



*State and  
Consumer Services Agency*

**ANNA M. CABALLERO  
SECRETARY**

African American Museum  
Building Standards Commission  
Consumer Affairs  
Expo Park  
Fair Employment & Housing  
Fair Employment & Housing Commission  
Franchise Tax Board  
General Services  
Science Center  
Seismic Safety Commission  
Public Employees' Retirement System  
Teachers' Retirement System  
Victim Compensation &  
Government Claims Board

**MEMORANDUM**

**TO:** Elaine M. Howle, State Auditor  
Bureau of State Audits

**FROM:** Anna M. Caballero, Secretary

**DATE:** December 27, 2012

**RE: Six Month Follow Up Response to Bureau of State Audit's Report 2011-119– Department of Consumer Affairs, Physical Therapy Board**

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Pursuant to the Bureau of State Audit's (BSA) Report 2011-119, enclosed is the six month status report prepared by the Department of Consumer Affairs, Physical Therapy Board.

Please feel free to contact me at (916) 653-4090 with any questions you may have.

A handwritten signature in blue ink that reads "Anna M. Caballero".

Anna M. Caballero  
Secretary  
State and Consumer Services Agency

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# California Bureau of State Audits Report 2011-119; Six Month Update

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The following responses are indicative of the progress made by the Department of Consumer Affairs and the Physical Therapy Board of California after six months from release of the report by the Bureau of State Audits.

## **Finding [1]:**

**The Physical Therapy Board could achieve significant savings if it can hire a state employee to perform the function of its in-house consultant.**

## **Recommendation:**

**The Physical Therapy Board should explore the feasibility of establishing a state position to perform the duties of its current in-house consultant at a reduced cost.**

## **Response:**

On November 1, 2012, Staff Managers from the Physical Therapy Board of California, (Board) met with Department of Consumer Affairs' (DCA) Personnel Officer and Human Resources (HR) Manager, on the process for establishing a Civil Service Physical Therapist Expert Consultant position within the Board in lieu of a contracted position. At the meeting they reviewed the process and set a timeline to establish the position (attached). As you can see from the timeline, the process is quite involved and lengthy. The Board is scheduled to submit a Classification Proposal Concept which does the following: 1) identifies the need of a new classification; 2) summarizes the need; and, 3) briefly describes the review conducted to assure the need cannot be made within existing classes.

According to the timeline established by the DCA HR staff, the Classification Proposal Concept is to be submitted by the Board to DCA HR in February 2013. To date, due to limited resources focused on priorities which have an immediate impact on the public, staff has not yet begun this process.

Also, as you can tell from the timeline, this is quite an extensive process that isn't projected to conclude until July 2015; and, is dependent on all parties' ability to adhere to the timeline. Therefore, given the far reaching scope and complexity of establishing a *new* Civil Service Physical Therapist Expert Consultant position, the Board is exploring an alternate interim solution with more immediate results. Since the contract with the in-house consultant expires in March 2013, the Board is considering negotiating a new contract at a reduced rate, resulting in a significant savings. This good faith effort should prove responsive to the audit findings in the interim. And, while the Board is continuing to explore the feasibility of establishing a civil service position to perform the duties of its

## California Bureau of State Audits Report 2011-119; Six Month Update

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in-house expert consultant it should be noted the contract expert consultant allows for greater flexibility in that if the contract expert consultant should resign or take a leave of absence, the contract expert consultant would be in violation of the contract and could be replaced. Whereas a Civil Service Physical Therapist Expert Consultant would be far more difficult to replace and would compromise the Board's ability to continue processing complaints requiring the expertise of the in-house expert consultant.

