in Canada, Ireland, Netherlands, Scotland and the United States. Graduates of CAPTE-approved PT educational programs may perform physical therapy while awaiting the results of their first attempt to pass the national licensing exam (the NPTE.) These individuals are considered Physical Therapy License Applicants (PTLAs) and must practice under the supervision of a California licensed PT once they obtain authorization from the Board. This provision applies only to individuals seeking their first license.

Graduates of CAPTE approved PTA programs in the U.S. may perform physical therapy procedures under the supervision of a California licensed PT while awaiting the results of their first attempt to pass the PTALA exam. Graduates of CAPTE approved educational programs who have been licensed a PTs or PTAs in other states may also work as license applicants under the supervision of a California licensed PT while they await Board approval of their license. Graduates of non-CAPTE approved programs outside the U.S. must first pass the national exam (NPTE) and complete a period of clinical practice not to exceed 9 months under the supervision of a California licensed prior to becoming eligible for licensure, unless they have been licensed in another state and practicing for at least 9 months. The Board states that it is also working with the Federation of State Boards of Physical Therapy on the development of new application procedures that could expedite the examination process and ultimately eliminate the need for temporary licensure.

The Board is currently conducting a validation study to determine if the educational curriculum requirements for foreign educated physical therapists are being met by California educational programs that are approved by the Board.

BUDGETARY ISSUES

ISSUE #1: The Physical Therapy Board's Fund Reserve is projected to remain at about 9.7 months reserve.

Questions for the Board: *What regulatory action was the Board proposing to take regarding its fund reserve? What are the negotiations for changes in processing of examination fees the Board mentions in its report (page 9) as one reason it has postponed taking regulatory action? What is the status of the new Department of Consumer Affairs application, licensure and enforcement database system the Board mentions as another reason for postponing regulatory action? When does the Board expect this new system to be implemented? Is the Board currently expending any of its budget on this proposed new system, and if so, how much annually?*

Background: The Board reports that it had a fund reserve of \$1,675,000, or 9.7 months as of June 30, 2001, and its projections through 2004/05 show that the reserve will also be 9.7 months (\$1,844,146) given its stable revenue and expenditure patterns. The general requirement is for licensing boards to maintain a maximum of 6 months reserves. The Board states it has postponed regulatory action until negotiations for changes in processing of examination fees are concluded and development and implementation costs have been determined for the new DCA application, licensure and enforcement data base system. In the new issues the Board has raised in its "Sunset Report" (see below), it has proposed various program changes that would appear to require additional expenditures that could affect its fund reserve if implemented.

ISSUE # 2: The Physical Therapy Board has approximately 16,819 licensed physical therapists and 4,477 licensed physical therapist assistants, yet contracts to provide an alcohol and drug diversion program for its licensees that it reports has 5 participants and costs the Board \$22,584.

Questions for the Board: *What does the Board pay for in administering the diversion program? Do the licensees have to pay the diversion program contractor for the costs of participating in the program? When did the Board first commence its diversion program? How many participants has it had since its inception? How many of these participants have successfully completed the program since its inception? Did the Board take disciplinary action against any of these participants, and if so, against how many, what actions were taken, and were these actions taken prior to, during or subsequent to the licensees participation in the diversion program?*

Background: The Board is statutorily authorized to administer a diversion program for licensees that are drug or alcohol impaired. The Board reports that it does not provide rehabilitative services but only provides assistance in obtaining such services and in monitoring licensees in such programs to ensure that they do not present a threat to the public. The Board contracts with a private provider, Managed Health Net Services (formerly known as Occupational Health Services) to provide confidential intervention, assessment, referral, and monitoring services for rehabilitation of PTs and PTAs who are impaired due to dependency on alcohol or other chemical substances. As noted previously in this background paper, at its last sunset review of the Board the JLSRC voted 3-3 against the recommendation that the Board, along with the Medical Board and other boards that administer a diversion program, evaluate and report to the JLSRC on a plan to privatize their diversion programs.

