



Sunset Review Report 2011/2012

Physical Therapy Board of California

presented to the Senate Committee on Business, Professions and Economic Development

First Review: October 1997
Second Review: September 2001
Third Review: September 2005
This Review: November 2011/12
[Addendum: December 2012](#)



Physical Therapy Board of California





Physical Therapy Board of California

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December 1, 2012

Honorable Senator Curren Price
Senate Committee on Business, Professions and Economic Development
State Capitol, Room 2053
Sacramento, CA 95814

Dear Senator Price,

I am honored to present to you and the Senate Committee on Business, Professions and Economic Development (Committee), the 2011/12 Sunset Report for the Physical Therapy Board of California (PTBC). The report, originally prepared for the 2011 Sunset review period, has been updated to provide current information on the statistics, concerns and achievements of the PTBC. It responds to the questions of the Committee and details the activities and efforts of the PTBC in public protection.

The preparation of this report has provided the opportunity to review our accomplishments, assess our progress and chart our course for continuing the mission of consumer protection.

Contained in the report you will find the fruits of a proactive board. I can personally attest to the dedication and diligence of the Physical Therapy Board members, the Executive Officer, and the staff to uphold the responsibilities and duties of the PTBC in meeting consumer protection through effective regulation of physical therapy.

The business of the PTBC is not static with many significant changes and challenges in this Sunset review period. We think you will find a high level of professionalism and competence within our responses to these issues.

We have identified some current and potential challenges facing the regulation of physical therapy in California. They are contained within our New Issues section of the report. The Physical Therapy Board of California welcomes the Sunset review process as an opportunity to improve our activities and services to the consumers of physical therapy and the people of California.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Debra J. Alviso', written over a light blue circular stamp.

Debra J. Alviso, PT, DPT, OCS
President
Physical Therapy Board of California

Forward

This report was originally submitted by the Physical Therapy Board of California (PTBC) to the Senate Committee on Business, Professions and Economic Development (Committee) in 2011; however, the Committee deferred review of the PTBC report until 2012. Therefore, in lieu of submitting an addendum to the report, the updated information to the 2011 report is identified by the use of blue font.

Most of the questions remain the same from 2011 to 2012, but have been posed in a different order; a couple of questions have either been removed or added. In this report the questions remain in the order as they were posed in 2011; however, for ease of reading, the Table of Contents includes a cross reference from 2011 questions to 2012 questions. Finally Section 11, titled “New Issues,” of the 2011 report has been removed in its entirety and replaced with current issues as of 2012. The issues identified in the 2011 report are either no longer an issue, or were incorporated into the Proposed Practice Act language, which is “New Issue” number two in the 2012 report.



The Physical Therapy Board of California

Sunset Review Report

2011/2012

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Martha J. Jewell, PT, PhD.

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Section 1 Background and Description of the Board and Regulated Profession

Provide a short explanation of the history and function of the PTBC. Describe the occupations/profession that are licensed and/or regulated by the PTBC (Practice Acts vs. Title Acts).

History of the Physical Therapy Board of California

The Physical Therapy Practice Act was established in 1953, Chapter 1823 (AB 17) and Chapter 1826 (AB 1001), Statutes of 1953, creating the Physical Therapy Examining Committee (PTEC) under the auspices of the Medical Board of California (MBC). The Physical Therapy Practice Act mandates the regulation of physical therapy by the Physical Therapy Examining Committee. A “practice act” safeguards the public by regulating a defined scope of practice vs. a “title act” which merely restricts action to revoking a title with no restriction of practice.

The evolution of PTECs’ structure is as follows: 1953, PTEC was comprised of three physical therapists, one physician, and one public member; 1968, increased its physical therapist member positions from three to four with one physician and one public member remaining; and, in 1976, changed to three professional and three public members eliminating the physician member position. Chapter 991, Statutes of 1998 (SB 1980) again increased the number of physical therapist members by one for a total of seven members. The current composition of the Board remains as four physical therapist members and three public members. As a result of 1997 sunset review legislation, one of the physical therapist members is required to be an educator. The Governor appoints all professional members as well as one public member; the Senate Rules Committee appoints one public member; and the Speaker of the Assembly appoints one public member.

Initially, the PTEC regulated two forms of licensure: one required physical therapists to work under the direction of a physician, while the other permitted physical therapists to work independently. Chapter 1284, Statutes of 1968 (SB 1006) unified the two forms of licensure resulting in the physical therapist (PT) license. This licensure permitted all physical therapists to work independently.

Beginning in 1971, physical therapists were authorized to utilize assistive personnel if properly supervised by a physical therapist. That same year physical therapist assistants became licensed and were permitted to assist in the practice of physical therapy under the supervision of a licensed physical therapist. However, physical therapist assistants did not gain title protection until 1997. In 1973, physical therapists were also granted authority to utilize the

services of a physical therapy aide, an unlicensed person who performs patient related tasks under the direct and immediate supervision of a physical therapist.

Several legislative amendments occurred between 1971 and 1996 transferring administrative oversight previously designated to the MBC to the PTEC. One of those amendments, Chapter 829, Statutes of 1996 (AB 3473), renamed the “Physical Therapy Examining Committee” the “Physical Therapy Board of California.”

The PTBC took steps to remove itself from the oversight of the MBC. In 2004 the PTBC began utilizing the services of the DCA’s Division of Investigation (DOI) and subsequently absorbed its own probation monitoring responsibilities. In 2007, the PTBC, through a Budget Change Proposal (BCP), was authorized staff for its cashiering function.

To date there is one remaining statutory provision in the Physical Therapy Practice Act linked to the Medical Practice Act. Business and Professions Code section 2660(h) states:

“Conviction of a violation of any of the provisions of this chapter or of the Medical Practice Act, or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter or of the Medical Practice Act.”

This section authorizes the PTBC to cite violations of the Medical Practice Act in the absence of the authority within the Physical Therapy Practice Act.

Function of the Physical Therapy Board of California

The Physical Therapy Board of California (PTBC) protects the public from the incompetent, unprofessional, and fraudulent practice of physical therapy.

MISSION OF THE PHYSICAL THERAPY BOARD OF CALIFORNIA

To promote and protect the interests of the people of California by the effective and consistent administration and enforcement of the Physical Therapy Practice Act.

MISSION OF THE PHYSICAL THERAPY BOARD OF CALIFORNIA

To advance and protect the interests of the people of California by the effective administration of the Physical Therapy Practice Act.

This mission statement was created at the PTBC’s last strategic planning meeting and is scheduled to be adopted at the February Board meeting.

To meet this mission, the PTBC does the following:

- Promotes legal and ethical standards of professional conduct;
- Conducts background checks for all applicants;
- Promotes a national examination reflective of the current practice of physical therapy, in addition to a jurisprudence examination focused specifically on the laws and regulations of the State;
- Licenses physical therapists, and physical therapist assistants, and provides certification to qualified licensees to perform electromyography;
- Regulates physical therapy aides, an unlicensed person who aids physical therapists in the practice of physical therapy;
- Investigates complaints on physical therapists, physical therapist assistants, and unlicensed physical therapy practice;
- Takes disciplinary action and issues citations when appropriate;
- Conducts various outreach activities to provide the public, licensees, and potential licensees the most comprehensive and current information;
- Routinely develops a Strategic Plan to establish goals and objectives for the PTBC.

Profession of Physical Therapy

Physical therapy provides services to individuals and populations, from pediatric to geriatric, to develop, maintain, and restore maximum movement and functional ability. This includes providing services in circumstances where movement and function are threatened by aging, injury, diseases, disorders, conditions or environmental factors. Functional movement is crucial to maintaining a healthy body.

Physical therapy is concerned with identifying and maximizing quality of life and movement potential within the spheres of promotion, prevention, treatment/intervention, habilitation and rehabilitation. This encompasses physical, psychological, emotional, and social well-being. Physical therapy involves the interaction between the physical therapist, patients/clients, other health professionals, families, care givers and communities in a process where movement potential is assessed and goals are agreed upon, using knowledge and skills unique to physical therapists.

Physical therapists are professionally qualified for and, required to:

- undertake a comprehensive examination/assessment of the patient/client or needs of a client group
- evaluate the findings from the examination/assessment to make clinical judgments regarding patients/clients
- formulate a prognosis and treatment plan

- provide consultation within their areas of knowledge and experience and determine when patients/clients need to be referred to another healthcare professional
- implement a physical therapist intervention/treatment program
- determine the outcomes of any interventions/treatments
- make recommendations for self-management

The physical therapists' extensive knowledge of the body and its movement needs and potential is central to determining strategies for intervention. The practice settings will vary according to whether the physical therapy is concerned with health promotion, prevention, treatment/intervention, habilitation or rehabilitation. Physical therapy is an essential part of the health and community/welfare services delivery systems. Physical therapists practice independently of other health care/service providers and also within interdisciplinary rehabilitation/habilitation programs that aim to prevent movement disorders or maintain/restore optimal function and quality of life in individuals with movement disorders.

1. Describe the make-up and functions of each of the board's committees.

In prior years, the PTBC established two committees: a Licensing Committee, and a Practice Issues Committee. The Licensing Committee was delegated the authority to make decisions on qualifications of applicants. The Practice Issues Committee was delegated the authority to address all practice related issues.

Both committees were disbanded at the May 2006 PTBC meeting due to the number of Board member vacancies, and neither committee has been reinstated. The full Board now hears all issues relating to licensing, and physical therapy practice.

Since then, due to the evolution of the practice of physical therapy, the Board has had a rising number of inquiries from licensees and consumers requesting clarification on physical therapy scope of practice. When appropriate, the Board has addressed clarification and organization through regulation.

2. In the past four years, was the PTBC unable to hold any meetings due to lack of quorum? If so, please describe. Why? When? How did it impact operations?

The PTBC has had a quorum at all meetings in the last **five** years.

3. Describe any major changes to the PTBC since the last Sunset Review, including:

- **Internal changes (i.e., reorganization, relocation, change in leadership, strategic planning)**

Reorganization/Change in Leadership

In 2006, the PTBC gained authorization for a Staff Services Manager position to serve as the Assistant Executive Officer (AEO), relieving the Executive Officer of the entire managerial and administrative functions for a staff of 11 authorized positions and 8 temporary help positions. Section 3, question 14 of this report will further describe the staffing growth to its current level of 18 authorized positions and 17 temporary help positions and the obstacles resulting from high temporary help staffing levels.

The need for large numbers of temporary positions is primarily a result of the Board's unsuccessful attempts in gaining budgetary authority for permanent positions. These attempts failed for various reasons. However, in 2007, the PTBC was successful in obtaining a .5 position budget augmentation so that it could assume the responsibility for its cashing program from the Medical Board of California.

In 2010, in addition to its current regulatory responsibilities, the PTBC was legislatively mandated to implement a Continuing Competency program. As a result, PTBC was authorized one Staff Services Analyst (SSA) and one Office Technician (OT) positions approved through a Budget Change Proposal (BCP). During this time, the Governor's hiring freeze was in place, which constrained the recruitment process. While, PTBC was successful in receiving an exemption to fill the SSA position, the OT position remained vacant and was eventually abolished.

In 2011, the Department of Consumer Affairs (DCA) developed a Consumer Protection Enforcement Initiative (CPEI) and funded it through a BCP. As a result of the BCP, the PTBC gained budget authority for a Staff Services Manager (SSM) to manage the PTBC's Consumer Protection Services (CPS) program. The new position allowed for the restructuring of the staff. CPS staff was placed under the management of the new CPEI SSM. In addition, the SSM position assigned to manage the Application and Licensing and Administrative Services programs were no longer identified as Assistant Executive Officer. The PTBC also gained a .5 Special Investigator (non-sworn peace officer) position, the first investigator position authorized and dedicated specifically to the PTBC. In 2011, the PTBC's Executive Officer of 22

years retired. The PTBC subsequently appointed the Assistant Executive Officer to the position which resulted in a seamless transition for both the PTBC members and the staff.

Currently, the PTBC has 12.0 authorized positions, 2.8 blanket positions and no vacancies.

The PTBC has been faced with several challenges in staffing issues that have adversely impacted the PTBC's productivity. Specifically, the PTBC lacks sufficient staffing levels and has historically relied heavily on temporary staff (blanket positions) in order to maintain its ongoing workload.

In 2012, the PTBC was required to significantly reduce its staffing levels. The PTBC lost 3.5 limited term Analyst positions, .4 Special Investigator position and two Student Assistants. In efforts to maintain the most critical workload of the departing staff, workload was redirected to existing staff. In previous years, the PTBC has had minimal staff turnovers, but with the recent increased workload demands on staffing and the loss of positions, the PTBC has had several turnovers within the past year.

The PTBC is making every effort to meet its highest priority of protecting the consumers with its existing resources. Unfortunately, as the workload continues to grow, backlogs continue to increase. The volume of workload per staff member is not feasible.

The PTBC's staffing levels and contributing factors resulting in the staffing challenges are further defined in Section 3.

Relocation

In March 2008, one year later than projected, the PTBC moved from its location on Howe Avenue to its current location at Evergreen Street. By the time the move took place, the PTBC had already outgrown its new space. The PTBC began seeking additional space soon after the move. The new space was needed because of the addition of six positions created by the Consumer Protection Services Initiative and the amendment to Business and Professions Code section 2676, authorizing the addition of the Continuing Competency Services (CC) program. The PTBC is considering vacant space in the DCA's North Market Street Building for relocation. Some of the determining factors to be considered prior to a commitment to relocate include relocation costs, tenant improvements and rent differential. Moving to the Market Street location would require minimal tenant improvements, increase needed space, and would provide immediate access to the DCA services resulting in a reduction in travel expenditures.

Due to budget constraints the Board has determined it will remain at its current location.

Strategic Planning

In 2009, the PTBC established a multi-year strategic plan identifying goals and objectives addressing issues and trends impacting the profession of physical therapy. At each meeting, the PTBC measures the progress achieved towards meeting their objectives. In anticipation of continued regulation of physical therapy by the PTBC, a strategic planning meeting will be scheduled in 2012.

The Board's strategic planning meeting is scheduled for November 6, 2012.

- **All legislation sponsored by the board and affecting the board**

Legislative Actions

The following legislative actions were submitted and/or enacted since the last sunset review. For each bill, only the affected sections contained within the Physical Therapy Practice Act [commencing with Business and Professions (B&P) Code section 2600], General Provisions of the B&P Code, or sections of other Codes pertaining to the PTBC are listed.

1. Bill Number: SB 1236 (Price)
Subject Matter: Sunset Extension
Sections Affected: B&P Code §2602 & §2607.5
Effective Date: January 1, 2013

Summary: This statute extends the Board's sunset date until January 1, 2014.
2. Bill Number: SB 924 (Price)
Subject Matter: Direct Access to Physical Therapy/Professional Corporations
Sections Affected: B&P Code §2406, §2604.5, §2620.1, §2690, §2694.5, and Corporations Code §13401.5
Effective Date: *This bill failed to pass; it was re-referred to the Assembly Committee on Rules on August 27, 2012.*

Summary: This bill would have permitted patients to access physical therapy treatment directly, as specified. This bill would have also amended Section 13401.5 of the Corporations Code authorizing physical therapists and occupational therapists to be shareholders, officers, directors, or professional employees of a medical, podiatric medical or chiropractic corporation. This bill would have added physical therapy

corporations to the Moscone-Knox Professional Corporation Act identifying who, other than physical therapists, may be shareholders, officers, directors, or professional employees of a physical therapy corporation, as specified.

3. Bill Number: SB 543 (Steinberg and Price)
Subject Matter: Physical Therapist Employment
Sections Affected: B&P Code §2674
Effective Date: January 1, 2012

Summary: This law prohibits the Physical Therapy Board of California (PTBC) from taking action against a physical therapist licensee solely for providing services as a professional employee of a medical, podiatric medical, or chiropractic corporation. The PTBC is not prohibited from taking action against licensees regulated by the Board for violations of the Physical Therapy Practice Act. This law has a sunset date of January 1, 2013.

4. Bill Number: AB 2382 (Blumenfield) Chapter 425, Statutes of 2010
Subject Matter: California State University: Doctor of Physical Therapy
Sections Affected: Education Code Article 4.7 (commencing with Section – 66042) & 66042.3
Effective Date: January 1, 2011

Summary: Prior to this law, California State University (CSU) physical therapist programs were prohibited from awarding a Doctor of Physical Therapy degree. In 2009, the Commission on Accreditation in Physical Therapy Education (CAPTE) adopted a proposal requiring all physical therapist education programs to be at the doctoral level by 2015. Therefore, the CSU physical therapist programs would no longer be accredited by CAPTE after 2015 (There are four PTBC accredited CSU physical therapist programs). This law creates an exception to the Master Plan for Higher Education by providing CSUs the authority to award the Doctor of Physical Therapy degree.

5. Bill Number: SB 1111- Consumer Protection Enforcement Initiative

(Negrete McLeod)

Subject Matter: Enforcement Program Improvements
Sections Affected: B&P Code §2669.2 & numerous General Provisions
Effective Date: *This bill failed to pass the Senate Business, Professions and Economic Development Committee on April 22, 2010.*

Summary: In July 2009, Governor Schwarzenegger directed the State and Consumer Services Agency (SCSA) to conduct an internal review of all the DCA board's enforcement programs due to reports of unacceptable investigation and enforcement processing delays of the Board of Registered Nursing (BRN). The audit indicated most healthcare boards had significant investigation backlogs because of delays within the DCA Division of Investigation, the Attorney General's Office and the Office of Administrative Hearings. Ultimately, the DCA developed a new Enforcement Model to replace old enforcement processes. The DCA sought statutory change via the introduction of SB 1111, the Consumer Protection Enforcement Initiative (CPEI), to implement the new Enforcement Model. Though SB 1111 failed to pass the Legislature, the DCA requested all boards promulgate regulations from CPEI components. For further information regarding the PTBC's proposed CPEI regulation, refer to question number 58.

6. Bill Number: AB 2699 (Bass) Chapter 270, Statutes of 2010

Subject Matter: Licensure Exemption
Sections Affected: B&P Code §900 & 901
Effective Date: January 1, 2011

Summary: This law mandates the PTBC, and other DCA health boards, to offer licensure exemption for licensed out-of-state health care practitioners to practice in California for the sole purpose of voluntary participation in a sponsored free health care event to provide care to underserved persons. The licensure exemption is for a limited time period, and the out-of-state licensee and the sponsoring entity must register with the PTBC.

7. Bill Number: SB 1172 (Negrete McLeod) Chapter 517, Statutes of 2010
Subject Matter: Licensee Positive Drug Test
Sections Affected: B&P Code §156.1, 315.2 & 315.4
Effective Date: January 1, 2011

Summary: This law mandates that all boards shall require a licensee to cease practice if the licensee tests positive for any substance prohibited under the terms of the licensee's probation, or diversion program. This law states the order to cease practice does not constitute disciplinary action.

8. Bill Number: AB 2111 (Smyth) Chapter 301, Statutes of 2008
Subject Matter: Exam Requirements, Fee Increases, and Disciplinary Action
Sections Affected: B&P Code §2605, 2636, 2636.1, 2637, 2655.4, 2655.5, 2660.3, 2660.7 & 2688
Effective Date: January 1, 2009

Summary: This law revised and reorganized examination requirements for physical therapist and physical therapist assistant applicants, and authorized the PTBC to take action on an applicant or licensee who undermines the integrity of either exam. In order for the PTBC to maintain its services, this law permitted the PTBC to increase its fees. In addition, this law provided the PTBC the authority to issue a public letter of reprimand as an alternative to filing a formal accusation against a licensee.

9. Bill Number: SB 1441 (Ridley-Thomas) Chapter 548, Statutes of 2008
Subject Matter: Substance Abuse Coordination Committee
Sections Affected: B&P Code §315, 2663, 2665 & 2666
Effective Date: January 1, 2009

Summary: In 2008, the Medical Board of California allowed its diversion program to sunset after receiving a great deal of criticism regarding its performance. This prompted the Senate Business, Professions and Economic Development Committee to hold an informational hearing on other boards'

diversion programs. As a result, SB 1441 was introduced and chaptered into law mandating the DCA to establish a committee for developing substance-abuse standards for all boards by January 1, 2010.

10. Bill Number: AB 299 (Tran) Chapter 130, Statutes of 2007

Subject Matter: License Renewal
Sections Affected: B&P Code §2684
Effective Date: January 1, 2008

Summary: This law changed “12 a.m.” to “midnight” in reference to license expiration.

11. Bill Number: SB 1049 (Committee on Business, Professions and Economic Development) Chapter 587, Statutes of 2007

Subject Matter: Executive Officer Position
Sections Affected: B&P Code §2607.5
Effective Date: October 13, 2007

Summary: As a result of the PBTC’s 2005 sunset review, Chapter 658, Statutes of 2006 (SB 1476) extended the existence of the PTBC; however, B&P Code §2607.5, the authority for the PTBC to appoint an Executive Officer was not extended. This law extended that authority.

12. Bill Number: AB 120 (Cohn) Chapter 540, Statutes 2006

Subject Matter: Continuing Competency
Sections Affected: B&P §2676
Effective Date: January 1, 2007

Summary: In the 2001 and 2005, as a part of sunset review, the PTBC recommended adding continuing competency as a license renewal requirement. In 2006, the PTBC was successful in obtaining the authority to implement a continuing competency program with the passage of AB 120.

13. Bill Number: AB 2868 (Bogh) Chapter 222, Statutes of 2006

Subject Matter: Use of Titles
Sections Affected: B&P Code §2633
Effective Date: January 1, 2007

Summary: The passage of AB 2868 mandates physical therapists to identify their doctoral degree in physical therapy or a related health science as defined by regulation. This applies to those licensees who choose to identify themselves as “doctor” in written or verbal communication.

14. Bill Number: SB 1476 (Figueroa) Chapter 658, Statutes of 2006
Subject Matter: Sunrise Legislation, Cause for Denial of Licensure, Diversion Program Cost Recovery
Sections Affected: B&P Code §2602, 2660.2 & 2668
Effective Date: January 1, 2007

Summary: The Joint Committee on Boards, Commissions and Consumer Protection recommended the PTBC remain in existence for the continued regulation of the physical therapy profession. In addition to extending the PTBCs’ sunset date, this bill mandated that the PTBC deny an applicant licensure if an applicant is required to register pursuant to the Sex Offender Registration Act, Section 290 of the Penal Code. This bill also provided the authority for the PTBC to require licensees participating in the diversion program to pay the full cost of their participation.

- **All proposed regulations initiated since the board’s last sunset review.**

Regulatory Actions

The following regulatory changes were enacted by the Board since the last sunset review and/or are currently in progress:

1. Subject Matter: Sponsored Free Health Care Events
Sections Affected: CCR 1400, 1400.1, 1400.2 and 1400.3
Effective Date: *The proposed regulatory language is set for hearing at the November 2011 Board meeting.*

Summary: Pursuant to the passage of AB 2699 (Chapter 270, Statutes of 2010), the PTBC collaborated with the DCA to develop specific criteria for out-of-state licensees to receive licensure exemption approval. The overall proposed regulatory language applies to multiple boards; however, aspects of the language are board specific.

The final language has been submitted to the Office of Administrative Law (OAL).

2. Subject Matter: Delegation of Functions
Sections Affected: CCR 1398.4
Effective Date: *The proposed regulatory language was heard at the May 2010 Board meeting and has been adopted by the Board. The proposed language is being finalized by staff for submission to the DCA, then the State and Consumer Services Agency (Agency).*

Summary: The PTBC has statutory authority to employ an Executive Officer (EO) to perform the duties delegated by the Board. In current regulation, except for those powers defined under the Administrative Procedure Act (APA), the Board delegates to the Executive Officer all functions necessary to the dispatch of business in connection with investigative and administrative proceedings under the jurisdiction of the PTBC. This regulatory proposal would authorize the Executive Officer to delegate this function to the Assistant Executive Officer or other designee.

This regulation became effective August 16, 2012.

3. Subject Matter: Credential Evaluation Tool for Foreign Educated Applicants
Sections Affected: CCR 1398.26.1
Effective Date: *The proposed regulatory language was filed with the Secretary of State on September 29, 2011 and will be effective 30 days thereafter.*

Summary: The existing regulation requires credential evaluation services, approved pursuant to section CCR section 1398.25, utilize the Physical Therapy Board's Entry Level Education Equivalency

Review forms (ELEER) for evaluating the credentials of all physical therapist applicants educated outside the United States (U.S.) to determine substantial equivalency to U.S. requirements. The PTBC proposes to amend the existing regulation by replacing the current requirement to use the PTBC's ELEER with the Federation of State Boards of Physical Therapy's (FSBPT) Course Work Tool (CWT) to be consistent with national standards. In addition, the FSBPT's CWT is the only tool that has been studied for validity and reliability.

[This regulation became effective October 29, 2012.](#)

4. Subject Matter: Model Guidelines for Issuing Citations and Imposing Discipline
Sections Affected: CCR 1399.15
Effective Date: *The proposed regulatory language is set for hearing at the November 2011 Board meeting.*
- Summary: The PTBC was compelled to update the Model Guidelines for Issuing Citations and Imposing Discipline (Guidelines) due to the passage of SB 1441 (Chapter 548, Statutes of 2008), and the Consumer Protection Enforcement Initiative (CPEI) developed by the DCA. The Model Guidelines are recommended disciplinary actions for the Board to consider when taking action against an applicant or licensee, and are incorporated by reference in CCR section 1399.15.

[The final language has been submitted to the OAL.](#)

5. Subject Matter: Required Actions Against Registered Sex Offenders
Sections Affected: CCR 1399.23
Effective Date: *The proposed regulatory language was heard at the May 2010 Board meeting and has been adopted by the Board. The proposed language is being finalized by staff for submission to the DCA, then the State and Consumer Services Agency (Agency).*
- Summary: The PTBC currently has the authority to deny an applicant a license or discipline a licensee if the applicant or licensee is required to register pursuant to Penal Code section 290. This

proposed regulation specifically defines the required PTBC action if an applicant for licensure, licensee, or petitioner for reinstatement of a revoked license is required to register pursuant to Penal Code section 290 in addition to providing the circumstances exempt from this requirement.

[This regulation became effective August 16, 2012.](#)

6. Subject Matter: Unprofessional Conduct
Sections Affected: CCR 1399.24
Effective Date: *The proposed regulatory language was heard at the May 2010 Board meeting and has been adopted by the Board. The proposed language is being finalized by staff for submission to the DCA, then the State and Consumer Services Agency (Agency).*

Summary: Business and Professions Code section 2660 authorizes the PTBC to take disciplinary action against a licensed physical therapist or physical therapist assistant for unprofessional conduct as defined within the section. This regulatory proposal would define additional causes for unprofessional conduct.

[This regulation became effective August 16, 2012.](#)

7. Subject Matter: Assistive Personnel Supervision
Sections Affected: CCR 1398.13, 1398.44& 1399
Effective Date: July 14, 2011

Summary: In 2008, the PTBC created the Assistive Personnel Task Force (APTF) to study supervision regulations current in 2008 for their applicability to the profession's practices. As a result of the APTF's recommendations, two significant requirements were added: the physical therapist of record must be clearly identified through a written system of transfer and the establishment of aide competency by the physical therapist of record.

8. Subject Matter: Continuing Competency
Sections Affected: CCR Article 13 (commencing with section 1399.90)
Effective Date: November 6, 2009

Summary: The passage of AB 120 (Chapter 120, Statutes of 2006) authorized the PTBC to develop and implement a continuing competency program. As a result, the PTBC created the Continuing Competency Task Force (CCTF). The CCTF formulated recommendations for the establishment of a continuing competency (CC) program from which the PTBC promulgated regulations.

9. Subject Matter: Related Health Science

Sections Affected: CCR 1398.12

Effective Date: April 23, 2009

Summary: The passage of AB 2868 (Chapter 222, Statutes of 2006) added §2633 to the Business and Professions Code (B&P). B&P Code §2633 authorized physical therapists holding a doctoral degree in physical therapy or in a related health science as defined in regulation, to use the term “doctor.” The PTBC established this regulation to define the health science degrees that apply under B&P Code §2633.

10. Subject Matter: Administrative Citations

Sections Affected: CCR 1399.25 & 1399.26

Effective Date: January 8, 2009

Summary: Existing regulations at the time did not provide all-inclusive language as to what constitutes a citable violation. This regulation expands the PTBC’s authority to issue citations and assess fines. In addition, this regulation clarifies withdrawn and dismissed citations are to be destroyed immediately upon withdrawal or dismissal.

In addition to the list above, the following regulatory changes have since been approved by the Board:

Subject Matter: Mandatory Fingerprinting

Sections Affected: CCR 1398.14, 1399.80 and 1399.98

Approved by Board: 5/2012

Status: Hearing held May 10, 2012

Summary: Requires a licensee to provide criminal history information and respond to the board within 30 days; requires the

licensee to provide accurate responses and make available requested records; and, requires a person licensed by the Board prior to January 1, 1998 or for whom an electronic fingerprint record no longer exists to furnish fingerprints.

Subject Matter: Notice to Consumers
Sections Affected: CCR 1398.14
Approved by Board: 8/2012
Status: Notice of Regulatory Change published 9/21/2012
Hearing scheduled for 11/8/2012

Summary: Requires physical therapists to notify consumers that physical therapists and physical therapist assistants are licensed and regulated by the Physical Therapy Board of California.

Subject Matter: Required E-mail Filing
Sections Affected: CCR 1398.6
Approved by Board: 8/2012
Status: Notice of Regulatory Change published 9/21/2012
Hearing scheduled for 11/8/2012

Summary: Further clarifies address reporting requirements and adds an e-mail filing requirement for licensees and applicants.

4. Describe any major studies conducted by the Board

The PTBC conducted studies since its last sunset review which resulted in the following:

- Establishment of continuing competency regulations (2007)
- Modernization of supervision regulations (2008)
- Verification of the National Physical Therapy Examination (NPTE) validity (2011)
- Update of the disciplinary guidelines (2011)

These studies required substantial effort and funds to research important issues affecting the consumer, the PTBC, and its licensees. At the conclusion of each study, recommendations were presented to the Board for possible action to either implement new regulations or practices, or make a decision based on the findings. A summary of each of these studies is provided below.

Continuing Competency Task Force

The PTBC was granted the authority to implement a Continuing Competency (CC) program pursuant to Section 2676 of the Business and Professions Code by the passage of AB 120 (Chapter 540, Statutes of 2006). While the PTBC had the authority to develop a CC program, the Board needed to specify the program requirements in regulations and so created the Continuing Competency Task Force (CCTF).

In order to ensure that physical therapists and physical therapist assistants remained competent in their profession and to maximize simplicity and flexibility for licensees, course providers, and the PTBC, the Board established the following:

- Continuing competency requirements for physical therapist and physical therapist assistants
- Course versus non-course pathways to CC credit definitions
- A waiver process for those on inactive status
- If specific content merits additional credit and if a limitation should be applied to a certain content
- Content domains
- Ideal licensee documentation/development plan/portfolio
- An audit process of licensees

The CCTF conducted research to compare and contrast existing continuing competency practices in other states and in other professions within the state. This research resulted in the development of standards consistent with guiding principles. The regulations were ultimately promulgated and became effective November 6, 2009. Details on the progress of this program are provided under question #20.

Assistive Personnel Task Force

In 2008, The Assistive Personnel Task Force (APTF) was formed to study the applicability of the PTBCs' supervision regulations to the profession's practices. The task force developed recommendations to:

- Identify the physical therapist of record as it relates to the supervision of physical therapist assistants and aides
- Establish duties and functions of physical therapist assistants and aides
- Provide a method for determining aide competency
- Establish documentation requirements

In developing recommendations, the APTF considered other states' practice acts as well as the Federation of State Board of Physical Therapy (FSBPT) Model Practice Act regarding supervision and documentation requirements.

The PTBC promulgated regulations from the APTF's recommendations resulting in the implementation of updated supervision and documentation requirements. The regulations went into effect July 14, 2011.

National Physical Therapy Examination Validity

In July 2010, the Federation of State Boards (FSBPT) notified the public that the National Physical Therapy Examination (NPTE) had been compromised.

The FSBPT believed the responsible parties were educated in four specifically identified foreign countries and therefore, suspended testing solely for those exam candidates in those four countries. The FSBPT conducted an investigation and obtained evidence to substantiate this allegation. However, the FSBPT was unable to share that evidence with the PTBC. As a result, the PTBC faced concerns not only about the integrity of the exam but also about a potential violation of the Civil Rights Act of 1964 based upon Nation Origin discrimination. The PTBC decided that some research was necessary to determine if FSBPT's actions were warranted.

Therefore, the PTBC contracted with Norman Hertz, Ph.D., of Comira, an agency specializing in test development and administration, to conduct a psychometric assessment. Due to confidentiality provisions signed by the PTBC in order to allow Dr. Hertz access to the FSBPT's information, the PTBC cannot release the specific results of the analysis; however, the PTBC received assurance that the FSBPT's actions were justified. The PTBC did not terminate its contract with the FSBPT based on this issue, and has accepted the FSBPT's action regarding the exam.

In order to reduce the possibility of compromising future tests, the FSBPT eliminated continuous testing and implemented fixed-date testing. For further information see Section 4.

Disciplinary Guidelines

In October 1996, the Board adopted the Disciplinary Guidelines for Issuing Citations and Imposing Discipline (Disciplinary Guidelines), a document which provides staff and Board members with suggested disciplinary action relative to any specific violations of the Physical Therapy Practice Act or other statutes impacting or affecting the practice of physical therapy. The proposed disciplinary actions outlined in the Model Guidelines are not mandatory but provide a range of consequences. The Model Guidelines are incorporated by reference in

California Code of Regulations section 1399.15. In the event of applicable statutory or regulatory change, the document is revised to accurately reflect the most current information. Recently, multiple enforcement program changes required the PTBC to conduct its latest revision of the Disciplinary Guidelines. The implementation of SB 1441 Uniform Standards Regarding Substance-Abusing Healing Arts Licensees (Uniform Standards), the development of the Consumer Protection Enforcement Initiative (CPEI) by the DCA, and the anticipated implementation of licensure exemption regulations for specified licensee required guideline changes.

In 2008, SB 1441, authored by Senator Ridley-Thomas, Chair of the Business, Professions and Economic Development Committee (BP&ED), addressed concerns with the healing arts diversion programs that are used for licensee rehabilitation from drug and alcohol abuse. SB 1441 mandated the formation of a Substance Abuse Coordination Committee (SACC) within the DCA to develop uniform standards for, and make changes to the structure of, current diversion programs. The SACC meetings commenced March 3, 2009, and continued until the final establishment of the Uniform Standards in April 2010.

In July 2009, Governor Schwarzenegger directed the State and Consumer Services Agency (SCSA) to conduct an internal review of all the DCA boards' enforcement programs because of reports of unacceptable delays in the investigation and enforcement of discipline within the Board of Registered Nursing (BRN). The audit indicated healthcare boards had significant investigation backlogs because of delays within the DCA Division of Investigation, the Attorney General's Office and the Office of Administrative Hearings as well as staffing shortfalls.

Ultimately, the DCA developed a new Enforcement Model to replace old enforcement processes. The DCA sought statutory change via the introduction of SB 1111, the CPEI, to implement the new Enforcement Model. Though SB 1111 failed to pass, the DCA requested all boards promulgate regulations from CPEI components.

In 2010 legislation was enacted permitting temporary practice in California by an out-of-state licensee if the out-of-state licensee is participating in a sponsored free health care event that provides care to underserved populations. The DCA drafted generic regulatory language that would apply to all health care boards. Each board then developed elements of the regulation language to make it specific to the individual board. Though this legislation does not relate specifically to enforcement, the PTBC needed to develop consequences for violating the program requirements.

Over the past year, the PTBC simultaneously drafted regulations for: components of the CPEI, sponsored free health care events, and the SB 1441 Uniform Standards, while including related language in the Disciplinary Guidelines. Each revision of the Disciplinary Guidelines

was presented to the Board for its consideration, and was made available for public comment. At the February 16 & 17, 2011 PTBC meeting, the Board appointed a task force to conduct a study of the Disciplinary Guidelines ensuring they were consistent with the CPEI components, SB 1441 Uniform Standards, and that they appropriately address violations of the future sponsored health care events regulations. The task force completed its analysis of the Disciplinary Guidelines, and staff presented the finalized Disciplinary Guidelines to the Board at the August 3 & 4, 2011 PTBC meeting. The Board directed staff to notice the Disciplinary Guidelines language for hearing at the November 2 & 3, 2011 PTBC meeting.

[Audit of the Physical Therapy Board of California by the Bureau of State Audits](#)

At the request of Assembly Member Mary Hayashi, the Joint Legislative Audit Committee (JLAC) directed the Bureau of State Audits (BSA) to conduct an audit of the PTBC's relationship with professional organizations and its handling of complaints against physical therapists. On June 26, 2012 the audit results were released in a report by the BSA.

While there were minor findings by the BSA, which must be responded to by the PTBC (and DCA), there were no findings substantiating the allegations of inappropriate relationships with professional organizations within the profession or its handling of complaints against physical therapists. Those findings were as follows:

- Explore the feasibility of establishing a state position to perform the duties of the in-house consultant
- Develop a process for evaluating expert consultants including the in-house expert consultant
- The Department of Consumer Affairs shall establish procedures to ensure that Board members attend Board Member Orientation and complete the required ethics training
- Notify the Department of Consumer Affairs promptly when Board members are appointed or separated from office

The estimated cost of the audit to the PTBC remains \$188,000 which is to be paid from the Physical Therapy Board fund supported by licensing and renewal fees.

5. List the status of all national associations to which the board belongs.

- **Does the board’s membership include voting privileges?**
- **List committees, workshops, working groups, task forces, etc., on which board participates.**
- **How many meetings did board representative(s) attend? When and where?**
- **If the board is using a national exam, how is the board involved in its development, scoring, analysis, and administration?**

The PTBC belongs to the Federation of State Boards of Physical Therapy (FSBPT). The FSBPT consists of member boards from each of the 50 states, the District of Columbia, Puerto Rico, and the Virgin Islands. In addition to member boards, individuals may be Associate Members. The mission of FSBPT *“is to protect the public by providing service and leadership that promote safe and competent physical therapy practice.”* In order to accomplish its mission the FSBPT develops, maintains and administers the National Physical Therapy Examinations for physical therapists and physical therapist assistants.

The FSBPT has developed and validated a Coursework Tool for member boards to use when evaluating substantial equivalency of foreign educated physical therapists’ education. The FSBPT is currently developing tools that member boards may choose to use to evaluate the continuing competency of their licensees when the licensee renews his/her license.

Each year the Board elects a member to be the California Delegate to the FSBPT Assembly of Delegates, which consists of delegates elected by each state board. The delegate attends the FSBPT annual meeting as a voting member of the Assembly. Each delegate has the right to attend, speak, make motions, nominate, and vote at the annual meeting. Delegates and Associate Members may also be asked to serve on committees and task forces of the FSBPT. The annual meeting consists of both the meeting of the Assembly of Delegates where direction and policy of the FSBPT is voted on and educational sessions on topics pertinent to the regulation of practice. The Executive Officer of the PTBC also attends the meetings and may serve on committees and task forces and run for office on the FSBPT Board of Directors.

The following chart demonstrates the PTBC Board members' participation in FSBPT activities in the last **five** fiscal years:

Board Member	Event/Committee	Location
Debra J. Alviso, PT, DPT	Annual Meeting 2007: Alternate Delegate Annual Meeting 2008: Alternate Delegate Annual Meeting 2009: Board of Directors Candidate Annual Meeting 2010: Alternate Delegate Finance Committee 2010, 2011** Continuing Competency Committee: 2008, 2009, 2010, 2011** NPTE Summit 2011* Board Of Directors/Leadership Committee 2009	Memphis, TN. Minneapolis, MN. San Diego, CA. Denver, CO. Alexandria, VA. Alexandria, VA. Dallas, TX. Alexandria, VA.
Donald A. Chu, PT, Ph.D.	Annual Meeting 2011: Alternate Delegate***	Charlotte, NC
Marty Jewell, PT, Ph.D.	Annual Meeting 2007: Alternate Delegate Annual Meeting 2008: Alternate Delegate Annual Meeting 2009: Alternate Delegate Annual Meeting 2010: Voting Delegate Annual Meeting 2011: Voting Delegate*** NPTE Summit 2011* Exam Security Committee 2011**	Memphis, TN. Minneapolis, MN. San Diego, CA. Denver, CO. Charlotte, NC. Dallas, TX. Alexandria, VA.
Sara Takii, PT, DPT	Annual Meeting 2007: Voting Delegate Annual Meeting 2008: Voting Delegate Annual Meeting 2009: Voting Delegate Foreign Educated Standards Committee 2010** Board Member Training 2007 **	Memphis, TN. Minneapolis, MN. San Diego, CA. Alexandria, VA. Alexandria, VA.
James E. Turner	Annual Meeting 2008: Alternate Delegate Annual Meeting 2009: Alternate Delegate	Minneapolis, MN. San Diego, CA.