Contact: Liz Constancio, Manager, Physical Therapy Board of California  
Telephone: (916) 561-8274      Email: [Liz.Constancio@dca.ca.gov](mailto:Liz.Constancio@dca.ca.gov)

## California Bureau of State Audits Report 2011-119; Six Month Update

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### **Finding [2]:**

**The Physical Therapy Board lacks a formal process to evaluate the work of its in-house consultant and other expert consultants.**

### **Recommendation:**

**To make certain that it provides effective services to consumers; the Physical Therapy Board should develop a means of formally evaluating its expert consultant's against performance measures and benchmarks. Furthermore, the Physical Therapy Board should conduct these evaluations on an ongoing basis and document them fully.**

### **Response:**

In follow up to the submission of the 60 day response submitted to the Bureau of State Audits (BSA), the BSA requested a copy of the Expert Consultant Performance Evaluation Tool. After review, the BSA responded the Expert Consultant Performance Evaluation Tool should not be used for both the in-house expert consultant and those expert consultants used in the field. As a result, the Board created the attached PTBC Evaluation of the In-House Expert Consultant Performance tool (tool) and In-House Expert Evaluation Policy specifically designed to evaluate the performance of the in-house expert consultant. Since the services of the in-house expert consultant are ongoing, this tool is designed to be used annually, and if the services are inconsistent with the contractual agreement, corrective action will be taken. These procedures are consistent with the performance evaluation of a Civil Service employee, which is in accordance with the recommendation in Finding #1.

Contact: Jason Kaiser, Manager, Physical Therapy Board of California

Telephone: (916) 561-8278      Email: [Jason.Kaiser@dca.ca.gov](mailto:Jason.Kaiser@dca.ca.gov)

# California Bureau of State Audits Report 2011-119; Six Month Update

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## **Finding [3]:**

**Consumer Affairs does not ensure that members of boards and other designated employees receive all required training.**

## **Recommendation:**

**The Department of Consumer Affairs should establish procedures for ensuring that board members attend board member orientation and that those individuals and other designated employees receive all required ethics training. In addition, Consumer Affairs should adhere to the record retention period of five years specified by law for the certificates documenting that designated employees received ethics training**

## **Response:**

The Department of Consumer Affairs fully agrees. As such, the Executive Office is continually updating board member files by gathering the following information:

- Confirmation of the member's Oath of Office
- Confirmation of the member's Form 700 filing
- Confirmation of the member's participation in sexual harassment prevention and ethics training
- Confirmation of the member's participation in the Department's Board Member Orientation Training

The designated staff people that are not a board member, an advisory member, an executive officer or bureau chief are tracked by the Department's Human Resource Department and our SOLID Training Solutions Department. Please find the appropriate contact person's name and telephone number above if you would like to receive more information.

As previously reported, no end date is noted as board members are appointed, re-appointed, and termed-out on an on-going basis. For example, the board relations deputy director and the board analysts within the Executive Office are currently updating the board member files to accommodate 13 new appointees to 5 separate boards within the last week. A spreadsheet has been created to assist in the tracking of the mandatory trainings and filings for board members.

Additionally, the deputy director and board analysts within the Executive Office are continuing to work with the Department's human resources and training office in

## California Bureau of State Audits Report 2011-119; Six Month Update

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obtaining any necessary information that is missing from the files. The data base for the electronic tracking of necessary information on mandatory training is moving forward. The data base has been implemented and updates to the information (putting in new board member information) should begin in January and will be on-going. It is anticipated that all hard copy board member files should be up-to-date by the end of December, 2012.

If the board member or designated employee within a board has not completed their mandatory training or our Department has not received notification that their Form 700 or sexual harassment prevention and ethics training has been completed, the Board and Bureau Relations within the Executive Office will work with human resources to send out notification to those employees that they need to provide certificates, copies or comply with the mandatory training.

Contact: Reichel Everhart, Deputy Director, Board Relations  
Telephone: (916) 574-8200 Email: Reichel.Everhart@dca.ca.gov

## California Bureau of State Audits Report 2011-119; Six Month Update

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### **Finding [4]:**

**Two former board members were very late in submitting their statements of economic interests.**

### **Recommendation:**

**To ensure that board members disclose in a timely manner potential conflicts of interest on their Form 700's. The Physical Therapy Board should implement a process to notify Consumer Affairs' filing officer promptly when board members are appointed or when they indicate that they intend to leave office.**

In December 2011, the Board developed a written process identified as "*Board Member Reporting, Assuming and Separating from Office*" in its in-house Administrative Procedure Manual. There has been no change in the appointment status of the Board's current members since the response submitted at 60 days; however, the Board's Executive Officer is separating from state service on December 22, 2012. Therefore, Board staff requested and received the Form 700 from the retiring Executive Officer on December 4, 2012 and the Consumer Protection Services Program Manager who will be assuming office as the Interim Executive Officer on December 18, 2012. Board staff concurrently notified the Department of Consumer Affairs' filing officer; thereby executing the Board's newly implemented process within the mandated time period.