LICENSURE ISSUES

ISSUE #3: **The Physical Therapy Board does not participate in the Department of Consumer Affairs’ “Applicant Tracking System” and has to randomly sample, by hand, its applications to determine application processing time. That processing time has averaged 149 days (app. 5 months) in the past four years for applicants who pass the licensing examination on the first attempt, and 114 days (3 ½ + months) for all applications.**

Questions for the Board: *Why doesn’t the Board participate in the department’s applicant tracking system? Does the Board know what the average time is to obtain a license once an applicant has completed all of the requirements (education graduation & passage of the licensing exams)? Is there anything the Board can do to speed up this process?*

Background: The Board reports that it does not have the advantage of using the DCA Applicant Tracking System to track application process time, and had to randomly sample approximately 2 ½% of its applications from each of the past four years to provide the JLSRC with an approximation of its average application processing times. Since the DCA operates such a system, the Board has a fund reserve and pays for DCA’s administrative services on a pro-rata basis, as do other licensing boards within the DCA, it is unclear why the Board is not participating in the applicant tracking system operated by the DCA.

EXAMINATION ISSUES

(See **Issue #14** under “New Issues Raised by the Board” – below)

CONTINUING COMPETENCE ISSUES

(See **Issue # 10** under “New Issues Raised by the Board” – below)

ENFORCEMENT ISSUES

ISSUE #4: The Board reports that its enforcement activities (investigations, accusations, and disciplinary decisions) have increased in the past four years. However, the average time reported by the Board to process its disciplinary cases has also been increasing – particularly for investigation and “pre-accusation” time frames.

Questions for the Board: *To what does the Board attribute its increased disciplinary activity? The Board reports that 49% of its complaints relate to “personal conduct” of its licensees. What is included within the term “personal conduct?” To what does the Board attribute the average increase in investigation and pre-accusation time periods? Does the “pre-accusation” time period include post-investigation cases that are still pending at the Board prior to submittal to the Attorney General’s (AG’s) office as well as cases pending at the AG’s Office before an accusation is filed? If so, does the Board have a breakdown as to what the average times are at each stage? What causes the delays at both stages? How long are the delays in receiving expenditure reports from the Division of Investigation (DOI) and the AG? How do these reporting delays affect the Board’s ability to conduct its disciplinary activities? What is the percentage (and number) of cases referred to the AG in which no accusation is filed? Has the Board sought deficiency expenditure authority in the past four years? Has the Board sought to further increase its budgeted expenditure authority for enforcement? Why has the number of cases in which cost recovery was ordered decreased, despite an increase in the number of potential cases for cost recovery? What does the Board believe it can do to decrease the disciplinary time periods?*

Background: The Board reports that 42% of its complaints were filed by the public, insurance companies, and governmental agencies. The remaining 58% were filed by the physical therapy profession itself. Many of the latter were reported as being filed on behalf of patients who were concerned that previous physical therapy treatment they had received was inappropriate. The most common complaints were for incompetent care, unlicensed practice, aiding and abetting unlicensed activity, improper supervision of licensed PTAs and unlicensed physical therapy aides, and personal conduct. Personal conduct includes criminal convictions, discipline by other states, sexual misconduct, and substance and/or drug related complaints. Over the past four years 49% of complaints involved personal conduct.

The Board reports that while the number of its complaints have remained stable over the past four years, there has been an increase in the number of investigations referred for investigation (80% increase, investigations commenced (81 in 2000/01), cases referred for criminal prosecution (10 in 2000/01) and referred to the AG’s office (31 in 2000/01), accusations filed (60% increase to 16 in 2000/01), stipulated settlements (9 in 2000/01), disciplinary actions (14 in 2000/01), and probation violations (5 in 2000/01). The Board also reports that the majority of its cases are taking two years to be investigated and adjudicated, and that delays are often within the DCA’s Division of Investigation

(DOI) that investigates the Board's cases and the AG's office which prosecutes those cases administratively. According to the Board, these delays can be caused by the complexity of the cases, staffing issues, or caseload and scheduling at the AG's office and the Office of Administrative Hearings (OAH).

The Board states it is seeking to amend its current administrative citation and fine regulations to specify that citations are public for only five years from their date of issuance. Since the Board is concerned that such citations currently stay on a licensee's record indefinitely, if it places a statute of limitations on disclosure of these, or other disciplinary actions it discloses on a licensee's record, it may need to consider disclosing that limitation exists to the public.