*Invited to attend as an individual licensee not as a PTBC representative.

**Attendance was as a member of a Committee, not as a delegate representing the PTBC.

***The delegates for California, nor the Executive Officer, traveled to the 2011 Annual Meeting in Charlotte, NC, since both in-state and out-of state non-discretionary travel was restricted by Executive Order B-06-11.

***The delegates for California, nor the Executive Officer, traveled to the 2012 Annual Meeting in Indianapolis, IN, since both in-state and out-of state non-discretionary travel was restricted by Executive Order B-06-11.

Board members and staff have been prohibited from all travel that is not considered mission critical. Per Budget Letter 12-05:

Mission critical does not mean travel to attend:

- Conferences, meetings or seminars (even those that historically have been attended or if a request has been made for your department or an individual to make a presentation)
- Networking opportunities
- Professional development courses
- Continuing education classes/seminars

The PTBC is currently using the national examination required by B&P Code §2636, which is developed, scored, analyzed, and administered by the FSBPT. The PTBC is involved in the development, analysis, score setting, validation and administration of the National Physical Therapy Examination (NPTE) through its participation in the FSBPT committees, task forces, summits and Delegate Assembly. The PTBC's membership in the FSBPT affords licensees mobility from state to state and promotes California's workforce.

Section 2 Performance Measures and Consumer Satisfaction Surveys

6. Provide each quarterly and annual performance measure report as published on the Department of Consumer Affairs (DCA) Web site.

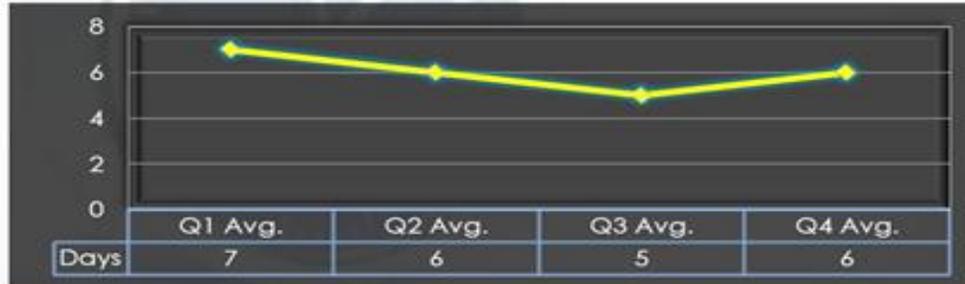
 No data to report or not applicable

Performance Measures Annual Report (2010 – 2011 Fiscal Year)

Intake

Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.

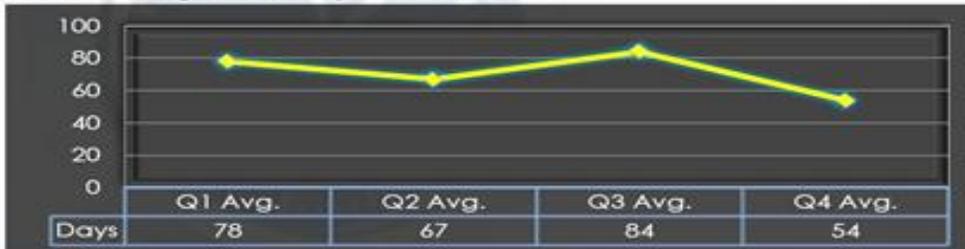
The Board has set a target of 5 days for this measure.



Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.

The Board has set a target of 90 days for this measure.



Volume

Number of complaints and convictions received.

The Board had an annual total of 1,799 this fiscal year.

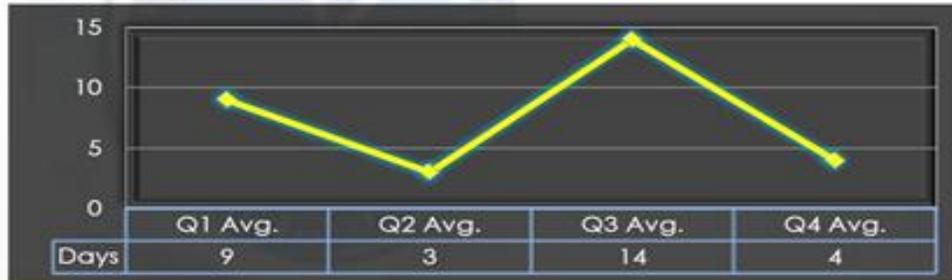


Performance Measures Annual Report (2010 – 2011 Fiscal Year)

Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

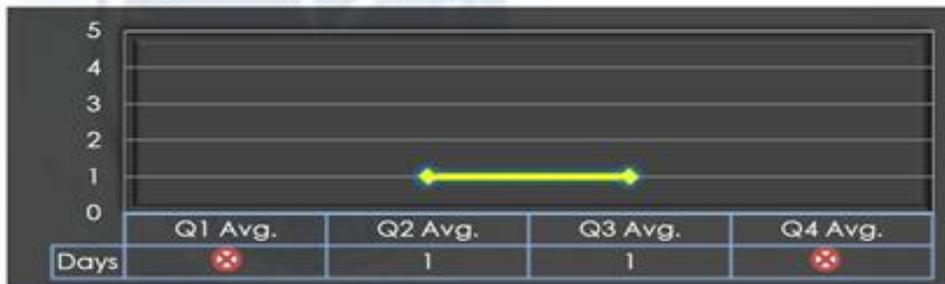
The Board has set a target of 5 days for this measure.



Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

The Board has set a target of 7 days for this measure.



Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board, and prosecution by the AG)

The Board has set a target of 540 days for this measure.



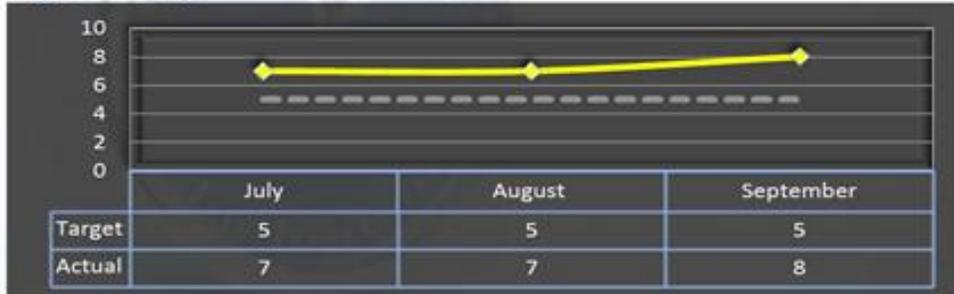
Performance Measures First Quarter Report (July – Sept 2010)

Intake

Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.

Target: 5 Days

Q1 Average: 7 Days



Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.

Target: 90 Days

Q1 Average: 78 Days



Volume

Number of complaints received.*

Q1 Total: 497 (Complaints: 435 Convictions: 62)

Q1 Monthly Average: 166



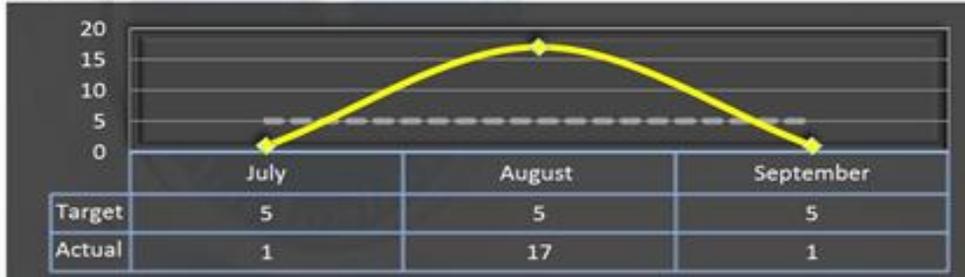
Performance Measures First Quarter Report (July – Sept 2010)

Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

Target: 5 Days

Q1 Average: 9

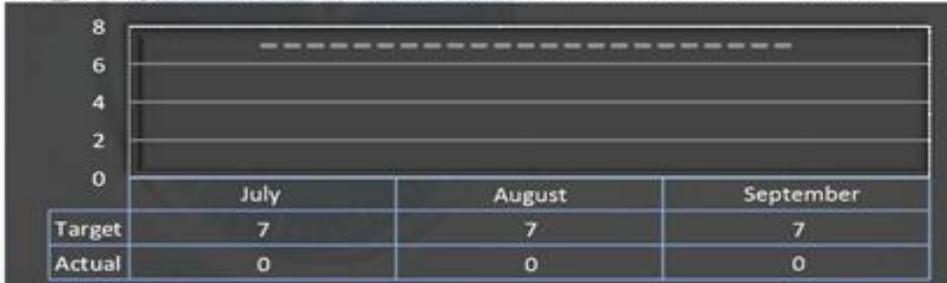


Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

Target: 7 Days

Q1 Average: N/A - NO PROBATION VIOLATIONS REPORTED



Formal Discipline

Average cycle time from complaint receipt to closure, for cases sent to the Attorney General or other forms of formal discipline.

Target: 540 Days

Q1 Average: 567 Days



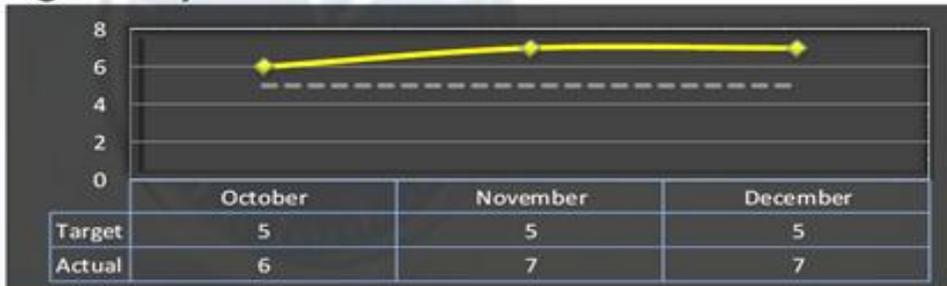
Performance Measures Second Quarter Report (October – December 2010)

Intake

Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.

Target: 5 Days

Q2 Average: 6 Days



Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.

Target: 90 Days

Q2 Average: 67 Days



Volume

Number of complaints and convictions received.

Q2 Total: 378

Complaints: 334 Convictions: 58

Q2 Monthly Average: 119



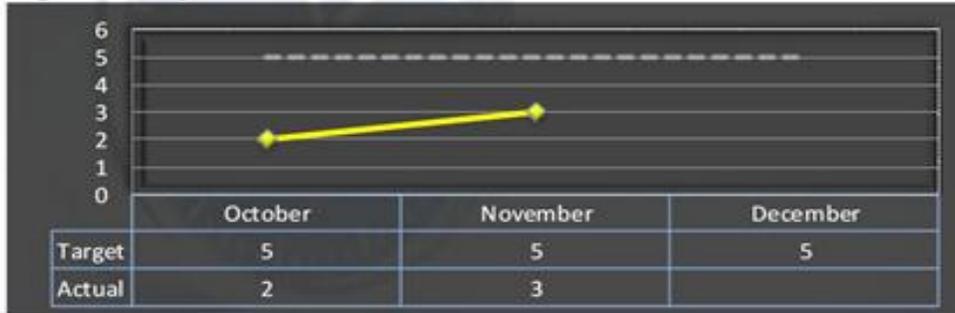
Performance Measures Second Quarter Report (October – December 2010)

Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

Target: 5 Days

Q2 Average: 3 Days



Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

Target: 7 Days

Q2 Average: 1 Day



Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board, and prosecution by the AG)

Target: 540 Days

Q2 Average: 873 Days



Performance Measures Third Quarter Report (January – March 2011)

Intake

Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.

Target: 5 Days

Q3 Average: 5 Days

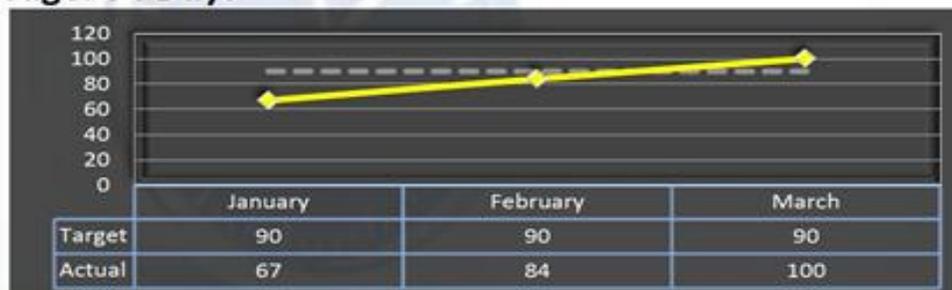


Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.

Target: 90 Days

Q3 Average: 84 Days



Volume

Number of complaints and convictions received.

Q3 Total: 344

Complaints: 294 Convictions: 50

Q3 Monthly Average: 115



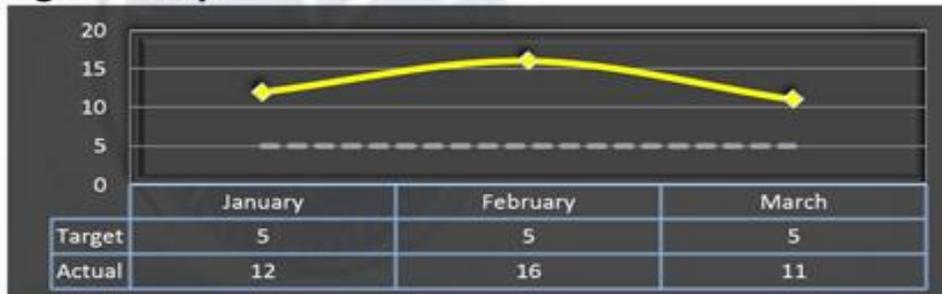
Performance Measures Third Quarter Report (January – March 2011)

Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

Target: 5 Days

Q3 Average: 14 Days



Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

Target: 7 Days

Q3 Average: 4 Days

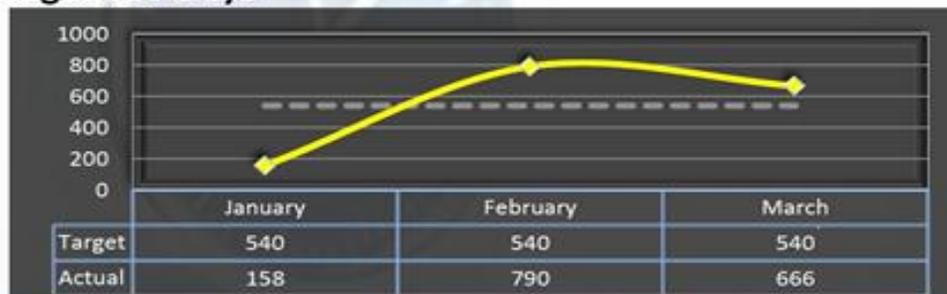


Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board, and prosecution by the AG)

Target: 540 Days

Q3 Average: 610 Days



Performance Measures Fourth Quarter Report (April – June 2011)

Intake

Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.

Target: 5 Days

Q4 Average: 6 Days

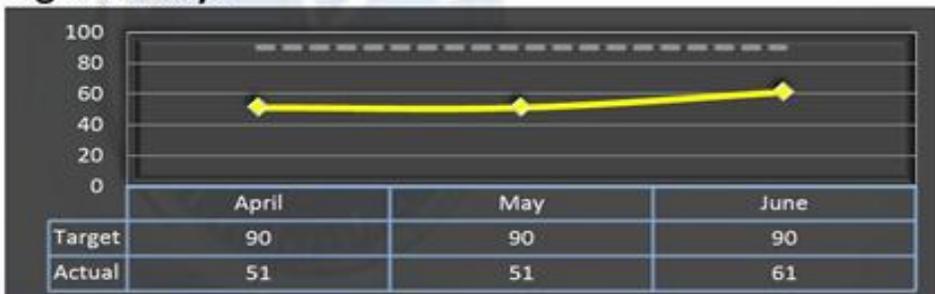


Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.

Target: 90 Days

Q4 Average: 54 Days



Volume

Number of complaints and convictions received.

Q4 Total: 580

Complaints: 523 Convictions: 57

Q4 Monthly Average: 193



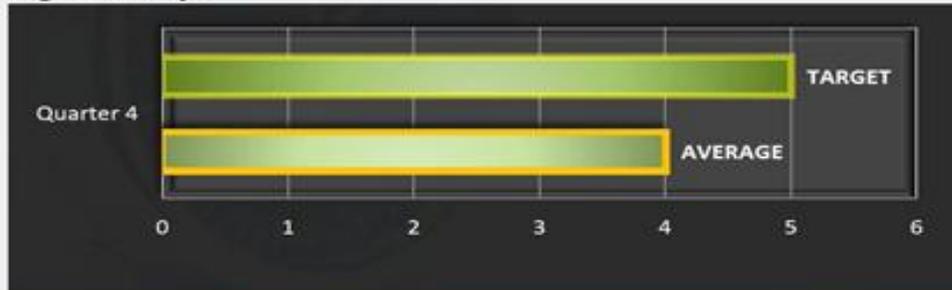
Performance Measures Fourth Quarter Report (April – June 2011)

Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

Target: 5 Days

Q4 Average: 4 Days



Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

Target: 7 Days

Q4 Average: 1 Day



Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board, and prosecution by the AG)

Target: 540 Days

Q4 Average: 982 Days



Performance Measures Annual Report (2011 2012 Fiscal Year)

 No data to report or not applicable

Volume

Number of complaints and convictions received.

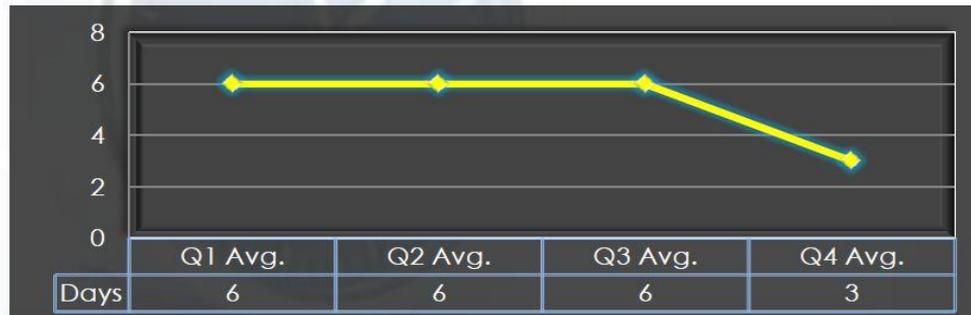
The Board had an annual total of 1,814 this fiscal year.



Intake

Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.

The Board has set a target of 6 days for this measure.



Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.

The Board has set a target of 90 days for this measure.



Performance Measures Annual Report (2011 2012 Fiscal Year)

Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board, and prosecution by the AG)

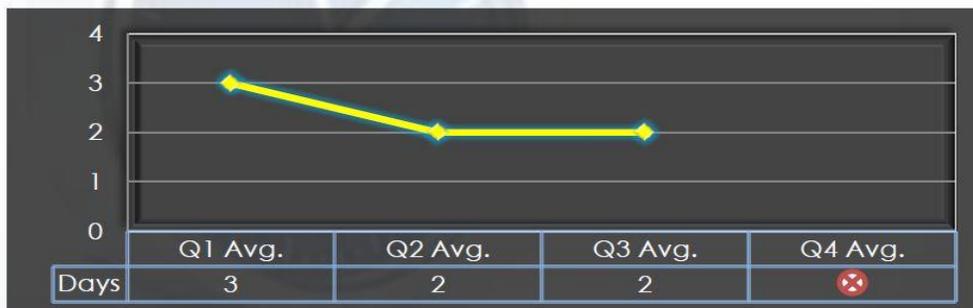
The Board has set a target of 540 days for this measure.



Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

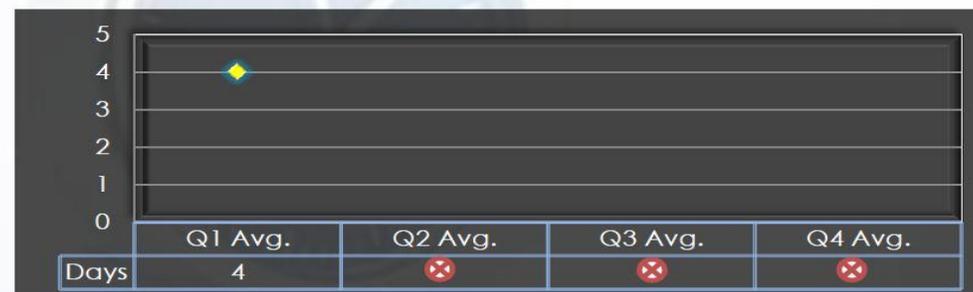
The Board has set a target of 5 days for this measure.



Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

The Board has set a target of 7 days for this measure.



Performance Measures First Quarter Report (2011 2012 Fiscal Year)

Volume

Number of complaints and convictions received.

Q1 Total: 431

Complaints: 359 Convictions: 72

Q1 Monthly Average: 144



Intake

Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.

Target: 9 Days

Q1 Average: 6 Days

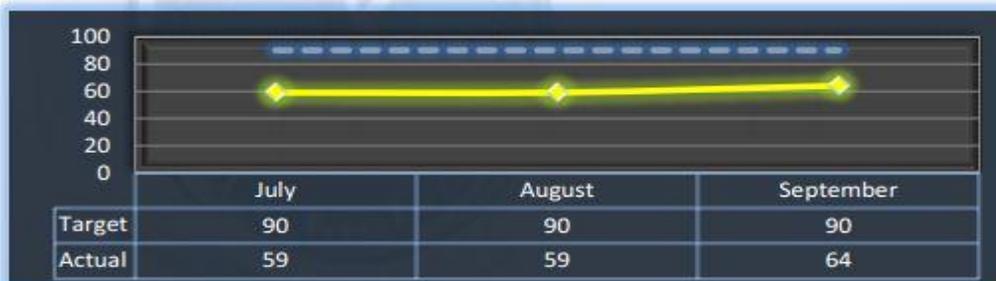


Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.

Target: 90 Days

Q1 Average: 61 Days



Performance Measures First Quarter Report (2011 2012 Fiscal Year)

Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board, and prosecution by the AG)

Target: 540 Days

Q1 Average: 597 Days



Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

Target: 10 Days

Q1 Average: 3 Days



Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

Target: 7 Days

Q1 Average: 4 Days



Performance Measures Second Quarter Report (2011 2012 Fiscal Year)

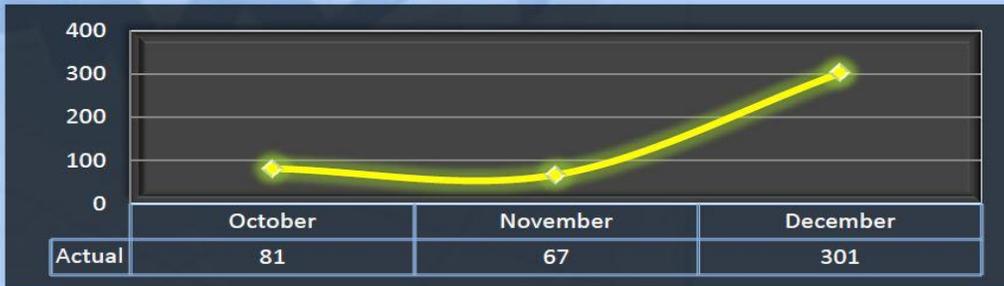
Volume

Number of complaints and convictions received.

Q2 Total: 449

Complaints: 400 Convictions: 49

Q2 Monthly Average: 150



Intake

Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.

Target: 9 Days

Q2 Average: 6 Days

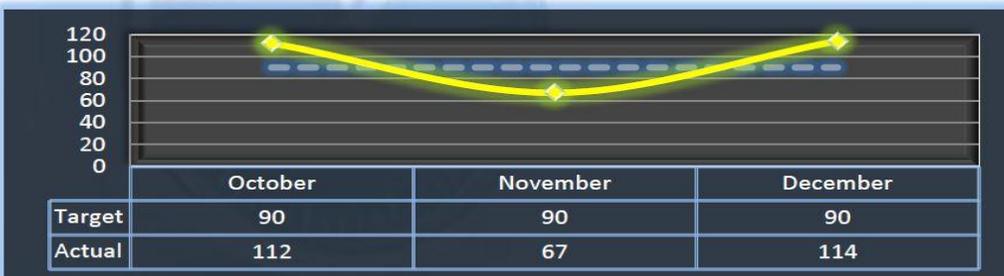


Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.

Target: 90 Days

Q2 Average: 94 Days



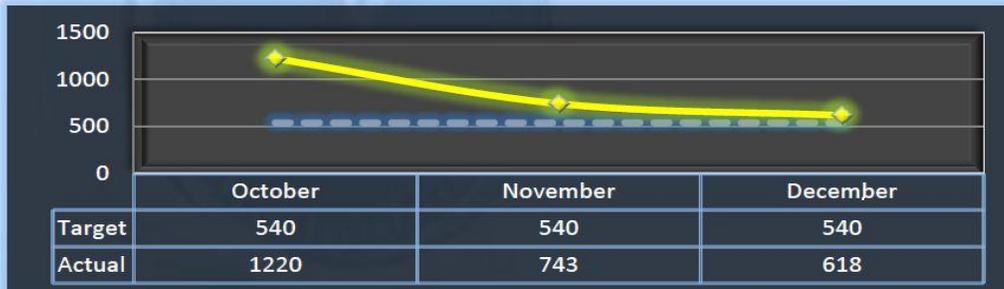
Performance Measures Second Quarter Report (2011 2012 Fiscal Year)

Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board, and prosecution by the AG)

Target: 540 Days

Q2 Average: 795 Days

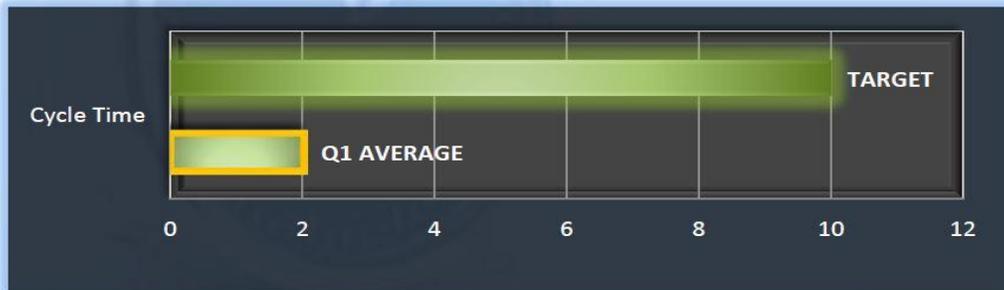


Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

Target: 10 Days

Q2 Average: 2 Days



Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

Target: 7 Days

Q2 Average: N/A

The Board did not handle any probation violations this quarter.

Performance Measures Third Quarter Report (2011 2012 Fiscal Year)

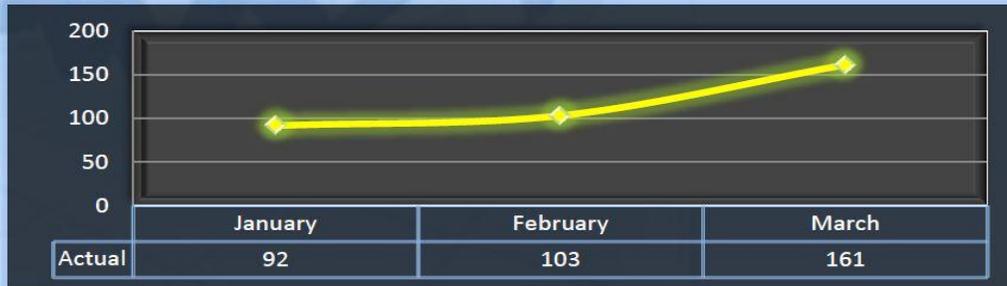
Volume

Number of complaints and convictions received.

Q3 Total: 356

Complaints: 298 Convictions: 58

Q3 Monthly Average: 118

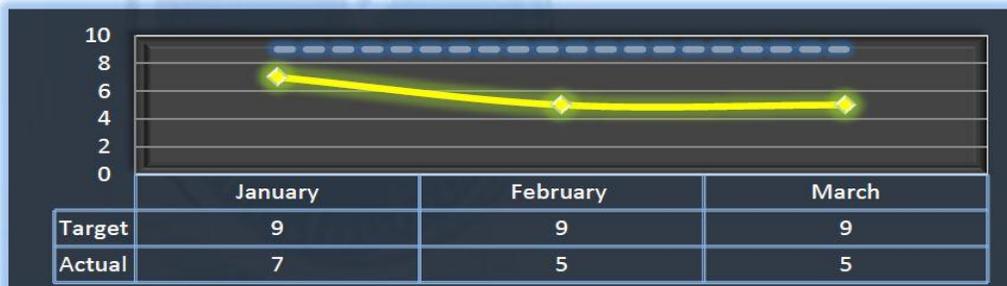


Intake

Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.

Target: 9 Days

Q3 Average: 6 Days

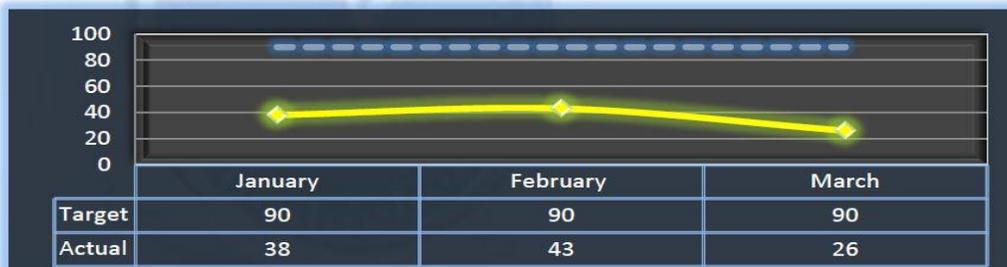


Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.

Target: 90 Days

Q3 Average: 36 Days



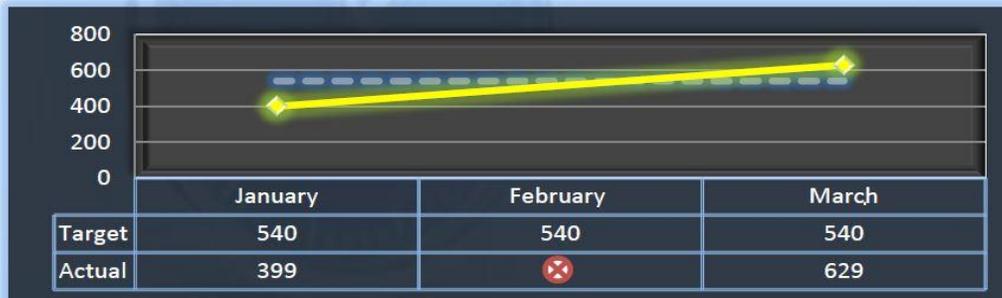
Performance Measures Third Quarter Report (2011 2012 Fiscal Year)

Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board, and prosecution by the AG)

Target: 540 Days

Q3 Average: 530 Days

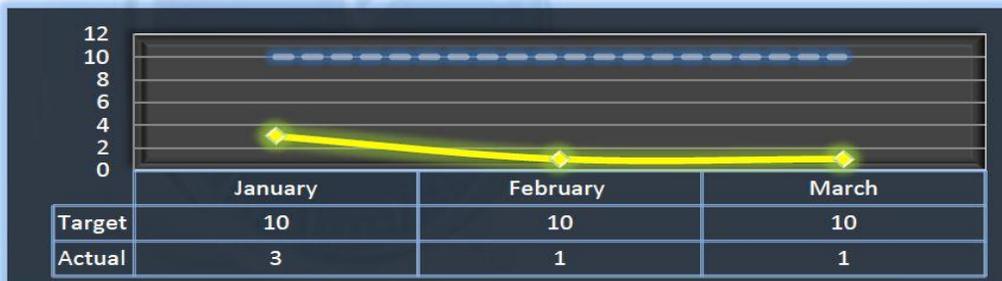


Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

Target: 10 Days

Q3 Average: 2 Days



Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

Target: 7 Days

Q3 Average: N/A

The Board did not handle any probation violations this quarter .

Performance Measures Fourth Quarter Report (2011 2012 Fiscal Year)

Volume

Number of complaints and convictions received.

Q4 Total: 578

Complaints: 528 Convictions: 50

Q4 Monthly Average: 193



Intake

Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.

Target: 9 Days

Q4 Average: 3 Days



Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.

Target: 90 Days

Q4 Average: 42 Days



Performance Measures Fourth Quarter Report (2011 2012 Fiscal Year)

Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board, and prosecution by the AG)

Target: 540 Days

Q4 Average: 504 Days



Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

Target: 10 Days

Q4 Average: 2 Days



Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

Target: 7 Days

Q4 Average: N/A

The Board did not handle any probation violations this quarter .

7. Provide results for each question in the consumer satisfaction survey broken down by fiscal year. Discuss the results of the consumer satisfaction surveys.

The Physical Therapy Board of California (PTBC) sends Consumer Satisfaction Surveys to complainants (excluding PTBC initiated complaints) upon closure of the complaint file. In the past three fiscal years, the PTBC sent 667 surveys to consumer complainants and received 32 (4.8%) responses. Although it is difficult to determine dissatisfaction given the small number of responses, the PTBC is nonetheless working towards performance improvements as reflected in section 5. The table below illustrates the results for the past three fiscal years.

Fiscal Year	Quest. 1	Quest. 2	Quest. 3	Quest. 4	Quest. 5	Quest. 6	Quest. 7
2008/2009	2.0	2.0	2.67	2.67	2.67	2.67	2.67
%4.5							
2009/2010	2.0	2.0	2.67	2.67	2.67	2.67	2.67
%7							
2010/2011	3.09	2.86	2.73	2.27	2.0	1.6	2.18
%3.5							
1. Average Score: 4= strongly agree; 3 = agree; 2 = disagree; 1= strongly disagree							
<u>Questions:</u>							
2. I was able to access the Physical Therapy Board online Web site and understood how to file a complaint.							
3. I contacted the Physical Therapy Board by telephone, and was given prompt and courteous assistance by the staff.							
4. I received adequate information about the processing of complaints.							
5. I received periodic updates about the status of my complaint.							
6. The amount of time to process, investigate and settle my complaint was reasonable.							
7. The action taken by the board will ensure consumer safety in the future.							
I am satisfied with the overall level of service provided by the Board.							

In an effort to gather additional data, the PTBC is moving to an online survey tool that was developed by DCA. By making the Consumer Satisfaction Survey more convenient, the PTBC expects to gather a larger sampling of complainant feedback. Consumers are provided with a Web address at the bottom of their complaint closure letter and are encouraged to visit the site and provide feedback regarding the PTBC’s complaint process.

In October of 2011, the PTBC began using the Department of Consumer Affairs', "Consumer Satisfaction Survey". Consumers are provided with a Web address, www.surveymonkey.com/consumeraffairs, at the bottom of their complaint closure letter and are encouraged to visit the site and provide feedback regarding the PTBC's complaint process. This survey is provided to consumers in written form as well:

.....

.....

.....



NO POSTAGE
NECESSARY
IF MAILED
IN THE
UNITED STATES

Your Opinion Counts!
Consumer Satisfaction Survey >>

BUSINESS REPLY MAIL
FIRST-CLASS MAIL PERMIT NO. 379 SACRAMENTO, CA
POSTAGE WILL BE PAID BY ADDRESSEE

State of California
Department of Consumer Affairs
C/O Strategic Planning Development
1625 N Market Blvd Ste N-112
Sacramento, CA 95834-9911







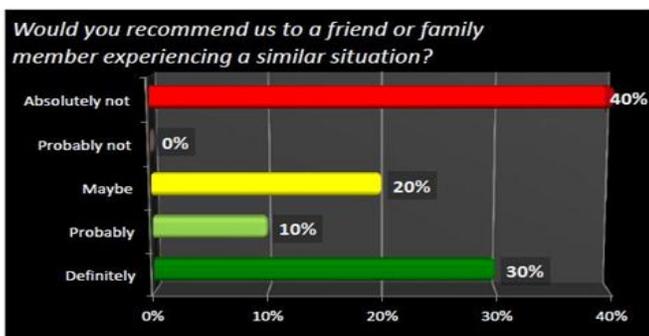
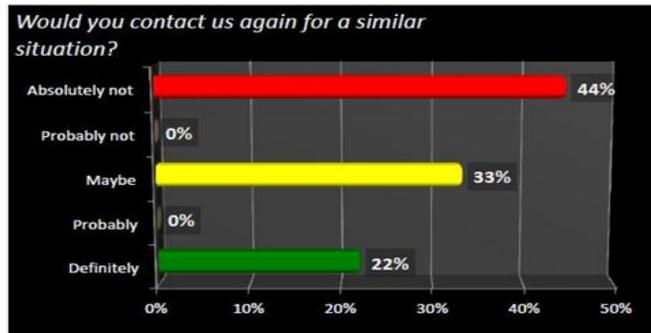
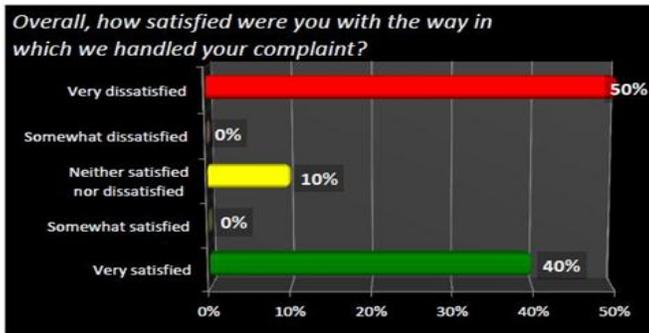
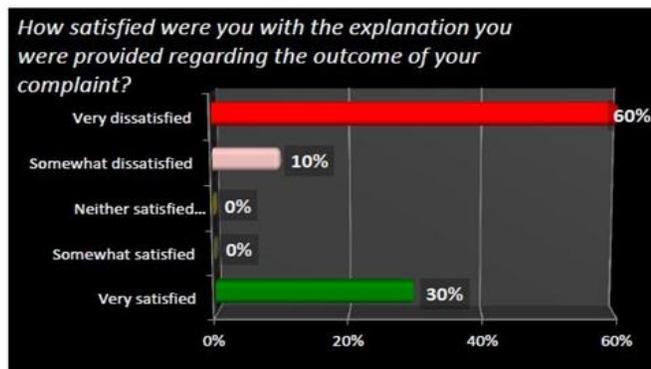
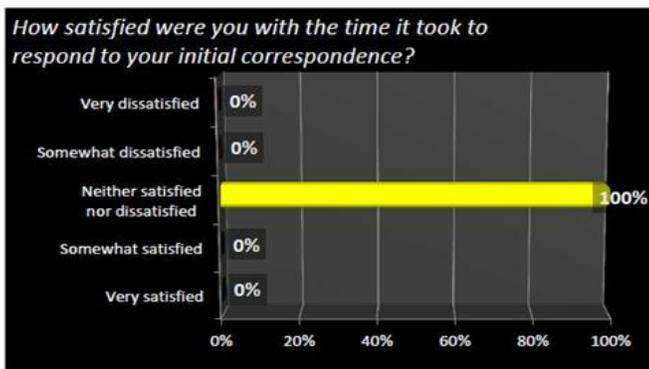
Consumer Satisfaction Survey

1. **Complaint Number:**..... 2. **How did you contact our Board / Bureau:**
Board/Bureau:..... | Phone | In Person | Mail | E-mail | Website (Circle response)
3. **How satisfied were you with the time it took for us to resolve your complaint?**
 Very Satisfied Somewhat Satisfied Neutral Somewhat Dissatisfied Very Dissatisfied
4. **How satisfied were you with the explanation you were provided regarding the outcome of your complaint?**
 Very Satisfied Somewhat Satisfied Neutral Somewhat Dissatisfied Very Dissatisfied
5. **Overall, how satisfied were you with the way in which we handled your complaint?**
 Very Satisfied Somewhat Satisfied Neutral Somewhat Dissatisfied Very Dissatisfied
6. **Would you contact us again for a similar situation?**
 Definitely Probably Maybe Probably Not Absolutely Not
7. **Would you recommend us to a friend or family member experiencing a similar situation?**
 Definitely Probably Maybe Probably Not Absolutely Not

Thank you
for taking the time to fill out this brief survey. If you would like to make additional comments there is a more extensive survey with a comments section on www.surveymonkey.com/consumeraffairs

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In fiscal year 11/12, the Board received 11 responses to the new survey. The low number of responses can be partially attributed to its recent implementation and short period of availability. Over time, the PTBC expects to gather a larger sampling of complainant feedback, which should provide a more accurate representation of feedback. The current results are shown below:

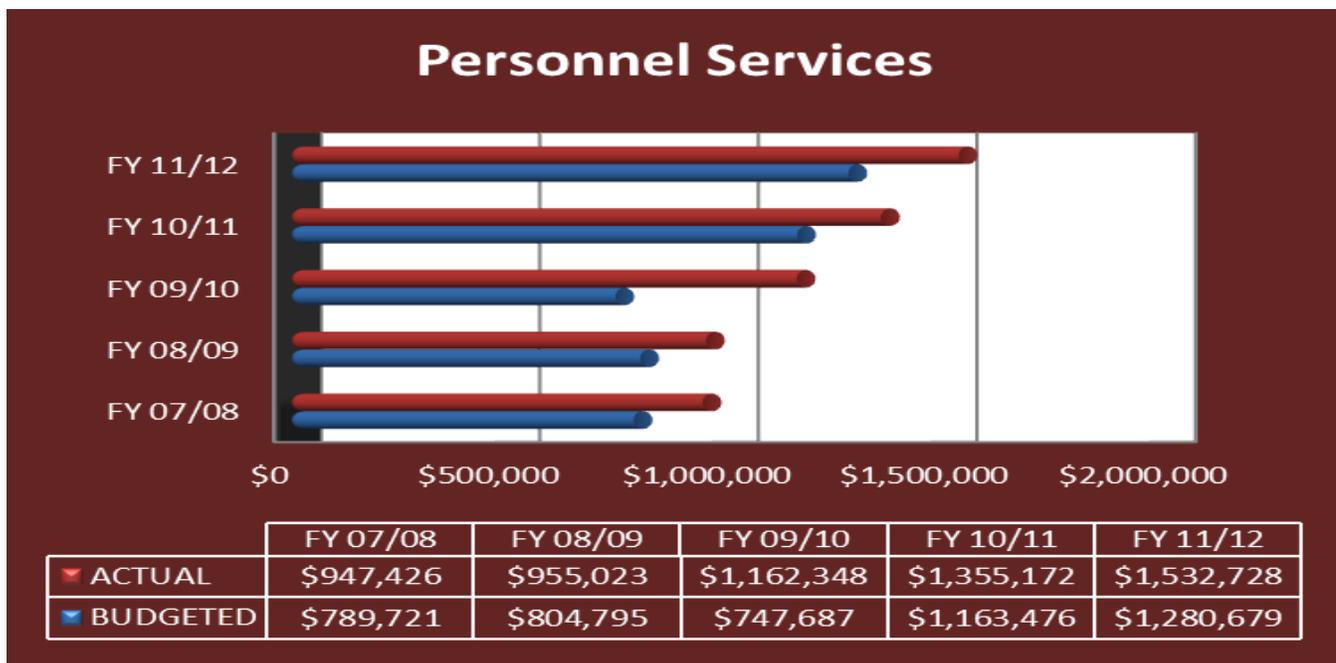


Section 3 Fiscal and Staff

8. Describe the board's current reserve level, spending, and if a statutory reserve level exists.

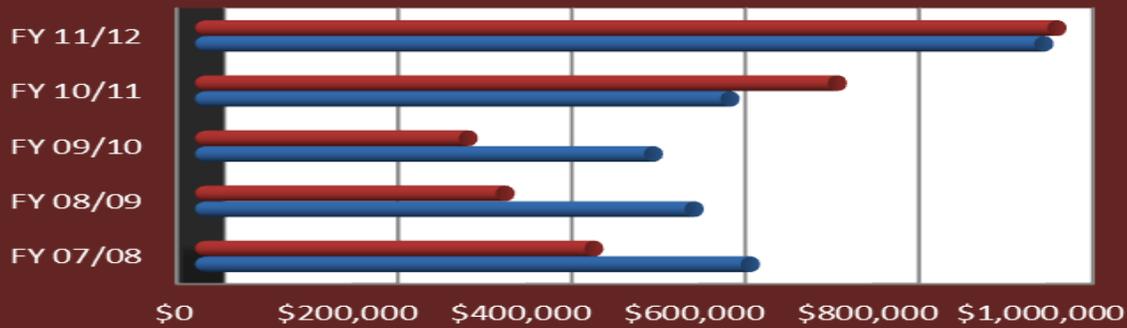
Currently, the Physical Therapy Board of California (PTBC) has a reserve¹ level of 9.0 months. As illustrated in the graphs below, historically the PTBC has over expended its personnel services and enforcement budgets. The PTBC has no statutory reserve level requirement.