Contact: Liz Constancio, Manager, Physical Therapy Board of California  
Telephone: (916) 561-8278 Email: [Liz.Constancio@dca.ca.gov](mailto:Liz.Constancio@dca.ca.gov)

**PTB BOARD ITEM/EPR TIMELINE**

**CLASS: PHYSICAL THERAPY CONSULTANT**

<b>Task #</b>	<b>Tasks/Events</b>	<b>Responsible Parties</b>	<b>Target Completion Date</b>
	<b>I. CLASSIFICATION PROPOSAL DEVELOPMENT AND SUBMISSION</b>		
<b>1.</b>	<b>A. Classification Proposal Concept</b>	Board	Done In progress  February 2013 April 2013
<b>2.</b>	Identify the Need of a new classification		
<b>3.</b>	Summary of Need: Brief overview of the request and the need for the proposal.		
<b>4.</b>	If a new class is being proposed, the analysis must briefly describe the review conducted to assure the need cannot be made with existing classes.		
<b>5.</b>			
<b>6.</b>	<b>Submit to OHR for review</b>		
<b>7.</b>	<b>OHR submit to CalHR for approval</b>		
<b>8.</b>	<b>CalHR Response</b>		
<b>9.</b>			
<b>10.</b>	<b>B. Classification Considerations</b>		
<b>11.</b>	Background to the extent necessary to understand need for the class. Personnel management need which has precipitated request. Identify specific classification recommendations being made. Describe analysis of classification issue and provide support for recommendations.		
<b>12.</b>	Analysis should include: Summary of duties/responsibilities of the proposed class, Identify type, nature and level of work, Discuss allocation factors, and number of positions/hires affected by proposals		
<b>13.</b>	If a new class is being proposed,- the analysis must briefly describe the review conducted to assure the need cannot be made with existing classes.		
<b>14.</b>	What effect, if any, the proposal will have on other classes.		
<b>15.</b>	How, where the class fits into the series: upward mobility/promotional opportunities impact.		

**PTB BOARD ITEM/EPR TIMELINE**

**CLASS: PHYSICAL THERAPY CONSULTANT**

Task #	Tasks/Events	Responsible Parties	Target Completion Date
16.	Designation as supervisory, management or rank and file for collective bargaining purposes.		
17.	Probation Period: If a probationary period other than six months is proposed the rationale should be discussed.		
18.	Each proposal must include employee status, merit and job relatedness, supportable and consistent minimum qualifications (MQ) patterns, future impact to applicants' and employees, relationship to other classes and parallel classes, and integrity of the overall classification plan.		
19.	Recommendation: Title of class being modified or established, The proposed class specifications as shown in the calendar to be adopted, and the probation period be information.		
	Consulted with: The names/affiliates of persons who were consulted during the development of the Board item including the SPB staff and program manager.		
	Reason for Hearing: The reason for the hearing is being requested, including the identity of those persons requesting the hearing and briefly states the need which is in question.		
	<b>Submit to OHR for review</b>		August 2013
	<b>OHR submit to CalHR for approval</b>		September 2013
	<b>CalHR Response</b>		November 2013
	<b>C. Salary Information</b>		
20.	Research and develop the Salary Analysis		
21.	Develop the Salary comparisons with classifications that are comparable salary, duties, and responsibilities; verify private sector		