NEW ISSUES and RECOMMENDATIONS RAISED BY THE PHYSICAL THERAPY BOARD IN ITS SUNSET REPORT (Pages 35-39 of Board's report)

ISSUE #5: Should the Physical Therapy Board of California (PTBC) seek enhancement of its public protection authority? Specifically:
(1) Should physical therapists and physical therapist assistants be added to the mandated reporting of civil law suits and peer review (commonly referred to as B&PC "Section 805 reports)? (2) Should the Physical Therapy Practice Act be amended to require physical therapists to document in the patient record all treatment provided? (3) Should physical therapists be required to provide patients access to their medical records? (4) Should the Physical Therapy Act be amended to authorize the Board to discipline its licensees for "unprofessional conduct" by defining that term to include but not be limited to all current statutory causes for discipline and extending the term to include physical therapist assistants?

Questions for the Board: *What is the rationale and justification for each of these proposed changes. What would be the fiscal impact of these proposed changes? What specific statutory changes (language) are necessary to accomplish the proposed changes?*

Background: The Board states that it has identified four areas where it believes there is a need to increase its statutory authority for purposes of public protection. They are so-called "Section 805" reports including reports by insurance companies, courts, licensees, and health plans of civil settlements and actions taken by peer review bodies. The Board reports that while other health care professions are included within these provisions, the physical therapy profession is not. Another area is documentation of treatment in patient records. The Board states that while a PT is required to document his or her patient evaluation, goals, treatment plan and treatment summary in a patient's record, he or she is not required to document any physical therapy care actually provided or to legibly sign the patient record. A third area is that current law does not specifically include PTs as one of the health care professionals who must provide patients access to their medical records or summaries thereof. And a fourth area cited by the Board is that unlike other health care practice acts, the Physical Therapy Practice Act (PT Act) does not specify that violations constitute "unprofessional conduct," nor does it include the phrase "not limited to" when specifying acts which violate the Act which would enable the Board to take disciplinary action for unprofessional conduct such as verbal abuse and sexual

harassment. The Board further points out that several violations of the PT Act are limited to licensed PTs and do not apply to licensed PTAs as well.

ISSUE #6: Should the Physical Therapy Board of California perform its own probation monitoring?

Questions for the Board: *What is the rationale and justification for having the PTBC perform its own probation monitoring rather than continuing to have this monitoring performed by the Division of Investigation of the Department of Consumer Affairs? If probation monitoring is already currently authorized why does the Board need additional authority to have its own staff perform it? Why can't the Board offset the costs for performing its own monitoring with the resources saved by no longer having monitoring done by the DOI? What specific resources (money, staff, equipment, etc.) is the Board seeking for this proposal? What specific statutory changes (language) are necessary to accomplish these proposed changes?*

Background: Currently, the Board's probation monitoring (of disciplined licensees practicing under probationary restrictions) is performed by the DCA's DOI, but that such cases are considered a lower priority by the DOI than its actual investigation of complaints. The Board believes it would be more economical, and just as effective, were it to employ non-peace officer (non-sworn) staff to perform its probation monitoring. Consequently, the Board is seeking JLSRC support for a legislative mandated probation monitoring program and authority to require it to pay probation monitoring costs (additional budgeted appropriation.)

ISSUE #7: Should the Physical Therapy Board of California require its licensees to disclose misdemeanors and other criminal activity on their license renewal forms?

Questions for the Board: *Since this proposal was recommended at the Board's last sunset review and adopted by the JLSRC – why hasn't it been implemented? What would be the fiscal impact of this proposed change? What specific statutory changes (language) are necessary to accomplish this proposed change?*

Background: As noted earlier in this Background, at its last sunset review of the Board in 1997/98 the JLSRC adopted the recommendation to require the Board's licensees to report criminal convictions to the Board. However, this requirement has not been enacted as yet. Such authority has been granted by the Legislature to other health care profession licensing boards to enhance their enforcement programs.

ISSUE #8: Should the Physical Therapy Board of California be authorized to issue probationary (restricted) licenses to license applicants?