At the close of FY 2011/12 the PTBC had a reserve level of 9.0 months, with a projected reserve level of 3.2 months, beginning FY 2012/13. The decrease in reserve levels resulted from the General Fund loan of 1.5 million dollars in FY 2011/12, and the loss of authorized funding for staffing for FY 2012/13.



¹ "Reserve" is an amount set aside in a fund balance to provide for expenditures from the unencumbered balances of continuing appropriations, pending salary or price increase appropriations and appropriations for capital outlay projects. "Fund" is a legal entity that provides for the segregation of moneys or other resources in the state treasury for specific activities or obligations in accordance with specific restrictions or limitations. A separate set of accounts must be maintained for each fund to show its assets, liabilities, reserves, and fund balance as well as its income and expenditures.

Enforcement



	FY 07/08	FY 08/09	FY 09/10	FY 10/11	FY 11/12
ACTUAL	\$452,768	\$350,564	\$307,997	\$733,153	\$986,239
BUDGETED	\$632,939	\$568,164	\$521,164	\$609,670	\$971,035

9. Describe Budget Change Proposals (BCPs) submitted by the board in the past four fiscal years.

Prior to the separation from the Medical Board of California (MBC), the PTBC cashiering functions were completed by one 0.4 Senior Account Clerk (SAC) with the MBC. In Fiscal Year (FY) 2007/08, during the separation of functions from the MBC, the PTBC submitted a Budget Change Proposal (BCP) and received approval to transfer one 0.4 SAC position and funding for an additional 0.1 SAC position (totaling a 0.5 SAC position authority.)

In FY 2009/10, the PTBC received approval for a budget augmentation of one Staff Services Analyst and one Office Technician for the Continuing Competency (CC) program (CC). On January 8, 2010, Governor Schwarzenegger issued Executive Order S-01-10, mandating state agencies to identify a 5% salary savings. However, in October 2010, the PTBC was directed to convert the 5% salary savings to a 5% workforce cap, requiring permanent staff reductions effective FY 2011/12. As a result, the PTBC lost the authority and funding of the Office Technician within the CC program.

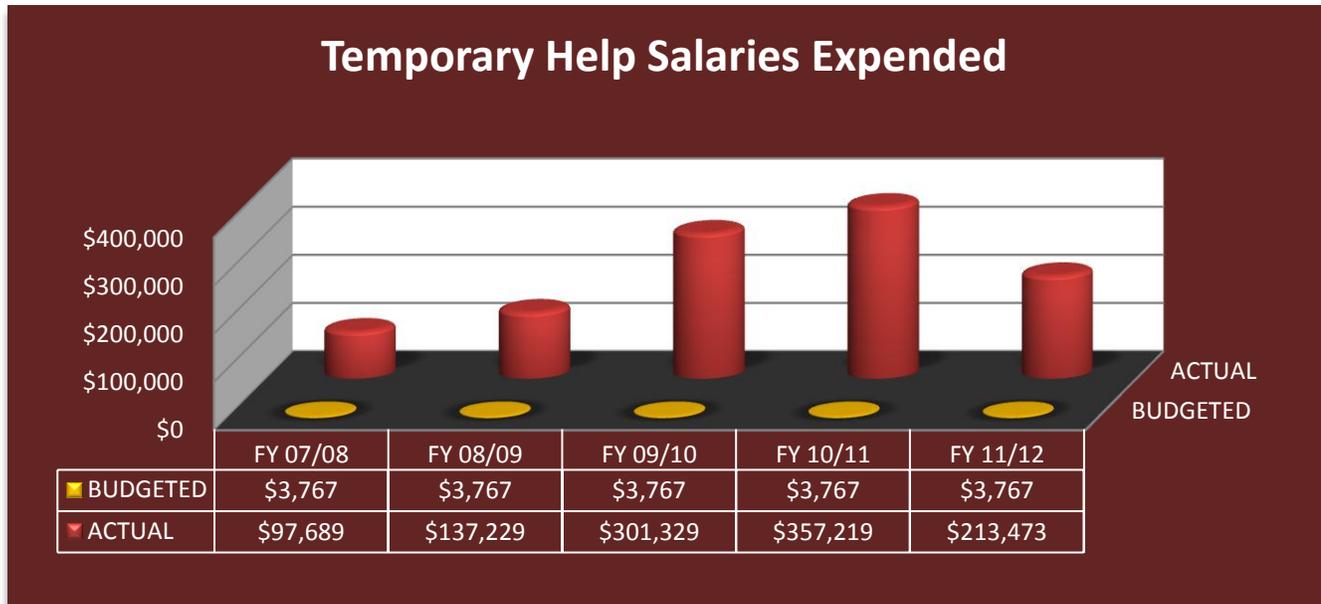
In FY 2010/11, the Department of Consumer Affairs (DCA) submitted a BCP on behalf of all healing arts boards. The purpose of the request was to implement the DCA's Consumer Protection Enforcement Initiative (CPEI). The CPEI proposed to streamline and standardize the complaint intake/analysis, reorganize investigative resources, and decrease the average processing time for complaint intake, investigation, and prosecution from three years to 12-18 months by FY 2012/13. The PTBC received approval for a budget augmentation for 5.0 authorized positions: 0.5 Special Investigator (non-sworn); 3.5 limited-term Associate Governmental Program Analyst, which expired 9/30/12; and, 1.0 Staff Services Manager for

the Consumer Protection Services program. While the PTBC received position authority effective FY 2010/11, the funding augmentation was authorized over two fiscal years (Table 2. Budget Change Proposals).

Table 2, reflects BCPs that were approved in the past **five** fiscal years.

Table 2. Budget Change Proposals (BCPs) (dollars in thousands.)								
BCP ID #	Fiscal Year	Description of Purpose of BCP	Personnel Services				OE&E	
			# Staff Requested	# Staff Approved	\$Requested	\$Approved	\$Requested	\$Approved
1110-20	07/08	Transfer 0.4 position authority and funding for its cashiering function from the Medical Board of California (MBC) to PTBC, and an additional 0.1 position (Senior Account Clerk (SAC))	1 SAC (.1)	1 SAC (.1)	\$22	\$22	\$6	\$6
1110-37	10/11	Budget Augmentation to establish 1.0 Staff Services Analyst (SSA) and 1.0 Office Technician (OT) to manage additional workload of continuing competency services (CC) program.	1 SSA and 1 OT	1 SSA and 1 OT	\$115	\$115	\$10	\$10
*1110-1A	10/11	Departmental BCP: Budget Augmentation to establish 0.5 Special Investigator (non – sworn) (SI), 3.5 Associate Governmental Program Analyst (AGPA) (limited-term) and 1.0 Staff Services Manager (SSMI) to manage workload of Consumer Protection Enforcement Initiative.	1 SI (.4), 3 AGPA (2.6) and 1 SSMI (1.0)	1 SI (.4), 3 AGPA (2.6) and 1 SSMI (1.0)	\$335	\$335	\$99	\$99
*1110-1A	11/12		1 SI (.5), 4 AGPA (3.5) and 1 SSMI (1.0)	1 SI (.5), 4 AGPA (3.5) and 1 SSMI (1.0)	\$417	\$417	\$48	\$48
*The CPEI BCP was not included in the 2011 Sunset Report because it was submitted by the DCA on behalf of all healing arts boards and not by the Board itself; however, since it contributes to the cause of the Board's current staffing shortfalls, it is included with this report.								

As illustrated in the graph below, the PTBC relies heavily on a large pool of temporary employees in order to meet its mandates. It consequently regularly over expends the personnel services budget allotment. The PTBC continuously attempts to resolve this staffing deficiency through the BCP process.



10. Describe if/when deficit is projected to occur and if/when fee increase or reduction is anticipated. Describe the fee changes anticipated by the board.

The PTBC projects a deficit in the fund condition in FY 2016/17. This deficit can be avoided with the reimbursement of the 1.5 million General Fund loan.

The projected fund deficit includes the costs of the 1.5 million dollars for the General Fund loan in FY 2011/12. Moreover, the PTBC anticipates a cost of \$188,000 for the completion of an audit conducted by the Bureau of State Audits (BSA). These expenditures have not yet been encumbered; thus, these costs are not included in the projected fund condition. The PTBC projects these costs to be encumbered over the next two fiscal years.

In addition, while the PTBC did not project a deficit in the fund during FY 2011/12, the PTBC did suffer a deficiency within its Attorney General (AG) budget line. Subsequently, the PTBC received a budget augmentation to increase its AG line item by \$150,000 through a Deficiency Request Letter. This increased the AG budget line item from \$285,668 to \$435,668, effective April 2012. The deficiency was a direct result of the increasing enforcement caseload, which impacted the Attorney General (AG) costs. As the PTBC’s enforcement workload continues to

increase, the AG expenditures grow proportionately. The AG costs can be expected to continue to rise with increased PTBC enforcement workload. The PTBC will continue efforts to address this deficiency through the Budget Change Proposal (BCP) process.

The PTBC raised application and license renewal fees in FY 2005/06 and in FY 2008/09; therefore, the PTBC does not intend to impose any future fee increases on licensees. The PTBC projects, with the repayment of the General Fund loan, the fund will rebound and be solvent in future years.

The PTBC is funded solely by revenues received. The PTBC derives all its revenue from its applicants and licensees through licensing, renewal, endorsements (license verifications) and administrative actions i.e., citations, cost recovery, probation monitoring.

Table 3, “Fee Schedule and Revenue” reveals the PTBC’s license fees are between 50 - 75% of the statutory maximums allowed by law. The PTBC does not anticipate increasing fees; however, without a reimbursement of General Fund loan, a fee increase may be necessary in FY 2013/14.

Table 3. Fee Schedule and Revenue									
Fee	Current Fee Amount	Statutory Limit	FY 2007/08 Revenue	FY 2008/09 Revenue	FY 2009/10 Revenue	FY 2010/11 Revenue	% of Total Revenue	FY 2011/12 Revenue	% of Total Revenue
Duplicate License	\$50	\$100	\$3,405	\$4,940	\$8,250	\$8,650	.26%	\$9,650	.28%
Endorsement	\$60	\$100	\$26,455	\$15,770	\$53,840	\$50,940	1.6%	\$59,760	1.8%
Electroneuromyographer Exam	\$500	\$500	\$500	\$0	0	\$0	0%	\$0	0%
Kinesiological Electromyographer Exam	\$500	\$500	\$0	\$0	0	\$1,000	.03%	\$0	0%
Application for Electroneuromyographer Certification	\$100	\$200	\$1,000	\$0	0	\$500	.18%	\$0	0%
Application for Kinesiological Electromyographer Certification	\$100	\$200	\$0	\$0	0	\$200	.006%	\$0	0%
Application Fee Physical Therapist	\$125	\$300	\$63,255	\$83,900	\$124,200	\$123,375	3.8%	\$150,950	4.3%
Application and Initial Licensing Fee Physical Therapist Assistant	\$125	\$300	\$39,875	\$20,450	\$26,550	\$35,375	1.1%	\$48,075	1.2%
Foreign Application Fee Physical Therapist and Physical Therapist Assistant	\$200	\$300	\$73,625	\$37,000	\$92,675	\$90,600	2.8%	\$75,200	2.3%
Initial License Fee Physical Therapist	\$100	\$150	\$74,290	\$29,800	\$115,225	\$115,750	3.6%	\$133,100	3.9%
Electroneuromyographer Renewal Fee	\$50	\$200	\$700	\$600	\$550	\$550	.17%	\$550	.02%
Kinesiological Electromyographer Renewal Fee	\$50	\$200	\$1,050	\$500	\$850	\$500	.18%	\$1,000	.03%
Biennial Renewal Physical Therapist	\$200	\$300	\$1,490,580	\$1,589,910	\$2,035,020	\$2,049,100	63.8%	\$2,109,233	63%
Biennial Renewal Physical Therapist Assistant	\$200	\$300	\$374,955	\$394,950	\$526,490	\$512,190	15.95%	\$526,800	16%
Delinquency Physical Therapist	\$100	50% of renewal	\$12,270	\$13,125	\$12,970	\$9,500	.29%	\$10,600	.31%
Delinquency Physical Therapist Assistant	\$100	50% of renewal	\$5,085	\$5,125	\$5,295	\$4,200	.16%	\$6,400	.19%
Over the past five fiscal years, revenues have continued to rise as a result of increases to the license fees and licensee population.									

Table 4, reflects a decrease in fund condition beginning FY 2011/12.

Table 4. Fund Condition (Dollars in Thousands)							
Fiscal Years	2007/08	2008/09	2009/10	2010/11	*2011/12 Actual	**2012/13 Projected	**2013/14 Projected
Beginning Balance	\$375	\$575	\$1192	\$1,996	\$2,407	\$912	\$866
Revenues and Transfers	\$2,220	\$2,411	\$3,081	\$3,110	*\$1,746	\$3,185	\$3,183
Total Revenue	\$2,220	\$2,411	\$3,081	\$3,110	\$3,246	\$3,185	\$3,183
Total Resources	\$2,595	\$3,039	\$4,071	\$5,106	\$4,168	\$4,097	\$4,049
Expenditures	\$2,020	\$1847	\$2075	\$2695	\$3,256	\$3,231	\$3,286
Fund Balance	\$575	\$1192	\$1,996	\$2,411	\$912	\$866	\$763
Reserves	3.7	6.9	8.9	9.0	3.4	3.2	2.7

*The decrease in revenues and transfers is due to the PTBC's one-time cost encumbered for the 1.5 million dollars loan to the General Fund and \$188,000 cost to conduct an audit**FY 2012/13, ties to the Governor's Budget and reflects revenues/expenditures projected through fund analysis.

11. Describe license renewal cycles and history of fee changes in the last 10 years.

The PTBC's licenses are issued on a biennial renewal cycle. The expiration date is the last day of the licensee's birth month. During the past ten years, the PTBC has increased license fees twice.

In 2005/06, physical therapist and physical therapist assistant application fees increased from \$50 to \$75 and foreign educated physical therapist application fees increased from \$100 to \$150. Renewal fees increased from \$120 to \$150.

In FY 2008/09, physical therapist and physical therapist assistant application fees increased from \$75 to \$125, and renewal fees increased from \$150 to \$200.

The above information remains current; therefore, there is no addendum to this section.

12. Describe history of general fund loans. When were the loans made? When were payments made? What is the remaining balance?

In FY 2011/12, the General Fund borrowed \$1.5 million dollars from PTBC’s fund, with projected repayment beginning in FY 2013/14.

The PTBC was recently notified that the GF loan will not be scheduled for repayment until the PTBC’s fund becomes insolvent.

13. Describe the amounts and percentages of expenditures by program components. Use the attached Table 5: Expenditures by Program Component Worksheet as the basis for calculating expenditures by program component. Expenditures by each component should be broken out by personnel expenditures and other expenditures.

Table 5 “Expenditures by Program Component”, reflects the amount and percentages of expenditures by program component

Table 5. Expenditures by Program Component						
Fiscal Year	Personnel/OE&E	Administration	Enforcement	Examination	Licensing	Total Expenditures
FY 2007/08 Budget: \$2,456,408	Personnel Services	\$397,519	\$307,506	\$0	\$242,402	\$947,427
	OE&E	\$263,922	\$684,454	\$10,220	\$226,521	\$2,033,543
	Total	\$634,441	\$991,960	\$10,220	\$468,923	
	% of Total Budget	26%	40%	0.01%	19%	85%
FY 2008/09 Budget: \$2,374,235	Personnel Services	\$369,014	\$322,564	\$0	\$263,445	\$955,005
	OE&E	\$199,760	\$564,973	\$10,215	\$209,787	\$1,850,003
	Total	\$568,774	\$887,537	\$10,215	\$473,232	
	% of Total Budget	24%	37%	0.01%	20%	81%
FY 2009/10 Budget: \$2,215,164	Personnel Services	\$420,700	\$421,015	\$0	\$320,634	\$1,162,349
	OE&E	\$210,129	\$532,642	\$2,280	\$220,712	\$2,075,973
	Total	\$630,829	\$953,657	\$2,280	\$541,346	
	% of Total Budget	28%	43%	0.01%	24%	95%
FY 2010/11 Budget: \$2,921,252	Personnel Services	\$400,436	\$610,995	\$0	\$343,742	\$1,355,173
	OE&E	\$146,356	\$1,059,319	\$10,740	\$219,882	\$1,436,297
	Total	\$546,792	\$1,670,314	\$10,740	\$563,624	
	% of Total Budget	19%	57%	0.01%	19%	95%
FY 2011/12 Budget: \$3,421,038	Personnel Services	\$532,701	\$833,936	\$0	\$166,091	\$1,532,728
	OE&E	\$269,283	\$1,434,832	\$13,453	\$81,671	\$1,799,239
	Total	\$801,984	\$2,268,768	\$13,453	\$247,762	\$3,331,967
	% of Total Budget	23%	66%	.39%	7%	96%

14. Describe any staffing issues/challenges, i.e., vacancy rates, efforts to reclassify positions, staff turnover, recruitment and retention efforts, succession planning. Update

Currently, the PTBC is authorized 13.1 permanent positions, 2.8 permanent intermittent (PI) positions and no vacancies. The PTBC staffing levels have decreased significantly. Prior to this fiscal year, PTBC was authorized 18 permanent positions, eight permanent-intermittent positions and two Student Assistant positions.

The Table below reflects the PTBCs' staffing needs and reliance on permanent intermittent and temporary employees for the past five fiscal years.

		Enforcement	Licensing	Administrative	Vacancies	Total
FY 2007/08	Authorized PY's	3.8	2.4	2.3	0.5	9.0
	Authorized Exempt			2.0	0	2.0
	Permanent Intermittent	0.7	0.7	2.8	0	4.2
	Student/Seasonal	0	0.7	0	0	0.7
	Total	4.5	3.8	7.1	0.5	15.9
FY 2008/09	Authorized PY's	3.8	2.9	3.3	0	10.0
	Authorized Exempt			1.0	0	1.0
	Permanent Intermittent	0.7	1.4	2.1	0	4.2
	Student/Seasonal	0		0.7	0	0.7
	Total	4.5	4.3	7.1	0	15.9
FY 2009/10	Authorized PY's	3.8	3.7	2.5	0	10.0
	Authorized Exempt			1	0	1.0
	Permanent Intermittent	1.4	2.1	2.1	0	5.6
	Student/Seasonal	0.7	0		0	0.7
	Total	5.9	5.8	5.6	0	17.3
FY 2010/11	Authorized PY's	3.8	3.7	2.5	5.5	15.5
	Authorized Exempt			1.0	0	1.0
	Permanent Intermittent	3.5	2.8	3.8	0	10.1
	Student/Seasonal	1.4	0	.7	0	2.1
	Total	8.7	6.5	8	5.5	28.7
FY 2011/12	Authorized PY's	7.3	3.1	4.1	2.5	17.0
	Authorized Exempt	1.0		1.0		
	Permanent Intermittent	1.4	1.4	2.1	0	4.9
	Student/Seasonal	0	1.4	0	0	1.4
	Total	8.7	5.9	7.2	2.5	24.3
FY 2012/13	Authorized PY's	6.2	1.8	4.1	0	12.1
	Authorized Exempt	1.0		1.0		
	Permanent Intermittent	1.4	.7	.7		2.8
	Student/Seasonal	0	0	0		0
	Total	7.6	2.5	5.8	0	15.9

Over the past several years, the PTBC has relied heavily on permanent intermittent and temporary staffing to manage the ongoing workload. It is not possible for the PTBC to absorb the workload currently handled by permanent intermittent and temporary employees. The PTBC suffers from staffing shortfalls; therefore, the PTBC continues to address this issue through the BCP process.

In FY 2007/08, the PTBC was authorized eleven permanent positions, eight permanent intermittent positions and two Student Assistant positions. There were no vacancies during this period. In 2007, the PTBC staff was tasked with the following additional workload:

Section 2676 of the Business and Professions code, required the PTBC to administer regulations establishing a Continuing Competency (CC) program; thereby creating a task force supported by the PTBC staff; assumed its cashiering function from the Medical Board of California; addressed its backlog of returned mail; and, was required to return fingerprint cards of those licensees who were either cancelled, deceased, or revoked to the Department of Justice (DOJ) (reference #20). As result of the workload increase, and in an effort to manage workload, the PTBC redirected licensing and enforcement staff thus creating a backlog in those programs.

In FY 2008/09, the PTBC was authorized eleven permanent positions, eight permanent intermittent positions and two Student Assistant positions. There were no vacancies during this period. Effective January 10, 2008, Governor Schwarzenegger issued Executive Order S-01-08, which ordered all state agencies to reduce and/or eliminate all non-essential expenditures. This order included a hiring freeze which prevented the PTBC from obtaining additional staffing to address its increasing workload. On July 31, 2008, Governor Schwarzenegger issued Executive Order S-09-08 ordering all state agencies to terminate the services of employees and individuals categorized as Retired Annuitants, permanent intermittent employees, Seasonal Employees, temporary help, and student assistants. This order resulted in a decrease in the PTBC's staff and dramatically affected the ability to manage its workload.

In FY 2009/10, the PTBC was authorized eleven permanent positions, eight permanent intermittent positions, and two Student Assistant positions. There were no vacancies during this period. On November 6, 2009, the PTBC began to implement the Continuing Competency (CC) program. Due to the constraints of the hiring freeze, the loss of all temporary and permanent intermittent positions and the additional workload of the CC program, the PTBC licensing and enforcement programs again developed major backlogs.

In January 2010, Governor Schwarzenegger implemented the job creation initiative (reference #17). This authorized the PTBC to obtain additional staffing to eliminate and/or decrease licensing backlogs by 50% no later than June 31, 2010. As a result, the PTBC obtained additional permanent intermittent employees to address the licensing backlog. Meanwhile, the

Department of Consumer Affairs (DCA) began the implementation of the Consumer Protection Enforcement Initiative (CPEI). The CPEI provided that all boards/bureaus shall decrease its enforcement processing timeframes from 38 months to 12 – 18 months. The DCA implemented the initiative effective FY 2010/11.

In FY 2010/11, the PTBC was authorized eighteen permanent positions, eight permanent intermittent positions and two Student Assistant positions. The increase in authorized positions was a result of the DCA CPEI Budget Change Proposal requesting additional enforcement staff for the health care boards and the implementation of the Continuing Competency (CC) program. Positions for CPEI were authorized as follows: one Staff Services Manager I; one 0.5 Special Investigator; and 3.5 limited-term Associate Governmental Program Analyst (AGPA) (24 mos.) positions. Positions for the CC program were authorized as follows: one Staff Services Analyst and one Office Technician (typing) positions. In advance of CPEI, the PTBC had already hired PI staff to address the enforcement backlog. The full time, limited-term CPEI positions were authorized and filled with existing PI staff; however, Executive Order B-06-11, prohibited time-base changes. Consequently, since PI's are limited to working 1500 hours per calendar year, the time base of the limited-term positions filled by the PI's cannot be changed. As a result, staffing is insufficient to address the workload volume. Should the Executive Order be lifted, the PI's placed in the CPEI positions will assume a full time time-base of 1920 hours per calendar year.

During FY 2011/12, one 1.0 Office Technician (OT) within the Continuing Competency program was permanently eliminated, decreasing the authorized positions from eighteen permanent positions to seventeen positions. The reduction was a direct result of Governor Schwarzenegger's Executive Order S-01-10 regarding a 5% Workforce Cap Plan. The plan ordered all state agencies take immediate steps to cap the workforce by achieving an additional 5% salary savings. The PTBC was ordered to develop a plan to achieve 5% salary savings by February 1, 2010, implement the plan by March 1, 2010 and maintain the saving levels by July 1, 2010, through FY 2010/11.

In FY 2012/13, the PTBC is authorized 12.0 permanent positions and six permanent intermittent (PI) positions. The decrease in positions resulted from several directives providing staff reductions as follows:

- July 1, 2012 – The PTBC was required to eliminate one 0.4 Special Investigator (non-sworn) permanent position. The reduction was in response to Budget Letter 12-03 issued by the Department of Finance (DOF) directing departments to adjust budget display to reflect actual expenditures and eliminate salary savings. To accomplish this, the DOF directed each department to perform an analysis of its historical salary

savings. As a result, the Department of Consumer Affairs, Budget Office estimated a salary savings of \$31,334, identifying a 0.4 position.

- July 1, 2012 – The PTBC employees are required to participate in a Personal Leave Program (PLP 2012) through 6/30/13. The PLP requires employees to take personal leave equal to a 4.62% reduction in pay per month.
- September 1, 2012 – The PTBC was directed to separate two Student Assistant positions. The reduction was a result of SEIU contract agreements to discontinue employment of all non-represented Student Assistants performing SEIU bargaining unit work.
- September 30, 2012 – The PTBC lost the authority for 3.5 limited-term Associate Governmental Program Analyst positions within the Consumer Protection Services program. This was a result of the limited-term positions expiring 9/30/12.

15. Describe the PTBCs' staff development efforts and how much is spent annually on staff development. Provide year-end organizational charts for the last four fiscal years.

The PTBC was inundated with projects and staffing shortages in FY 2007/08; therefore, staff was not able to take advantage of training opportunities.

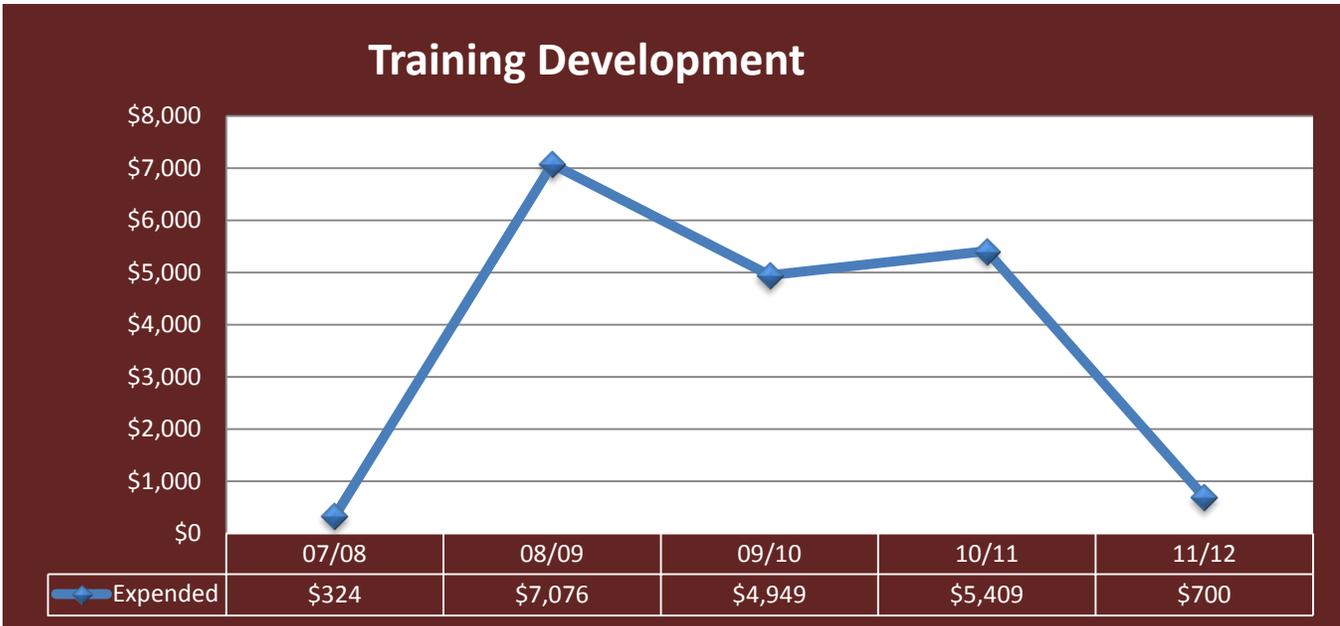
In addition, Governor Schwarzenegger's Executive Order (S-01-08), mandated the PTBC to decrease and/or eliminate non-essential expenditures, which included travel and training. To cope with this disadvantage, the PTBC established and implemented internal training for staff at minimal cost. The PTBC began cross-training and utilized training services provided by the DCA, Strategic Organization, Leadership and Individual Development (SOLID) Training Solutions (i.e. Microsoft Outlook and Excel, Budget, Contracts, Effective Writing, etc.). Staff has been given the opportunity to polish existing skills or to develop new skills in areas not within their usual assigned duties. For example, under management supervision, staff has learned to write briefing and issue papers and act as subject matter experts presenting on topics within their area(s) of expertise at expert consultant trainings, board meetings, and staff meetings.

The PTBC management staff has also added a training component to the agenda of monthly staff meetings. This training component is either delivered by management or another staff member. These training options have enhanced staff capabilities in accomplishing their established goals and objectives within the Individual Development Plan (IDP) process and overall have increased staff development. Management has modeled its own career development to maintain a high level of professional expertise; and in turn, mentors others to

gain experience necessary to meet their own career goals and objectives. When budget allows, staff are encouraged to register for training through CPS HR Training Solutions, which assumed the role of training state employees from the State Training Center.

In FY 2011/12, the PTBC spent \$700.00 for training and development. This decrease in expenditures is due to stringent budget constraints. The PTBC anticipates further decreases in FY 2012/13 by limiting training expenditures to those only required by law.

As illustrated in the table below, "Training Development" expenditures average \$3,692 per fiscal year.



Section 4 Licensing Program

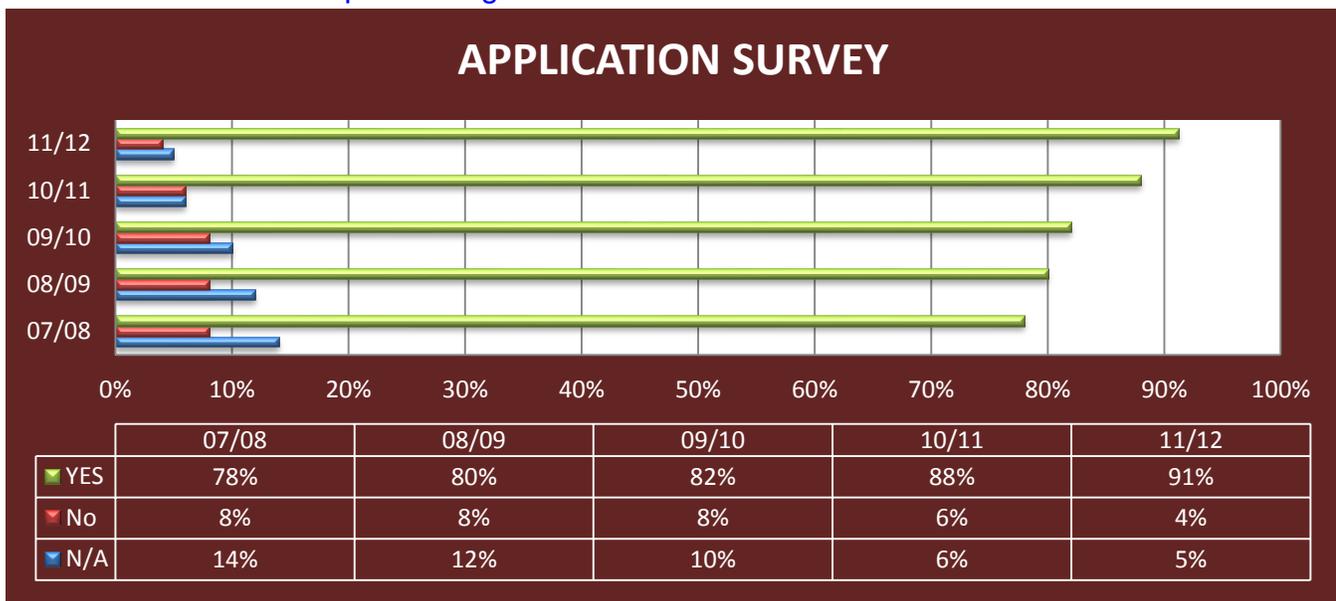
16. What are the PTBC’s performance targets/expectations for its licensing program? Is the PTBC meeting those expectations? If not, what is the PTBC doing to improve performance?

The Physical Therapy Board of California (PTBC) established performance targets/expectations for each aspect of its licensing program which are addressed throughout this section of the report. However, there are specifically targeted expectations in its 2009 Strategic Plan for the licensing program. Goal 5 of the PTBC’s 2009 Strategic Plan was set for the licensing program to achieve the highest level of efficiency and effectiveness. The objectives and outcomes to meet this Goal are listed in the tables below.

OBJECTIVE: Establish an external review of the service provided by the application and licensing program.

As an effective means of collecting information on areas in need of improvement in the application process, the PTBC initiated a survey of applicants regarding services provided by the Licensing Services program. In the last five fiscal years 484 responses were received and of those, 82% indicated the PTBC met and exceeded its mandated processing times. The survey also reflected the PTBC is accessible and responsive through all means of communication. The PTBC is currently enhancing the survey by adding a scale to measure satisfaction levels.

In FY2011/12, 108 responses were received and of those, 91% indicated the PTBC met and exceeded its mandated processing times.



<i>Application Review Survey</i>	Yes	No
Were you able to locate the appropriate application on the Board's web site easily?		
Were the instructions on completing the application process easy to understand and follow?		
Was a letter acknowledging the Board's receipt of your application mailed to you within thirty (30) days after you sent it to the Board?		
After registering for an exam, were you made eligible to take the exam within three (3) weeks?		
Did you receive exam results from the Board within three (3) weeks of taking an exam?		
Did the Board notify you of any missing items in your application in a timely manner?		
Did you receive a Physical Therapy License Number within 3-4 weeks of submitting all documents and completing all exams necessary for Licensure?		
Were telephone communications with the Board answered in a courteous and informative manner?		
Were telephone messages or e-mail communications answered within five (5) working days?		
Did you find the FSBPT web site examination registration section convenient and easy to use?		
Did you find the Board's web site licensing section informative and easy to use?		

OBJECTIVE: Ensure the PTBC has budgetary authority to fund a sufficient number of staff to protect the public.

The PTBC conducted a workload analysis in FY 2010/11 to determine whether current staffing levels met the needs of the program. The Licensing Services program has relied heavily on temporary staffing in order to manage the ongoing workload. The PTBC is significantly impacted by the reoccurrence of staffing shortfalls; therefore, the PTBC shall continue to pursue budgetary authority for permanent staffing.

OBJECTIVE: Review and update the PTBC California Law Examination and the Electromyography² certification examination.

The purpose of licensing examinations is to identify persons who possess the minimum knowledge and experience necessary to perform tasks on the job safely and competently. As a result, the PTBC has entered into an ongoing contract with the DCA's Office of Professional Examination Services (OPES) to annually assess the California Law Examination (CLE) to reflect statutory and regulatory changes. The contract also includes an assessment of the Electromyography exam to ensure it reflects current practice.

OBJECTIVE: Work with the Department of Consumer Affairs to improve data system technology.

The PTBC promoted the DCA's direct import of the Criminal Offense Record Information into the DCA Applicant Tracking System (ATS) by the Department of Justice (DOJ). Additionally, the PTBC is working with the DCA and the Federation of State Boards of Physical Therapy (FSBPT) to automate direct score transfers into the ATS and anticipates implementation by the end of the 2012 calendar year. Improvements to the ATS facilitated meeting the performance expectations of the PTBC for an effective and efficient licensing program. However, ATS is an antiquated system; therefore, the PTBC staff is actively participating in the development of the DCA BreEZe system. The PTBC is scheduled to be included in BreEZe in spring 2013. In April 2010, the PTBC became the pilot for online renewal with the Official Payments Corporation (OPC), facilitating immediate renewal for licensees and eliminating delays. This feature will be integrated into BreEZe.

Due to the implementation of BreEZe, the DCA imposed a hard freeze on changes to existing systems; therefore, the PTBC will not be able to automate direct score transfers into the ATS system. This function is expected to be incorporated into BreEZe.

² "Electroneuromyography" means the performance of tissue penetration for the purpose of evaluating neuromuscular performance, and includes the evaluation of specific abnormal potentials and evoked responses.

"Kinesiological electromyography" means the study, including tissue penetration, of the phasic activity of individual or multiple muscles in relation to another physical or physiological event or exercise and does not include the evaluation of specific abnormal potentials or evoked responses.

17. Describe any increase or decrease in average time to process applications, administer exams and/or issue licenses. Have pending applications grown at a rate that exceeds completed applications? If so, what has been done to address them? What are the performance barriers and what improvement plans are in place? What has the PTBC done and what is the PTBC going to do to address any performance issues, i.e., process efficiencies, regulations, BCP, legislation.

The table below identifies the licensing population for the last five fiscal years. It should be noted the first number in the delinquent category reflects the number of delinquent licenses at the end of the fiscal year. The second number reflects the total number of licensees who paid the delinquent renewal fees.