**PTB BOARD ITEM/EPR TIMELINE**

**CLASS: PHYSICAL THERAPY CONSULTANT**

<b>Task #</b>	<b>Tasks/Events</b>	<b>Responsible Parties</b>	<b>Target Completion Date</b>
22.	Consulted with: The names/affiliates of persons who were consulted during the development of the Board item including the SPB staff and program manager.		
23.	Reason for Hearing: The reason for the hearing is being requested, including the identity of those persons requesting the hearing and briefly states the need which is in question.		
24.			
25.	<b>Submit to OHR for review</b>		January 2014
26.	<b>OHR submit to CalHR for approval</b>		February 2014
	<b>II. STATE PERSONNEL BOARD (CalHR)</b>		
27.	CalHR shall administer the Personnel Classification Plan (including the allocation for the appropriate class)	CalHR/SPB	April 2014
28.	CalHR is responsible for developing and submitting classification changes to SPB.		
29.	Calendar Proposed Board Item		June 2014
30.	After review it is determined whether it is complete and should be scheduled and presented to the Five-Member Board		
31.	Each proposal will be carefully evaluated to ensure all issues have been adequately addressed		
	<b>III. DEPARTMENT OF FINANCE — REQUEST FOR THE BUDGET CHANGE PROPOSAL (BCP)</b>	Board	July 2014
32.	Complete the BCP cover sheet (DF-46) which includes the following:		
33.	Document and address a compelling public need		
34.	Agree/coincide with the Administration's goals and policies		
35.	Rank as a high priority for the Administration/Agency/Department		

## PTB BOARD ITEM/EPR TIMELINE

### **CLASS: PHYSICAL THERAPY CONSULTANT**

<b>Task #</b>	<b>Tasks/Events</b>	<b>Responsible Parties</b>	<b>Target Completion Date</b>
<b>36.</b>	Justify the needs based on benefits, costs and/or workload		
<b>37.</b>	Convey planning and Coordinating		
<b>38.</b>	Realistically address alternatives		
<b>39.</b>	Spend only funds that are available		
<b>40.</b>	Comply with the Department of Finance BCP timelines and instructions		
<b>41.</b>	BCP request flow process: <ul style="list-style-type: none"><li>• Consent Papers (Proposal idea) to Budgets in middle of May for review</li><li>• BCP due to Budget Office at beginning of July for review/revisions</li><li>• BCP due to Agency second week of August for review/approval/denial</li><li>• BCP due to Department of Finance (DOE) in second week of September</li><li>• BCP final determination by DOF is forwarded in middle of November to Governor's Office</li><li>• BCP is implemented in the Governor's budget proposal in the beginning of January to the Legislature for final approval</li></ul>	Board/Budgets/Agency/DOF/ Governor's Office/Legislature	July 2015

## IN-HOUSE EXPERT CONSULTANT

### PERFORMANCE EVALUATIONS

#### POLICY

The Physical Therapy Board of California (PTBC) has approved written performance standards for its In-House Physical Therapist Expert Consultant. The Consumer Protection Services Program (CPS) Manager shall complete a PTBC Evaluation of the In-House Expert Performance (IER-1) at least annually or on an as-needed basis. The Executive Officer (EO) shall then review the PTBC Evaluation of the In-House Expert Performance (IER-1) at least annually or on an as-needed basis.

#### COMMENTS

The PTBC Evaluation of the In-House Expert Performance (IER-1) shall be used to evaluate an In-House Expert Consultant in the following categories: productivity, quality of work product, case analysis, decision making, relations with people and overall performance.

The CPS manager and the EO shall complete performance evaluations annually; however, they may complete the IER-1 to report any substandard or negative performance by the In-House Expert Consultant on an as-needed basis.

#### PROCEDURES

The CPS Manager's and the EO's evaluation of the In-House Expert Consultant is a critical element in ensuring the success of the Expert Reviewer Program.

##### A. Evaluation by CPS Manager and EO

CPS Manager shall complete the PTBC Evaluation of the In-House Expert Performance (IER-1) at least annually. The CPS Manager will check the Expert Reviewer Program binder of evaluations to determine if any prior evaluations have been completed for the in-house expert consultant.

1. If no PTBC Evaluation of the In-House Expert Performance (IER-1) has been completed within the last year, the CPS Manager shall initiate a PTBC Evaluation of the In-House Expert Performance (IER-1) and forward it to the EO for review. In addition, the CPS Manager shall rate the in-house expert consultant in the following categories: productivity, quality of work product, case analysis, decision making, relations with people and overall performance. Any categories rated as "NO" should include a comment. The CPS Manager and the In-House Expert Consultant should agree on the overall rating and sign and date the evaluation on the reverse side of the form.