Questions for the Board: *What is the rationale and justification for this proposed change? Is this proposal intended to apply only to new license applicants or would it also apply in the case of license reinstatements (e.g., following a disciplinary revocation)? What would be the fiscal impact of this*

proposed change? What specific statutory change (language) would be necessary to accomplish the proposed change?

Background: The Board reports that on occasion it has applicants whose background investigations indicate restricted licenses should be issued to ensure that the public's safety will not be jeopardized by recently rehabilitated licensees. Absent this authority, the Board is limited to either issuing an unconditional license or denying a license altogether, which can result in the Board defending the latter action in an administrative hearing because of a protest by the applicant. The Board is requesting the JLSRC's assistance in obtaining statutory authority legislatively to issue initial probationary (restricted or conditional) licenses. The Board has such authority as part of its disciplinary authority regarding existing licensees who are disciplined. Currently, at least one other licensing board in the DCA (the Respiratory Care Board) has such probationary license authority for issuing initial licenses.

ISSUE #9: Should the Physical Therapy Board of California implement, as a pilot program, a system whereby the Attorney General and the Office of Administrative Hearings costs for physical therapy license-related cases are "rolled forward" (as are the costs for investigations performed for the Board by the Division of Investigation of the Department of Consumer Affairs)?

Questions for the Board: *What is the rationale and justification for this proposed change? Has there been any change in circumstances since this proposal was rejected by the JLSRC at the Board's prior sunset review in 1998? Has the Board explored the feasibility of this proposed change with the Department of Consumer Affairs, the Attorney General and the Office of Administrative Hearings? What would be the fiscal impact of this proposed change? What would be the Board's enforcement budget for these changes initially and what would the Board project for these budget items in the future? If budget projections are infeasible, then what would this proposal have changed regarding the Board's budget had it been in effect since the Board's last sunset review? What specific statutory changes (language) would be necessary to accomplish the proposed change?*

Background: During its last sunset review by the JLSRC, the Board made the same recommendation. However, that Board recommendation was not included in the final JLSRC recommendations that were developed following the testimony received by the JLSRC during its hearings. Currently, the Board reimburses the AG and the OAH for their service from funds that it are appropriated for those purposes in its annual budget. If the services provided exceed the appropriated amounts, then the Board must seek budget a deficiency appropriation from the Joint Legislative Budget Committee to make up the difference in the same budget year. If such increased expenditures were anticipated to occur in future budget years the Board could submit a Budget Change Proposal (BCP) to have its baseline budget increased for following budget years to increase the appropriation for such services. The Board does not indicate whether it has had to submit deficiency requests or if it has submitted any BCPs related to these services.

The Board generally pays a pro-rata amount to the DCA each year for its provision of centralized administrative support services. However, payment for the investigative services of the DCA's DOI are done through a "roll-forward" method, whereby amounts incurred by the DOI investigations that exceed the amount paid by the Board in a particular year are "rolled forward" and added to the amount

that will be charged the Board in future years. The Board is recommending that the JLSRC explore a roll forward funding system for these Board expenditures on a “pilot program” basis.

ISSUE #10: Mandatory Continuing Education - Should the Physical Therapy Board of California require continuing education of physical therapists and physical therapy assistants as a condition of license renewal?

Questions for the Board: *What is the rationale and justification for proposing mandatory continuing education for its licensees? Does the Board have any research to show that licensed professionals subject to mandatory continuing education perform more competently than comparably licensed professionals who are not subject to it? How many other states require continuing education for license renewal of physical therapists? For physical therapist assistants? Does the Board have any data to show that harm is being caused to the public by its licensees as a result of them not having taken continuing education? Do the Board’s disciplinary cases show that licensees are performing incompetently because of a lack of updated knowledge? Has the Board done any research regarding how many of its licensees currently participate in continuing education on a voluntary basis? If so, does the Board have any data on the average amount of voluntary continuing education taken by these licensees each year? How did the Board select 50 hours (for PTs) and 25 hours (for PTAs) as the proper amount of mandatory continuing education? What other health occupations have more, the same, or less mandatory continuing education? What is the availability of continuing physical therapy education courses (e.g., estimated number of courses, locations, number of providers)? Who are the primary providers of continuing physical therapy education? What would be the estimated costs to licensees to comply with the proposed mandatory continuing education (e.g., what are the fees or costs currently, what do comparable requirements cost other licensed health care professionals who are subject to mandatory continuing education?) Has the Board surveyed its licensees regarding their views on mandatory physical therapy education? What would be the fiscal impact (to the Board) of this proposed requirement? What specific statutory change (language) would be necessary to accomplish the proposed requirement?*