The discrepancy in this data is caused by a 30- day grace period authorized by B&P Code §2683. Though a license may enter delinquent status, the delinquent fee is not applied until 30 calendar days after the expiration date, thus not reflecting accurate delinquent information on the CalStars report. For example, in FY 2011/2012, 3,081 licensed Physical Therapists entered into a delinquent renewal status, of those renewals, 128 were after the 30 day grace period, incurring a delinquent charge. The remaining 2,953 renewals were either recorded within the grace period or not truly delinquent based on the postmark of their renewal.

Table 6, "Licensee Population" is the licensee population for the last five fiscal years.

Table 6. Licensee Population						
Fiscal Years		2007/08	2008/09	2009/10	2010/11	2011/12
Physical Therapist	Active	20,799	21,372	21,956	21,835	21,863
	Out-of-State**	473	545	627	820	753
	Out-of-Country**	22	23	18	21	80
	Delinquent*	2,235/169	2,300/173	2,424/140	2,798/120	3081/128
Physical Therapist Assistants	Active	5,171	5,334	5,383	5,318	5,381
	Out-of-State**	94	99	130	170	120
	Out-of-Country**	1	1	1	2	2
	Delinquent*	680/70	674/76	725/57	801/52	879/65
Kinesiological Electromyographers	Active	30	31	30	26	29
	Out-of-State**	0	1	0	0	0
	Out-of-Country**	0	0	0	0	0
	Delinquent*	4/0	3/0	4/0	7/0	4/0
Electroneuromyographers	Active	26	26	25	23	20
	Out-of-State**	1	0	1	0	0
	Out-of-Country**	0	0	0	0	0
	Delinquent*	3/0	3/0	4/0	5/0	3/2

*Delinquent data identified in the CAS Primary Status Summary Report / Delinquent data identified using the Calstars Monthly (Month 13) Budget Reports (this reflects delinquent fees received).
 **Out-of-state and out-of-country data relied on the licensee's address of record reporting requirement

Processing Time

Graduates of an Accredited Physical Therapy Program

The average application processing time from receipt of application to issuance of license for the last **five** fiscal years is **86** days for physical therapists and **131** days for physical therapist assistants. Factors outside the PTBC's control influencing the processing times are:

1. Deadlines
 - a. Application submission to the PTBC
 - b. Exam registration with FSBPT
 - c. Exam schedule (fixed-date) and its interaction with graduation date
2. Applicant response time for additional information
3. Fingerprinting
 - a. Rejects/resubmissions
 - b. Criminal history

Graduates of a Non-Accredited Physical Therapy Program Located Outside the U.S.

The total average application processing time for foreign graduates for the past **five** fiscal years is **421** days. Factors outside the PTBC's control influencing the processing times are consistent with those identified above; however, foreign graduates are further delayed due to the clinical service requirement. Business and Professions Code section 2653 and California Code of Regulations section 1398.26.5(e) require completion of up to a nine month clinical service before obtaining licensure. The nine months may be reduced to six months if the applicant completes an Ethics course.

The Licensing Services program is composed primarily of temporary staff; therefore, processing times will be negatively impacted should the PTBC lose this staffing. The PTBC shall continue to pursue budgetary authority for permanent staffing until adequate levels are obtained.

Table 7a, “Licensing Data by Type”, reflects average application processing times by license type (i.e. Physical Therapist and Physical Therapist Assistant). Currently and historically, the PTBC processes applications as they arrive and issues licenses in a timely manner as the application process is completed.

Table 7a. Licensing Data by Type												
Application Type	Received	Approved	Closed	Issued	Pending Applications			Cycle Times				
					Total (Close of FY)	Outside PTBC control*	Within PTBC control*	Complete Apps (Days)	Incomplete Apps**	Combined, IF unable to separate out (days) ³		
										U.S.	Foreign	
FY 2007/08	PT	1432	975	91	975	1198	*	*	485	**	81	401
	PTA	242	301	12	301	338	*	*	368	**	148	220
	EK	0	0	0	0	0	*	*	0	**	0	0
	EN	10	1	0	1	0	*	*	180	**	180	0
FY 2008/09	PT	1381	1003	148	1003	1302	*	*	638	**	96	542
	PTA	463	262	35	262	166	*	*	467	**	142	325
	EK	0	0	00	0	0	*	*	0	**	0	0
	EN	0	0	00	0	0	*	*	0	**	0	0
FY 2009/10	PT	1457	1076	206	1076	1224	*	*	674	**	91	583
	PTA	212	234	52	234	49	*	*	501	**	105	396
	EK	0	0	0	0	0	*	*	0	**	0	0
	EN	0	0	0	0	0	*	*	0	**	0	0
FY 2010/11	PT	1440	1141	253	1141	1063	*	*	559	**	80	479
	PTA	283	267	110	267	16	*	*	563	**	150	413
	EK	2	0	0	0	0	*	*	0	**	0	0
	EN	5	0	0	0	0	*	*	0	**	0	0
FY 2011/12	PT	1584	1078	114	1078	1711	*	*	520	**	82	438
	PTA	351	318	56	318	0	*	*	534	**	114	420
	EK	0	0	0	0	2	*	*	0	**	0	0
	EN	0	0	0	0	14	*	*	0	**	0	0

The Pending Application data reflects balance of pending applications from previous fiscal year and pending applications close of fiscal year.
 * Not tracked by the PTBC.
 ** The PTBC does not accept incomplete applications.

³ Data collected from Agency Statistical Profile (ASP)

Table 7b, "Total Licensing Data" reflects a summary of the licensing data by type.

Table 7b. Total Licensing Data				
Fiscal Year	FY 2008/09	FY 2009/10	FY 2010/11	FY 2011/12
Initial Licensing Data:				
Initial License/Initial Exam Applications Received	1,844	1,669	1,730	1,935
Initial License/Initial Exam Applications Approved	N/A	N/A	N/A	N/A
Initial License/Initial Exam Applications Closed	183	258	363	170
License Issued	1,265	1,310	1,408	1,396
Initial License/Initial Exam Pending Application Data:				
Pending Applications (total at close of FY)	1,273	1,374	1,335	392
Pending Applications (outside of PTBC control)*	0	0	0	0
Pending Applications (within the PTBC control)	1,273	1,374	1,335	392
Initial License/Initial Exam Cycle Time Data (WEIGHTED AVERAGE)				
Average Days to Application Approval (All - Complete/Incomplete)	552	587	561	527
Average Days to Application Approval (incomplete applications)	N/A	N/A	N/A	N/A
Average Days to Application Approval (complete applications)	119	98	115	98
Average Days to Application Approval (complete applications) Foreign Educated	433	489	446	429
Effective FY 2009/10, the average processing time increased due to receiving more applications as a result of the increased approval of new accredited physical therapy schools. *Not Tracked.				

Performance barriers and improvement plans for Growth in Licensee Population

In 2009, Governor Schwarzenegger issued Executive Order S-09-08 mandating all State agencies terminate temporary staff services, including retired annuitant, permanent intermittent, seasonal and student employees. With this mandate, the Licensing Services staff was depleted. Recognizing a potential backlog and in order to maintain efficient application processing, the PTBC assigned staff from the Consumer Protection Services (CPS) unit to the Licensing Services unit. This effort enabled the PTBC to process applications in a timely manner, but created a backlog in the CPS unit. In 2010, the Department of Consumer Affairs (DCA) sponsored SB 1111, the Consumer Protection Enforcement Initiative (CPEI) to address concerns with all boards' enforcement programs. The CPEI included staff authorization for each board to meet enforcement performance measures set forth by the CPEI. Simultaneously, Governor Schwarzenegger implemented the Job Creation Initiative, lifting some prior staffing restrictions. With the softened staffing restrictions, the PTBC attempted to

establish permanent positions, a need identified in the absence of its temporary staff. As boards eliminated application processing backlogs, the DCA refocused its attention on boards' enforcement needs with the CPEI and the authorization for a number of staffing positions. The PTBC received some of these positions, which further reduced significant enforcement backlogs. The PTBC expended staffing resources to take advantage of all possible opportunities to meet its mandates while managing imposed staffing restrictions. The PTBC will continue to address workload demands by requesting authorization for permanent staffing through the Budget Change Proposal (BCP) process.

18. How does the PTBC verify information provided by the applicant?

A. What is used to check prior criminal history information, prior disciplinary actions, or other unlawful acts of the applicant?

B. Does the PTBC fingerprint all applicants?

C. Have all current licensees been fingerprinted? If not, explain.

The PTBC receives subsequent arrest notifications from the DOJ on all applicants and licensees. Any applicant or licensee with a criminal conviction must submit copies of arrest reports and court reports to the Consumer Protection Service program for further investigation prior to licensure or renewal. Additionally, pursuant to B&P Code §2660.5, the PTBC checks the Megan's Law Web site to verify an applicant is not a registered sex offender pursuant to Penal Code section 314.

Prior to August 1996, the PTBC licensed an applicant based on clearance from either DOJ or FBI when extreme fingerprint delays occurred for licensure. This was done on a case by case basis. With the implementation of LiveScan, the PTBC abolished this practice. To ensure all licensees are fingerprinted electronically, the PTBC is seeking a statutory change to require retroactive fingerprinting via LiveScan.

On May 10, 2012 the PTBC held regulatory hearing, to introduce a regulatory package that would require that a licensee must furnish a full set of fingerprints to the Department of Justice ("DOJ") as a condition of renewal with the PTBC if the licensee was initially licensed prior to 1998 or if an electronic record of the fingerprint submission no longer exists. This proposed rulemaking package is still in process.

D. Does the PTBC check a national databank?

The PTBC reports all disciplinary actions to the Federation of State Boards of Physical Therapy which then reports the information to the National Practitioner Data Bank. The

FSBPT reports to the PTBC any disciplinary actions on score reports at the time of initial application, and electronically thereafter, for the life of the license.

E. Does the PTBC require primary source documentation?

Primary source documentation received:

- Certificate of Completion (P1E) from the school of graduation
- Score reports from FSBPT
- If licensed in another state, verification of licensure (endorsement)
- An evaluation of clinical ability through the Clinical Performance Instrument (CPI)
- Credential evaluation
- Fingerprints reports
- Verification of work experience
- Transcripts

19. Describe the PTBC's legal requirement and process for out-of-state and out-of-country applicants to obtain licensure?

Out-of-State Applicants

B&P Code §2636.5 states, in part:

“He or she is at the time of application licensed or registered as a physical therapist in a state, district, or territory of the United States having, in the opinion of the board, requirements for licensing or registration equal to or higher than those in California, and he or she has passed, to the satisfaction of the board, an examination for licensing or registration that is, in the opinion of the board, comparable to the examination used in this state.”

In addition to the requirement above, out-of-state applicants must:

- Be a graduate of a physical therapy program approved by the PTBC
- Have a valid Social Security Number (B&P Code §30)
- Be a person over the age of 18 years of age
- Not be addicted to alcohol or controlled substance
- Not have committed acts or crimes constituting grounds for denial of licensure under Section 480 of Business and Professions Code
- Submit a complete application
 - Certificate of Completion (P1E)
 - All required fees
 - Submission or transfer NPTE passing score report from FSBPT

- Completed LiveScan or fingerprint card
- Resume of work experience
- Verification of all valid or expired licenses from other states if applicable
- Pass California Law Examination (CLE)

Out-of-Country Applicants

B&P Code §2653 states, in part:

“(a) An applicant for a license as a physical therapist who was issued a diploma by a physical therapist education program that is not an approved program and is not located in the United States shall meet all of the following requirements in order to be licensed as a physical therapist:

(1) Furnish documentary evidence satisfactory to the board, that he or she has completed the equivalent professional degree to that issued by a United States accredited physical therapist education program in a physical therapist education program that entitles the applicant to practice as a physical therapist in the country where the diploma was issued. The physical therapy education received by the applicant shall meet the criteria set forth in subdivisions (b) and (c) of Section 2650. The board may require an applicant to submit documentation of his or her education to a credentials evaluation service for review and a report to the board.

In addition to the requirement above, out-of-country applicants must:

- Have a valid Social Security Number (B&P Code §30)
- Be a person over the age of 18 years of age
- Not be addicted to alcohol or controlled substance
- Not have committed acts or crimes constituting grounds for denial of licensure under Section 480 of the Business and Professions Code
- Submit a complete application, which includes:
 - Certificate of Professional Degree Equivalency (P1F)
 - All required fees
 - Completed LiveScan or fingerprint card
- Pass California Law Examination (CLE)
- Pass National Physical Therapy Examination (NPTE)
- Submission of Clinical Performance Instrument (CPI)
- If licensed in another state:
 - Verification of all valid or expired licenses
 - Résumé of work experience
 - Work Verification form

20. Continuing Competency Requirements

The PTBC ensures continuing competency by requiring continuing competency hours. This program began October 31, 2010. Continuing competency hours must be obtained in subjects related to either the professional practice of physical therapy or patient/client management.

(a) The professional practice of physical therapy includes but is not limited to professional accountability, professional behavior and professional development.

(b) Patient/client management includes but is not limited to examination, evaluation and diagnosis and prognosis; plan of care; implementation; education; and discharge.

These requirements have been codified in the PTBC's regulations. Title 16 of the California Code of Regulations sections 1399.90-1399.99 requires licensees to accumulate 30 hours of continuing competency in each two-year license cycle. Of these 30 hours, licensees must complete two hours of ethics, laws and regulations, or some combination thereof, and four hours of life support for health professionals.

How does the PTBC verify continuing competency requirements?

Licensees are required to sign their renewal notice under penalty of perjury stating CC is complete (Bus. & Prof. §2676.) Licensees must maintain documentation of each course and activity for five years. If audited, licensees must provide documentation verifying completion of 30 hours of CC upon request (16 CCR 1399.97 *et seq.*)

Does the PTBC conduct CC audits on its licensees? Describe the PTBC's policy on CC audits.

Yes. The first random audit process began October 31, 2010 with a target of 10% per month and 43% of those were non-compliant. Given the high percentage of noncompliance, the PTBC increased the audit sample to 20% per month of renewing licensees.

Pursuant to Section 2676 of the Business and Professions Code, the PTBC is required to randomly audit a percentage of licensees renewing their license in that month to verify compliance with the continuing competency (CC) requirements. Although delayed, the audits are performed despite the limitation in staffing in the Continuing Competency Services (CCS) program.

What are consequences for failing a CC audit?

If a licensee fails the audit, consequences range from issuance of an administrative citation to disciplinary action taken against the license. Level of consequence is determined by the degree of the violation.

Continuing competency cases are sent to the Consumer Protection Services (CPS) program when it is determined licensees have failed the audit or cannot provide proof they have fulfilled the CC requirement. Factors for audit failure can include deficiencies in number of hours, required course types, or completing courses not approved by a PTBC Recognized Approval Agency.

How many CC audits were conducted in the past four fiscal years? How many fails?

Since the inception date of October 2010, the PTBC has conducted 350 individual license renewal audits, of these, 89 failed.

Since its inception in October 2010, the PTBC has conducted over 900 individual license renewal audits, with an approximate 85% pass rate overall.

What is the PTBC's course approval policy?

The PTBC does not approve continuing education courses.

Who approves CC providers? Who approves CC courses? If the PTBC approves them, what is the PTBC application review process?

The PTBC recognizes approval agencies (16 CCR 1399.95) to approve continuing competency course providers (16 CCR 1399.96) and courses offered.

How many applications for CC providers and CC courses were received? How many were approved?

To date there are 97 CC Approval Agencies recognized by the PTBC. They approve over 300 CC providers and 3900 CC courses.

To date there are 127 CC Approval Agencies recognized by the PTBC. Cumulatively, they approve over 350 CC providers and 4100 CC courses.

Does the PTBC audit CC providers? If so, describe the PTBC's policy and process.

Approval agencies are required to evaluate courses and conduct audits of 10% to ensure compliance. The PTBC will begin conducting audits of approval agencies for compliance as resources permit.

The Continuing Competency Services (CCS) program is in the early stages of developing the audit process for Recognized Approval Agencies. Limitations in staffing have greatly impacted the CCS program's development of the audit process for Recognized Approval Agencies. Currently there are approximately 127 Recognized Approval Agencies. In February of this year the CCS program sent a Records Compliance Template (RCT) to all Recognized Approval Agencies, collecting course and provider information to be used as a tool for auditing. To date, all but two Recognized Approval Agencies have complied with this request. If those two Recognized Approval Agencies do not come into compliance, the CCS program will make a recommendation to the Board to remove their recognition as an approval agency.

With appropriate staffing, the CCS program could fully implement the audit of Recognized Approval Agencies for their compliance with the continuing competency regulations regarding Approval Agencies and Approved Providers (CCR, Title 16, Division 13.2, Article 13, 1399.95-1399.96).

21. Describe the examinations required for licensure. Is a national exam used? Is there a California specific exam required?

The PTBC contracts with the Federation of State Boards of Physical Therapy (FSBPT) to administer the computer-based National Physical Therapy Examinations (NPTE) and the California Law Examination (CLE). The Physical Therapy Practice Act requires applicants to pass both the NPTE and the CLE.

National Examinations

The NPTE for physical therapists consists of 250 multiple choice questions, of which 200 are scored. The NPTE for physical therapist assistants consists of 200 multiple choice questions, of which 150 are scored. The 50 un-scored questions are beta test questions.

"The national licensure examinations measure the knowledge and skills required for safe and effective practice as an entry-level PT or PTA. The validity of the test results for indicating competence to provide safe and effective physical therapy services is contingent upon the degree to which (1) questions on each examination measure important knowledge and skills required for safe practice, and (2) the proportion of questions measuring various knowledge and skill areas is commensurate with the importance of these areas to physical therapy practice. A formal, systematic process referred to as an "analysis of practice" exists for determining the contents of a licensure examination (other names for this process include occupational analysis, task analysis, job analysis, and role delineation study). This process

begins with the identification of work requirements for entry-level practitioners and ends with the development of a formal set of test specifications that delineates the knowledge and skills related to safe and effective entry-level practice.” (Excerpt taken from FSBPT’s Web site October 19, 2011 <https://www.fsbpt.org/ForCandidatesAndLicensees/NPTE/FAQs/index.asp>)

California Law Examination

The CLE is a one-hour, fifty multiple choice question exam. The PTBC contracts with the FSBPT to administer this jurisprudence examination. This examination tests candidates’ knowledge of the laws and regulations governing the practice of physical therapy in California. The exam is developed and updated by a task force appointed by the PTBC and facilitated by the Officer of Professional Examination Services (OPES)

22. What are pass rates for first time vs. retakes in the past five fiscal years? (Refer to Table 8: Exam Data)

Table 8. Examination Data For California Applicants						
California Law Examination:		1st Time Candidates		Repeat Candidates		
	License Type	PT/PTA		License Type	PT/PTA	
	Exam Title	CLE		Exam Title	CLE	
FY 2007/08	# of 1 st Time Candidates	1,196		# of Retakes	80	
	Pass %	94.10%		Pass %	73.39%	
FY 2008/09	# of 1 st Time Candidates	1,196		# of Retakes	108	
	Pass %	93.88%		Pass %	90.76%	
FY 2009/10	# of 1 st Time Candidates	1,219		# of Retakes	167	
	Pass %	95.23%		Pass %	83.08%	
FY 2010/11	# of 1 st time Candidates	1,371		# of Retakes	149	
	Pass %	95.67%		Pass %	85.63%	
FY 2011/12	# of 1 st time Candidates	1,390		# of Retakes	139	
	Pass %	96.33%		Pass %	88.54%	
Date of Last Occupational Analysis (OA)		October 2011				
Name of OA Developer		DCA's Office of Professional Examination Services				
Target OA Date		Summer 2017				
National Physical Therapy Examination:		1st Time Candidates		Repeat Candidates		
	License Type	PT	PTA	License Type	PT	PTA
	Exam Title	NPTE	NPTE	Exam Title	NPTE	NPTE
FY 2007/08	# of 1 st Time Candidates	5,617	2,953	# of Retakes	1,111	534
	Pass %	74.05%	77.98%	Pass %	27.54%	38.75%
FY 2008/09	# of 1 st Time Candidates	5,699	3,199	# of Retakes	1,576	582
	Pass %	74.98%	79.14%	Pass %	36.43%	41.04%
FY 2009/10	# of 1 st Time Candidates	6,606	3,587	# of Retakes	1,453	593
	Pass %	77.67%	80.75%	Pass %	33.30%	39.38%
FY 2010/11	# of 1 st time Candidates	8,913	4,363	# of Retakes	1,036	629
	Pass %	79.46%	82.23%	Pass %	28.41%	41.08%
FY 2011/12	# of 1 st time Candidates	3,216	4,483	# of Retakes	1,227	735
	Pass %	71.15%	78.95%	Pass %	26.48%	37.31%
Date of Last OA		November 2011				
Name of OA Developer		FSBPT				
Target OA Date		2016				

23. Is the PTBC using computer based testing? If so, for which tests? Describe how it works. Where is it available? How often are tests administered?

Yes. Both the National Physical Therapy Examinations (NPTE) and the California Law Examination (CLE) are computer-based examinations administered by the Federation of State Boards of Physical Therapy (FSBPT). The exam is available in all 50 states and the U.S. territories.

Prior to July 1, 2011, the NPTE and the CLE were continuously administered; however, the FSBPT has since implemented fixed-date testing for the NPTE. The FSBPT scheduled five test dates for the physical therapy examination and three test dates for the physical therapist assistant examination in 2012.

24. Are there existing statutes that hinder the efficient and effective processing of applications and/or examinations? If so, please describe.

There are no known existing statutes hindering the efficient and effective processing of applications and/or examinations.

25. Describe legal requirements regarding school approval. Who approves your schools? What role does BPPE have in approving schools? How does the PTBC work with BPPE in the school approval process?

The PTBC has legal authority to approve only those physical therapist education programs that prove, to the satisfaction of the PTBC, that they comply with the minimum physical therapy educational requirements (B & P § 2651).

The physical therapist education programs accredited by the Commission on Accreditation of Physical Therapy Education (CAPTE) are statutorily exempt from the DCA, Bureau for Private Postsecondary Education (BPPE). Physical therapist education programs accredited by CAPTE are deemed approved by the PTBC unless determined otherwise.

26. How many schools are approved by the PTBC? How often are schools reviewed?

The PTBC does not generally exercise its authority to directly approve physical therapy education programs exclusive of Commission on Accreditation of Physical Therapy Education (CAPTE); however, it may do so when necessary (B&P §2651).

Currently, there are 211 physical therapist and 293 physical therapist assistant CAPTE accredited programs nationwide, of those, California has fourteen physical therapist and eight physical therapist assistant CAPTE accredited programs.

“Accreditation is granted for a maximum of ten years (five years if it is a new program). CAPTE then monitors compliance with the criteria by requiring all programs to submit an annual report that tracks information that may indicate the program is no longer in compliance; every third year, the annual report is expanded to ask more detailed questions about continued compliance.”

(Taken 10/19/11 <http://www.capteonline.org/WhatWeDo/AccreditationProcess/>)

27. What are the PTBC’s legal requirements regarding approval of international schools?

The PTBC does not have statutory authority to approve international schools.

The PTBC approves credential evaluation services (16 CCR 1398.25) that determine academic equivalency for foreign educated applicants. The PTBC has four approved credential evaluation services: International Education Research Foundation (IERF); Foreign Credentialing Commission on PT (FCCPT); International Credentialing Associates, Inc. (ICA); and, International consultants of Delaware (ICD). These services are required to report academic equivalency on a prescribed tool (16 CCR 1398.26.1).

The PTBC has discretion to waive a credential evaluation and accept other documents which it deems sufficient to establish the applicant's eligibility (16 CCR 1398.26).

Section 5 Enforcement Program

28. What are the PTBC's performance targets/expectations for its enforcement program? Is the PTBC meeting those expectations? If not, what is the PTBC doing to improve performance?

In July 2009, Governor Schwarzenegger directed the State and Consumer Services Agency (SCSA) to conduct an internal review of the Division of Investigation and health care boards' enforcement programs within the Department of Consumer Affairs (DCA). Based on SCSA's findings, Governor Schwarzenegger charged the DCA Director, Brian Stiger, with reforming the enforcement process for health care boards in California.

The DCA reviewed existing enforcement processes and identified systemic problems that were barriers limiting the health care boards' abilities to investigate and act on cases in a timely manner. The barriers identified ranged from legal and procedural challenges, to inadequate resources such as funding and staff shortages. In response, the DCA launched the Consumer Protection Enforcement Initiative (CPEI). As part of the CPEI, enforcement performance measures were developed to monitor and assist in determining the effectiveness of efforts to streamline enforcement processes, reduce backlogs, and achieve the overall goal to process complaints within 12-18 months. In July 2010, the DCA began collecting data on its new enforcement measures.

Although the PTBC had an ongoing process to evaluate and improve its Consumer Protection Services program, in July 2009, the PTBC also implemented the CPEI with the expectation of reducing the average enforcement completion time to 12-18 months. The PTBC's program included a review, comparison, and evaluation of best practices within the DCA and incorporated the DCA's established targets for PTBC's Consumer Protection Services program.

The implementation of the CPEI, and the additional 3.5 limited term Associate Governmental Program Analysts (AGPA) improved performance levels of the PTBC Consumer Protection Services (CPS) program. However, on September 30, 2012, the 3.5 CPEI limited-term AGPA CPEI positions expired. Two of these positions were filled with permanent intermittent staff from the CPS program who returned to their former positions (permanent intermittent) and one staff member separated from the PTBC when the limited term ended on the position. Thus, as of October 1, 2012, the PTBC CPS program solely depends on 2 full-time permanent staff, one part-time (0.9) staff member and 2 permanent intermittent (PI) staff. Staffing hours have decreased to 8,150. This equates to a total net loss of 4,104 hours or 33% reduction of staff hours. Consequently, CPS is understaffed and is unable to meet its mandated purpose.

This untimely staffing decrease significantly impacts the physical therapy consumers of California as the workload for the CPS program has increased considerably and continues to grow each fiscal year, resulting in CPS not meeting the workload demand. Due to the volume of workload, the PTBC has redirected staff to address the highest priority caseload. Consequently the less egregious citation and fine cases, (i.e. address change, continuing competency, documentation and supervision violations) are no longer a priority and have been placed on hold until authority for additional staff is received. While this affords staff to focus on the more egregious cases that put the consumer at a higher risk, it impacts the Board's revenue, since the citation and fine program is a revenue generating resource.

The number of cases assigned to each analyst is extremely high, with 1,816 cases received annually and 386 cases pending. CPS analysts (two full time and one part-time) manage an annual caseload of over 500 cases. This is fundamentally impossible and leaves an extremely high margin of error. The PTBC's number of sexual misconduct cases has dramatically increased, which is one of the most egregious violations against a consumer.

The most pronounced inadequacy is the lack of staff to ensure an appropriate distribution of cases per analyst and equally important, the lack of a staff person dedicated to begin the intake process of complaints and convictions. These inadequacies stifle the PTBC's progress to achieve Performance Measures and at our current CPS staff level the PTBC doesn't have a chance of meeting these measures. Currently, the lead Associate Governmental Program Analyst (AGPA) of CPS completes the intake process which requires acknowledging complaints and initiating the process of opening cases. Next, the lead AGPA must then scrutinize each case prioritizing cases by high or low priority, an additional task that is appropriate for the AGPA but nonetheless time consuming. The lead AGPA must also attempt to complete other duties associated with her position as the lead analyst.

An additional source of complaints has descended on the PTBC. On Aug 27, 2012, SB 924, a bill relating to direct access to physical therapy services, was amended to include provisions that would allow physical therapists to be shareholders, officers, directors, or professional employees of medical, podiatric and chiropractic corporations, and add physical therapy corporations to Section 13401.5 allowing other professionals to be shareholders, officers, directors, or professional employees, as specified, of physical therapy corporations, failed to pass out of the Assembly Committee on Rules. Due to the failure of SB 924, on September 1, 2012, the PTBC began receiving a large number of complaints against physical therapists working for physicians. Subsequently, an insufficient number of staff to address such complaints has evoked a negative response within the professional community for which the

PTBC regulates, presenting a perception that the PTBC is negligent in meeting its mandate to protect consumers and enforce the law.

Currently there is a moratorium on the PTBC taking action against physical therapists for being an employee of a medical, podiatric medical, or chiropractic corporation. However, Business and Professions Code section 2674 (from SB 543) will sunset on January 1, 2013, lifting the moratorium. Thus, the PTBC will have to take action against the complaints received regarding physical therapist employed by a medical corporation. However, complaints for non-compliant physical therapists in regards to employment nature are a lower priority compared to sexual misconduct complaints. As this date approaches, the PTBC is faced with an insurmountable level of workload accompanied by a mismatched diminutive staff level to address the workload.

CPEI Performance Measures

The enforcement process is monitored by the assigned PTBC analyst at many phases and intervals. The targets serve as a tool to improve case management at each interval of the enforcement process. These targets are listed below. Comments on the PTBC performance to these targets are noted after each section.

Intake FY 2010/2011: This is the time from complaint receipt until the complaint is assigned to an analyst/investigator. Complaints are received by telephone, writing, email, or by filing a complaint via the PTBC's Web site.

Target: Target for Intake is 5 days.

Performance: This goal was not met by the PTBC in FY 2010/11.

Intake Process Target Performance			
FY 2010/2011	Average Days	Target # of Days	Target Met
1 st Quarter	7	5	No
2 nd Quarter	6	5	No
3 rd Quarter	5	5	Yes
4 th Quarter	6	5	No

Comment: The target was not met with the exception of Q3. Note that the target is 5 calendar days, not 5 working days. A three day weekend or mandatory furlough days affects the staff's ability to meet the target. Complaints at intake are processed by one permanent intermittent employee who also has a variety of other duties. The PI works a maximum of 1500 hours in a calendar year compared to a full time employee who works 1776 hours. On an average, initiation of a complaint takes 50 minutes from complaint receipt to assignment to an analyst. In FY 2010/11, 1812 complaints were processed which equates to 906 hours for the intake process alone.

Intake FY 2011/12:

Target: Target for Intake is 6 days.

Performance: This goal was met by the PTBC in FY 2011/12.

Intake Process Target Performance			
FY 2011/12	Average Days	Target # of Days*	Target Met
1 st Quarter	6	6	Yes
2 nd Quarter	6	6	Yes
3 rd Quarter	6	6	Yes
4 th Quarter	3	6	Yes

*This measure was increased by one day to account for weekends and holidays.

Comment: The target was met for FY 2011/12. Complaints at intake are processed by one permanent intermittent (PI) employee who also has a variety of other duties. The PI works a maximum of 1500 hours in a calendar year compared to a full-time employee who works 1776 hours. On average, initiation of a complaint takes 50 minutes from complaint receipt to assignment to an analyst. In FY 2011/12, 1816 complaints were processed which equates to 908 hours for the intake process alone.

Intake and Investigation FY 2010/11: This is the average time from complaint receipt to closure of the in-house investigative process. For the purposes of this report, the investigative process includes desk investigations conducted by a PTBC analyst, which may result in the transmission of a case to the Division of Investigation (DOI) for a formal investigation. Cases sent to the Attorney General (AG) for formal discipline are not included in this measure.

Target: Target for Intake and Investigation is ninety (90) days

Performance: This goal was met by the PTBC in FY 2010/11.

Intake and Investigation Target Performance			
FY 2010/11	Average Days	Target # of Days	Target Met
1 st Quarter	78	90	Yes
2 nd Quarter	67	90	Yes
3 rd Quarter	84	90	Yes
4 th Quarter	54	90	Yes

Comment: Analysts constantly monitor their cases by sending status request to the appropriate person at every level of the process. This may include an expert consultant, DOI investigator. Recognizing its need to improve this process, the PTBC hired intermittent staff to reduce the number of cases assigned to each analyst. This provided each analyst the opportunity to more efficiently manage each case.

Intake and Investigation FY 2011/12:

Target: Target for Intake and Investigation is ninety (90) days

Performance: This goal was met in FY 2011/12 with the exception of Quarter 2.

Intake and Investigation Target Performance			
FY 2011/12	Average Days	Target # of Days	Target Met
1 st Quarter	61	90	Yes
2 nd Quarter	94	90	No
3 rd Quarter	36	90	Yes
4 th Quarter	42	90	Yes

Comment: Intake and Investigation measures were met, with the exception of the 2nd quarter. Analysts constantly monitor their cases by sending status requests to the appropriate person at every level of the process. This may include an expert consultant and/or DOI investigator.

Formal Discipline FY 2010/11: This is the average number of days to complete the entire enforcement process for cases resulting in formal discipline. This includes intake, investigation by the PTBC and/or DOI, and prosecution by the Attorney General.

Target: Target for Formal Discipline is 540

Performance: This goal was not met for FY 2010/11.

Formal Discipline Target Performance			
FY 2010/11	Average Days	Target # of Days	Target Met
1 st Quarter	567	540	No
2 nd Quarter	873	540	No
3 rd Quarter	610	540	No
4 th Quarter	982	540	No
Note: Part of the fluctuation in average days to complete formal discipline is influenced by the presence of aged cases. There were 81 cases pending at the end of FY 2009/10. Out of those 81 cases, 40 were closed, 4 were 1 year old, 18 were 1-2 years old, 10 were 2-3 years old and 8 were 3-4 years old. The remaining 41 cases were carried over to the following FY and will have an influence on future FY performance targets.			

Comment: While the target was not met, process improvements have been significant and steady. With the implementation of the CPEI, significant changes have occurred within the DCA and have already improved performance levels of the PTBC Consumer Protection Services program. For instance, the DCA's DOI has set its goal to complete an investigation within 365 days from the date of intake. This example indicates how the PTBC's target performance is affected by processes outside of the PTBC's direct control.

Closer communication between involved agencies also plays an important part in meeting target performance goals. Although the Attorney General's Office (AG's) is not required to participate in the CPEI, it made improvements in processing older cases while keeping up with new case performance timeframes. For instance, the PTBC Executive Officer, Manager, and Enforcement Lead staff person recently implemented monthly meetings with Assistant Attorney General, Carlos Ramirez to discuss the PTBC's needs for meeting target performance goals. Though the PTBC has minimal control of the cases once forwarded to the AG's office for administrative action, these meetings have proven to be effective in communicating immediate areas of concern about cases.

With the increase of additional enforcement staff, the PTBC in-house staff analysts are able to conduct more thorough desk investigations. Desk investigations reduce case aging times and investigative costs.

Formal Discipline 2011/2012:

Target: Target for Formal Discipline is 540

Performance: The goal was met in Quarter 3. It was not met in the other quarters of 2011/12.

Formal Discipline Target Performance

FY 2011/12	Average Days	Target # of Days	Target Met
1 st Quarter	597	540	No
2 nd Quarter	795	540	No
3 rd Quarter	530	540	Yes
4 th Quarter	612	540	No

Note: Part of the fluctuation in average days to complete formal discipline is influenced by the presence of aged cases. There were 65 cases pending at the end of FY 2010/11. Out of those 65 cases, 33 were closed, 5 were 1 year old, 13 were 1-2 years old, 7 were 2-3 years old and 8 were 3-4 years old. The remaining 39 cases were carried over to the following FY and will have an influence on future FY performance targets.

Comment: With the implementation of the CPEI, and the additional staffing it provided, significant changes occurred, improving performance levels of the PTBC Consumer Protection Services program; however, the CPEI positions expired September 30, 2012. The PTBC Consumer Protection Services program will then solely depend on 3 full-time permanent staff, and 2 permanent intermittent positions, which will equate to a 36% reduction of staff. The decrease in staff will create a higher number of cases per analyst which will effect meeting the performance measure goals. The Board continues to hold its monthly meetings with Assistant Attorney General, Carlos Ramirez to discuss the needs of the Board’s Consumer Protection Services program and ways to meet its targets.

Probation Intake FY 2010/11: This is the average number of days from probation monitor assignment to the date the probation monitor makes first contact with the probationer by phone or letter.

Target: Target for Probation Intake is 5 days.

Performance: This goal was not met by the PTBC over the FY **2010/11**.

Probation Intake Target Performance

FY 2010/11	Average Days	Target # of Days	Target Met
1 st Quarter	9	5	No
2 nd Quarter	3	5	Yes
3 rd Quarter	14	5	No
4 th Quarter	4	5	Yes

Comment: Currently the PTBC has one probation monitor, who monitors all probationers (55-65 annually) throughout California and, as a result must travel extensively. The probation monitor also currently acts as the PTBC’s Diversion Program manager and as the liaison to the PTBC’s Random Body Fluid Laboratory contractor, Phamatech, Inc. As such, the probation monitor is required to attend regular meetings. Last fiscal year the probation monitor was particularly busy acting as the diversion program manager working with Maximus, the PTBC’s diversion program contractor, to come to a contract agreement. The probation monitor is also responsible for planning all probation monitoring trips, as well as setting up all accommodations involved with travel (i.e. renting cars, flights, hotel accommodations). Being out of town, sometimes for days at a time, makes it difficult for the probation monitor to reach the performance measures targets. Before the performance measures targets were put into place, the probation monitor’s standard practice was to contact new probationers sometime before the effective date of their probation. The probation monitor is aware of the performance measures target and makes every effort to make it a priority to call new probationers or send a letter to a new probationer within the target range. The probation monitor is currently contacting new probationers by telephone prior to the five day target to meet this performance measure.

Probation Intake FY 2011/12:

Target: Target for Probation Intake is 5 days.

Performance: This goal has been met by the PTBC over the FY 2011/12.

Probation Intake Target Performance			
FY 2011/12	Average Days	Target # of Days	Target Met
1 st Quarter	3	5	Yes
2 nd Quarter	2	5	Yes
3 rd Quarter	2	5	Yes
4 th Quarter	0	5	N/A

Comment: The PTBC continues to allocate one full-time position for probation monitoring. The probation monitor is responsible for 65-70 probationers throughout California. In addition, the probation monitor continues to oversee the PTBC’s Substance Abuse Rehabilitation Program, acts as the liaison to the PTBC’s Random Body Fluid Laboratory contractor, Phamatech, Inc. and attend the PTBC’s contracted Substance Abuse Rehabilitation Program, Maximus.

Probation Violation Response: This is the average number of days from the date a violation of probation is reported, to the date the probation monitor initiates action.

Target: Target for probation violation response is seven days

Performance: This goal has been met by the PTBC over FY 2010/11

Probation Violation Response Target Performance			
FY 2010/11	Average Days	Target # of Days	Target Met
1 st Quarter	0 Violations	7	Yes
2 nd Quarter	1	7	Yes
3 rd Quarter	1	7	Yes
4 th Quarter	0 Violations	7	Yes

Comment: The PTBC met its target for probation violation responses during FY 2010/11. The PTBC takes into consideration the severity of the violation and will respond accordingly.

Probation Violation Response FY 2011/12:

Target: Target for probation violation response is seven days

Performance: This goal has been met by the PTBC over FY 2011/12

Probation Violation Response Target Performance			
FY 2011/12	Average Days	Target # of Days	Target Met
1 st Quarter	4	7	Yes
2 nd Quarter	0 Violations	7	N/A
3 rd Quarter	0 Violations	7	N/A
4 th Quarter	0 Violations	7	N/A

Comment: The PTBC met its target for probation violation responses during FY 2011/12.

29.A) Explain trends in enforcement data and the PTBC’s efforts to address any increase in volume, timeframes, ratio of closure to pending, or other challenges. (B) What are the performance barriers? (C)What improvement plans are in place? What has the PTBC done and what is the PTBC going to do to address these issues, i.e., process efficiencies, regulations, BCP, legislation?

(A)Explain trends in enforcement data and the PTBC’s efforts to address any increase in volume, timeframes, ratio of closure to pending, or other challenges.

The PTBC has aggressively utilized its authority to issue citations and fines to address less egregious violations in an expedient manner. The PTBC finds this process to be an efficient mechanism for resolving minor violations.

Since the evidentiary standard for a citation is *preponderance of evidence*, as opposed to evidentiary standard for discipline which is *clear and convincing evidence*, these cases are handled primarily by desk investigations. While the issuance of citations and fines requires a substantial amount of staff time, there are usually no investigative or prosecutorial expenditures. Therefore, citations and fines can be a cost effective means to address minor violations.

The PTBC experiences a high volume of returned mail caused by the lack of a current address for all licensees. The licensee’s current address is vital for record management, prompt communication with the licensee, and is a critical part of the PTBC’s mission of consumer protection. In response to the high volume of returned mail, the PTBC started enforcing the address reporting change requirement. California Code of Regulations, section 1398.6 requires the licensee to report each and every change of residence address within 30 days of each change.

In the past, citations were issued primarily for minor first-offense supervision issues, minor documentation violations or disciplinary actions taken by other State Boards. However, in FY 2008/09, the PTBC also began issuing citations for some first offense criminal convictions and for failure to comply with the address reporting requirement. On a first offense conviction, individual factors are taken into consideration on a case by case basis to determine whether a citation should be issued.

The chart below demonstrates the increase of citations issued, fines assessed, fines collected, and the average time from opening a case to issuing the citation and fine for the last **five** fiscal years.

