
FINAL RECOMMENDATIONS FOR THE PHYSICAL THERAPY BOARD

Recommendations of the Department of Consumer Affairs and the Joint Sunset Review Committee

ISSUE #1. (CONTINUE TO REGULATE THE PROFESSION AND THE BOARD?) Should the licensing and regulation of physical therapist be continued by the Physical Therapy Board?

Recommendation #1: *Recommend the continuance of the regulation of physical therapists by the Physical Therapy Board (Board) to ensure health and safety of the public.*

Comments: The Department and the Joint Committee recommend the continued regulation of physical therapists. As independent health care practitioners, physical therapists perform evaluations, develop and implement treatment plans, and work closely and independently with patients. The health and safety of the public is protected with the regulation of this profession by a board.

ISSUE #2. (ENHANCE THE BOARD'S PUBLIC PROTECTION AUTHORITY?) Should the Board's public protection authority be enhanced?

Recommendation #2: *Recommend the Board's public protection authority be enhanced by the clarification and/or inclusion of physical therapists in specified statutes.*

Comments: The Board has identified areas where it's statutory authority, for purposes of public protection, should be increased:

- Inclusion of PTs in Business and Professions Code Section 800 reporting requirements, requiring that civil settlements and actions taken by peer review bodies be reported to the appropriate licensing boards. Physical therapists, like other health care practitioners, should be subject to these requirements. The Department supports the inclusion of physician assistants in this reporting requirement.
- Require that PTs document patient evaluation, goals, treatment plan and treatment summary in the patient's record. PTs should also be required to document the care provided and to legibly sign the patient record. It was clearly an oversight that physical therapists are not subject to this requirement and the statute should be revised accordingly.
- Physical therapists should be included in Health and Safety Code Section 123105 which specifies that health care professionals must provide patient record access to patients.

ISSUE #3. (REQUIRE CONTINUING EDUCATION?) Should the Physical Therapy Board require continuing education of physical therapists and physical therapy assistants as a condition of license renewal?

Recommendation #3: *The Board should demonstrate a need for continuing education prior to the Board adopting such a requirement.*

Comments: The Department and the JLSRC do not support the Board’s proposal to require continuing education as a condition for licensure renewal at this time. Prior to adopting such a requirement, the Board should demonstrate a deficiency within the profession or changes in the profession that can be addressed through specified continuing education. To date, the Board has not provided evidence of such a deficiency.

ISSUE #4. (PHYSICAL THERAPIST ASSISTANTS?) Should the Board eliminate the licensure of physical therapist assistants based on equivalent education and experience?

Recommendation #4: *Recommend that the Board continue to provide licensure for physical therapist assistants (PTAs) who do not graduate from an approved two-year PTA program by establishing that they have equivalent education and experience.*

Comments: This option provides an important pathway into the profession for many nontraditional licensees including International Medical Graduates (IMGs) and those who find pursuit of a two-year program cost prohibitive. The Board should continue to offer this option to PTAs.

ISSUE #5. (IS “ROLL FORWARD” FUNDING MECHANISM PREMATURE?) Should the Board 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?)

Recommendation #5: *Recommend that the Board not proceed with the roll forward funding mechanism pilot project at this time.*

Comments: Although the Board is to be commended for thinking creatively, the Department does not support the establishment of a “roll forward” funding mechanism pilot project for payment of fees to the Attorney General and the Office of Administrative Law, similar to the practice of keeping legal counsel on retainer as is done in the private sector. The establishment of such a pilot would represent a significant departure from the existing practice of the Department’s regulatory programs. Additionally, there does not appear to be a compelling need for such a pilot program. It is unclear to the Department what problem exists that the Board believes such a pilot program would address. Should the Board feel strongly about pursuing such a pilot program, input should be solicited from the Department, the Attorney General’s Office, and the Office of Administrative Hearings to develop a pilot project that is more clearly delineated, prior to returning to the Legislature to seek statutory authority.

ISSUE #6. (PHOTO LICENSES?) Should the Board research and pursue the use of photo licenses?

Recommendation #6: *The Board should consider adopting the use of photo licenses, which will reduce license fraud and serve as a more permanent form of identification.*

Comments: The Department and the JLSRC support the Board’s desire to move forward with “permanent” licenses. The proliferation of identity theft has prompted the Department to support photo licenses as a means of more “permanent” licensure. However, the Board should do more research on the best option to provide licensees with more “permanent” licenses. The Board should consult with the Department of Motor Vehicles (DMV), the Employment Development Department (EDD), and the Department to develop a more specific proposal and determine the cost of implementation.