Background: Currently, there are no mandatory continuing education (CE) requirements for renewal of either a PT or a PTA license. The Board reports that the issue of continued competency currently is being studied by the Federation of State Boards of Physical Therapy (FSBPT). The Board states that it is anticipated that once that study is completed and the FSBPT releases its report in 2002 that the Board will review the study to determine if legislation to mandate continued competency for PTs and PTAs should be pursued. However, while awaiting the results of this study, and to be consistent with other California health profession licensing boards, the Board has voted to pursue mandatory continuing education requirements for its licensees. The Board has proposed requiring 50 CE hours per 2-year license renewal period for PTs and 25 CE hours per 2-year license renewal period for PTAs. The Board states that its CE hour recommendations are consistent with other health care practitioners. The Board argues that it would adopt CE standards that would enhance PT and PTA knowledge related to physical therapy, keeping licensees abreast of new technology and advances in the field of physical therapy. The Board does not indicate whether its decision has been communicated to all of its licensees who would be affected by these requirements.

According to information provided by the FSBPT, 26 states currently require some CE for PT license renewal, while 22 states require CE for renewal of PTA licenses. The amount of CE per license

renewal period required varies from a high of 4 CE units (a unit = 10 hours) in four states for PTs to 1 CE unit (10 hours) in two states – with the remainder somewhere in between. The amount of CE per license renewal period required for PTAs ranges from a high of 3 CE units (30 hours) in one state to a low of .25 CE units (2 ½ hours) – with the remainder of states being somewhere in between.

While government has struggled with the issue of what steps might be required to assure that licensed professionals maintain continued competency in their profession following initial licensure – generally where any action has been taken it has been to mandate CE. While on its face CE would seem to assure that practitioners are exposed to ongoing education related to their profession, the value of mandating CE has been questioned in the past. Questions regarding the financial benefit to be derived by providers of mandatory CE to a “captive” licensing population, the relevance of the courses, assurance of actual attendance, and whether a practitioner will actually participate and learn if compelled (rather than by voluntarily doing so by choice) are some of those that have been raised regarding the efficacy of mandating CE. Generally, as opposed to requiring that licensees retake a licensing exam, mandatory CE is believed to be the more feasible option.

ISSUE #11: Should the Physical Therapy Board of California eliminate the licensure of physical therapist assistants based on equivalent education and experience (i.e. only allow licensure for applicants who have graduated from an approved educational (AA) program.)

Questions for the Board: *Is the Board formally recommending elimination of this avenue of approval for physical therapist assistants? How many (and what percentage) of current licensees qualified for licensure in this manner? What proportion (number and percentage) of current licensees qualify for licensure in this manner? What data does the Board have to show that persons licensed in this manner do not meet the minimum requirements to practice competently? Is there any disciplinary data to reflect a higher degree of incompetence on the part of licensees who were licensed in this manner? What would be the fiscal impact of this proposal? What specific statutory changes (language) would be necessary to accomplish this change?*

Background: The Board states that California is the only state in the nation (of those that require licensure of PTs and PTAs) that still provides for licensure of PTAs who do not graduate from an approved two-year (AA degree) PTA program by establishing that they have equivalent education and experience. The Board states that it has used its regulatory authority in the past to revise the definition of “equivalency” to include more comprehensive requirements, but that the passage rate for equivalency applicants on the PTA licensure exam still remains approximately one third of the national passage rate. The passage rate for graduates of approved educational programs is approximately two-thirds of the national passage rate. The Board states that while it is reluctant to recommend closing this avenue of license approval for PTAs, given the unrealistic expectation of applicants passing the exam, this avenue may be more of a detriment than a benefit to applicants. The Board does not indicate whether the national exam passage rates are known to applicants prior to taking the exam. The Board also believes that the concern for public safety, along with the availability of approved educational programs throughout the state, merits the consideration of this issue by the Legislature.