Citations Issued					
Fiscal Year	FY 2007/2008	FY 2008/2009	FY 2009/2010	FY 2010/2011	FY 2011/2012
Citations Issued	312	540	593	649	613
Fines Assessed	\$31,300	\$69,650	\$100,150	\$113,550	\$121,950
Fines Collected	\$29,350	\$44,650	\$69,525	\$88,225	\$103,945
Average days to Complete	64	92	88	51	74

(B)What are the performance barriers?

The major barrier is the delay which occurs within the Attorney General's Office (AG) and the Office of Administrative Hearings (OAL). Caseloads and the scheduling of settlement conferences and administrative hearings are, at times, backlogged for 6 months to 1 year after a hearing has been requested. This delay of 6 months to 1 year alone prevents the PTBC from meeting its Formal Discipline performance measure.

Other performance barriers include staffing shortages as well as receiving timely responses from outside agencies and licensees. To determine if a violation exists, the PTBC obtains various documents such as court reports, arrest records and written responses related to each case. Responses to document requests can vary greatly. In many cases, multiple documents are needed from other agencies and sometimes repeated requests are required. Further delays can be caused when processing fees are required by courts and arresting agencies.

A third significant performance barrier has been the staffing shortages related to the mandated furloughs and the State hiring freeze. A summary of the Executive Orders is listed below.

- On July 31, 2008, Executive Order S-09-08 was issued. This order set in place a freeze for all hiring not considered critical, to cease and desist all overtime not considered emergent to the protection of life and safety, and the termination of services provided by (1) Retired Annuitants; (2) permanent intermittent (PI) Employees; (3) Seasonal Employees; (4) Temporary Help Workers; and (5) Student Assistants. As a result of this executive order the CPS program lost the potential of 3 permanent intermittent Employees and 1 Student Assistant.
- On December 19, 2008, Governor Schwarzenegger issued Executive Order S-16-08 which required state agencies to implement furloughs of state employees for two days per month regardless of funding source, from February 9, 2009 through June 30, 2009.
- On July 2, 2009, Governor Schwarzenegger issued Executive Order S-09-12 which required state agencies to close their offices for three Fridays every month through June 30, 2010.
- On August 9, 2010, Governor Schwarzenegger issued Executive Order S-12-10 which required state agencies to close their offices for three Fridays every month until the budget is signed.
- On August 31, 2010, Governor Schwarzenegger implemented a State Hiring Freeze and one self-directed furlough day.

The reduction in staffing through furlough and hiring freeze also has had an impact on the CPS program. For example: from February 2009 through June 2010, each employee lost 46 work days or 368 hours due to furloughs. Multiply 368 hours by the four existing permanent full-time enforcement positions (in FY 2009/10) and this equates to 184 days or 1,472 hours of lost work time. This lost time is equivalent to a .70 full-time position or a 15% reduction in enforcement staff over that time period. Mandatory furloughs directly impacted the PTBC's ability to protect the public. The number of cases enforcement staff was able to process was radically reduced. Case backlog and processing delays increased.

A shortage of permanent enforcement full time staff continues to be a barrier to the PTBC's efforts to meet performance measures. The CPS program is staffed with five PIs (1500 hours a calendar year per PI) and only three permanent full time employees (1776 hours a calendar year per employee) to monitor and process approximately 1,812 complaints and 69 cases with the Office of Attorney General. The CPEI authorized a total of 3.5 Limited-Term Positions (LT), full time and 24 month limited-term with an expiration date of November 30, 2011 for FY 2010/11 & FY 2011/12. The PTBC has filled 2.5, of these positions with the PI staff; however, due to the current hiring freeze, their time base of 1500 hours a year, cannot be increased to the full time base.

In 2011, due to the hiring freeze, the limited-term positions were extended to September 30, 2012. With the extension of the expiration date, the PTBC filled these positions, bringing the staffing level to a total of 12,254 staff hours. As of October 1, 2012, the PTBC CPS program will depend on 2.9 full-time permanent staff, and 2 permanent intermittent (PI) positions, decreasing staff to 8,150 hours. This equates to a total net loss of 4,104 hours or 33% reduction of staff hours. The decrease in staff will create a higher number of cases per analyst which will affect meeting the performance measure goals.

(C)What improvement plans are in place? What has the PTBC done and what is the PTBC going to do to address these issues, i.e., process efficiencies, regulations, BCP, legislation?

In July 2009, various media articles reported that most of the DCA health care boards were taking over three years to complete investigations and take appropriate disciplinary actions against licensees. As a result, Governor Schwarzenegger directed the State and Consumer Services Agency (SCSA) to conduct an internal review of all the health care board's enforcement programs and the DCA Division of Investigation (DOI). The SCSA found that

most of the health care boards face significant complaint investigation backlogs and processing delays. Governor Schwarzenegger charged the DCA Director, Brian Stiger, with reforming the current enforcement process for the health care boards.

The DCA reviewed the existing enforcement process and found systemic problems that limit the boards' abilities to investigate and act on cases in a timely manner. These problems range from legal and procedural challenges to inadequate resources. In response, the DCA launched the Consumer Protection Enforcement Initiative (CPEI) to overhaul the enforcement process at the healing arts boards. The CPEI is a systematic approach designed to address three specific areas: Legislative Changes; Staffing and Information Technology (IT) Resources; and Administrative Improvements. Once fully implemented, the DCA expects the healing arts boards should reduce the average enforcement completion timeline to between 12-18 months. To implement and monitor CPEI, the following improvements are currently underway:

1. Budget Change Proposals - Effective July 1, 2010, the PTBC received budget approval to hire .05 investigator (permanent), 1 manager (permanent) and 3.5 (limited-term) analysts as additional staff for the next two fiscal years. However, on August 31, 2010, Governor Schwarzenegger implemented a State Hiring Freeze. As a result, the PTBC has been working with the DCA Office of Human Resources (OHR) to obtain approval of the manager position and was able to fill the manager position as of July 26, 2011. The PTBC continues to work with OHR to fill the remaining positions.
2. Enforcement Performance Measures - In conjunction with expanded staff and better tracking systems, the DCA established a new position, Deputy Director of Enforcement & Compliance, to assess each board's enforcement program and to ensure continuous improvements. The DCA developed enforcement performance measures to monitor the effectiveness of efforts to streamline enforcement processes, reduce backlogs and achieve the overall goal to process complaints within 12-18 months. In July 2010, the DCA began collecting data on new external enforcement measures. The first quarter performance reports were issued in October 2010, and have continued each quarter. The first Annual Report (FY 2010/11) was issued July 1, 2011 and has also been posted on the DCA's Web site. While the PTBC has not received any feedback from the DCA on its performance measures, the PTBC has generally met its targets, identified its own performance shortcomings and implemented measures to improve performance.

Although the PTBC continues to meet its performance measurement goals, the PTBC anticipates difficulty meeting future measures due to the staffing shortfalls as previously discussed.

Legislation

Senate Bill (SB) 1111 (Negrete-McLeod) - On February 17, 2010, SB 1111 was introduced by Senator Negrete-McLeod and sponsored by the DCA. The proposed legislation was introduced to establish the Consumer Health Protection Enforcement Act and make enforcement processes more efficient. On April 22, 2010, SB 1111 failed to make it out of the Senate Business, Professions & Economic Development Committee. A review of SB 1111 was performed by the DCA. On April 30, 2010, Paul Riches, DCA Deputy Director, Enforcement & Compliance, reported that some of the provisions could be implemented through regulations.

The PTBC reviewed these recommendations and approved regulatory changes. On May 11, 2011, the PTBC held its regulatory hearing and is currently completing the rulemaking file. The following provisions were extracted from SB 1111 and included in the PTBC's regulatory package.

- Authorizes the PTBC to delegate to its executive officer (EO) the authority to adopt a proposed default decision to revoke a license.
- Authorizes the PTBC to delegate to its EO the authority to adopt a proposed settlement agreement where an administrative action to revoke a license has been filed and the licensee has agreed to the license revocation or surrender.
- Authorizes the Executive Officer of the PTBC, upon receipt of evidence a licensee engaged in conduct that poses an imminent risk of serious harm, to petition the Director of the DCA to issue a temporary order against the licensee to cease practice.
- Mandates the PTBC to revoke the license of an individual who is required to register as a sex offender pursuant to Penal code 290.
- Authorizes the PTBC to levy a civil penalty on a licensee or health facility that fails or refuses to comply with a court order, issued in the enforcement of a subpoena mandating the release of records to the PTBC.
- Requires a state agency immediately to provide the PTBC all records in the custody of the state agency upon receiving a written request from the PTBC.
- Specifies that it is unprofessional conduct for a licensee to fail to furnish information in a timely manner and failure to cooperate or participate in any investigation or other disciplinary proceeding pending against the licensee.
- Requires a licensee to submit a written report to the PTBC if an indictment or information charging a felony against the licensee is filed; upon any arrest; upon any misdemeanor or felony conviction; and upon any disciplinary action taken by another licensing entity or authority of this state or another state.
- Requires a licensee to identify him or herself as a licensee to law enforcement or court officials upon being arrested or charged with a crime.

The majority of the above provisions, extracted from SB 1111, became operative August 16, 2012 with the addition of sections 1399.23 & 1399.24 to the California Code of Regulations.

The Board expressed concern delegating full authority to the EO and did not delegate authority to adopt a proposed default decision to revoke a license. The Board also declined to delegate to its EO the authority to adopt a proposed settlement agreement where an administrative action to revoke a license has been filed and the licensee has agreed to the license revocation or surrender.

Substance Abuse Coordination Committee (SACC) - On November 16, 2009, the SACC adopted sixteen uniform standards for substance-abusing healing arts licensees as required by Senate Bill 1441 (Chapter 548, Statutes of 2008). The PTBC received a request from the DCA Director Brian Stiger to promptly implement the standards that do not require legislative or regulatory changes. He also requested boards develop proposed statutory and/or regulatory changes, as needed, to fully implement the Uniform Standards. The PTBC developed draft proposed regulatory language to implement those standards. The PTBC has incorporated the Uniform Standards Regarding Substance Abusing Licensees in its Guidelines to Disciplinary Action and has scheduled the regulatory hearing for November 3, 2011.

The PTBC held the November 3, 2011 hearing as scheduled; however, has since withdrawn the Uniform Standards from the Guidelines to Disciplinary Action and will file a separate Rulemaking File to include the Uniform Standards in its entirety. This action was based on a memo received from DCA, Legal Affairs concerning the level of discretion Boards have with regards to the Uniform Standards for Substance-Abusing Healing Arts Licensees and the requirement to include the Uniform Standards in whole.

3. Enforcement Academy – The PTBC participated in the Enforcement Academy sponsored by the DCA. The primary purpose of the Academy is to provide solid, standard, baseline knowledge and practices for new and existing employees who perform enforcement functions. The Academy also provides a venue for individuals from all of the DCA's boards, bureaus, and divisions to learn from one another and form valuable, lasting working relationships.

4. Improvements within the Consumer Protection Services program

Since the last Sunset Review, the Consumer Protection Services program (CPS) has done the following:

- Initiated monthly CPS meetings with its staff to provide better direction and establish goals
- Initiated regular meetings with the DCA's Legal Counsel, the PTBC's Deputy Attorney General's liaison and the Senior Supervising DAG.
- Increased enforcement staff

- Restructured the CPS program with recently hired enforcement manager
- Participated in the BreEze program. BreEze is scheduled to be completed and released in the spring 2013.
- Improved outreach to consumers by posting information on the recently implemented Facebook and Twitter
- Participated in the DCA's Enforcement users group and the DCA's Enforcement Managers round table meetings, increasing opportunities for networking and communication of information and procedures.

The PTBC implemented written performance standards for its physical therapy expert consultants on July 1, 2012. Upon completion of services, an expert consultant evaluation shall be completed by the PTBC's CPS analysts, in-house Program Consultant, Deputy Attorneys General (DAG) and is then reviewed by the CPS Manager and /or Executive Officer.

The Expert Performance-ER-1 tool, completed by CPS analysts and the CPS Program Consultant, measures performance on the following:

- Productivity
- Quality of work product
- Case analysis
- Decision making
- Relations with people
- Overall performance

The Expert Performance-ER-2 tool, completed by the DAG measures performance on the following:

- Written report
- Knowledge of case
- Preparation for hearing
- Testimony at a hearing

Removal of an expert reviewer for substandard or negative performance(s) is considered and determined by the CPS Manager and/or Executive Officer after consultation with the case analyst and the Board's in-house Program Consultant. This is done on a case-by-case basis.

Table 9a. Enforcement Statistics – This table provides **four** fiscal years of data showing the enforcement program’s workload as it relates to complaints processed from intake to filing of an Accusation.

Table 9a. Enforcement Statistics				
Fiscal Year	FY 2008/09	FY 2009/10	FY 2010/11	FY 2011/12
COMPLAINT				
Complaint Intake ¹				
Received	1,075	1,455	1,812	1,816
Closed	97	42	14	13
Referred to INV ²	979	1,417	1,791	1,796
Average Time to Close (days)	16	4	6	5
Pending (at close of FY)	14	10	17	14
Source of Complaint				
Public	131	200	336	128
Licensee/Professional Groups	9	5	12	30
Governmental Agencies	919	1,248	1,463	1,611
Other	16	2	1	34
Conviction / Arrest ³				
CONV Received	191	269	227	231
CONV Closed	191	268	224	232
Average Time to Close (days)	6	4	4	4
CONV Pending (at close of FY)	0	1	4	84
LICENSE DENIAL				
License Applications Denied ⁴	3	1	8	2
Statement of Issues (SOI) Filed	2	3	3	6
SOIs Withdrawn	0	3	0	1
SOIs Dismissed	0	0	0	0
SOIs Declined	0	0	0	0
Avg. Days SOI withdrawn/dismisssed or declined	0	219	0	435
ACCUSATION				
Accusations Filed	10	35	37	43
Accusations Withdrawn	3	2	4	2
Accusations Dismissed	1	0	0	0
Accusations Declined	11	23	8	4
Average Days Accusations	825	963	439	572
Pending (close of FY)	51	80	69	87

¹ Intake - The type of complaints received include: Incompetence, unprofessional conduct (multiple violation type cases fall under unprofessional conduct), fraud, other (any issue that would not fall under any of the other categories), convictions, and substance/drug related abuse, sexual misconduct, unlicensed activity, and other discipline.

² Referred to Investigation - Complaints received by the PTBC that are within its jurisdiction are sometimes referred for investigation. The majority of the complaints are investigated by in-house staff analysts who conduct “desk” investigations by gathering data and documents via written communication. Desk investigations do not include field work or interviews. Any investigation that requires field work, interviews, service of subpoenas or a sworn peace officer involved due to safety concerns or criminal activity, is referred to the DCA’s Division of Investigation (DOI). The PTBC has increased desk investigations using in-house staff analysts in an attempt to mitigate DOI’s backlog and reduce case aging.

³ Conviction/Arrest - The workload associated with record of conviction cases is extensive and time consuming. To conduct these reviews, enforcement staff must:

- Review criminal history, and subsequent arrest and conviction reports.
- Request and review court documents and police reports.
- Correspond with the applicant to obtain additional information relative to compliance with criminal penalties and rehabilitation efforts.
- Make a final recommendation on whether or not to license an applicant based upon his/her conviction history and evidence of rehabilitation.
- Process the Notice of Defense if the applicant requests an administrative hearing
- Transmit the case to the Attorney General's Office to prepare the pleading.
- Review and consider settlement terms with the applicant and/or his legal counsel, executive offer, and AG's office.
- Review the Administrative Law Judge's Proposed Decision
- Process and monitor mail ballots along with the proposed decisions to board members for consideration.
- Process and mail final decision to the applicant.

⁴ Reviewing applicant cases is an enforcement function and critical to consumer protection. B&P Code §480 authorizes the PTBC to deny an applicant licensure based on convictions substantially related to the license. After thorough reviews of an applicant's criminal history and rehabilitation efforts, a determination must be made as to whether denial of licensure is warranted. The PTBC fully realizes the importance of the proper evaluation of an applicant. This is an important and crucial step of the PTBC's public protection charge. Proper evaluation at this level reduces the risk of California consumers who seek physical therapy services. The applicant has due process rights to safeguard against error in denial and can request a hearing to contest the decision. This is all part of the disciplinary process that must be handled by staff.

Table 9b - Enforcement Statistics - This provides four fiscal years of data showing the enforcement programs workload as it relates to final discipline, probation and diversion.

Table 9b. Enforcement Statistics (continued)				
Fiscal Year	FY 2008/09	FY 2009/10	FY 2010/11	FY 2011/12
DISCIPLINE				
Disciplinary Actions ¹				
Proposed/Default Decisions	5	7	11	9
Stipulations ²	6	8	29	21
Average Days to Complete	799	606	812	799
AG Cases Initiated ³	49	90	65	70
AG Cases Pending at close of FY	55	81	69	87
Disciplinary Outcomes				
Revocation	5	7	8	11
Voluntary Surrender	1	2	4	3
Suspension	0	0	0	0
Probation with Suspension	1	0	5	0
Probation ⁴	6	4	19	13
Probationary License Issued	2	6	2	6
Other	0	0	0	0
PROBATION				
New Probationers	9	9	21	19
Probations Successfully Completed	7	20	16	3
Probationers (at close of FY)	62	49	53	67
Petitions to Revoke Probation	2	2	4	5
Probations Revoked	1	2	1	2
Probations Modified	3	0	2	2
Probations Extended	0	0	0	0
Probationers Subject to Drug Testing	17	22	28	35
Drug Tests Ordered ⁵	49	547	1,216	409
Positive Drug Tests	0	5	10	21
Petition for Reinstatement Granted	0	1	0	0
Drug & Alcohol Recovery Monitoring Program⁶				
New Participants	2	15	9	9
Successful Completions	4	1	1	3
Participants (at close of FY)	8	15	15	14
Terminations	0	1	3	10
Terminations for Public Threat	0	1	2	0
Drug Tests Ordered ⁵	49	547	1,057	686
Positive Drug Tests	0	5	8	22

¹ The PTBC refers unresolved cases either through internal “desk” or “formal” investigation to the Office of the Attorney General for prosecution through the Office of Administrative Hearings. These referrals can also lead to additional delay in the enforcement process because of requests for clarification or additional data, loss of control of the case by the PTBC, and excessive caseload at the Office of the Attorney General. Part of the delay also includes the backlogs at the Office of Administrative Hearings resulting in cases taking six months to one year to schedule for hearings.

² The PTBC may settle a case when the respondent is willing to stipulate to revocation or voluntary surrender of the license. The PTBC may also consider settlement terms when the violation does not necessarily warrant license revocation. The PTBC may consider settling when the PTBC experiences evidence problems, e.g., a key witness is no longer available; a witness gives conflicting/contradicting statements to the PTBC’s Deputy Attorney General (DAG) as compared to the investigator during the investigation, or “evidence” problems compromise the outcome. Another cause for settlement may be that the respondent submits sufficient rehabilitation material to prove partial rehabilitation and probation would still ensure protection of the public. For example: drug abuse related cases where there was no patient harm and the respondent has taken substantial steps towards recovery/rehabilitation or conviction cases where the licensee may still be trying to comply with the criminal penalties (and consequently, is not fully rehabilitated).

³ The number of cases the PTBC transmits to the Attorney General’s Office (AG) for the preparation and filing of an accusation fluctuates each year. During the past three fiscal years, the PTBC received 4,342 complaints and 204 of those complaints were sent to the AG’s office. These account for approximately 5% of the total complaints received that were transmitted to the AG’s office. The PTBC filed for disciplinary action on approximately 41% of the cases transmitted to the AG’s office. Within the past three years, the number of disciplinary actions against licensees has increased from 24% in FY 2008/09 to 62% in FY 2010/11.

⁴ Approximately 59 % of the PTBC’s disciplinary actions result in probation. The average term of probation is 4 years. The PTBC has one probation monitor for the State of California who monitors an average of 55 licensees per year. When a licensee on probation violates the terms of his/her probation, the PTBC transmits the case to the AG’s Office for the preparation and filing of a petition to revoke probation and subsequent discipline.

⁵ The number of Biological Fluid Testing (BFT) ordered by the PTBC has increased in each of the last three fiscal years. The increase in tests ordered from FY 2009/10 to FY 2010/11 is related to SB 1441, Uniform Standards Related to Substance Abuse, specifically, Standard #4. Standard #4 originally required all probationers to 104 BFT in the first year of probation. In April 2011, that Standard was revised and 52-104 BFT are now required in the first year of probation. Probationers are currently required to submit to BFT and may be required to participate in the PTBC’s Alcohol/Drug Recovery Monitoring Program (Maximus) as per the terms and conditions of their Order. A clinical assessment of addiction is performed upon intake to the Maximus program to determine if the licensee is a candidate for participation in the program. Probationers enrolled in Maximus have BFT required. A probationer who is determined to not be a candidate for Maximus following clinical assessment is still under a BFT requirement. The BFT for probationers not in Maximus is administered through the PTBC contract with Phamatech.

⁶ The PTBC considers licensees who have been ordered to participate in the PTBC’s diversion program to be in a drug and alcohol recovery monitoring program. The PTBC does not divert licensees from discipline because of participation in a recovery program.

Table 9c - Enforcement Statistics – This table provides four fiscal years of data showing the enforcement programs workload as it relates to investigations, compliance actions, citations and criminal actions.

Table 9c. Enforcement Statistics (continued)				
	FY 2008/09	FY 2009/10	FY 2010/11	FY 2011/12
INVESTIGATION				
All Investigations	1,075	1,455	1,812	1,814
First Assigned	979	1,417	1,791	1,803
Closed	940	1,427	1,632	1,748
Average days to close	128	135	82	71
Pending close of FY	372	362	521	594
Desk Investigations ¹				
Closed	917	1,359	1,547	1,802
Average days to close	115	100	59	59
Pending close of FY	309	302	469	535
Non Sworn Investigation ²				
Closed	N/A	N/A	N/A	N/A
Average days to close	-	-	-	-
Pending (close of FY)	-	-	-	-
Sworn Investigation (DCA, Division of Investigation)				
Closed	23	68	85	51
Average days to close ³	646	845	507	469
Pending close of FY	63	60	52	59
COMPLIANCE ACTION				
Interim Suspension Order & Temp. Restraining Order Issued	0	3	1	1
PC 23 Orders Requested (Restraining Order –Ordered by the court)	1	0	0	0
Other Suspension Orders	0	0	0	0
Public Letter of Reprimand	3	6	16	8
Cease & Desist/Warning	137	102	349	21
Referred for Diversion	2	15	9	9
Compel Examination	1	0	0	1
CITATION AND FINE ⁴				
Citations Issued	540	593	649	613
Average Days to Complete	92	88	51	74
Amount of Fines Assessed	69,650	100,150	113,550	121,950
Reduced, Withdrawn, Dismissed	0	0	0	63
Amount Collected	44,650	69,525	88,225	103,945
CRIMINAL ACTION				
Referred for Criminal Prosecution	0	4	0	0

¹ All complaints received by the PTBC that are within its jurisdiction are referred for investigation. The majority of the complaints are investigated by in-house staff analysts who conduct “desk” investigations by gathering data and documents via written communication. Desk

investigations do not include field work or interviews. Any investigation that requires field work, interviews, service of subpoenas or a sworn peace officer involved due to safety concerns or criminal activity, is referred to the DCA Division of Investigation (DOI).

²The PTBC received approval for .5 staff position for a non-sworn investigator. August 31, 2010, Governor Schwarzenegger implemented a State Hiring Freeze which has prevented the PTBC from hiring for this position. The PTBC is currently working with the DCA, Human Resources to fill this position. [In July 2012 the PTBC was required to eliminate one 0.4 Special Investigator \(non-sworn\) permanent position. The reduction was in response to Budget Letter 12-03 issued by the Department of Finance.](#)

³The average number of pending cases did not change significantly for the three fiscal years. The average days to close an investigation increased substantially during FY 2009/10 but then decreased substantially in FY 2010/11. This fluctuation may be the result of DOI's implementation of its 365 day goal to complete an investigation. This increased the number of cases closed with DOI for FY's 2009/10 & 2010/11.

⁴In the past three years, the numbers of Citations and Fines have steadily increased. The PTBC has authority to issue a citation pursuant to section 125.9 of the Business and Professions Code, as an alternate means to address relatively minor violations not necessarily warranting discipline. Due to the lower level of evidence needed to issue citations and fines, the average number of days to issue a citation has been easier to manage. On an average, a desk investigation will suffice to obtain the appropriate documents needed to issue a citation and fine.

Table 10 - Case Aging - Provides five fiscal years of for Enforcement Case Aging.

Table 10. Enforcement Case Aging								
FISCAL YEARS	FY 2007/08	FY 2008/09	FY 2009/10	FY 2010/11	FY 2011/12	Cases Closed	Average %	
Attorney General Cases (Average %)								
Closed Within:							2011	2012
1 Year	3	1	3	4	5	16	13.5%	14.5%
2 Years	4	1	8	18	12	43	38.2%	39.3%
3 Years	4	5	1	10	7	27	24.7%	24.6%
4 Years	0	0	0	0	8	8	0%	7.1%
Over 4 Years	5	1	2	8	0	16	19.8%	14.5%
Total Cases Closed	16	8	14	40	32	110		
Investigations (Average %)								
Closed Within:							2011	2012
90 Days	832	573	1,066	1,364	1,464	5,299	76.2%	79%
180 Days	106	193	108	105	159	671	10.2%	10%
1 Year	44	108	100	65	75	392	6.3%	5.9%
2 Years	22	49	69	60	31	231	4%	3.4%
3 Years	21	13	59	33	12	67	1.1%	.9%
Over 3 Years	8	4	25	5	7	49	.08%	.08%
Total Cases Closed	1,033	940	1,427	1,632	1,748	6,709		

Case aging occurs at every phase of the PTBC's enforcement process. The above Table illustrates the AG & DOI phases of the enforcement process. Case aging had grown beyond acceptable levels and had a detrimental impact on the PTBC's ability to take administrative disciplinary actions, as these delays compromise evidence and witness availability, affecting the overall integrity of the case.

The major backlogs and case aging could have a direct impact on California consumers because:

- Consumer protection is compromised or is effectively reduced since the backlog allows the incompetent or negligent practitioner to continue working in the health care arena.
- Complaints and disciplinary actions are not processed effectively and efficiently since the PTBC must constantly monitor and prioritize aged cases and cases that are deemed egregious.
- The workload backlogs and case aging are not diminishing, but rather continue to grow as time passes. This is evidenced by the fact that the number of *cases pending* has risen from 372 cases in FY 2008/09 to 521 cases in FY 2010/11, a 71% increase. (See table 9c)

Absence of sufficient staff to handle all of the mandated enforcement, investigative, and legal processes, enables the incompetent or unsafe practitioner to continue practicing while a complaint is in process. For example, a licensee who has been fired from one facility for substance abuse or gross negligence, may obtain another position in a variety of other health care settings (e.g., registries, home health care, convalescent homes, etc.) before his/her case is processed and acted upon. Any barriers that prevent The PTBC's from taking prompt disciplinary action against a licensee create a risk to the consumer.

Improved performance in meeting goals for certain phases of enforcement is promising; however, the overall target goal will take time to improve because it includes aged cases, which skews the average of the total enforcement measure.

30. What do overall statistics show as to increases or decreases in disciplinary action since last review.

During FY 2008/09, fewer disciplinary actions were taken by the PTBC in comparison to the previous Sunset Review report. This was primarily due to staff shortages in the PTBC office, DOI, and at the Attorney General's office. FY 2008/09 produced ten accusations, nine disciplinary actions, six proposed/default decisions, and three stipulations.

Disciplinary action increased during FY 2009/10 and FY 2010/11 fiscal years. The increase in disciplinary action is mainly a result of the implementation of the new CPEI standards and the hiring of permanent intermittent staff to better manage the caseload. The increase in discipline may also be attributed to the increase of conviction cases. This trend continued in FY 2010/11.

Disciplinary actions continued to increase in FY 2011/12. This increase may have resulted from the staff added to the Consumer Protection Services (CPS) program as a result of the Consumer Protection Enforcement Initiative (CPEI)

The chart below identifies disciplinary actions taken by the PTBC for the current Sunset Review report period.

Fiscal Year	FY 2007/2008	FY 2008/2009	FY 2009/2010	FY 2010/2011	FY 2011/12
Accusations Filed	14	10	35	37	43
Revocation	0	5	4	8	11
Voluntary Surrender	2	0	3	10	3
Suspension	0	0	0	0	0
Probation with Suspension	0	1	0	5	0
Probation	2	0	5	18	13
Probationary Licenses Issued	4	2	6	2	6
Public Repeval	10	3	1	7	8

31. How are cases prioritized? What is the PTBC’s complaint prioritization policy? Is it different from the DCA’s model? If so, explain why.

The PTBC cases are prioritized in accordance with the DCA’s Complaint Prioritization Guidelines for Health Care Agencies. There are three levels of prioritization; “Urgent” (requiring the most immediate resources), “High” (the next highest priority), and “Routine” (minimal/no risk to the consumer). Each case is evaluated at the time of receipt to determine its initial priority. Cases may be re-prioritized during the course of the investigation, if warranted.

Cases alleging sexual misconduct, patient death, patient injury and other urgent matters are immediately assigned to an analyst to review for an Interim Suspension Order, Penal Code, section 23 (PC 23) , or other interim action as warranted. All other cases are opened in the order received, assigned and distributed to the designated analyst. Analysts review the case and continue the investigative process with respect to case priority and CPEI targets.

The chart below lists the priority level of complaints received.

URGENT PRIORITY CASES	HIGH PRIORITY CASES	ROUTINE PRIORITY CASES
Gross Negligence, incompetence, or repeated negligent acts that involve death or serious bodily injury.	Negligence or incompetence without serious bodily injury.	False/misleading advertising.
Drug or alcohol abuse by the licensee resulting in death or serious bodily injury.	Physical or mental abuse (without injury).	Patient abandonment.
Repeated acts of clearly excessive prescribing, furnishing, or administering of controlled substances, or repeated acts of prescribing without a good faith exam.	Diversion drop outs.	Fraud.
Practicing while under the influence of drugs or alcohol.	805 Health Facility reports.	Failure to release medical records.
Physical or mental abuse with injury.	Complaints about licensees on probation (whether or not injury).	Record keeping violations.
Unlicensed activity alleged to have resulted in patient injury.	Prescribing drugs without a “good faith” exam (where authority to prescribe exists).	Applicant misconduct.

URGENT PRIORITY CASES	HIGH PRIORITY CASES	ROUTINE PRIORITY CASES
Aiding and abetting unlicensed activity alleged to have resulted in patient injuries.	Multiple complaints of the same allegation.	National Practitioner Data Bank reports.
Arrests or convictions substantially related to the area of practice.	Complaints with multiple prior complaints.	Workers compensation complaints.
Impairments (mental, physical, or as a result of alcohol or drug abuse).	Unlicensed activities (with no apparent physical harm).	Non-jurisdictional complaints (fee disputes/billing).
Theft of prescription drugs.	Aiding and abetting unlicensed activity (with no apparent physical harm).	Exam subversion (exam not compromised).
Furnishing prescription drugs without a prescription.	Exam subversion (where exam may be compromised).	Continuing education.
	When evidence will likely be destroyed or unavailable.	Breach of confidentiality.

32. Are there mandatory reporting requirements? For example, requiring local officials or organizations, or other professionals to report violations, or for civil courts to report any actions taken against the licensee. Are there problems with receiving the required reports? If so, what could be done to correct the problems?

One of the mandatory reporting requirements includes the Department of Justice (DOJ) and Federal Bureau of Investigations (FBI) criminal history background check. Before the PTBC issues a license to practice, clearance must be received from the DOJ and FBI through the LiveScan requirement. As part of the fingerprint requirement, all applicants are required to submit a LiveScan form which authorizes DOJ and FBI report criminal history to the PTBC. The LiveScan creates a link to the PTBC to receive subsequent reports from DOJ on the

individual. The report from FBI is a one-time reporting and does not trigger subsequent reports.

Once the applicant is issued a license, the PTBC receives subsequent criminal reports for California convictions only. To continue process improvements, the PTBC is researching regulations to implement retroactive fingerprinting to ensure all licensees are LiveScan fingerprinted. The proposed regulatory language would establish requirements that a licensee must furnish: a full set of fingerprints to the DOJ, if the licensee was initially licensed prior to 1994 or if an electronic record of the fingerprint submission has never or no longer exists with DOJ.

Upon renewal, licensees are required to self-report criminal convictions and discipline taken in other states since their last renewal or issuance of license. The self-reporting requirement is one way the PTBC can become aware of a conviction and/or discipline in another state since DOJ reports are sometimes delayed or are not received. Self-reporting can be useful to the PTBC when criminal history is not reported by DOJ and/or can also serve as a preliminary notice to the PTBC of a criminal violation that recently occurred.

Although self-reporting is mandatory and can be helpful, obtaining documents can still be hampered (e. g., licensees do not respond to the request for documents, documents requested from arresting and/or court jurisdiction do not respond or agency may require processing fees). In cases where there is no response to the PTBC's requests or when agencies require fees for documents, the PTBC will request Division of Investigation (DOI) obtain the requested information. For example, failure to disclose a conviction on the renewal application can be another factor in considering disciplinary action.

Based on conviction disclosure, licensees are requested to provide a written explanation regarding the conviction, contact information of the arresting and court agencies and certified copies of the arrest and related court documents. This process assists the PTBC in obtaining documents expeditiously.

DOJ reports notices received from arresting agencies and court jurisdictions to the PTBC. Unfortunately, not all agencies report to DOJ. This means some reports do not enter the DOJ system to be reported to the PTBC. The PTBC receives Subsequent Arrest Reports and Subsequent Conviction Reports from DOJ which provide important information.

The PTBC continues to experience difficulties obtaining criminal records, despite Business and Professions Code, sections 803, 803.5 & 803.6, which mandates prosecuting authorities to report the facts to the agency that issued the license.

Most physical therapy state boards report license disciplinary action to the Federation of State Boards Physical Therapy (FSBPT) Disciplinary Database. The FSBPT is making every effort to require reporting from all states to improve the accuracy of the database. FSBPT reports disciplinary action to all states in which the licensee is licensed. FSBPT is currently auditing all states to ensure proper reporting has been received from all states. The PTBC reports all discipline to the FSBPT monthly.

Gathering out of state disciplinary documentation can be difficult if there is no response from the licensee and the state board that took action. In these cases, since Division of Investigation (DOI) cannot provide their services, the PTBC monitors the case closely and relies on the licensee to provide the required documentation.

33. Does the PTBC operate with a statute of limitations? If so, please describe and provide citation. If so, how many cases were lost due to statute of limitations? If not, what is the PTBC's policy on statute of limitations?

The PTBC does not operate with a statute of limitations. The PTBC also has no control over a lapse of time between the alleged violation and the submission of a complaint by a complainant.

All complaints trigger the initiation of a case regardless of the time lapse. The case is opened and enters the investigative process upon receipt.

The PTBC does recognize prolonged time between event and the conclusion of the disciplinary process can negatively impact the outcome of investigations and decreases impact of public protection. The PTBC implementation of the CPEI goals and targets is a commitment to reducing the impact of time on the cases under the authority of the PTBC.

34. Discuss the extent to which the PTBC has used its cite and fine authority. Discuss any changes from last review and last time regulations were updated. Has the PTBC increased its maximum fines to the \$5,000 statutory limit?

Intent of Cite and Fine Authority

The PTBC may issue an administrative citation and fine pursuant to B&P Code, §125.9; and CCR, Title 16, Division 13.2, section 1399.25 which authorizes the PTBC to issue citations and fines to physical therapists and physical therapist assistants. The PTBC exercises this authority on a case-by-case basis when violations are not necessarily cause for discipline and a lesser form of action is warranted. Pursuant to Section 1399.25 of the California Code of

Regulations, citation fines range from \$100 to \$5,000, and the specific fine per violation is determined by the PTBC based on the following factors as stated in the Model Guidelines for Issuing Citations and Imposing Citations: 1) the good or bad faith of the cited person 2) the nature and severity of the violation 3) evidence that the violation was willful 4) history of violations of the same or similar nature 5) the extent to which the cited person has cooperated with the PTBC, and 6) the extent to which the cited person has mitigated or attempted to mitigate any damage or injury caused by his or her violation.

Changes since last Sunset Review

In the previous Sunset Review, the PTBC reported that it was no longer relying on a DOI investigation to determine that a citation was warranted. Currently, DOI is used only for a small number of potential citation cases where a formal investigation is warranted to determine the type and extent of the violation(s) or when a licensee has not responded to numerous written requests for information by the PTBC. The PTBC relies on licensed physical therapist expert consultants to review case information to determine if violations occurred, when practice-specific violations are suspected, and to determine whether a criminal conviction is substantially related to the practice of physical therapy. If necessary, a DOI Investigator and a PTBC expert will visit a facility together to determine if violations have occurred by gathering evidence, reviewing patient records, and interviewing staff.

Since the previous Sunset Review, the PTBC has begun issuing citations to licensees who fail to comply with address change reporting requirements and with the new continuing competency requirements. Additionally, the PTBC revised the regulation requiring record retention from seven years to five years, based on the negative impact of the seven year requirement on the licensees since these citations are maintained as public record on the PTBC Web site. In many cases, potential employers and licensees interpreted the citations as disciplinary action and punitive. The cite and fine process is not intended to be punitive.

Since the revision to the Sunset Review, licensees, who have failed to report their address change, have been given the opportunity to submit a written explanation for their failure to report their address change. For licensees who submit a written explanation, the circumstances provided are taken into consideration when determining whether a citation is warranted. This new process allows the PTBC to have a clear understanding of a licensee's failure to report their address change on time. However, this does not affect the licensee's ability to appeal a citation once it is issued. This new process has the potential to save the PTBC time and resources in preparing for, and conducting, informal conferences and/or administrative hearings.

Increase of Citation Fine to \$5,000

In December 2008, the PTBC increased its maximum fines to the \$5,000 statutory limit under these specific circumstances as required by CCR Section 1399.25 (d):

- (1) The citation involves a violation that presents an immediate threat to the health and safety of another person.
- (2) The citation involves multiple violations of the Physical Therapy Practice Act or those regulations that demonstrate a willful disregard of the law.
- (3) The citation involves a violation or violations perpetrated against a senior citizen or disabled person.
- (4) The cited person has a history of two or more prior citations of the same or similar violations.

35. How is cite and fine used? What types of violations are the basis for citation and fine?

A citation and fine is an alternative means by which the PTBC can address violations that would not warrant discipline.

Section 1399.25 of the California Code of Regulations gives the Executive Officer the authority to issue citations, with or without fines for violations of the Physical Therapy Practice Act, violations of the California Code of Regulations adopted by the PTBC, or other statutes or regulations for which the PTBC has authority to issue a citation. Section 1399.25 sets fine amounts of \$100 up to \$2,500 for the least egregious violations. However, Section 1399.25(d) sets forth larger fine limits for the more substantial violations. For instance, violations that present a threat to health and safety or another person, or involves multiple violations of the Practice Act, or involve a violation or violations against a disabled person or senior citizen, a citation may include a fine up to \$5,000.

A large number of citations and fines are issued for minor criminal convictions. Such citations are typically issued for failure to disclose a conviction to the PTBC, recent minor convictions, and first offense convictions. Fines assessed for such violations typically range from \$200 to \$500, depending upon factors as enumerated in California Code of Regulations, section 1399.25. Factors considered when determining a fine amount are the nature and severity of a crime, evidence that the violation was willful, extent to which the licensee has cooperated with the PTBC and is remorseful.

36. How many informal office conferences, Disciplinary Review Committees reviews and/or Administrative Procedure Act appeals in the last 4 fiscal years?

The PTBC does not have a Disciplinary Review Committee.

In the last five fiscal years, the PTBC held 636 informal conferences, and 6–administrative procedure act appeal hearings. The following table breaks this down by fiscal year.

Administrative Citation Informal Conference and Administrative Hearings					
Fiscal Year	FY 2007/2008	FY 2008/2009	FY 2009/2010	FY 2010/2011	FY 2011/2012
Informal Conferences Held	53	118	170	151	144
Administrative Hearings Held	1	0	1	3	1

Although the table above indicates only six administrative hearings were held in the last five fiscal years, the PTBC received a total of 91 administrative hearing requests. Of those 91 hearing requests, 85 of those cases withdrew their administrative hearing request and instead paid the associated fine.

37. What are the 5 most common violations for which citations are issued?

The five most common violations for which the PTBC issues citations are as follows:

1. Criminal Convictions - First offense conviction of a crime that is substantially related to the practice of physical therapy that may not have a direct effect on public protection or patient care
2. Practice Issues - Related violations such as a single violation of documentation, regulations, supervision violations, and aiding & abetting of unlicensed activity or violations of the Practice Act
3. Continuing Competency (CC) Violations - Failure to accumulate the required CC hours, failure to take the approved courses, false statement on renewal form signed under penalty of perjury that the completed CC requirements were met
4. Discipline by Another State Board – Discipline taken in another State and the violation offense is a citable violation in California
5. Address Change Reporting Requirement – Failure to report a change of mailing and/or residence address within 30 days after the change

38. What is average fine pre and post appeal?

The average citation fine pre-appeal is \$146. Citations issued in the last four fiscal years have been issued with a fine ranging between \$100 and \$500. The final citation fine amount post-appeal averaged \$134 over the last four fiscal years.