ISSUE #7. (LAW EXAMINATION?) Should the law examination be available through the Internet and should the Board require eliminate the licensure of physical therapist assistants based on equivalent education and experience?

Recommendation #7: *Recommend that the California Law Examination should not be available through the Internet and should not be required of applicants.*

Comments: The Department and the JLSRC do not support the Board’s proposal to administer the California Law Examination via the Internet. Placing the examination on the Internet would impair exam security and reduce Board control of the testing environment of an examination, the results of which may ultimately be used as grounds to deny a license. Further, the Department and the JLSRC do not support requiring passage of the CLE as a requirement to apply for licensure. This proposed practice is inconsistent with any of the Department’s other regulatory programs and no justification for making it a prerequisite has been demonstrated.

ISSUE #8. (PROBATIONARY CERTIFICATE?) Should the Board be given the authority to provide a probationary certificate?

Recommendation #8: *Recommend that the Board be given authority to provide a probationary certificate.*

Comments: The Medical Board of California has the authority to grant a probationary certificate to allow an individual to practice with certain restrictions, if he or she has had convictions prior to licensure. The certificate serves as an initial license. If the licensee successfully completes the terms of the probationary license, they receive a clear and unrestricted license. If they do not, the license is revoked.

The Board has requested this authority in order to offer a more efficient and cost-effective approach to licensure, when there is evidence of prior criminal convictions. The Board has reported to the Department that it would use this authority in less than five cases annually. To assure meaningful oversight of these licensees, the Board should develop a data collection and tracking system to evaluate

the success of the probationary certificate mechanism. The Board should work with the Department to develop this tracking system and should provide the Department with regular progress reports on the use of this authority. With the establishment of this mechanism, the Department recommends the Board be given authority to provide probationary certificates. The Department made a similar recommendation this year for the Physician Assistant Committee.

ISSUE #9. (REVIEW BARRIERS TO RESIDENCY AND LICENSURE FOR INTERNATIONAL MEDICAL GRADUATES (IMGs)?) Should the Board designate a staff liaison to work to work with IMGs and the programs that assist them?

Recommendation #9: Recommend that the Board should designate a staff liaison to work with International Medical Graduates (IMGs) and programs that assist them.

Comments: The Task Force on Culturally and Linguistically Competent Physicians and Dentists, co-chaired by the DCA Director, has been examining issues pertaining to the need to increase access to health care for low-income consumers living in medically underserved areas.

The Task Force has held five public hearings in communities throughout the State to assess consumers need for providers who are culturally and linguistically competent.¹ In each of these communities, the Task Force has heard from International Medical Graduates (IMGs) who wish to practice in the U.S. health care delivery system in some capacity, but may need additional education and training for licensure. In an effort to assist these IMGs in their effort to re-enter either their chosen profession or an alternative health related profession, programs have been established that assess their skills, identify possible professions and educate them about licensing and education requirements. It is possible that many of these IMGs may be qualified for careers as physical therapists or physical therapy assistants, but are unaware of the licensing requirements and professional options that exist.

The Task Force intends to look more closely at the barriers to residency and licensure encountered by IMGs. In the meantime, the Department recommends the Board designate a staff liaison to work with IMGs and the programs devoted to facilitating their licensure and re-entry into their profession.

Additional Recommendations of the Joint Sunset Review Committee

ISSUE #10. (REVIEW DIVERSION PROGRAM?) Should the Board review its diversion program and consider the revision or elimination of the program?

Recommendation #10: The Board should consider: a) revising its diversion program to provide for licensee participants to pay for their monitoring costs; or b) eliminating the program entirely.

Comments: 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,

¹ San Diego, Salinas, Oxnard, San Francisco, Sacramento and Bell Gardens, California.

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.

ISSUE #11. (PROBATION MONITORING PERFORMED BY THE BOARD?) Should the Board carry out its own probation monitoring?

Recommendation #11: The Board should perform its own probation monitoring rather than having that function performed by peace officers of the Department's DOI.

Comments: 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 #12. (PROBATION MONITORING PERFORMED BY THE BOARD?) Should the Board require its licensees to disclose misdemeanors and other criminal activity on their license renewal forms?

Recommendation #12: As recommended by the Board, its licensees should be required to disclose misdemeanors and other criminal activity on their license renewal.

Comments: 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.