2. If one or more PTBC Evaluation of the In-House Expert Performance (IER-1) have been completed, no new evaluation is required.
3. The CPS Manager shall attach the PTBC Evaluation of the In-House Expert Performance (IER-1) to the Statement of Services and forward them to the EO for review and disposition.
4. The EO shall review the PTBC Evaluation of the In-House Expert Performance (IER-1) and forward the original to the Consultant.
5. If in subsequent reviews the CPS Manager observes any substandard or negative performance of the in-house expert consultant, they shall make note on the PTBC Evaluation of the In-House Expert Performance (IER-1) and make a recommendation to the EO for consideration.
6. The EO shall review and determine if there are sufficient grounds to cancel the contract of the In-House Expert Consultant and find a replacement.
7. If the EO determines that it is necessary to terminate the contract of the In-House Expert Consultant, the CPS Manager shall immediately remove the In-House Expert Consultant's name from the database and place a copy of the authorization and supporting documents in the In-House Expert Consultant's individual file. The CPS Manager shall notify all CPS analysts by E-mail when the In-House Expert Consultant's contract has been terminated. The EO shall notify the In-House Expert Consultant in writing the reason why their contract was cancelled.

**PHYSICAL THERAPY BOARD OF CALIFORNIA  
EXPERT REVIEWER PROGRAM**

**PTBC Evaluation of the In-House Expert Consultant Performance**

<b>In-House Expert Consultant:</b>	CPS Manager:
Rate the In-House Expert Consultant in each of the following areas. "No" rating must be explained in the "Comments" Column. If additional space is needed, use the "Comments" section on the reverse side of this form.	
TASK	COMMENTS [Identify corresponding section letter]
<b>The CPS Manager should complete Sections I through V</b>	
<b>I. Productivity:</b> A. Complied with guidelines for In-House Expert Consultant (Explain any departures from guidelines) <input type="checkbox"/> Yes <input type="checkbox"/> No B. Provided accurate assessments in a timely manner? <input type="checkbox"/> Yes <input type="checkbox"/> No C. Completed billing statement submitted? <input type="checkbox"/> Yes <input type="checkbox"/> No D. Time billed was appropriate? <input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>II. Relations With People:</b> A. Was effective in dealing with Board and Attorney General's staff (if appropriate). <input type="checkbox"/> Yes <input type="checkbox"/> No B. Was accessible and cooperative <input type="checkbox"/> Yes <input type="checkbox"/> No C. Exhibited appropriate professional demeanor during preparation meeting and hearing. <input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>III. Quality of Work Product:</b> A. Complied with guidelines for In-House Expert Consultant (Explain any departures from guidelines) <input type="checkbox"/> Yes <input type="checkbox"/> No B. Consultant was clear, understandable, used lay terminology or explained technical terms. <input type="checkbox"/> Yes <input type="checkbox"/> No C. Consultant was complete and factual. <input type="checkbox"/> Yes <input type="checkbox"/> No D. Overall quality of work was acceptable, professional. <input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>IV. Consultant Supervision:</b> A. Complied with guidelines for In-House Expert Consultant (Explain any departures from guidelines) <input type="checkbox"/> Yes <input type="checkbox"/> No B. Maintained contact with Expert Consultants as needed? <input type="checkbox"/> Yes <input type="checkbox"/> No C. Specifically described any reported departure from the standard of practice (as described in the guidelines) <input type="checkbox"/> Yes <input type="checkbox"/> No D. Assessed each Expert Consultant report to satisfaction. <input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>V. Decision Making:</b> A. Complied with guidelines for In-House Expert Consultant (Explain any departures from guidelines) <input type="checkbox"/> Yes <input type="checkbox"/> No B. Listed all documents and records reviewed in forming conclusion(s). <input type="checkbox"/> Yes <input type="checkbox"/> No C. Conclusion(s) reached were supported by analysis. <input type="checkbox"/> Yes <input type="checkbox"/> No D. Opinion(s) on standard of care were within the consultants' expertise. <input type="checkbox"/> Yes <input type="checkbox"/> No E. Avoided offering legal opinions in report. <input type="checkbox"/> Yes <input type="checkbox"/> No F. Avoided recommending penalty or punishment. <input type="checkbox"/> Yes <input type="checkbox"/> No	