For FY 2011/12, the average citation fine pre-appeal was \$200. The final citation fine amount post-appeal averaged \$185.

39. Describe the PTBC's use of Franchise Tax Board intercepts to collect outstanding fines.

Upon failure to pay a citation fine within the time required, the licensee's information is submitted to the Franchise Tax Board (FTB) for inclusion in their Offset Program. Prior to submitting the licensee's information to the FTB for intercept, the PTBC is required to send a series of three notices of failure to pay in an attempt to collect the fine amount due. Since July 1, 2009, the PTBC has collected \$8,575 in outstanding fines through the FTB Offset Program, and currently has 39 cases on file with them, totaling \$5,300 in fines due. A case remains on the Offset Program list until the funds due are intercepted.

For FY 2011/12, the Board collected \$800 in outstanding fines through the FTB Offset Program, and currently has 41 cases on file with FTB, totaling \$4,930 in fines due.

40. Describe the PTBC's efforts to obtain cost recovery. Discuss any changes from the last review.

Pursuant to B&P §2661.5, the PTBC has authority to seek cost recovery through the resolution of disciplinary proceedings before the PTBC and may request the administrative law judge to direct the licensee to pay a sum not to exceed the actual and reasonable costs of the investigation and prosecution of the case. Cost recovery is determined on a case by case basis and is recovered from licensees who have been disciplined through the administrative process. The PTBC will consider the licensee's financial hardship and may reduce the total cost to be paid within a certain timeframe. If the reduced cost recovery is not paid on time, the full amount becomes due immediately. If the case goes to hearing, the Administrative Law Judge (ALJ) may order full or partial cost recovery or decline the request for cost recovery all together. There have not been any statutory changes regarding obtaining cost recovery since the last Sunset Review report.

The costs of an investigative case are substantial. The chart below illustrates the costs incurred in investigative and disciplinary cases.

COSTS FOR DISCIPLINARY CASES					
Per Case Investigated	2007/2008	2008/2009	2009/2010	2010/2011	2011/2012
Investigations & Witnesses/Experts (DOI & Expert Fees)*	\$232,500	\$189,153	\$150,674	\$244,433	\$444,539
Cases Investigated	106	103	182	184	144
Average Cost Per Case ¹	\$2,193	\$1,836	\$827	\$1,328	\$3,087
Referred to AG	2007/2008	2008/2009	2009/2010	2010/2011	2011/2012
Prosecution & Admin. Hearings (AG, Hearing, Court Reporter Costs)*	\$220,268	\$161,411	\$157,323	\$474,670	\$541,701
Cases Worked	75	67	135	149	139
Average Cost Per Case	\$2,886	\$2,390	\$1,145	\$3,165	\$3,897

¹ The average costs per case shown herein are skewed due to roll forward billing methods. The DCA Budget Office uses a two year roll forward billing methodology for the DCA Division of Investigation (DOI) costs. As a result, the amount over-expended or under-expended in a fiscal year is charged to the applicable board/bureau as a debt or credit two years from the date of occurrence. This impacts every DOI cost figure shown.

*Due to an oversight in the previous Sunset report these numbers have now been corrected to include DOI, Expert, AG, Hearing, and Court Reporter Costs

Currently, the hourly rates for investigative and legal services are as follows:

- DCA DOI Investigator \$159/hour (FY 2010/11 \$183.00)
- Deputy Attorney General \$170/hour
- Paralegal Service \$120/hour
- Witness Appearance Fee \$35/day plus travel expenses
- Expert Witness Opinion \$75/hour (for written testimony)
- Expert Witness Appearance Fee \$800/day plus travel expenses
- Court Reporter Appearance Fee \$160/day up to \$375/day
- Administrative Law Judge \$187/hour and \$1,496/day

Furthermore, costs for prosecution and administrative hearings increase if:

- The respondent's attorney asks to postpone or continue the scheduled hearing date(s);
- The key witnesses are unavailable for the scheduled court hearing;
- The Board wants to non-adopt the Proposed Decision submitted by the ALJ. This may occur to allow the Board to review the transcript to assure key issues were addressed. It

also a mechanism for the Board to consider an alternate decision. For a non-adopt Proposed Decision, the Board is required to order and pay for the hearing transcript and allow the respondent to comment on his/her case; and

- The Board’s final disciplinary decision is contested by the respondent and an appeal is filed with the Superior Courts.

41. How many and how much is ordered for revocations, surrenders and probationers? How much do you believe is uncollectable? Explain.

There is no specific amount of cost recovery ordered for revocations, surrenders, and probationers (Bus. & Prof. §2661.5). As mentioned in #40, cost recovery amounts are determined based on investigation and prosecution costs incurred. Each discipline case has its own amount of cost recovery ordered depending on the amount of time invested into the case. Determining factors include expert consultant reviews, investigative (DOI), and prosecutorial (AG) costs and the ability of the respondent to fulfill their cost recovery obligation. The amount of cost recovery owed is sometimes reduced if the amount is paid within a certain period of time. If the reduced amount is not paid in full by the licensee during that time period, the full amount of cost recovery is due. This incentive generally motivates the licensee to pay the reduced amount on time. There is greater compliance of paying the reduced amount in a specified time frame. The overall result is an improved cost recovery for the PTBC.

COST RECOVERY DATA					
Cost Recovery Data	FY 2007/08	FY 2008/09	FY 2009/10	FY 2010/11	FY 2011/12
Recoverable Enforcement Expenditures ¹	\$404,439	\$294,796	\$223,886	\$621,442	\$892,863
# Potential Cases for Recovery ²	25	46	89	65	70
Amount of Cost Recovery Ordered	\$33,726	\$52,058	\$21,219	\$56,002	\$36,504
Amount Collected ³	\$5,957	\$35,649	\$5,140	\$45,950	\$27,697

¹ These figures represent the actual expenditures for the DCA's Division of Investigation, Attorney General, and Office of Administrative Hearings. This does not include expenditures for expert consultants, witnesses, or court reporters.

² The number of potential cases for recovery includes the number of cases referred to the AG's Office.

³ This data was derived from the Volume 13 CalStars Report.

42. Are there cases for which the PTBC does not seek cost recovery? Why?

Based on case law, the PTBC cannot collect cost recovery for default revocation of a license. In cases of extreme financial hardship, where cost recovery becomes a barrier in negotiations of settlement, the PTBC may consider waiving cost recovery to expedite the Decision, which is in the best interest of the consumer.

43. Describe the PTBC's use of Franchise Tax Board intercepts to collect cost recovery.

The PTBC may collect cost recovery from the Franchise Tax Board (FTB) if the licensee has failed to pay cost recovery. However, in most cases, if the licensee has not paid cost recovery, the licensee is in violation of probation and the PTBC may seek additional disciplinary action based on violation of probation.

44. Does the PTBC have legal authority to order restitution? If so, describe the PTBC's efforts to obtain restitution for individual complainants, the PTBC's formal restitution program, and the types of restitution that the PTBC attempts to collect, i.e., monetary, services, etc. Discuss any changes since last review.

The PTBC does not have statutory authority to order restitution to the consumer. Section 465 (d) of the Business & Professions Code provides that the PTBC may encourage alternative dispute resolutions.

Section 6 Public Information Policies

45. How does the PTBC use the internet to keep the public informed of board activities?

A. Use of the internet

The Physical Therapy Board of California (PTBC) uses the standard State of California Web site design and maintains both Facebook and Twitter accounts to provide updated information to current patrons and capture new ones as well. The following is a summary of the Web site content:

1. Web Site – The major source of information for consumers is the PTBC Web site. The public, licensees and applicants have access to various tabs/Web pages relevant to his or her circumstance. The information below includes the tabs and their general content.
 - a. “Home” contains news flashes, recent developments, upcoming changes and alerts. It also has a “Quick Hits” menu of most frequently sought after and most important information. “News Flash” is posted on it’s the home page and provides PTBC’s most recent and impactful information such as; changes in laws and regulations, examination dates, recent industry news, and opportunities to participate in PTBC workshops, taskforce groups, upcoming certification examinations, etc. Facebook/Twitter - Other links featured on PTBC homepage such as Facebook and Twitter icons direct users to PTBC social networking pages. Having accounts with these social networks allows PTBC to disseminate information directly and immediately to all interested parties.
 - b. “Consumers” gives consumers access to PTBC’s complaint process general practice protocols, patient privacy issues, frequently asked questions (FAQ) about patient’s medical records, citations, disciplinary actions and the status of a license (valid, inactive, cancelled or delinquent). The “Citations and Disciplinary Actions” Web page contains information regarding types of violations a licensee has committed and what type of action PTBC has taken.
 - c. “Applicants” provides California Physical Therapist (PT) and Physical Therapist Assistant (PTA) applicant’s information regarding the application process, the appeal process for license denial, a list of the accredited PT and PTA programs, a list of the approved credential evaluation services and FAQ’s. The “Forms and Publications” tab provides the necessary documents to apply for licensure with PTBC.
 - d. “Licensees” provides PTBC’s continuing competency requirements, information on license renewal, how to submit an address change, how to request a duplicate/replacement wall or wallet certificate, how to verify his/her license to

another state, information regarding PTBC's Diversion Program. The "Forms and Publications" contains all relevant forms. Information on how to become an Expert Consultant or Practice Monitor for PTBC is also on this page.

- e. "Law/Regulations" contains PTBC's laws and regulations, rulemaking processes and addresses common physical therapy practice issues.
- f. "Forms/Publications" contains all relevant forms for PTBC's applicants and licensees including forms for continuing competency, the inactive status and exemption application; consumer protection forms; petition for penalty relief, reinstatement, modification and/or termination of probation instructions, and application; newsletters from 2004 to 2011; PTBCs' Strategic Plan and sunset reports; laws and regulations; consumer protection services publications and licensing publications.
- g. "About Us" provides PTBC's history, vision and mission, meeting dates and materials, archived meeting materials, pictures and biographies of board members, board staff and how to contact PTBC.
- h. "Contact Us" contains information on how to reach PTBC.

B. Does the PTBC post board meeting materials online? When are they posted? How long do they remain on the Web site? When are draft meeting minutes posted online? When does the PTBC post final meeting minutes? How long do meeting minutes remain available online?

Meeting Materials – PTBC provides meeting materials as outlined:

1. Agendas – Meeting agendas are posted online ten days prior the date of a board meeting.
2. Minutes - Finalized minutes are available to the public after being approved at the subsequent board meeting. The minutes are then archived on PTBC Web site. PTBC does not post draft minutes which are subject to review by board members and staff.
3. Webcasting Board Meetings – PTBC provides a webcast of its board meetings. Webcasts aired since August, 2011 are still available on PTBC Web site.
4. Board Meeting Dates – Dates of future board meetings are posted after being adopted at the fall board meeting. Any changes or additions to the meeting schedule are posted in accordance with the Bagley-Keene Open Meeting Act 2004.

46. Does the PTBC webcast its meetings? How far in advance does the PTBC post future meeting dates?

PTBC provides a webcast of its current and past meetings, beginning with the August, 2011 board meeting. Future board meeting dates are posted after they are accepted at the fall board meeting.

47. Are the PTBC’s complaint disclosure policies consistent with the DCAs complaint disclosure and public disclosure policies?

PTBC’s complaint disclosure policy is consistent with the DCA’s complaint disclosure and public disclosure policies. As a part of PTBC’s 2005 Sunset Review Report, PTBC proposed a regulation that would reduce the public retention period for Cite and Fine information. Since then, California Code of Regulation, section 1399.25, adopted by PTBC on March 14, 2006 now requires retention of citations for five years. (In April 2006, the DCA’s, Legal Affairs Division, Policy and Review distributed a Policy and Procedures memo regarding the Public Records Act. The Public Records Act - California Government Code sections 6250-6270 is a public access law, based upon the premise of open government and every person’s right to public information.)

As illustrated in the chart below, outlines the type of complaint disclosure information PTBC provides to the public upon request.

COMPLAINT DISCLOSURE POLICY		
TYPE OF INFORMATION PROVIDED	YES	NO
Complaint Filed		✓
Citation	✓	
Fine	✓	
Letter of Reprimand	✓	
Pending Investigation (1)		✓
Investigation Completed (2)		✓
Arbitration Decision	N/A	
Referred to AG: Pre-Accusation		✓
Referred to AG: Post-Accusation	✓	
Settlement Decision	✓	
Disciplinary Action Taken	✓	
Civil Judgment	N/A	
Malpractice Decision	N/A	
Criminal Violation: Felony or Misdemeanor (2)		✓

(1) Details of the complaint/investigation are not disclosed while the case is pending.
(2) Information disclosed only if included in the disciplinary action decision.

48. What information does the PTBC provide to the public regarding its licensees (i.e., education completed, awards, certificates, certification, specialty areas, disciplinary action, etc.)?

The online license verification system was implemented in July 2002, enabling consumers, employers and licensees to verify the status of a physical therapist or physical therapist assistant license, including a licensee's specialty certification issued by the PTBC and any citation or disciplinary action taken by the PTBC. This service is available 24-hours a day, 7 days a week. The public may obtain a licensee's address of record and the physical therapy program completed by the licensee upon written request to the PTBC.

49. What methods are used by the PTBC to provide consumer outreach and education?

The PTBC considers consumer protection paramount and therefore has recently shifted its limited resources to enhance its outreach program in an effort to meet the objectives in the PTBC's 2009 Strategic Plan. The following are PTBC's outreach and education resources; internet, newsletters and public speaking engagements.

1. Internet – PTBC's Web site includes a Web page designated for consumers. On this page the public can access general practice protocols, PTBC's complaint process, privacy rights of a patient, or verify a licensee's status. PTBC not only uses PTBC's Web site to educate and connect with the public, but it also utilizes Facebook and Twitter. PTBC's newsletters are also posted on PTBC's Web site.
2. Newsletter - PTBC publishes a newsletter semiannually, and has offered an electronic version on PTBC's Web site since 2004. In an effort to reduce printing expenses and lessen our impact on the environment, beginning in 2011, PTBC will discontinue the printed version of its newsletter. PTBC intends to continue to provide the newsletter to interested parties in the form of Eblasts as well as posting it on PTBC's Web site.

[The PTBC posted the most recent edition of the newsletter online, in September of 2012.](#)

3. Public Speaking Engagements - Typically PTBC would participate when asked, in public speaking engagements that require travel, however, with the enactment of Executive Order B-06-11 (a restriction of all non-mission critical travel) sending a PTBC representative is not feasible. Pursuant to California Business and Professions Code 2611, the board shall hold at least one regular meeting annually in the cities of Sacramento, Los Angeles and San Francisco. Whenever possible PTBC has tried to hold its board meetings on the campuses of PT/PTA schools, in an effort to minimize travel by facilitating the attendance of students and faculty and giving them a better opportunity to address issues critical to PT/PTA education, consumer protection and potential licensure at these meetings. The possibility of offering webinars and video logs is being explored. If webinars and video logs are used by PTBC, they could educate students as well as the general public about the application process, complaint process and general updates for PTBC.

With the travel restrictions still in place, the PTBC has not been able to conduct its outreach presentations at the PT/PTA programs. However, the PTBC participates in webinars upon request.

Section 7 Online Practice Issues

50. Discuss the prevalence of online practice and whether there are issues with unlicensed activity. How does the PTBC regulate online practice? Does the PTBC have any plans to regulate Internet business practices or believe there is a need to do so?

The PTBC has no evidence of on-line practice of physical therapy, but foresees it as a possible developing area of practice. If there becomes cause for regulation, the PTBC will act accordingly.

Section 8 Workforce Development and Job Creation

51. What actions has the PTBC taken in terms of workforce development?

The PTBC continues to monitor workforce needs informally through input from licensees and employers. Until the PTBC has concrete, current information on the actual size and distribution of the workforce, determining a need for action by PTBC is difficult. For this reason, the PTBC is proposing a workforce study be conducted to determine if cause for concern exists regarding the physical therapy workforce, and, if so, what the best course of action should be by the PTBC (see Section 11 issue # 10). In the meantime, the PTBC continues to improve the processing of applicants for licensure. The PTBC provides consultation, when asked, to existing and developing educational programs, in addition to participating in discussions related to workforce issues on the national level.

Although the PTBC does not currently conduct studies to monitor national data and trends, it looks to other organizations that do.

52. Describe any assessment the PTBC has conducted on the impact of licensing delays on job creation.

The PTBC has not done any assessment on the impact of licensing on job creation.

53. Describe any efforts that the PTBC takes to alleviate negative impact of its regulatory mission on California business, including small and micro business.

The PTBC strives to alleviate and minimize the impact of its regulatory mission on California business by seeking and respecting input from many stakeholders.

All regulations are subject to the Administrative Procedures Act (APA) allowing for public input. If necessary the PTBC may establish a task force to study an emerging trend that may require regulatory change. If a regulation is needed the PTBC promulgates regulations for the practice; however, the promulgated regulation should not impede business practices beyond what is necessary to ensure public protection.

54. Describe any partnering or information sharing the PTBC has with other government agencies, such as Workforce Investment Boards or Office of Statewide Health Planning and Development.

The PTBC has not established any partnering or information sharing with any government agencies; however, the PTBC identified the need in its 2009 Strategic Plan (See workforce study recommendation in Section 11).

55. Describe the PTBC's outreach to schools.

In previous years a PTBC representative has traveled to academic programs that have requested it, to address questions by physical therapist (PT) and physical therapist assistant (PTA) students. However, as mentioned previously, pursuant to Executive Order B-06-11, all travel not considered mission critical by Executive Order B-06-11 has been restricted, prohibiting these visits.

The PTBC performs valuable outreach to PT and PTA academic programs by holding Board meetings at these institutions. The PTBC has met at a number of schools including: Samuel Merritt College in Oakland, Ohlone College in Newark, the University of Southern California and Mount St. Mary's College in the Los Angeles area, Loma Linda University in Loma Linda, University of St. Augustine, and California State University at Fresno.

Through webinars; social networks, such as Facebook and Twitter; and, other mediums of communication, the PTBC seeks to enhance its relationship with physical therapy educational programs. In addition, the PTBC is exploring methods available to improve its student outreach.

56. Provide any workforce development data collected by the PTBC, such as:

a. Workforce shortages and staffing needs

The PTBC does not have data indicating a workforce shortage

b. Successful training programs

Currently, there are fourteen accredited physical therapist education programs and six accredited physical therapist assistant programs in California. In FY 2010/11, out of 848 physical therapist graduating students, the average pass rate for the national examination was 79% and out of 218 physical therapist assistant graduating students, the average pass rate for the national examination was 82%. California's national exam pass rates are consistent with the national average pass rate.

c. Number of jobs created by its licensure program

The PTBC has not been directly involved with issues pertaining to the physical therapy profession that do not fall within its mandated scope to ensure public protection, and regulate the practice of physical therapy. However, given preliminary discussions regarding workforce shortages for numerous health care related professions, and in anticipation of implementation of Health Care Reform in 2014, the PTBC is seeking authority to conduct a workforce study. The PTBC anticipates collecting the necessary data from this study to determine what action, if any, should be taken by the PTBC.

Section 9 Current Issues

57. What is the status of the PTBC's implementation of the Uniform Standards for Substance Abusing Licensees?

On September 28, 2008, Senate Bill 1441 (Chapter 548, Statutes of 2008) was enacted mandating the Department of Consumer Affairs (DCA) establish a Substance Abuse Coordination Committee (SACC) comprised of the Executive Officers of the Department's healing arts boards, a representative of the California Department of Alcohol and Drug Programs, and chaired by the DCA Director. The SACC was charged with developing uniform standards in sixteen specific areas for use in dealing with substance abusing licensees, whether or not a healing arts board chose to have a formal diversion program.

In April 2010, the SACC developed a document, *Uniform Standards Regarding Substance-Abusing Healing Arts Licensees* (Uniform Standards), containing sixteen uniform standards addressing the requirements as described by SB 1441. The Physical Therapy Board of California (PTBC) has proceeded with the regulatory process.

The PTBC proposed to amend the Disciplinary Guidelines and held the regulatory hearing on November 3, 2011. The PTBC intended to incorporate the Uniform Standards for Substance Abusing Licensees (Uniform Standards) throughout its Disciplinary Guidelines, where applicable, until it received direction from the DCA Legal Affairs Office that the Uniform Standards must be adopted in their entirety in one document. The PTBC then removed the Uniform Standards from the Disciplinary Guidelines and is currently preparing language to begin the rulemaking process. The Uniform Standards rulemaking hearing is anticipated to be held in February, 2013.

58. What is the status of the PTBC's implementation of the Consumer Protection Enforcement Initiative (CPEI) regulations?

The Department developed a report (*Department of Consumer Affairs "Consumer Protection Enforcement Initiative BCP Independent Verification & Validation Report, March 2010"*) regarding the existing enforcement problems and made recommendations for improving the enforcement programs of the healing arts boards. The Department also sponsored legislation, Senate Bill 1111 (Negrete McLeod), during the 2009-2010 Legislative Session to codify many of the recommendations contained within the report. However, the bill failed to be enacted.

When the bill failed to be enacted into law, the DCA encouraged the healing arts boards to pursue regulatory action to assist the boards with investigating and prosecuting complaints in a timely manner, and to provide the boards with tools to improve the enforcement process and ensure patient safety. Based on this, the PTBC has proceeded with the rulemaking process to

implement the recommendation made by the DCA. The PTBC divided the Consumer Protection Enforcement Initiative language into three sections, 1) added the “Delegation of Function” to existing CCR 1398.4, 2) added proposed language CCR 1399.23 “Required Actions against Registered Sex Offenders and 3) added proposed language CCR 1399.24 “Unprofessional Conduct”. The proposed language for CCR 1399.24 specifies additional acts that will constitute unprofessional conduct in addition to the unprofessional conduct defined in B&P §2660 of the Physical Therapy Practice Act.

On May 11, 2011, the PTBC held the regulatory hearing. The PTBC anticipates these regulations will be in place in 2012.

[These provisions went into effect on August 16, 2012.](#)

59. Describe how the PTBC is participating in development of BreEZe and any other secondary IT issues affecting the PTBC.

BreEZe will replace the existing Consumer Affairs System (CAS), Applicant Tracking System (ATS), and multiple "workaround" systems with an integrated, industry-proven system for use by the DCA organizations.

The PTBC dedicated one staff member from the Licensing Services program and one staff member from the Consumer Protection Services program to serve as Subject Matter Experts (SME) in the BreEZe project. The SMEs involvement was necessary to ensure the PTBC's business requirements were included.

The SMEs continue to work with the DCA BreEZe project as needed. The SMEs attend the Forms Workgroup which is also part of the BreEZe process to standardize forms. With the assistance of design experts, the draft forms will incorporate best practices of forms design and incorporate the potential for automatic data capture.

While awaiting the transition to BreEZe, the PTBC continues to participate in the DCA's change management process for its existing systems (e.g. CAS, ATS, etc.) The PTBC also has a delegate on the Business and Technical Review (BTR) team. The BTR team and the Change Control Board are the entities that authorize change to critical systems. Change management is the process of formally authorizing changes to a project scope, schedule, and cost to an existing critical system. Change management also ensures that Requests for Change (RFCs) are tracked and managed from initiation through implementation and adequately documented and analyzed before the decision to approve or deny is rendered.

[The PTBC is part of Release #2, which is currently scheduled for the spring of 2013. Our SMEs will continue to work diligently with the BreEZe team towards their goal of the 2013 launch.](#)

Effective July 1, 2012, the Change Control Board has implemented a hard freeze prohibiting any changes that will affect existing systems (e.g. CAS, ATS, etc.). The “hard freeze” is critical to allow BreEZe staff to provide on-going BreEZe support, while maintaining the existing systems during the transition. Existing system changes could compromise the DCA’s ability to uphold its contractual obligations, and may put the DCA and all of the Boards and Bureaus at risk of financial liabilities. These steps will ensure successful implementation of BreEZe.

60. Describe the PTBC’s efforts to comply with OSHPD data collection efforts.

The PTBC has not entered into any cooperative efforts specifically with OSHPD; however, the impact of changing demographics and workforce shortages are consistent with the PTBC’s 2009 Strategic Plan and are further discussed in Section 8, Workforce Development and Job Creation.

61. Describe the PTBC’s efforts to address unlicensed activity and the underground economy.

As with other types of complaints received by the PTBC, all unlicensed activity allegations are opened and assigned a case number for tracking purposes. If the allegation is determined to be legally sufficient, the matter will be forwarded to Division of Investigation (DOI) for a formal investigation. If the complainant’s allegations can be substantiated, the DOI will conclude with one of the following outcomes:

- A. DOI will file a formal complaint with the District Attorney’s office for criminal filing
- B. The PTBC may issue a Citation for the unlicensed practice of physical therapy

If the investigation determines that the alleged acts either did not take place or if they did occur but all actions were lawful and proper, the investigation will be closed as unfounded. In the event that the allegation(s) cannot be clearly proved or disproved, the matter will be closed as unsubstantiated. In any case, a detailed investigative report will be prepared by the DOI investigator supporting the conclusions reached by the investigation.

In 2010 the PTBC was added to B&P §149 Notice to Cease Advertising in Telephone Directory; Disconnection of Service. If, upon an investigation, probable cause exists that an unlicensed person is advertising in a telephone directory that he/she offers or performs physical therapy services without being properly licensed, the PTBC may issue an administrative citation under Section 148 containing an order of correction that requires the violator to 1) Cease the unlicensed practice and 2) Notify the telephone company furnishing the services to the violator to disconnect the telephone service.

62. Does the PTBC send No Longer Interested notifications to DOJ on a regular and ongoing basis? Is this done electronically? Is there a backlog? If so, describe the extent and efforts to address the backlog.

Yes, the PTBC sends No Longer Interested (NLI) notifications to DOJ on a regular and ongoing basis. Before the PTBC issues a license, a criminal background clearance must be received from the Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI) to ensure the applicant has committed no act which, if committed by a licensee, would be grounds for disciplinary action. If an applicant fails to fulfill the licensure requirements within the application period and the application is closed, the PTBC sends a NLI notification to the DOJ.

The PTBC receives subsequent arrest reports on its active licensing population for enforcement purposes. If a licensee's status changes with the PTBC to cancelled, deceased, revoked or surrendered, the PTBC will notify DOJ through a NLI notification.

The PTBC sends NLI notifications to DOJ via a secure file transfer protocol server when directed by DOJ. The PTBC generally receives this direction on a quarterly basis. Currently, there is no backlog associated with the NLI process.

Section 10 Board Action and Response to Prior Sunset Issues

Include the following:

1. Background information concerning the issue as it pertains to the PTBC.
2. Short discussion of recommendations made by the Committee/Joint Committee during prior sunset review.
3. What action the PTBC took pursuant to the recommendation or findings made under prior sunset review.
4. Any recommendations the PTBC has for dealing with the issue.

ISSUE #1: CONTINUE REGULATION OF THE INDUSTRY AND RENEW THE BOARD?

In 2005, the Physical Therapy Board of California (PTBC), the Joint Committee on Boards, Commissions, and Consumer Protection (Joint Committee) and the Department of Consumer Affairs (DCA) recommended amending Business and Professions Code section 2602 to provide for the continued regulation of the practice of physical therapy to ensure consumer protection. As a result, the PTBC had continued statutory authority for the regulation of the practice of physical therapy.

The PTBC recommends continuing regulation of the physical therapy profession by the Physical Therapy Board of California.

ISSUE #2: ELIMINATE LICENSURE OF PHYSICAL THERAPIST ASSISTANTS BASED ON EQUIVALENT EDUCATION AND EXPERIENCE?

California is the only state with statutory authority to issue a physical therapist assistant license to individuals who have not graduated from an accredited physical therapist assistant education program. Existing statute authorizes the PTBC to accept an application from individuals who have training and/or experience [in lieu of education], which in the opinion of the PTBC, is equivalent as defined in regulation, to that obtained from an approved physical therapist assistant education program. This pathway originated with the enactment of physical therapist assistant approval statutes in 1971.

As a result of the 2005 Sunset Review, the Joint Committee and the DCA recommended retaining the current law allowing licensure of physical therapist assistants based on equivalency. PTBC continues to accept and process applications for licensure as a physical therapist assistant based on equivalent education and experience and is not seeking or recommending any changes.

ISSUE #3: SHOULD THE NUMBER OF MEMBERS ON THE BOARD BE INCREASED TO INCLUDE A PHYSICAL THERAPIST ASSISTANT AND ANOTHER MEMBER OF THE PUBLIC?

In the 2005 Sunset report, the PTBC believed consumers and the profession would benefit from greater representation and recommended changing the composition of the Board from seven to nine members.

The Joint Committee recommended not increasing the number of Board members, and the DCA concurred noting it is the policy of the current administration not to add members to boards.

Given the budgetary considerations at this time, the PTBC believes it is not necessary to pursue this issue. We do not have any suggestions for changes in the composition or number of board members at this time.

ISSUE #4: SHOULD THE PTBC HAVE THE AUTHORITY TO ISSUE TEMPORARY PERMITS TO OUT-OF-STATE PRACTITIONERS

The PTBC requested authority to issue temporary permits for out-of-state licensees to practice in California without obtaining a California license. The PTBC noted physical therapists traveling to California for the purpose of providing educational seminars cannot demonstrate on patients, this would be considered unlicensed practice of physical therapy. Additionally, physical therapists and physical therapist assistants employed by athletic teams and performing arts companies are prohibited from providing care for the athletes or performers while engaged in events in California.

Both the Joint Committee and the DCA recommended granting PTBC authority to issue temporary permits to out-of-state licensees; however, for reasons unknown, this authority was not included in Chapter 658, Statutes of 2006 (SB 1476).

The PTBC is now seeking licensure exemption in lieu of issuing temporary permits (see Section 11, New Issues).

[This recommendation has been removed from the “New Issues” section since it is included in the proposed Physical Therapy Practice Act. \(Section 11, Issue 2\).](#)

ISSUE #5: SHOULD THE PTBC BE REQUIRED TO DENY LICENSURE TO REGISTERED SEX OFFENDERS?

In 2005, the Joint Committee and the DCA recommended granting PTBC authority to deny licensure to applicants required to register as a sex offender pursuant to Penal Code 314. SB 1476, Chapter 658, Statutes of 2006, granted PTBC this authority.

To date, the PTBC has denied two petitions for reinstatement of license from petitioners who are registered sex offenders pursuant to Penal Code 314. While the application questions each applicant about registration, PTBC staff, upon receipt of an application, verifies each applicant against the Department of Justice's (DOJ) Megan's Law Web site. This is in addition to the requirement of all applicants to submit fingerprints to both the DOJ and the Federal Bureau of Investigation (FBI).

The PTBC will be seeking authority for license revocation of licensees required to register as sex offenders (See Section 11, New Issues).

[The Board adopted California Code of Regulations \(CCR\) section 1399.23 specifically defining the required PTBC action if an applicant for licensure, licensee, or petitioner for reinstatement of a revoked license is required to register pursuant to Penal Code section 290 in addition to providing the circumstances exempt from this requirement. As noted in Section 1, CCR 1399.23 went into effect August 16, 2012.](#)

ISSUE #6: REQUIRE PARTICIPANTS IN THE DIVERSION PROGRAM TO PAY THE FULL COST OF THEIR PARTICIPATION?

The Joint Committee and the DCA recommended that if the diversion program is to continue, participants should be required to pay the full cost of their participation. Chapter 658, Statutes of 2006 (SB 1476) provided PTBC this authority.

Following the 2005 Joint Committee recommendation, PTBC exercised the authority and began requiring participants to pay the full cost of their participation in the diversion program. The monthly cost for each licensee participating in the program is approximately \$1800. In some cases, the licensee has opted for voluntary surrender of their license because participation is cost prohibitive. This is especially the case for a physical therapist assistant whose salary is generally less than that of a physical therapist.

Section 11 – New Issues

List new issues raised in this report. Give a short discussion of the issues, recommendations, or actions which could be taken by the PTBC, Department of Consumer Affairs, or Legislature to deal with issues discussed in this report, i.e., legislative changes, policy direction, budget changes.

1. New issues raised by the Committee to be addressed by the PTBC in this report.

There are no new issues raised by the Committee as yet for the Board to address.

2. New issues identified by the PTBC that are previously addressed in this report or by prior Sunset Review. Include new proposals for legislation, policy direction or budget changes.

ISSUE #1: OPERATIONAL DEFICIENCIES

The mission of the Physical Therapy Board of California (PTBC) is “to promote and protect the interests of the people of California by the effective and consistent administration and enforcement of the Physical Therapy Practice Act”. In order to fulfill its mission, the PTBC must have a workforce consistent with the workload resulting from its mandate. However, the largest challenge of the PTBC is inadequate budget allotment and position authority necessary to effectively fulfill its mandate.

Since the last Sunset Review, the PTBC has had a significant increase in workload as more physical therapists and physical therapist assistants have obtained licensure, the PTBC has experienced a proportional increase in enforcement workload and a vast increase in Attorney General (AG) costs. .

The tables below are a summary of PTBC’s request for additional staffing and budget augmentation for increased Attorney General (AG) costs. Details regarding the workload, staffing and budgetary deficiencies are presented throughout this Sunset Review Report. This Issue addresses the operational deficiencies specifically to those areas with the most critical need. In efforts to address the staffing deficiencies within these areas, the PTBC has been required to redirect staff to complete various functions on a rotational basis to avoid backlogs. Meanwhile, the PTBC has been unsuccessful in its efforts in correcting these deficiencies through the Budget Change Proposal (BCP) process.

Staffing Deficiency

Program Area	*Current Authorized Staff (various classifications)	Current Temporary Staff (various classifications)	Projected number of staff needed (in addition to authorized staff)	Number of staff requested (various classifications)
Administrative Services	3.1	.7	2.9	1.5
Application & Licensing	1.8	.7	3	2
Continuing Competency	1.3	0	3	1
Consumer Protection (enforcement)	3.9	1.4	7	3
*Current authorized staff does not include (2) Manager’s or (1) Executive Officer. There is 13.1 total authorized staff.				

Attorney General Deficiency

Fiscal Year	Complaints Received	AG Authorized Budget	AG Actual Expenditures (Year End)	Balance
FY 2008/09	1,075	264,717	138,946	125,771
FY 2009/10	1,455	285,668	115,908	169,760
FY 2010/11	1,812	285,668	406,570	(120,902)
FY 2011/12*	1,936	435,668	472,667	(36,999)
FY 2012/13**	710	285,668	551,352	(265,684)

*The authorized budget reflects a one-time augmentation for 150,000 through a deficiency request.
 **This data reflects projected workload and costs based on year-to-date (as of November 1, 2012) workload and expenditures.

ISSUE #2: REVISIONS TO THE PRACTICE ACT IN ITS ENTIRETY

In 2004 the Physical Therapy Board (PTBC) established the Physical Therapy Practice Act Review Task Force (Task Force). The Task Force's charge was to: 1) determine if the Physical Therapy Practice Act (Act) provided the foundation for the Board to fulfill its vision statement; 2) address applicability to the role of physical therapy professionals in the 21st century; and, 3) clarify the current language for the public and the PTBC's licentiates. After over a year of meetings, the Task Force presented recommendations to the Board, which were adopted, and the proposed revisions of the Act were included in the 2005 Sunset Review Report as a New Issue.

The establishment of the Task Force was prompted by a number of events. The Federation of State Boards of Physical Therapy (FSBPT) developed and published a Model Practice Act to encourage consistency for physical therapy licensure across all states; the American Physical Therapy Association substantially revised its Guide to Physical Therapist Practice, Revised Second Edition January 1, 2003; there continue to be references to the Medical Practice Act in sections of the Physical Therapy Practice Act despite the Board becoming autonomous in 1997, and conversely some of the PTBC's authority still resides in the Medical Practice Act; and finally, the PTBC wanted to address public and licentiate concerns that the Act is complex and difficult to use because similar subjects are not grouped together.

Some of the proposed revisions have been codified; however, the PTBC has attempted each year, since 2006, to get all the revisions of the Act introduced without success. The PTBC continues to pursue this issue because the Act is such a crucial document, and as a consumer agency, it is essential for consumers to easily access and understand the functions of the PTBC; the scope and qualifications of physical therapists and physical therapist assistants; the requirements and restrictions of the profession; and, the consequences for violating the Act. Moreover, consumers also benefit from licentiates having a clear understanding of the Act.

As mentioned above, only some of the proposed revisions of the Act have been codified, and since the proposed revisions of the Act haven't been considered since 2006, the proposals have substantially changed, but the PTBC's goal – consumer protection – has not. The current revisions of the Act include the following:

- Overall reorganizes, clarifies and updates current statute
- Explicitly states the responsibilities of the PTBC

- Specifically defines terms directly related to physical therapy care providers and clarifies the scope in plain English
- Adds who may qualify for licensure exemptions and defines the requirements of each qualifying method
- Removes all specific details of the licensing, renewal and documentation requirements and processes with the intent of moving them to regulation
- Adds license renewal exemptions for specified circumstances
- Adds authority for the PTBC to determine ethical standards
- Clearly defines specific violations which constitute unprofessional conduct
- Provides authority for the PTBC to impose a fee on approval agencies to support the Continuing Competency Services program
- Adds the authority for the PTBC to impose a fine for licensees refusing to produce records requested by the PTBC
- Adds the PTBC to the list of agencies under the jurisdiction of the Department of Justice Health Quality Enforcement Section
- Removes authority relating to physical therapy from the Medical Practice Act
- Adds authority to impose a condition requiring additional training and/or education when issuing a public letter of reprimand
- Replaces the term “diversion” with “substance abuse rehabilitation program” to accurately describe the PTBC’s program, which does not divert from discipline.

ISSUE #3: FICTITIOUS NAME PERMITS

The PTBC recommends adding authority to the Physical Therapy Practice Act for the PTBC to issue fictitious name permits. A fictitious name permit is a tool by which the PTBC would be able to increase consumer protection through ensuring physical therapists are held accountable while offering services under a name other than that to which a license was issued. Examples of how fictitious name permits are essential to the regulation of the profession are:

- Locating a physical therapist if a complainant filed against the business not knowing the name of the individual who treated him or her.
- Prevention of physical therapist assistants working beyond their scope of practice.

Other boards have already implemented this type of program, such as the Medical Board. Business and Professions Code section 2285 provides that it is unprofessional conduct for a licensee of the Medical Board to use any fictitious name without first obtaining a permit, and B&P Code section 2415 sets forth the requirements to obtain a fictitious name permit.

ATTACHMENT #A
OPERATIONAL DEFICIENCIES

ADMINISTRATIVE SERVICES PROGRAM

The Administrative Services Program is an essential component of the PTBC. These services provide effective and efficient administrative and technical support in the implementation of all PTBC programs. The Administrative Services Program provides support to the PTBC through processing the mail; cashiering; personnel; budget; legislative and regulatory administration; and, other administrative support functions, such as outreach, travel, training, procurement, computer/technology and correspondence review. The Administrative Services Program (Admin) is comprised of 3.8 positions: two Associate Governmental Program Analysts (AGPA), one Staff Services Analyst (SSA), one Office Technician (OT) and one permanent-intermittent Information Systems Technician (IST). The PTBC's Admin program is severely understaffed and continuously struggles to complete work requirements to keep these areas functioning adequately. Specifically, the cashiering, outreach, legislative and regulatory workload does not have sufficient staffing levels to maintain the volume of work.

Cashiering

The cashier workload relies on mail processed by the mail desk. The cashier is responsible for processing checks, money orders and cash received for initial applications; license renewals; cost recovery for administrative citations and disciplinary actions; refunds for over-payments; dishonored checks; endorsement requests; duplicate license requests and fingerprint cards for licensure. In addition, the cashier is required to maintain cashier logs, reports, reconcile discrepancies and report cashiering statistics on a monthly basis.

There is currently one permanent-intermittent Information Systems Technician (IST) that is responsible for cashiering in addition to computer/technology (IT) support duties. The IST provides technical support and maintains equipment for the PTBC's seven Board members and 20 employees. In addition, the PTBC is required to work with the Department of Consumer Affairs (DCA) through the implementation of BreEZe, an integrated licensing and enforcement system required department-wide. The IST is limited to working 1500 hours per calendar year. This limitation often results in a consistent backlog in both the IT and cashiering workload throughout the fiscal year.

In fiscal year 2010/11, the IST cashied approximately 6,400 checks and 7,200 checks in fiscal year 2011/12. The State Administrative Manual (SAM) (Chapter 8000, Section 8032.1) requires receipts of any amount be deposited within 10 working days. In efforts to comply with the SAM requirements, the IST was required to work additional hours and several IT duties including the BreEZe project were redirected to the enforcement manager. This redirection led to a backlog within enforcement. Over the past several years, the PTBC has received approval to increase the IST work hours in order to accommodate the cashiering and IT workload.