ISSUE #12: Should the Physical Therapy Board of California institute picture licenses?

Questions for the Board: *What other occupational licensing boards in the Department of Consumer Affairs issue picture licenses? Are other types of more permanent licenses used by any of these other boards? Why does the Board believe a picture license is necessary? Has the Board reviewed other alternative types of more permanent licenses without pictures (e.g., plastic, laminated, etc.) that may be available and their comparative costs? What would be the fiscal impact of this change? How much would the proposed picture license cost in comparison to what the current license costs? How often would the picture on the license be updated? Would the Board need a fee increase to implement this change? Has the Board conferred with the Department of Motor Vehicles on the Board's proposal to access the DMV photographs for its own licensees? What specific statutory changes (language) would be necessary to accomplish the proposed change?*

Background: Currently the Board issues its licenses on security paper that supposedly cannot be reproduced without a void mark appearing on the license (copy). However, the Board states that licenses still can be altered, and that licenses can become unreadable from wear during the two-year licensing period. The Board is requesting the assistance of the JLSRC in gaining statutory authority to access the Department of Motor Vehicles' (DMVs') photographs from its licensing database, and also the resources (\$/personnel?) to implement a program whereby the Board would issue picture licenses (which apparently are less susceptible to fraudulent reproduction or use, and wear and tear). The Board does not indicate if other options have been investigated, or whether the proposed option has been used by other licensing boards in the DCA or if it has been discussed with the DMV for its evaluation.

ISSUE #13: Should the Physical Therapy Board of California be legislatively mandated to provide publications to increase the awareness of the public and licensees to current laws and regulations defining the practice of physical therapy and current issues that effect [sic] the public's safety?

Questions for the Board: *What publications does the Board currently provide, how many and what are the costs? How often does the Board produce its newsletter and what is its circulation? For how long has the Board produced the pamphlets and its newsletters? What would be the fiscal impact of this proposal? What specific statutory changes (language) would be necessary to accomplish the proposed changes?*

Background: While the Board has published a newsletter and its resource book containing it's the statutes and regulations relevant to the practice of physical therapy, it argues that it has had difficulty obtaining the resources (\$/personnel?) that is necessary for it to do these publications. The Board is requesting the assistance of the JLSRC in providing a statutory requirement and the related resources (\$/personnel?) for the publication of three newsletters per year and the biennial production of a resource book containing laws and regulations. The Board does not indicate the percentage of these publications go to licensees vs. the general public in the past or as proposed in the future, or whether there is a charge by the Board for the resource book.

ISSUE #14: Should the Physical Therapy Board of California make its Law Examination available through the Internet?

Questions for the Board: *How soon does the Board expect to be able to offer its law exam on the Internet? Is doing so the same as making the exam available through “computer testing?” Since the Board is proposing to require a person to take and pass this exam before rather than after applying for licensure, how will the Board make this exam available? I.e., will a person have to apply to the Board to take the exam and thereafter separately apply to become licensed? What would be the fiscal impact of this proposal? Do the current \$380 (PT) and \$365 (PT Asst.) exam fees include the administration of the Law Exam? Would there be two separate examination fees under the Board’s proposal? What fee(s) would the Board propose to charge in the future? What specific statutory change (language) would be required to accomplish this proposed change in the law?*

Background: As part of its requirements for issuing a PT or PTA license, the Board administers its own examination on California’s laws and regulations (the CLE) relating to the practice of physical therapy. In exploring the possibility of providing this exam via the Internet, the DCA’s Office of Examination Resources (OER) expressed concern that the Board would not be in control of the administration environment of an examination on the Internet the results of which could be the basis for denial of a license. The Board is requesting the assistance of the JLSRC in revising its statutory requirements for the examination, specifically by making the passing of the CLE a prerequisite for making an application for licensure (rather than as just a prerequisite for licensure that a person who has already applied must pass prior to obtaining a license). Thus the results on the exam would determine whether a person could apply to obtain a license, rather than determine whether an applicant could be granted a license.