Cashier Workload

Fiscal Year	Number Received	Average time to process	Total hours	Total positions required
2010/11	6,400	2 minutes	3,200	1.8
2011/12	7,200	2 minutes	3,600	2

In August 2012, the PTBC's request to increase the IST work hours was denied by the Department of Consumer Affairs. This fiscal year (July – October), the IST cashied approximately 1000 checks and has an estimated backlog of 7 days. In order to comply with the SAM requirements, the backlog cannot

exceed 10 working days. If the PTBC does not obtain additional staff or approval to increase the IST work hours, the PTBC regrettably will not meet the SAM requirements and will delay in issuing licenses, renewals, etc. Should the PTBC attempt to meet the SAM requirements, it may not be able to meet its mandates within other program areas.

PTBC Recommendation: PTBC be approved for one additional OT to complete the cashiering requirements timely and ensure compliance with the SAM requirements.

Outreach

The outreach program provides PTBC the unique opportunity to reach out to consumers and licensees either face to face or by way of online communication, i.e., social networking. The outreach staff is responsible for representing the PTBC at events, monitoring trends within the profession and developing presentations in accordance with the Physical Therapy Practice Act and PTBC business practices, creating publications (i.e. newsletters, etc.), responding to incoming inquiries from consumers and licensees and maintaining the PTBC Web site to ensure the most current information is available.

Over the past several years, the PTBC has experienced a vast increase in online communication and the PTBC has been required to rely heavily on online communication. In efforts to address this increasing workload, the PTBC began enhancing its social networking through the PTBC Outreach program. The PTBC's goal is to ensure the outreach and communication is efficient and effective. This goal directly relates to PTBC's Strategic Plan 2009 (Goal 3). As part of meeting this goal, the PTBC solicited feedback from the consumers and licensees by creating a customer service survey on its web site, creating board meeting agenda books in electronic format; and, increasing consumer awareness through public announcements via Twitter and Facebook, etc.

The outreach staff is responsible for monitoring the public email and distributes inquiries to the applicable programs as well as maintaining the Twitter and Facebook accounts, processing all inquiries, and posting updates and news alerts, i.e., regulatory hearing notices, disciplinary actions, board meetings, etc. In addition to the PTBC email address, Twitter and Facebook, the outreach staff is responsible for PTBC's "Email List" registry and quarterly newsletter, "*Progress Notes*". The Email List allows the public to register to receive updates via email. When registering individuals are given the option of selecting the type of information they would like to receive, such as General [includes board activities, i.e., meeting agendas, advisory notices and special bulletins]; Citation and Disciplinary Actions; and Rulemaking [i.e., proposed regulations and regulatory updates]. The newsletter provides a snap shot of PTBC's current issues as well as upcoming issues and events. It also includes articles related to the profession and provides pertinent information related to rules and regulations, etc. The newsletter receives a significant number of viewers each year.

1. Newsletter:

In fiscal year 2010/11, the PTBC newsletter received 39,519 views and 50,270 views in fiscal year 2011/12, a 27% increase in viewers. The PTBC issued its most recent newsletter in September 2012 and anticipates the viewers to increase even more.

2. PTBC Public Email:

The PTBC does not have the capability to track this information. The Department of Consumer Affairs (DCA) maintains this data. The DCA reported they do not possess the data readily accessible for previous fiscal years and they do not have the resources to provide this information to PTBC.

3. Email List:

In fiscal year 2010/11, outreach staff responded to 484 inquiries; 130 for disciplinary information; 196 for general information; and 158 for rulemaking information. It posted approximately 26 updates via Twitter and Facebook. In fiscal year 2011/12, outreach staff responded to 1,135 inquiries; 329 for disciplinary information, 439 for general information, and 367 for rulemaking information, a 135% increase from fiscal year 10/11.

4. Twitter/Facebook:

The PTBC Twitter and Facebook accounts were instituted in February 2011 and currently have 115 followers via Twitter and 1,083 friends and 355,320 fans of friends via Facebook. In addition, the PTBC had 683,490 web hits during the first quarter (July – September) of fiscal year 2012/13. The outreach staff posted at least 73 updates via Twitter and Facebook and received 168 inquiries from consumers and licensees. The consumers and licensees rely heavily on the information maintained on the PTBC Web site, Twitter and Facebook. Thus, it is critical PTBC respond to inquiries in a timely manner and update the Web site regularly with the most current information.

Currently, one 0.5 SSA position is responsible for the Outreach program. In addition to outreach, the SSA's responsibilities include Personnel, Training, Travel and Strategic Planning for the staff and the Board. As part of these responsibilities, the SSA is required to review, track and process travel and training requests for seven Board members and 20⁴ employees. The SSA coordinates individual and group training and develops training materials related to the travel, training and personnel processes, policy and guidelines. The SSA is responsible for processing all personnel transactions, including recruitment, new hire and transfer hiring packages, for the updating of organizational charts and duty statements, for maintaining the position roster, for responding to inquiries in personnel-related program areas such as classification and pay, equal employment, health and safety, labor relations, personnel transactions, selection services, conflict of interest, departmental policies, etc. In addition, the SSA coordinates the Strategic Planning process by scheduling planning sessions, gathering data, identifying

⁴ This number reflects all PTBC staff including authorized and permanent-intermittent.

and tracking accomplishments, updating the plan, and providing technical assistance related to focus group discussions, etc. In November 2011, in an effort to sustain the volume of workload, the PTBC asked for and gained approval from DCA to increase the SSA's time base from half-time to full-time. This increase in time base resulted in the PTBC over-expending the position by 0.5, using existing resources within its personnel services budget.

Through no fault of the SSA, the SSA has a continuous backlog in various areas of responsibilities as responses to inquiries are delayed by at least 3 weeks and the PTBC web site is not maintained effectively. In addition, the PTBC normally issues a newsletter on a quarterly basis, but due to the staffing deficiencies, the PTBC now publishes the newsletter once a year via the web site.

Online communication is an essential and critical part of PTBC's outreach program to educate consumers and licensees regarding all program areas, including administration; application; licensing; continuing competency; examination and enforcement. An additional staff person would enable the PTBC to be more responsive and enhance its social networking, i.e., online communication, outreach publications, etc. in addition to allowing PTBC the opportunity to explore and identify how it could best meet the public's needs through online communication.

PTBC Recommendation: PTBC be approved for one additional SSA allocated to the Administrative Services Program. This would minimize response times to inquiries of consumer and licensees and adequately maintain the PTBC's social media efforts as well as provide support to the overall operation of the PTBC, its members and staff.

APPLICATION AND LICENSING SERVICES PROGRAM

The Application and Licensing Services program (Licensing) is a core function of the PTBC since it is the program responsible for the licensure for Physical Therapists (PT) and Physical Therapist Assistants (PTA). In addition, the PTBC is responsible for the issuance of certificates for Electroneuromyographers (ENMG) and Kinesiological Electromyographers (KEMG). The Licensing staff evaluates the PT and PTA application packets to ensure applicants meet statutory and regulatory licensure requirements. This essential function ensures that only qualified applicants are licensed by determining that applicants have the knowledge and qualifications necessary to perform the practices of the profession. A timely, efficient system enables qualified applicants to enter the workforce and provide safe physical therapy to California consumers. Adequate staffing is crucial to ensuring this mandate is accomplished effectively.

As part of the application and license processes, applicants are required to take and pass the National Physical Therapy Examination (NPTE) (Physical Therapist or Physical Therapist Assistant Examinations) and the California Law Examination (CLE), which relates to the practice of physical therapy in California. Applicants applying through endorsement⁵ who have passed the NPTE are only required to take and pass the CLE. The licensing application process is differentiated by categories for PT and PTA. There are several methods an applicant may apply/qualify for licensure:

Physical Therapists - Graduate of U.S. Accredited PT program or Graduate of Foreign Non-Accredited PT program (must demonstrate academic equivalency to a U.S. PT Program).

Physical Therapist Assistants – Graduate of U.S. Accredited PTA Program; Foreign Educated PTA program (must demonstrate academic equivalency to a U.S. PTA Program); Graduate of Foreign Non-Accredited PT Program must demonstrate academic equivalency to a U.S. PTA Equivalent Education and Work Experience [either through the military; a U.S. PT Program, or On the Job Work Experience coupled with 15 unit of General Education and 30 units of technical coursework].

Once the applicant obtains licensure, the licensing staff maintains the licensees' records. Record maintenance includes processing license renewals, address and name changes, and duplicate license requests, as well as issuing license verification letters (endorsements) and processing return mail, etc.

Over the past several years, the licensing population has increased significantly resulting in a vast increase in workload. In fiscal year 10/11, the PTBC received 1,730 applications and issued 1,265 licenses. Of those applications, 368 applications were from foreign educated applicants. The average processing time was 115 days for U.S. graduate applications and 446 days for foreign educated applications. In fiscal year 2011/12, the PTBC received 1,935 applications and issued 1,396 licenses. Of those applications, 371 applications were from foreign educated applicants. The average processing time was 98 days for U.S. graduate applications and 429 days for foreign educated applications.

The processing times for foreign educated applicants differ from the U.S. graduate applicants as licensing staff must ensure the applicants' education meets the U.S. educational requirements.

⁵ Endorsement is a method of licensure. Applicants applying for PTBC license by way of endorsement must have/had a valid license outside of California.

Moreover, after passing the examination, the applicant must successfully complete a nine-month clinical service program before obtaining licensure.

The licensing staff must maintain the application during the period from initial application until licensure is obtained. For example, staff corresponds with applicants, answers questions, reviews and updates records, i.e., address and name changes, etc. Any application that takes a considerable amount of time can delay the process of other applications.

The decrease in processing times from fiscal year 2010/11 to fiscal year 2011/12 was a result of PTBC redirecting existing staff to accommodate the processing of applications in order to meet the requirements of fixed-date testing. The Federation of State Boards Physical Therapy (FSBPT) implemented fixed-date testing effective July 1, 2011. Since its implementation, the PTBC has struggled to meet the deadlines for test dates and deadlines because fixed date testing has decreased the PTBC's time for processing applications. In some instances, the licensing staff had less than one week to process an initial application to enable applicants to take the next available exam. For example, five schools had graduating class dates of May 11th, June 10th and June 29th, with approximately 220 students graduating. The next available test dates for the PT exam was July 2nd, July 31st and October 23rd in 2012. If applicants from the May 11th graduating class registered for the first available exam (July 2nd), the PTBC would have had to receive complete applications, including fingerprint results, etc. by May 14th to enable the applicants to take that exam. This gave licensing staff only three days to process the applications. Such a short timeframe is not feasible especially since Licensing is so understaffed. Moreover, PTBC has received several letters from schools throughout California requesting PTBC to accommodate their students and expedite the application process. However, without additional staffing, the PTBC cannot accommodate these requests. During the November 2012 Board meeting, the Board received public comment regarding how the fixed-date testing dates and deadlines were unreasonable and caused students graduating from May through June significant financial hardship. The PTBC responded that the PTBC does not set and/or approve the fixed-date testing schedule, and that FSBPT provides this schedule to the PTBC.

There are currently three positions providing 5,940 work hours within the Application and Licensing program; one full time AGPA (Lead), one full time SSA, one permanent-intermittent Office Technician (OT) and one half-time OT. The Lead Analyst processes the initial review and approval for licensure for foreign educated applications and the final review and issuance of the U.S. graduate license. The SSA processes the initial review and approval for licensure for U.S. graduate applications and the final review and issuance of foreign educated license. The licensing analysts' conducting the initial review and process of a license application does not provide final review/approval or issue the license. This provides the PTBC for a check and balance in the application and license process. The OT (PI) maintains the licensees' records by processing renewals, address and name changes and endorsement requests. The OT (half-time) completes initial review of applications for completeness, makes license folders, processes score reports as scores are received, etc. In addition to the application and licensing processes, the licensing staff must answer phones, respond to inquiries by letter, in person, or by email, process cancelled license files, cancel fingerprint requests from the Department of Justice when applicants abandon their applications, process rejected fingerprint notices, process automated renewal forms when licensees provide new information or make a request on forms, etc.

In a recent workload study conducted by PTBC for BCP purposes, the Application and Licensing program identified a workload of 9,037 hours, totaling 5.0 full time positions. In efforts to maintain the

increasing workload and alleviate excessive backlogs, the PTBC redirected positions to accommodate the workload as follows:

1. The AGPA (Lead) position within licensing was redirected to accommodate a full licensing workload. The AGPA position is authorized as 0.8, but works full time. Normally, the Lead Analyst provides administrative support to the program, but with the ever increasing applicant population in combination with the 37,000 licensees requiring renewal every two years, the demands on the program was not feasible and required the PTBC to utilize the Lead Analyst to process foreign educated applicants. Meanwhile, the lead duties have been temporarily absorbed by management.
2. One full time SSA position within the Continuing Competency (CC) program was redirected to accommodate a full licensing workload. The CC program is responsible for ensuring continuing competency requirements are met with each renewal cycle by conducting random audits of licensees that have renewed. The SSA was responsible for conducting audits within the program. As a result, the SSA' duties have been absorbed by existing CC staff. Consequently the CC program now has a 14 month backlog.
3. One full time OT position within the Administration program was redirected to accommodate licensing workload. The OT position is authorized as 0.5, but works full time. Due to the separation of one Student Assistant (due to SEIU contract negotiations) effective September 1, 2012, the PTBC redirected the OT position to absorb the duties created from the loss of the Student Assistant. The OT is now responsible for administrative support in addition to license-related duties. As administrative support, the OT is responsible for processing PTBC's incoming mail. The PTBC receives approximately 25,000 pieces of mail per year. At least 60% of the mail received includes a check or money order for initial applications, license renewals, fingerprint cards, endorsement requests, fees from administrative citations and cost recovery for disciplinary actions. The State Administrative Manual (SAM) requires checks and money orders be endorsed for deposit no later than the end of the working day, and specifies additional requirements for processing cash (Chapters 800, 8021, 8023). Although, the other 40% of the mail received does not include monies, the majority of this mail is addressed to the Application and Licensing and Consumer Protection Service programs, which includes time sensitive documents, i.e., address and name change requests, proposed and default decisions, stipulated settlements, statement of issues, public record requests, etc. that require an immediate response from PTBC staff. Because of the redirection of the OT to the Application and Licensing program, the Admin program has an estimated three day backlog in processing the mail.

Although, redirecting staff to process licenses has resulted in several deficiencies within other program areas, licensure is a core consumer protection function of the PTBC. Additionally, rapid licensure allows applicants quick entry to the workforce and improves their personal financial situation as well as potentially improving the economy.

PTBC Recommendation: *The PTBC recommends approval for three additional positions within the Application and Licensing program: two OT's to complete application and licensing processes and one SSA to process foreign educated applications in a consistent and timely manner.*

CONTINUING COMPETENCY PROGRAM

Effective November 6, 2009, new regulations required all physical therapists and physical therapist assistants renewing their license to complete a required number of hours of continuing competency activity. In response to the new mandate, the Continuing Competency Services (CC) program was established within the PTBC. The CC program is an essential function of the PTBC as it relates to the core functions of the licensing process.

The CC staff is responsible for ensuring licensees are meeting the continuing competency requirements defined in the California Code of Regulations (CCR Sections, 1399.90-1399.99) upon license renewal. To ensure compliance, the CC staff conducts random audits of renewed licenses. Additionally, the CC staff reviews the renewal form and verifies the licensee has attested to completing the requisite hours of continuing competency. Although the PTBC does not approve individual courses or providers, the PTBC recognizes approval agencies that approve providers of continuing competency courses and is responsible for conducting random audits of approved providers for compliance.

As part of the continuing competency requirements, the licensee is required to complete 30 hours of authorized coursework by either the traditional pathway or alternate pathway and retain documentation of continuing competency activity completions for a period of five years after the course or activity concludes. Upon renewal, the licensee must sign their renewal form under penalty and perjury certifying they have met the continuing competency requirements and agree to supply supporting documents to the PTBC upon request.

If the licensee elects not to participate in continuing competency, the licensee may become delinquent or opt to enter into inactive status. In addition, the licensee may apply for exemption. If the licensee meets the criteria for exemption (CCR Section 1399.96), the Board will provide the licensee with a written decision of the request.

Since the implementation of continuing competency requirements, the PTBC has undergone a vast increase in workload throughout the PTBC programs as the licensee population continues to grow. As a result, the number of renewals and the number of enforcement actions have increased. All these factors result in additional workload. The table below is a summary of these increases.

Fiscal Year	# of Renewals Issued	# of Audits Conducted	# of Licensees in Compliance	# of Licensees Inactive	# of non-compliant forwarded to CPS program
2010/11	12,789	272	157	574	115
2011/12	13,220	706	552	1,332	25
2012/13*	4,987	198	Not Available	1,610	Not Available

*This data reflects data collected as of October 1, 2012 for fiscal year 2012/13.

Prior to the implementation of the new continuing competency requirements, the PTBC requested two full time positions: one SSA and one OT, to handle the additional workload. The PTBC gained approval for these positions through the BCP process, effective fiscal year 2010/11. However, the OT position was abolished due to Executive Order S-01-10 directing a 5% workforce reduction, which became permanent effective fiscal year 2011/12.

There are currently 1.3 positions; one full time SSA (.08) and one part time SSA (.05) working in the CC program. One SSA is authorized 0.8, but works full time. The half time SSA was redirected from the Admin program to the CC program in November 2011 in an effort to alleviate the excessive backlog. The current staffing level is not sufficient to meet the workload volume. The PTBC currently has a 14 month backlog in conducting audits. In a recent workload study conducted by PTBC for BCP purposes, the PTBC identified 7,261 work hours, a total of 3.0 full time staff to meet the volume of workload within the CC program. If the PTBC does not obtain adequate staffing for this program, the backlog will increase at an escalated pace.

PTBC Recommendation: *The PTBC recommends approval for two additional positions; one OT and one SSA to process random audits at a rate necessary to ensure compliance.*

CONSUMER PROTECTION SERVICES PROGRAM

The Consumer Protection Services program (CPS) is a core function of the PTBC and is mandated to protect the public by enforcing the Physical Therapy Practice Act (Chapter 5.7 of the Business and Professions Code). Over the past two years, the CPS has focused on improving its timeframes for processing cases so that cases are completed within 12-18 months as outlined in the CPEI. However, the PTBC encountered staffing and budget related challenges that prevented the CPS program from fulfilling these requirements. Prior to the CPEI implementation, the PTBC had an existing staffing deficiency within the CPS program and a budget deficiency for Attorney General (AG) costs. To correct these deficiencies, the PTBC regularly submits BCP's, but thus far has been unsuccessful. In fact, at the time the Department of Consumer Affairs (DCA) initiated the workload studies for CPEI, the PTBC was authorized 4.0 positions (various levels) in the CPS program working to conduct case intake, desk investigations, cite and fine, disciplinary cases, complaint handling, cost recovery, probation and diversion. The resulting workload study identified approximately 35,386 work hours were needed to cope with the work. This meant that 16 new positions (various levels) would be needed to comply with the DCA, CPEI and to maintain existing workload.

The PTBC was then approved an additional 5.0 positions: 3.5 AGPA's (limited-term), 1.0 SSMI and 0.5 Special Investigator (non-sworn) effective in fiscal year 2010/11. Of these positions, the PTBC retained one full time SSMI position because the 3.5 AGPA's limited term positions ended 9/30/12. The half time SI (non-sworn) position was later abolished per BL-12-03. As a result, the PTBC's CPS program is severely understaffed and cannot meet its ongoing workload with the current staffing levels. The workload cannot be feasibly handled and results in continuous backlogs within the CPS program.

This untimely staffing decrease has and will continue to significantly impact the physical therapy consumers of California as the workload for the CPS program has increased considerably and persistently grows each fiscal year. As the PTBC places a high priority on protecting consumers, it continually redirects staff, including the AGPA (Lead) to address the highest priority cases. Citation and fine cases that are the less egregious cases, i.e. address change, continuing competency, documentation and supervision violations have been relegated to a lower priority until authority for additional staff is received. This process allows staff to focus on the more egregious cases that put the consumer at a higher risk. Normally, the AGPA provides administrative support to the program, including direction on the most complex actions, statistical reporting, etc. Currently, the lead AGPA completes the intake process. This includes acknowledging complaints, initiating the process of opening cases, and scrutinizing each case to determine whether it is high or low priority. This task is essential to the process, but nonetheless time consuming. In addition, while maintaining a case load, the Lead must also attempt to complete other duties associated with her position as the lead analyst, but management has assumed the majority of these tasks. Since analysts have no clerical support, they are burdened with handling routine procedures before they can perform analytical tasks. The time and energy that an analyst could spend on conducting additional desk investigations or analyzing information are spent on data entry. Lastly, record requests, integral to any investigation, could also be completed by clerical support, but instead must be done by the CPS analyst. Delayed investigations

often stem from problems in obtaining complaint related documents and medical records. Thus, minimizing the time between complaint reception and records request minimizes the delay in completing an investigation and in removing an incompetent practitioner.

The CPS program currently has 5.3 positions: one Special Investigator (non-sworn), 2.9 AGPA's and two permanent-intermittent SSA's. Of these positions, 4.3 CPS staff process complaints, administrative citations and disciplinary cases in addition to their other administrative duties. The Special Investigator (non-sworn) conducts investigations and handles probation and the diversion programs. The number of cases assigned to each analyst is extremely high, with 1814 complaints received and 629 pending in fiscal year 2011/12. Each analyst manages a caseload of over 500 cases. It is virtually impossible to accurately and expeditiously manage such a high caseload. For example, the PTBC has recently received an increased number of complaints of sexual misconduct by physical therapists. Certainly sexual misconduct is one of the most egregious violations against a consumer and the PTBC processes as high priority. However, due to the lack of staffing, the process is delayed, which potentially puts consumers at risk.

Even when the PTBC had an additional 3.5 CPEI positions, it still struggled to meet its' Performance Measures. These measures allow the PTBC to monitor its progress in meeting enforcement goals and targets, in identifying performance shortcomings and in implementing measures to improve performance. The most pronounced shortcoming is the lack of sufficient staff to ensure adequate consumer protection.

The PTBC faces another workload problem that will surface on January 1, 2013 when a moratorium is lifted against the Board taking action against physical therapists working as employees of medical, podiatric, or chiropractic corporations. Current law, as interpreted by Legislative Counsel and by DCA' attorneys, forbids such employment. The Board received many complaints regarding this employment. Senate Bill 924, intended to remedy this situation, failed in August, 2012. When the law that created the moratorium sunsets on January 1, the Board will once again face an onslaught of complaints. Since complaints regarding this employment are not considered to be of high priority with regard to enforcement, the Board fears that it will be viewed as negligent in meeting its mandate to protect consumers.

PTBC Recommendation: *The PTBC recommends approval for three additional positions; two AGPA's and one OT to meet ongoing workload for processing intake, complaints, administrative and disciplinary actions and probation monitoring in order to effectively comply with its' current mandate of protecting the public.*

As mentioned, the PTBC lacks adequate budget authority to accommodate its' Attorney General (AG) costs. As a result of the increasing enforcement cases and cases being forwarded to the AG's office, the PTBC has over-expended its' AG budget line for the past three years. In fiscal year 2009/10, the PTBC exhausted its' AG budget in fiscal month 10 (October 2010), which required the PTBC to use monies from its' Operating Expenses and Equipment (OE&E) budget line items to accommodate for its' year-end AG costs. The PTBC was required to transfer \$140, 865 from its' OE&E budget to the AG

budget line, providing the PTBC with a minimal reversion. Again, in fiscal year 2010/11, the PTBC exhausted its' AG budget and was required to use \$120,902 of its' OE&E budget to accommodate for the increasing AG costs.

In fiscal year 2011/12, as the enforcement cases continued to increase and the AG costs were rapidly being exhausted, it became evident the PTBC would lack the sufficient funds to accommodate its' AG costs in conjunction with all other operating expenditures. In November 2011, the PTBC projected a budget deficiency of \$180,000 within its' AG budget. In result, the PTBC was approved a one-time budget augmentation of \$150,000, increasing the AG budget from \$285,668 to \$435,668. In addition, with the deficiency in place, the PTBC was required to omit from sending cases to the AG's Office and redirecting staff to process the most egregious cases only. By the end of the fiscal year, the AG budget of \$435,668 was exhausted and the AG expenditures were \$472,667 (year-end).

Year-to-date, the PTBC has expended \$137,838 of its \$285,698 AG budget (through September, 2012). At this rate, the PTBC is projected to spend \$551,352 in AG costs. Despite the fact that the PTBC is projected to exceed its budgeted authority by \$265,684, the PTBC has made every effort to achieve savings in other line items to mitigate the overall impact of this enforcement-related augmentation, such as, the establishing in-house expenditure caps saving approximately \$136,000 in current year.

The AG budget augmentation is vital to the PTBC's enforcement efforts to remove physical therapists and physical therapist assistants with serious practice act violations and to ensure that the utmost protection is afforded the public and consumers.

PTBC Recommendation: *The PTBC recommends approval for an additional \$266,000 (budget augmentation) to accommodate the Attorney General costs associated with the enforcement caseload. This is essential for the PTBC to effectively comply with its' mandate of protecting consumers.*

ENFORCEMENT SNAP SHOT

Complaints	FY 10/11	FY 11/12	FY 12/13
Prior	372	554	630
Rec'd	1812	1814	710
Total Closed	1646	1739	963
Pending	538	629	377

Cases worked per analyst FY 2012/13			
Pending		377	
Closed		963	
AG		88	
Total		1428	
Analysts	3.8	Per	376

ATTORNEY GENERAL	
Pending Cases (being worked)	88

AG COSTS		
	BUDGET	EXPENDITURE
FY 10/11	\$285,688	\$406,527
FY 11/12	\$285,688	\$471,696
FY 12/13	\$285,688	\$162,290

PT's in MD Corp.	FY 10/11	FY 11/12	FY 12/13
Complaints Received	245	15	116

Lay Person Owned	
Pending/Total	12

Petitions	FY 10/11	FY 11/12
REINSTATE	1	1
REVOKE PROB	1	2
ACCUS & REVOKE	5	6
PETIT TO MODIFY	2	4

INTERIM SUSPENSION ORDERS & PC23 ANALYSIS					
Fiscal Year	Type of Case	ISO/PC23	Effective Date	Final Decision	Effective Date of Final Decision
2010/11	CONVICTION	ISO	7/20/2010	Probation	9/7/2011
2011/12	FELONY/CONV	ISO	4/13/2012	Licensing Surrender	9/7/2011
2012/13	SEX MISC/PT.	ISO	8/17/2012	PENDING	
	PROB VIOL&CRIM	PC 23	9/24/2012	PENDING	
	SUBSTANCE	PC 23	10/10/2012	PENDING	
	LIC. BY FRAUD	ISO	PENDING	PENDING	
	CONVICTION	ISO	PENDING	PENDING	
	CONVICTION	ISO	PENDING	PENDING	
	CONVICTION	ISO	PENDING	PENDING	
	CONV/SEX W MINOR	PC 23	PENDING	PENDING	
	SUBSTANCE	ISO	PENDING	PENDING	

The statistics reflect data collected as of December 1, 2012.

ATTACHMENT B
PROPOSED REVISIONS TO THE
PHYSICAL THERAPY PRACTICE ACT

1 **Proposed Revisions to the Physical Therapy Practice Act**

2
3 **BUSINESS AND PROFESSIONS CODE**

4
5 Section 2071 of the Business and Professions Code is amended to read:

6
7 2071. The Division of Licensing shall adopt and administer regulations that establish
8 standards for technical supportive services that may be performed by a medical
9 assistant. Nothing in this section shall prohibit the board or division from amending or
10 repealing regulations covering medical assistants. The board or division shall, prior to
11 the adoption of any regulations, request recommendations regarding these standards
12 from appropriate public agencies, including, but not limited to, the State Board of
13 Optometry, the Board of Registered Nursing, the Board of Vocational Nursing and
14 Psychiatric Technicians, the Laboratory Field Services division of the State Department
15 of Health Services, those divisions of the State Department of Education that pertain to
16 private postsecondary education and career and vocational preparation, the Chancellor
17 of the California Community Colleges, the California Board of Podiatric Medicine, the
18 Physician Assistant Examining Committee, and the Physical Therapy ~~Examining~~
19 ~~Committee~~ Board of California. The Division of Licensing shall also request
20 recommendations regarding these standards from associations of medical assistants,
21 physicians, nurses, doctors of podiatric medicine, physician assistants, physical
22 therapists, laboratory technologists, optometrists, and others as the board or division
23 finds appropriate, including, but not limited to, the California Optometric Association, the
24 California Nurses Association, the California Medical Association, the California Society
25 of Medical Assistants, the California Medical Assistants' Association, and the California
26 ~~Chapter of the American Physical Therapy Association~~. Nothing in this section shall be
27 construed to supersede or modify that portion of the Administrative Procedure Act
28 which relates to the procedure for the adoption of regulations and which is set forth in
29 Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title
30 2 of the Government Code.

31
32 **Chapter 5.7. Physical Therapy**

33
34 Article 1. Administration and General Provisions (2600-2615)

35 Article 2. ~~General Provisions~~ Scope of Regulation and Exemptions (2620-2622 2633.7)

36 Article 3. ~~Licensing of Practitioners (2630-2640)~~

37 Article 3. Qualifications and Requirements for Licensure (2635-2639.1)

38 Article 4. ~~Educational Standards (2650-2653)~~ Renewal of Licenses (2644-2649)

39 Article 4.5. ~~Physical Therapist Assistant (2655-2655.93)~~

40 Article 5. ~~Suspension, Revocation and Reinstatement of Licenses (2660-2661.7)~~

41 Educational Standards (2650-2654)

42 Article 5.5. ~~Diversion Program (2662-2669)~~

43 Article 6. ~~Offenses and Enforcement (2670-2675)~~ Enforcement (2660-2661.7)

44 Article 6.5. ~~Continuing Education and Competency (2676)~~

1 ~~Article 7. Fiscal Administration (2680-2689) Substance Abuse Recovery Program~~
2 ~~(2662-2669)~~

3 ~~Article 8. Physical Therapy Corporations (2690-2696) Offenses Against This Chapter~~
4 ~~(2670-2674)~~

5 ~~Article 9. Fiscal Administration (2680-2689)~~

6 ~~Article 10. Physical Therapy Corporations (2690-2696)~~
7

8 The heading of Article 1 (commencing with Section 2600) of Chapter 5.7 of Division 2 of
9 the Business and Professions Code is amended to read:

10
11 Article 1. Administration and General Provisions
12

13 Section 2601 of the Business and Professions Code has been repealed.

14
15 ~~2601. "Board" as used in this chapter means the Physical Therapy~~
16 ~~Board of California.~~

17
18 Section 2601 is added to the Business and Professions Code, to read:

19
20 2601. For the purpose of this chapter, the following terms shall have the meaning set
21 forth below, unless otherwise specified.

22 (a) "Board" means the Physical Therapy Board of California.

23 (b) "Physiotherapy" shall be synonymous with "physical therapy."

24 (c) "Physical therapist" means a person who is licensed pursuant to this chapter
25 to practice physical therapy.

26 (d) "Physical therapist assistant" means a person who is licensed pursuant to
27 this chapter to assist in the provision of physical therapy under the supervision of a
28 licensed physical therapist. "Physical therapy assistant" and "physical therapist
29 assistant" shall be deemed identical and interchangeable.

30 (e) "Physical therapist technician" and "physical therapy aide," as described in
31 Section 2630.4, shall be deemed identical and interchangeable.
32

33 Section 2603 of the Business and Professions Code is amended to read:

34
35 ~~2603. The members of the board shall consist of the following: one physical therapist~~
36 ~~involved in the education of physical therapists, three physical therapists who shall have~~
37 ~~practiced physical therapy for five years and shall be licensed by the board, and three~~
38 ~~public members who shall not be licentiates of the board or of any other board under the~~
39 ~~Medical Board of California or of any board referred to in Sections 1000 and 3600. four~~
40 ~~physical therapists, only one of whom shall be involved in physical therapy education,~~
41 ~~and three public members.~~

42
43 Section 2603.5 is added to the Business and Professions Code, to read:
44

1 2603.5. (a) The physical therapist members of the board shall be appointed from
2 persons having all of the following qualifications:

3 (1) Be a resident of California.

4 (2) Possess an unrestricted license in California issued pursuant to this chapter.

5 (3) Have been licensed pursuant to this chapter and practicing in California for
6 at least five years prior to appointment to the board.

7 (b)(1) The public members of the board shall:

8 (A) Be appointed from persons having all of the qualifications as set forth in
9 Chapter 6 (commencing with Section 450) of Article 7 of Division 1 of the Business and
10 Professions Code.

11 (B) Be a resident of California.

12 (2) No public member of the board shall be, nor have been, any of the
13 following:

14 (A) An officer or faculty member of any college, school, or institution involved in
15 physical therapy education.

16 (B) A licentiate of the Medical Board of California or of any board under this
17 division or of any board referred to in Sections 1000 and 3600.

18
19 Section 2604 of the Business and Professions Code is amended to read:

20
21 2604. The members of the board shall be appointed for a term of
22 four years, expiring on the first day of June of each year.

23 The Governor shall appoint one of the public members and the four physical
24 therapist members of the board qualified as provided in ~~Section~~ Sections 2603 and
25 2603.5. The Senate Rules Committee on Rules and the Speaker of the Assembly shall
26 each appoint a public member qualified as provided in Sections 2603 and 2603.5, ~~and~~
27 ~~their initial appointment shall be made to fill, respectively, the first and second public~~
28 ~~member vacancies which occur on or after January 1, 1983.~~

29 ~~Not more than one member of the board shall be appointed from the full-time~~
30 ~~faculty of any university, college, or other educational institution.~~

31 No person may serve as a member of the board for more than two consecutive
32 terms. Vacancies shall be filled by appointment for the unexpired term. Annually, the
33 board shall elect one of its members as president and one of its members as vice
34 president.

35 The appointing power shall have the power to remove any member of the
36 board from office for neglect of any duty required by law or for incompetency or
37 unprofessional or dishonorable conduct.

38
39 Section 2604.5 of the Business and Professions Code is repealed.

40
41 ~~2604.5. The public members shall be appointed from persons having~~
42 ~~all of the following qualifications:~~

43 ~~(a) Be a citizen of California.~~

1 ~~(b) Shall not be an officer or faculty member of any college, school or institution~~
2 ~~engaged in physical therapy education.~~

3 ~~(c) Shall not be a licentiate of the Medical Board of California or of any board~~
4 ~~under this division or of any board referred to in Sections 1000 and 3600.~~

5
6 Section 2605 is added to the Business and Professions Code, to read:

7
8 2605. The board shall do all of the following:

9 (a) Evaluate the qualifications of applicants for licensure.

10 (b) Provide for the examinations of physical therapists and physical therapist
11 assistants and establish a passing score for each examination.

12 (c) Issue all licenses for the practice of physical therapy in California. Except as
13 otherwise required by the director pursuant to Section 164, the license issued by the
14 board shall describe the licensee as a “physical therapist” or “physical therapist
15 assistant” licensed by the Physical Therapy Board of California.

16 (d) Suspend and revoke licenses, and otherwise enforce the provisions of this
17 chapter.

18 (e) Administer a continuing competency program

19 (f) Participate, as a member, in the Delegate Assembly, and in applicable
20 Committee meetings, of the Federation of State Boards of Physical Therapy.

21 (g) Publish, at least annually, a newsletter that includes, but is not limited to,
22 actions taken by the board, disciplinary actions, and statutory and regulatory changes.

23 (h) Provide for the timely orientation and training of new professionals and
24 public appointees to the board directly related to board licensing and disciplinary
25 functions, and board rules, policies, and procedures.

26 (i) Adopt and administer a program of education in matters relevant to the
27 regulation of physical therapy.

28
29 Section 2607 of the Business and Professions Code is amended to read:

30
31 2607. The board may employ, subject to law, such clerical assistants and, except as
32 provided in Section 159.5, other employees as it may deem necessary to carry out its
33 powers and duties.

34 The board may enter into contracts for services necessary for enforcement of
35 this act and may as necessary select and contract with physical therapy consultants
36 who are licensed physical therapists to assist it in its programs on an intermittent basis.
37 Notwithstanding any other provision of law, the board may contract with these
38 consultants on a sole source basis. For the purposes of Division 3.6 (commencing with
39 Section 810) of Title 1 of the Government Code, any consultant under contract with the
40 board shall be considered a public employee.

41
42 Section 2607.5 of the Business and Professions Code, as amended by Section 23 of
43 Chapter 332 of Statutes of 2012, is amended to read:

1 ~~2607.5. The board may appoint a person exempt from civil service who shall be~~
2 ~~designated as an executive officer and who shall exercise the powers and perform the~~
3 ~~duties delegated by the board and vested in him or her by this chapter. (a) The board~~
4 ~~may employ an executive officer exempt from the provisions of the Civil Service Act and~~
5 ~~may also employ investigators, legal counsel, physical therapist consultants, and other~~
6 ~~assistance as it may deem necessary to carry out this chapter into effect. The board~~
7 ~~may fix the compensation to be paid for services and may incur other expenses as it~~
8 ~~may deem necessary. Investigators employed by the board shall be provided special~~
9 ~~training in investigating physical therapy practice activities.~~

10 (b) The Attorney General shall act as legal counsel for the board for any judicial
11 and administrative proceedings and his or her services shall be a charge against it.

12 ~~(b)(c)~~ This section shall remain in effect only until January 1, 2014, and as of
13 that date is repealed, unless a later enacted statute, that is enacted before January 1,
14 2014, deletes or extends that date.

15
16 Section 2608 of the Business and Professions Code is amended to read:

17
18 2608. The procedure in all matters and proceedings relating to the denial, suspension,
19 ~~or~~ revocation, or probationary restriction of licenses issued by the board under this
20 chapter shall be governed by the provisions of Chapter 5 (commencing with Section
21 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

22
23 Section 2608.5 of the Business and Professions Code is amended to read:

24
25 2608.5. Each member of the board, or any licensed physical therapist appointed by the
26 board, may inspect, or require reports from, a general or specialized hospital or any
27 other facility providing physical therapy care, treatment or services and the physical
28 therapy staff thereof, with respect to the physical therapy care, treatment, services, or
29 facilities provided therein, and may inspect physical therapy patient records with respect
30 to the care, treatment, services, or facilities. The authority to make inspections and to
31 require reports as provided by this section shall not be delegated by a member of the
32 board to any person other than a physical therapist and shall be subject to the
33 restrictions against disclosure described in Section ~~2263~~2660(y).

34
35 Section 2609 of the Business and Professions Code is repealed.

36
37 ~~2609. The board shall issue, suspend, and revoke licenses and approvals to practice~~
38 ~~physical therapy as provided in this chapter.~~

39
40 Section 2611 of the Business and Professions Code is amended to read:

41
42 ~~2611. The board shall hold at least one regular meeting annually in the Cities of~~
43 ~~Sacramento, Los Angeles and San Francisco. The board shall meet at least three times~~
44 ~~each year, meeting at least once each calendar year in northern California and once~~

1 each year in southern California. The board may convene from time to time until its
2 business is concluded. Special meetings of the board may be held at any time and
3 place as the board may designate. Four members of the board shall constitute a
4 quorum for the transaction of business.
5

6 Section 2612 of the Business and Professions Code is amended to read:

7
8 2612. ~~Notice of each meeting of~~ ~~the board shall be given in accordance~~ comply with
9 the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of
10 Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).
11

12 Section 2614 of the Business and Professions Code is amended to read:

13
14 2614. ~~(a)~~ The board shall hear all matters, including but not limited to, any contested
15 case or any petition for reinstatement, restoration, or modification of probation. Except
16 as otherwise provided in this chapter, all hearings shall be conducted in accordance
17 with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the
18 Government Code. If a contested case is heard by the board, the hearing officer who
19 presided at the hearing shall be present during the board's consideration of the case
20 and, if requested, shall assist and advise the board. The board shall issue its decision
21 pursuant to Section 11517 of the Government Code.

22 ~~(b) At the conclusion of the hearing, the board shall deny an application for, or~~
23 ~~suspend or revoke, or impose probation conditions upon, a license or approval.~~
24

25 Section 2615 of the Business and Professions Code is amended to read:

26
27 2615. The board shall ~~from time to time~~ adopt those regulations ~~that as~~ may be
28 necessary to effectuate the provisions of this chapter. In adopting regulations the board
29 shall comply with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3
30 of Title 2 of the Government Code.
31

32 The heading of Article 2 (commencing with Section 2620) of Chapter 5.7 of Division 2 of
33 the Business and Professions Code is amended to read:

34
35 Article 2. ~~General Provisions~~ Scope of Regulation and Exemptions
36

37 Section 2620. Of the Business and Professions Code is amended to read:

38
39 2620. ~~(a)~~ Physical therapy means the art and science of physical or
40 corrective rehabilitation or of physical or corrective treatment of
41 any bodily or mental condition of any person, ~~by the use of the physical, chemical, and~~
42 ~~other properties of heat, light, water, electricity, sound, massage, and active, passive,~~
43 ~~and resistive exercise, and shall include physical therapy evaluation, treatment~~
44 ~~planning, instruction and consultative services. The practice of physical therapy includes~~
45 ~~the promotion and maintenance of physical fitness to enhance the bodily movement~~

1 related health and wellness of individuals through the use of physical therapy
2 interventions. The use of roentgen rays and radioactive materials, for diagnostic and
3 therapeutic purposes, and the use of electricity for surgical purposes, including
4 cauterization, are not authorized under the term "physical therapy" as used in this
5 chapter, and a license issued pursuant to this chapter does not authorize the diagnosis
6 of disease. Physical therapy includes all of the following:

7 (a) Examining, evaluating, and testing persons with mechanical, physiological,
8 and developmental impairments, functional limitations, and disabilities or other health
9 and movement-related conditions in order to develop a plan of therapeutic intervention.

10 (b) Alleviating impairments, functional limitations, and disabilities by designing,
11 implementing, and modifying therapeutic interventions that may include, but are not
12 limited to, therapeutic exercise; functional training in self-care and in-home, community,
13 or work integration or reintegration; manual therapy; therapeutic massage; prescription,
14 application, and, as appropriate, fabrication of assistive, adaptive, orthotic, prosthetic,
15 protective, and supportive devices and equipment; airway clearance techniques;
16 integumentary protection and repair techniques; debridement and wound care; physical
17 agents or modalities; mechanical and electrical therapeutic modalities; and patient-
18 related instruction.

19 (c) Reducing the risk of injury, impairment, functional limitation, and disability.

20 (d) Promoting and maintaining physical fitness to enhance the bodily
21 movement-related health and wellness of individuals through the use of physical
22 therapy interventions.

23 ~~(b) Nothing in this section shall be construed to restrict or prohibit other healing~~
24 ~~arts practitioners licensed or registered under this division from practice within the~~
25 ~~scope of their license or registration.~~
26

27 Section 2620.2 is added to the Business and Professions Code, to read:

28
29 2620.2. Nothing in this chapter shall be construed to restrict or prohibit other healing
30 arts practitioners licensed or registered under this division from practice within the
31 scope of their license or registration.
32

33 Section 2620.7 of the Business and Professions Code is amended to read:

34
35 ~~2620.7. (a) A physical therapist shall document his or her evaluation, goals, treatment~~
36 ~~plan, and summary of treatment in the patient record. Patient records shall be~~
37 ~~documented as set forth in regulation.~~

38 ~~(b) A physical therapist shall document the care actually provided to a patient in~~
39 ~~the patient record.~~

40 ~~(c) A physical therapist shall sign the patient record legibly.~~

41 ~~(d)(b) Patient records shall be maintained for a period of no less than seven~~
42 ~~years following the discharge of the patient, except that the records of unemancipated~~
43 ~~minors shall be maintained at least one year after the minor has reached the age of 18~~
44 ~~years, and not in any case less than seven years.~~

1
2 Section 2621 of the Business and Professions Code is amended to read:

3
4 ~~2621. Nothing in this chapter shall be construed as authorizing~~ This chapter does not
5 authorize a physical therapist to diagnose disease, practice medicine, surgery, or any
6 other form of healing except as authorized by Section 2620.
7

8 Section 2622 of the Business and Professions Code is repealed.

9
10 ~~2622. "Physical therapist" and "physical therapist technician" mean a person who is~~
11 ~~licensed pursuant to this chapter to practice physical therapy. For purposes of this~~
12 ~~chapter, the term "physical therapy" and "physiotherapy" shall be deemed identical and~~
13 ~~interchangeable.~~

14
15 Section 2622 is added to the Business and Professions Code, to read:

16
17 2622. (a) A physical therapist shall be responsible for managing all aspects of the care
18 of each patient as set forth in regulation.

19 (b) A physical therapist shall not supervise more than two physical therapist
20 assistants at one time to assist the physical therapist in his or her practice of physical
21 therapy.

22 (c) A physical therapist may utilize the services of one aide engaged in patient-
23 related tasks to aid the physical therapist in his or her practice of physical therapy.
24

25 Section 2623 is added to the Business and Professions Code, to read:

26
27 2623. The board may by regulation, prescribe, amend, or repeal any rules contained
28 within a code of professional conduct appropriate to the establishment and maintenance
29 of integrity and dignity in the profession of physical therapy. Every licensee of the board
30 shall be governed and controlled by the rules and standards adopted by the board.
31

32 The heading of Article 3 (commencing with Section 2630) of Chapter 5.7 of Division 2 of
33 the Business and Professions Code is repealed.

34
35 ~~Article 3. Licensing of Practitioners.~~

36
37 Section 2630 of the Business and Professions Code is amended to read:

38
39 2630. It is unlawful for any person or persons to practice, or offer to practice, physical
40 therapy in this state for compensation received or expected, or to hold himself or herself
41 out as a physical therapist, unless at the time of so doing the person holds a valid,
42 unexpired, and unrevoked physical therapist license issued under this chapter except as
43 authorized in subdivisions (c), (d), (e) and (g) of Section 2630.5.

44 ~~Nothing in this section shall restrict the activities authorized by their licenses on~~
45 ~~the part of any persons licensed under this code or any initiative act, or the activities~~

1 authorized to be performed pursuant to Article 4.5 (commencing with Section 2655) or
2 Chapter 7.7 (commencing with Section 3500).

3 A physical therapist licensed pursuant to this chapter may utilize the services of
4 one aide engaged in patient-related tasks to assist the physical therapist in his or her
5 practice of physical therapy. "Patient-related task" means a physical therapy service
6 rendered directly to the patient by an aide, excluding non-patient-related tasks. "Non-
7 patient-related task" means a task related to observation of the patient, transport of the
8 patient, physical support only during gait or transfer training, housekeeping duties,
9 clerical duties, and similar functions. The aide shall at all times be under the orders,
10 direction, and immediate supervision of the physical therapist. Nothing in this section
11 shall authorize an aide to independently perform physical therapy or any physical
12 therapy procedure. The board shall adopt regulations that set forth the standards and
13 requirements for the orders, direction, and immediate supervision of an aide by a
14 physical therapist. The physical therapist shall provide continuous and immediate
15 supervision of the aide. The physical therapist shall be in the same facility as, and in
16 proximity to, the location where the aide is performing patient-related tasks, and shall be
17 readily available at all times to provide advice or instruction to the aide. When patient-
18 related tasks are provided to a patient by an aide, the supervising physical therapist
19 shall, at some point during the treatment day, provide direct service to the patient as
20 treatment for the patient's condition, or to further evaluate and monitor the patient's
21 progress, and shall correspondingly document the patient's record.

22 The administration of massage, external baths, or normal exercise not a part of
23 a physical therapy treatment shall not be prohibited by this section.
24

25 Section 2630.3 is added to the Business and Professions Code, to read:

26
27 2630.3. (a) A licensed physical therapist assistant holding a valid, unexpired, and
28 unrevoked physical therapist assistant license may assist in the provision of physical
29 therapy services only under the supervision of a physical therapist licensed by the
30 board. A licensed physical therapist shall at all times be responsible for the extent, kind,
31 quality, and documentation of all physical therapy services provided by the physical
32 therapist assistant.

33 (b) It is unlawful for any person or persons to hold himself or herself out as a
34 physical therapist assistant, unless at the time of so doing the person holds a valid,
35 unexpired, and unrevoked physical therapist assistant license issued under this chapter
36 except as authorized in subdivisions (f) and (g) of Section 2630.5.

37 (c) Physical therapist assistants shall not be independently supervised by a
38 physical therapist license applicant as defined in Section 2639 or a physical therapist
39 student as defined in Section 2633.7.

40 (d) A physical therapist assistant shall not perform any evaluation of a patient
41 or prepare a discharge summary. The supervising physical therapist shall determine
42 which elements of the treatment plan, if any, shall be assigned to the physical therapist
43 assistant. Assignment of patient care shall be commensurate with the competence of
44 the physical therapist assistant.

1
2 Section 2630.4 is added to the Business and Professions Code, to read:

3
4 2630.4. (a) A “physical therapy aide” is an unlicensed person, at least 18 years of age, who aids a licensed physical therapist consistent with subdivision (b).

5
6 (b) The aide shall at all times be under the supervision of the physical therapist. Nothing in this section shall authorize an aide to independently perform physical therapy or any physical therapy procedure. The board shall adopt regulations that set forth the standards and requirements for the supervision of an aide by a physical therapist.

7
8
9
10 (c) Physical therapy aides shall not be independently supervised by a physical therapist license applicant as defined in Section 2639 or a physical therapist student as defined in Section 2633.7.

11
12
13 (d) This section does not prohibit the administration by a physical therapy aide of massage, external baths, or normal exercise not a part of a physical therapy treatment.

14
15
16
17 Section 2630.5 is added to the Business and Professions Code, to read:

18
19 Section 2630.5. The following persons are exempt from the licensure requirements of this chapter when engaged in the following activities:

20
21 (a) A regularly matriculated physical therapist student undertaking a course of professional instruction in an approved entry-level physical therapy education program or enrolled in a program of supervised clinical education under the direction of an approved physical therapy education program as described in Section 2651. These physical therapist students may perform physical therapy as a part of their course of study.

22
23
24
25
26
27 (b) A regularly matriculated physical therapist assistant student undertaking a course of instruction in an approved physical therapy education program or enrolled in a program of supervised clinical education under the direction of an approved physical therapy education program as described in Section 2651. These physical therapist assistant students may perform physical therapy techniques as a part of their course of study.

28
29
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32
33 (c) A physical therapist who holds an unrestricted license in another jurisdiction of the United States or credentialed to practice physical therapy in another country if that person is researching, demonstrating, or providing physical therapy in connection with teaching or participating in an educational seminar of no more than 60 days in a calendar year.

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43
44 (d) A physical therapist located outside this state, when in actual consultation, whether within this state or across state lines, with a licensed physical therapist of this state, or when he or she is an invited guest of the American Physical Therapy Association or one of its components, or an invited guest of an approved physical therapy school of college for the sole purpose of engaging in professional education through lectures, clinics, or demonstrations, if he or she is, at the time of the consultation, lecture, or demonstration, holds an unrestricted physical therapist license

1 in the state or country in which he or she resides. This physical therapist shall not open
2 an office, appoint a place to meet patients, receive calls from patients within the limits of
3 this state, give orders, or have ultimate authority over the care of a physical therapy
4 patient who is located within this state.

5 (e) A physical therapist who holds an unrestricted license in another jurisdiction
6 of the United States or credentialed to practice physical therapy in another country if
7 that person by contract or employment is providing physical therapy to individuals
8 affiliated with or employed by established athletic teams, athletic organizations, or
9 performing arts companies temporarily practicing, competing, or performing in the state
10 for no more than 60 days in a calendar year.

11 (f) A physical therapist assistant who holds an unrestricted license in another
12 jurisdiction of the United States and is assisting a physical therapist engaged
13 specifically in activities related to subdivision (c), (d) or (e).

14 (g) A physical therapist or physical therapist assistant who has a current, valid
15 and unrestricted license in a jurisdiction of the United States who is forced to leave his
16 or her residence in a state other than California. This exemption applies for no more
17 than 60 days following the declaration of the emergency. In order to be eligible for this
18 exemption, the physical therapist or physical therapist assistant shall notify the board of
19 his or her intent to practice and provide a valid mailing address, telephone number, and
20 e-mail address.

21
22 Section 2632 of the Business and Professions Code is repealed.

23
24 ~~2632. All licenses for the practice of physical therapy in this state shall be issued by the~~
25 ~~board, and all applications for the licenses shall be filed with the board. Excepting as~~
26 ~~otherwise required by the director pursuant to Section 164, the license issued by the~~
27 ~~board shall describe the licensee as a "physical therapist licensed by the Physical~~
28 ~~Therapy Board of California."~~

29 ~~Each application shall be accompanied by the application fee prescribed by~~
30 ~~Section 2688, shall be signed by the applicant, and shall contain a statement under oath~~
31 ~~of the facts entitling the applicant to receive a license without examination or to take an~~
32 ~~examination.~~

33
34 Section 2633.5 is added to the Business and Professions Code, to read:

35
36 2633.5. (a) A person licensed as a physical therapist assistant by the board may use
37 the title "physical therapist assistant" or "physical therapy assistant" or the letters "PTA"
38 or any other words, letters, or figures that indicate that the person is a physical therapist
39 assistant licensed pursuant to this chapter.

40 (b) No other person shall be so designated or shall use the term "physical
41 therapist assistant" or "PTA." The license of a physical therapist assistant shall not
42 authorize the use of the prefix "LPT," "RPT," "PT," or Dr.," or the title "physical therapist,"
43 "therapist," "doctor," or any affix indicating or implying that the physical therapist
44 assistant is a physical therapist or doctor.

1
2 Section 2633.7 is added to the Business and Professions Code, to read:

3
4 2633.7. During a period of clinical practice described in Section 2650 or in any similar
5 period of observation of related educational experience involving recipients of physical
6 therapy, a person so engaged shall be identified only as a “physical therapist student” or
7 a “physical therapist assistant student,” as authorized by the board in its regulations.

8
9 The heading of Article 3 (commencing with Section 2635) is added to Chapter 5.7 of
10 Division 2 of the Business and Professions Code, to read:

11
12 Article 3. Qualifications and Requirements for Licensure

13
14 Section 2635 of the Business and Professions Code is amended to read:

15
16 2635. Every applicant for a license ~~under this chapter as a physical therapist~~ shall, at
17 the time of application, ~~be a person over 18 years of age, not addicted to alcohol or any~~
18 ~~controlled substance, have successfully completed the education and training required~~
19 ~~by Section 2650, and not have committed acts or crimes constituting grounds for denial~~
20 ~~of licensure under Section 480.~~ satisfy the following requirements established in
21 regulation.

22
23 Section 2635.5 is added to the Business and Professions Code, to read:

24
25 2635.5. Every applicant for a license as a physical therapist assistant shall, at the time
26 of application, satisfy the requirements established in regulation.

27
28 Section 2636 of the Business and Professions Code is amended to read:

29
30 2636. (a) Except as otherwise provided in this chapter, no person shall receive a license
31 under this chapter without first successfully passing the following examinations, where
32 success is determined based on the examination passing standard set by the board:

33 (1) An examination under the direction of the board to demonstrate the
34 applicant's knowledge of the laws and regulations related to the practice of physical
35 therapy in California. The examination shall reasonably test the applicant's knowledge
36 of these laws and regulations.

37 (2) The ~~national~~ physical therapy examination for the applicant's licensure
38 category. The examination for licensure as a physical therapist shall test entry-level
39 competence to practice physical therapy. The examination for licensure as a physical
40 therapist assistant shall test entry-level competence to practice as a physical therapist
41 assistant in the technical application of physical therapy services.

42 (b) An applicant may take the examinations for licensure as a physical therapist
43 or for licensure as a physical therapist assistant after the applicant has met the
44 educational requirements for that particular category of licensure.

1 (c) The examinations required by the board for a license under this chapter
2 may be conducted by the board or by a public or private organization specified by the
3 board. The examinations may be conducted under a uniform examination system and,
4 for that purpose, the board may make arrangements with organizations furnishing
5 examination materials as may, in its discretion, be desirable.

6 ~~(d) The board shall establish a passing score for the examinations for licensure
7 as a physical therapist and for the examinations for licensure as a physical therapist
8 assistant. The board shall issue a license to an applicant who is otherwise qualified for
9 licensure under this chapter and who receives a passing score as established by
10 the board on the examinations.~~

11 Section 2636.5 of the Business and Profession Code is amended to read:

12
13
14 2636.5. (a) An applicant who holds an unrestricted license in another state may be
15 issued a physical therapist license or a physical therapist assistant license without a
16 written examination if ~~he or she~~ the applicant ~~meets~~ satisfies all of the following
17 requirements established in regulation:

18 (1) ~~He or she is at the time of application licensed or registered as a physical
19 therapist in a state, district, or territory of the United States having, in the opinion of the
20 board, requirements for licensing or registration equal to or higher than those in
21 California, and he or she has passed, to the satisfaction of the board, an examination
22 for licensing or registration that is, in the opinion of the board, comparable to the
23 examination used in this state.~~

24 (2) ~~He or she is a graduate of a physical therapist education program approved
25 by the board, or has met the requirements of Section 2653.~~

26 (3) ~~He or she files an application as provided in Section 2632 and meets the
27 requirements prescribed by Sections 2635 and 2650.~~

28 (b) ~~An applicant for licensure under subdivision (a), whose application is based
29 on a certificate issued by a physical therapy licensing authority of another state may be
30 required to pass an oral examination given by the board and file a statement of past
31 work activity.~~

32 (c) ~~An applicant who has filed a physical therapy application under this section
33 with the board for the first time may, between the date of receipt of notice that his or her
34 application is on file and the date of receipt of his or her license, perform as a physical
35 therapist under the direct and immediate supervision of a physical therapist licensed in
36 this state.~~

37 ~~During this period the applicant shall identify himself or herself only as a
38 "physical therapist license applicant."~~

39 ~~If the applicant under this section does not qualify and receive a license as
40 provided in this section and does not qualify under Section 2639 all privileges under this
41 section shall terminate upon notice by certified mail, return receipt requested. An
42 applicant may only qualify once to perform as a physical therapist license applicant.~~

43
44 Section 2638 of the Business and Professions Code is amended to read:

1
2 2638. Any applicant for licensure as a physical therapist or physical therapist assistant
3 who fails to pass the examination required by the board may take another examination
4 and shall pay the reexamination fee.
5

6 Section 2639 of the Business and Professions Code is repealed.
7

8 ~~2639. Every graduate of an approved physical therapist education program who has~~
9 ~~filed a complete application for licensure with the board for the first time may, following~~
10 ~~receipt of a letter of authorization to perform as a "physical therapist license applicant,"~~
11 ~~perform as a physical therapist under the direct and immediate supervision of a physical~~
12 ~~therapist licensed in this state pending the results of the first licensing examination~~
13 ~~administered for which he or she is eligible following graduation from an approved~~
14 ~~physical therapist education program. During this period the applicant shall identify~~
15 ~~himself or herself only as a "physical therapist license applicant." If the applicant passes~~
16 ~~the examination, the physical therapist license applicant status shall remain in effect~~
17 ~~until a regular renewable license is issued, or licensure is denied, by the board. If the~~
18 ~~applicant fails the licensing examination, or if he or she passes the examination but~~
19 ~~licensure is denied, the applicant shall be prohibited from performing as a physical~~
20 ~~therapist license applicant at any time in the future.~~

21 ~~A person shall not be considered a graduate unless he or she has successfully~~
22 ~~completed all the clinical training and internships required for graduation from the~~
23 ~~program.~~

24 ~~If the applicant fails to take the next succeeding examination without due cause~~
25 ~~or fails to pass the examination or receive a license, all privileges under this section~~
26 ~~shall terminate upon notice by certified mail, return receipt requested. An applicant may~~
27 ~~only qualify once to perform as a physical therapist license applicant.~~
28

29 Section 2639 is added to the Business and Professions Code, to read:
30

31 2639. (a)(1) Every graduate of an approved physical therapy education program who
32 has filed a complete application, as defined in regulation, for licensure with the board
33 and has been awarded either physical therapist license applicant status or physical
34 therapist assistant license applicant status shall practice under the supervision of a
35 licensed physical therapist pursuant to this chapter for no more than 120 days pending
36 the results of the first licensing examination administered. If the applicant passes the
37 examination, the physical therapist license applicant status or physical therapist
38 assistant license applicant status shall remain in effect until a regular renewable license
39 is issued, or licensure is denied, by the board. A supervising physical therapist shall
40 document receipt of the letter authorizing the physical therapist license applicant status
41 or physical therapist assistant license applicant status and record the expiration date of
42 such status in the employee record. A supervising physical therapist shall require the
43 applicant to provide documentation of the license issued at the conclusion of the
44 physical therapist license applicant status or physical therapist assistant license

1 applicant status. During this period the applicant shall identify himself or herself only as
2 “physical therapist license applicant” or “physical therapist assistant license applicant,”
3 as appropriate.

4 (2) A person shall not be considered a graduate unless he or she has
5 successfully completed all the clinical training and internship required for graduation
6 from the education program.

7 (3) A person who has filed a complete application pursuant to section 2636.5
8 may be issued license applicant status authorizing that individual to practice under the
9 provisions described in subdivision (1) above.

10 (b) A physical therapist license applicant who has been awarded license
11 applicant status may perform as a physical therapist if he or she is under the
12 supervision of a physical therapist licensed by the board. A physical therapist assistant
13 license applicant who has been awarded license applicant status may perform as a
14 physical therapist assistant if he or she is under the supervision of a physical therapist
15 licensed by the board. The applicant shall comply with any requirements applicable to
16 the license for which he or she applied. An applicant may not perform in those
17 capacities if he or she fails the first exam attempt.

18
19 Section 2639.1 is added to of the Business and Professions Code, to read:

20
21 2639.1. A person seeking licensure as a physical therapist assistant having, in the
22 opinion of the board, training or experience, or a combination of training and experience
23 equivalent to that obtained in an approved physical therapy education program may
24 apply to the board if the requirements set forth by regulation are satisfied.

25
26 Section 2640 if the Business and Professions Code is repealed.

27
28 ~~2640. (a) If the board uses computer administered testing for the administration of the~~
29 ~~licensing examination, this section shall apply and Section 2639 shall not apply.~~

30 ~~(b) Every graduate of an approved physical therapist education program who~~
31 ~~has filed a complete application for licensure with the board for the first time may,~~
32 ~~following receipt of a letter of authorization to take the licensing examination and~~
33 ~~perform as a~~

34 ~~"physical therapist license applicant," perform as a physical therapist under the direct~~
35 ~~and immediate supervision of a physical therapist licensed in this state, for 90 days~~
36 ~~pending the results of the first licensing examination administered. During this period,~~
37 ~~the applicant shall identify himself or herself only as a "physical therapist license~~
38 ~~applicant." If the applicant passes the examination, the physical therapist license~~
39 ~~applicant status shall remain in effect until a regular renewable license is issued, or~~
40 ~~licensure is denied, by the board.~~

41 ~~(c) A person shall not be considered a graduate unless he or she has~~
42 ~~successfully completed all the clinical training and internships required for graduation~~
43 ~~from the program.~~

1 ~~(d) If the applicant fails to take the examination within 90 days or fails to pass~~
2 ~~the examination or receive a license, all privileges under this section shall terminate. An~~
3 ~~applicant may only qualify once to perform as a physical therapist license applicant.~~
4

5 Article 4 (commencing with Section 2644) is added to Chapter 5.7 of Division 2 of the
6 Business and Professions Code, to read:
7

8 Article 4. Renewal of Licenses
9

10 2644. (a) Every license shall expire at 12 midnight on the last day of the birth month of
11 the licensee during the second year of a two-year term, if not renewed.

12 (b) To renew an unexpired license, the licensee shall, on or before the dates on
13 which it would otherwise expire, submit a complete renewal application, as defined in
14 regulation, to the board.
15

16 2645. At least 60 days before the expiration of any license, the board shall mail to each
17 licensee under this chapter, at the latest address furnished by the licensee to the board,
18 a notice stating the amount of the renewal fee and the date on which it is due, and that
19 failure to pay it on or before the due date shall result in expiration of the license.
20

21 2646. A license which has expired may be renewed at any time within five years after its
22 expiration by applying for renewal as set forth in regulation. Renewal under this section
23 shall be effective on the date on which the renewal application is filed, on the date on
24 which the renewal fee or accrued renewal fees are paid, or on the date on which the
25 delinquency fee or the delinquency fee and penalty fee, if any, are paid, whichever last
26 occurs. If so renewed, the license shall continue in effect through the expiration date
27 set forth in Section 2644 which next occurs after the effective date of the renewal, when
28 it shall expire and become invalid if it is not again renewed.
29

30 2647. A person who fails to renew his or her license within five years after its expiration
31 may not renew it, and it may not be reissued, reinstated, or restored thereafter.
32 However, a person may apply for a new license if he or she satisfies all the
33 requirements set forth in this chapter.
34

35 2648. (a) Every licensee is exempt from the payment of the renewal fee while engaged
36 in full-time training or active service in the Army, Navy, Air Force, Marines, or Coast
37 Guard, or in the United States Public Health Service.

38 (b) A person exempted from the payment of the renewal fee by this section
39 shall not engage in any practice, or assistance in the provision of, physical therapy not
40 related to military service and shall become liable for payment of the fee for the current
41 renewal period upon his or her discharge from full-time active service and shall have a
42 period of 60 days after becoming liable within which to pay the renewal fee before the
43 delinquency fee is required. Any person who is discharged from active service within 60

1 days of the end of the renewal period is exempt from the payment of the renewal fee for
2 that period.

3 (c) The time spent in full-time active service or training shall not be included in
4 the computation of the five year period for renewal and reinstatement of licensure
5 provided in Section 2646.

6 (d) Nothing in this section shall exempt a person, exempt from renewal fees
7 under this section, from meeting the requirements of Section 2649.

8
9 2648.3. Any licensee who demonstrates to the satisfaction of the board that he or she is
10 unable to practice, or assist in the provision of, physical therapy due to a disability may
11 request a waiver of the license renewal fee. The granting of a waiver shall be at the
12 discretion of the board and may be terminated at any time. Waivers shall be based on
13 the inability of a licensee to practice, or assist in in the provision of, physical therapy. A
14 licensee whose renewal fee has been waived pursuant to this section shall not engage
15 in the practice, or assistance in the provision of, physical therapy unless and until the
16 licensee pays the current renewal fee and does either of the following:

17 (a) Establishes to the satisfaction of the board, on a form prescribed by the
18 board and signed under penalty of perjury, that the licensee's disability either no longer
19 exists or does not affect his or her ability to practice physical therapy safely.

20 (b) Signs an agreement on a form prescribed by the board, signed under
21 penalty of perjury, in which the licensee agrees to limit his or her practice, or assistance
22 in the provision of, physical therapy in the manner prescribed by the reviewing
23 physician.

24 (c) Nothing in this section shall exempt a person, exempt from renewal fees
25 under this section, from meeting the requirements of Section 2649.

26
27 2648.5. (a) The renewal fee shall be waived for licensees residing in California who
28 certify to the board that license renewal is for the sole purpose of providing voluntary,
29 unpaid physical therapy services.

30 (b) Nothing in this section shall exempt a person, exempt from renewal fees
31 under this section, from meeting the requirements of Section 2649.

32
33 2648.7. Every licensee is exempt from the payment of the renewal fee and from
34 meeting the requirements set forth in Section 2649 if the licensee has applied to the
35 board for retired license status. A holder of a license in retired status pursuant to this
36 section shall not engage in the practice, or assistance in the provision of, physical
37 therapy unless the licensee meets all of the requirements as set forth in Section 2644.

38
39 The heading of Article 4 (commencing with Section 2650) of Chapter 5.7 of Division 2 of
40 the Business and Professions Code is renumbered to read:

41
42 Article 4- 5. Educational Standards

43
44 Section 2650 of the Business and Professions Code is repealed.

1
2 2650. (a) ~~Except as otherwise provided in this chapter, each applicant for a license as a~~
3 ~~physical therapist shall be a graduate of a professional degree program of an accredited~~
4 ~~postsecondary institution or institutions approved by the board, and shall have~~
5 ~~completed a professional education including academic coursework and clinical~~
6 ~~internship in physical therapy.~~

7 (b) ~~As referenced in the evaluative criteria of the Commission on Accreditation~~
8 ~~in Physical Therapy Education of the American Physical Therapy Association, the~~
9 ~~curriculum shall consist of a combination of didactic, clinical, and research experiences~~
10 ~~in physical therapy using critical thinking and weighing of evidence, and shall include,~~
11 ~~at a minimum, all of the following:~~

12 (1) ~~The sciences basic to physical therapy including biomedical, physical,~~
13 ~~physiological, neurobiological, anatomical, social and behavioral sciences.~~

14 (2) ~~Clinical sciences including laboratory or other practical experiences~~
15 ~~involving quantitative and qualitative evaluation within the scope of physical therapy~~
16 ~~practice including kinesiology, neuroscience, pathology, human development, and~~
17 ~~gerontology.~~

18 (3) ~~Treatment that constitutes the practice of physical therapy.~~

19 (4) ~~Learning experiences provided in the areas of administration, education,~~
20 ~~and consultation.~~

21 (5) ~~Research methods including the review and critical analysis of research~~
22 ~~reports.~~

23 (6) ~~Ethical, legal, and economical concepts of physical therapy practice.~~

24 (c) ~~Each applicant shall have at least 18 weeks of full-time clinical experience~~
25 ~~with a variety of patients.~~

26
27 Section 2650 is added to the Business and Professions Code, to read:

28
29 2650. (a) The physical therapist education requirements are as follows:

30 (1) Except as otherwise provided in this chapter, each applicant for a license
31 as a physical therapist shall be a graduate of a professional degree program of an
32 accredited postsecondary institution or institutions approved by the board, and shall
33 have completed a professional education program including academic course work and
34 clinical internship in physical therapy.

35 (2) Unless otherwise specified by the board by regulation, the educational
36 requirements shall include instruction in the subjects prescribed by the Commission on
37 Accreditation in Physical Therapy Education (CAPTE) of the American Physical
38 Therapy Association or the Accreditation Council of Canadian Physiotherapy and shall
39 include a combination of didactic and clinical experiences. The clinical experience shall
40 include at least 18 weeks of full-time experience with a variety of patients.

41 (b) The physical therapist assistant educational requirements are as follows:

42 (1) Except as otherwise provided in this chapter, each applicant for a license
43 as a physical therapist assistant shall be a graduate of a physical therapist assistant
44 program of an accredited postsecondary institution or institutions approved by the

1 board, and shall have completed both the academic and clinical experience required by
2 the physical therapist assistant program, and have been awarded an associate degree.

3 (2) Unless otherwise specified by the board by regulation, the educational
4 requirements shall include instruction in the subjects prescribed by the Commission on
5 Accreditation in Physical Therapy Education (CAPTE) of the American Physical
6 Therapy Association or the Accreditation Council of Canadian Physiotherapy or such
7 other body as may be approved by the board by regulation and shall include a
8 combination of didactic and clinical experiences. The clinical experience shall include at
9 least 18 weeks of full-time experience with a variety of patients.

10
11 Section 2650.1 of the Business and Professions Code is repealed.

12
13 ~~2650.1. During the period of clinical practice referred to in Section 2650 or in any similar~~
14 ~~period of observation or related educational experience involving recipients of physical~~
15 ~~therapy, a person so engaged shall be identified only as a "physical therapy~~
16 ~~student," or as a "physical therapy intern" as authorized by the board in its regulations.~~

17
18 Section 2650.2 of the Business and Professions Code is repealed.

19
20 ~~2650.2. Nothing in this chapter shall be construed to prevent a regularly matriculated~~
21 ~~student undertaking a course of professional instruction in an approved physical~~
22 ~~therapist education program or a student enrolled in a program of supervised clinical~~
23 ~~training under the direction of an approved physical therapist education program~~
24 ~~pursuant to Section 2651, from performing physical therapy as a part of his or her~~
25 ~~course of study.~~

26
27 Section 2651 of the Business and Professions Code is amended to read:

28
29 2651. The board ~~may~~ shall approve only those physical therapist and physical therapist
30 assistant education programs that prove, to the satisfaction of the board, that they
31 comply with the minimum physical ~~therapy~~ therapist or physical therapist assistant
32 educational requirements set forth in this chapter and adopted by the board pursuant to
33 this chapter. Physical therapist and physical therapist assistant education programs that
34 are accredited by the Commission on Accreditation in Physical Therapy Education
35 (CAPTE) of the American Physical Therapy Association (APTA) or the Accreditation
36 Council of Canadian Physiotherapy or such other body as may be approved by the
37 board by regulation, shall be deemed approved by the board unless the board
38 determines otherwise. Nothing contained in this chapter shall prohibit the board from
39 disapproving any foreign physical therapist or physical therapist assistant educational
40 program or from denying an applicant if, in the opinion of the board, the instruction
41 received by the applicant or the courses offered by the program, were not equivalent to
42 that which is required by this chapter.

43
44 Section 2652 of the Business and Professions Code is repealed.

1
2 ~~2652. All physical therapist education programs, whether situated in this state or not,~~
3 ~~furnishing courses of study meeting the standards required by Sections 2650 and 2651~~
4 ~~and the regulations of the board adopted pursuant to this chapter shall be approved by~~
5 ~~the board and shall be entitled to compel this approval, if it is denied, by action in the~~
6 ~~Superior Court of the State of California, the procedure and power of the court in which~~
7 ~~action shall be the same as provided in Section 2087.~~
8

9 Section 2653 of the Business and Professions Code is repealed.
10

11 ~~2653. (a) An applicant for a license as a physical therapist who was issued a diploma by~~
12 ~~a physical therapist education program that is not an approved program and is not~~
13 ~~located in the United States shall meet all of the following requirements in order to be~~
14 ~~licensed as a physical therapist:~~

15 ~~(1) Furnish documentary evidence satisfactory to the board, that he or she has~~
16 ~~completed the equivalent professional degree to that issued by a United States~~
17 ~~accredited physical therapist education program in a physical therapist education~~
18 ~~program that entitles the applicant to practice as a physical therapist in the country~~
19 ~~where the diploma was issued. The physical therapy education received by~~
20 ~~the applicant shall meet the criteria set forth in subdivisions (b) and (c) of Section 2650.~~
21 ~~The board may require an applicant to submit documentation of his or her education to~~
22 ~~a credentials evaluation service for review and a report to the board.~~

23 ~~(2) Pass the written examination required by Section 2636. The requirements~~
24 ~~to pass the written examination shall not apply to an applicant who at the time of~~
25 ~~application has passed, to the satisfaction of the board, an examination for licensure in~~
26 ~~another~~
27 ~~state, district, or territory of the United States, that is, in the opinion of the board,~~
28 ~~comparable to the examination given in this state.~~

29 ~~(3) Complete a period of clinical service under the direct and immediate~~
30 ~~supervision of a physical therapist licensed by the board which does not exceed nine~~
31 ~~months in a location approved by the board, in a manner satisfactory to the board. The~~
32 ~~applicant shall have passed the written examination required in subdivision (b) prior to~~
33 ~~commencing the period of clinical service. The board shall require the supervising~~
34 ~~physical therapist to evaluate the applicant and report his or her findings to the board.~~
35 ~~The board may in its discretion waive all or part of the required clinical service~~
36 ~~pursuant to guidelines set forth in its regulations. During the period of clinical service~~
37 ~~until he or she is issued a license as a physical therapist by the board, the applicant~~
38 ~~shall be identified as a "physical therapist license applicant."~~

39 ~~(4) An applicant for licensure under this subdivision, whose application is based~~
40 ~~on a certificate issued by a physical therapist licensing authority of another state, may~~
41 ~~be required to pass an oral examination given by the board, and to file a statement of~~
42 ~~past work activity.~~

1 (b) ~~Nothing contained in this section shall prohibit the board from disapproving~~
2 ~~any foreign physical therapist education program or from denying the applicant if, in the~~
3 ~~opinion of the board, the instruction received by the applicant or the courses were not~~
4 ~~equivalent to that required by this chapter. If the applicant does not qualify to take the~~
5 ~~physical therapist examination, his or her education may be evaluated and the applicant~~
6 ~~may be eligible to take the physical therapist assistant examination.~~
7

8 Section 2653 of the Business and Professions Code is added, to read:
9

10 2653. An applicant for a license as a physical therapist who has graduated from a
11 physical therapist education program that is not an approved program by the board and
12 is not located in the United States shall satisfy the requirements established in
13 regulation.
14

15 Section 2654 is added to the Business and Professions Code, to read:
16

17 2654. If an applicant who has graduated from a physical therapist education program
18 that is not an approved program by the board and is not located in the United States
19 does not qualify to take the physical therapist examination, his or her education may be
20 evaluated and the applicant may be eligible to take the physical therapist assistant
21 examination.
22

23 Article 4.5 (commencing with Section 2655) of Chapter 5.7 of Division 2 of the Business
24 and Profession Code is repealed.
25

26 The heading of Article 5 (commencing with Section 2660) Chapter 5.7 of Division 2 of
27 the Business and Professions Code is amended and renumbered to read:
28

29 Article ~~5.~~ 6. Suspension, Revocation and Reinstatement of License Enforcement
30

31 Section 2660 of the Business and Professions Code is amended to read:
32

33 2660. Unprofessional conduct constitutes grounds for citation, discipline, denial of a
34 license, or issuance of a probationary license. The board may, after the conduct of
35 appropriate proceedings under the Administrative Procedure Act, issue a citation,
36 impose discipline, deny a license, suspend for not more than 12 months, or revoke, or
37 impose probationary conditions upon any license, ~~certificate, or approval~~ issued under
38 this chapter for unprofessional conduct that includes, in addition to other provisions of
39 this chapter, but is not limited to, ~~one or any combination of the following causes:~~

40 (a) Violating or attempting to violate, directly or indirectly, assisting in or abetting
41 the violation of, or conspiring to violate any provision of this chapter or any regulations
42 duly adopted under this chapter, or of the Medical Practice Act.
43

~~(a)(b)~~ Advertising in violation of Section 17500.

1 ~~(b)(c) Obtaining or attempting to obtain a license or certificate by fraud in the~~
2 ~~procurement of any license under this chapter or misrepresentation.~~

3 ~~(c)(d) Procuring or aiding or offering to procure or aid in criminal abortion~~
4 ~~Practicing or offering to practice beyond the scope of practice of physical therapy.~~

5 ~~(d)(e) Conviction of a crime that substantially relates to the qualifications,~~
6 ~~functions, or duties of a physical therapist or physical therapist assistant. The record of~~
7 ~~conviction or a certified copy thereof shall be conclusive evidence of that conviction.~~

8 ~~(e)(f) Habitual intemperance Obtained or possessed in violation of law, or except~~
9 ~~as directed by a licensed physician and surgeon, dentist, or podiatrist, administered to~~
10 ~~himself or herself, or furnished or administered to another, any controlled substances as~~
11 ~~defined in Division 10 (commencing with Section 11000) of the Health and Safety Code,~~
12 ~~or any dangerous drug as defined in Article 2 (commencing with Section 4015) of~~
13 ~~Chapter 9.~~

14 ~~(1) Used any controlled substance as defined in Division 10 (commencing with~~
15 ~~Section 11000) of the Health and Safety Code, or any dangerous drug as defined in~~
16 ~~Article 2 (commencing with Section 4015) of Chapter 9.~~

17 ~~(2) Been convicted of a criminal offense involving the consumption or self-~~
18 ~~administration of any of the substances described in subdivision (e)(1), or the~~
19 ~~possession of, or falsification of a record pertaining to, the substances described in~~
20 ~~subdivision (e), in which event the record of the conviction is conclusive evidence~~
21 ~~thereof.~~

22 ~~(f)(g) Addiction to the excessive use of any habit-forming drug Failure of a~~
23 ~~physical therapist to maintain adequate and accurate records relating to the provision of~~
24 ~~services to his or her patients.~~

25 ~~(g)(h) Gross negligence or repeated acts of negligence in his or her practice as a~~
26 ~~physical therapist or physical therapist assistant or delivery of physical therapy care.~~

27 ~~(h) Conviction of a violation of any of the provisions of this chapter or of the~~
28 ~~Medical Practice Act, or violating, or attempting to violate, directly or indirectly, or~~
29 ~~assisting in or abetting the violating of, or conspiring to violate any provision or term of~~
30 ~~this chapter or of the Medical Practice Act.~~

31 ~~(i) The aiding or abetting of any person to violate this chapter or any regulations~~
32 ~~duly adopted under this chapter.~~

33 ~~((i)) The aiding or abetting of any person to engage in the unlawful practice of~~
34 ~~physical therapy.~~

35 ~~(k)(j) The commission of any fraudulent, dishonest, or corrupt act that is~~
36 ~~substantially related to the qualifications, functions, or duties of a physical therapist or~~
37 ~~physical therapist assistant.~~

38 ~~((k)) Except for good cause, the knowing failure to protect patients by failing to~~
39 ~~follow infection control guidelines of the board, thereby risking transmission of blood-~~
40 ~~borne infectious diseases from licensee to patient, from patient to patient, and from~~
41 ~~patient to licensee. In administering this subdivision, the board shall consider~~
42 ~~referencing the standards, regulations, and guidelines of the State Department of Public~~
43 ~~Health developed pursuant to Section 1250.11 of the Health and Safety Code and the~~

1 standards, regulations, and guidelines pursuant to the California Occupational Safety
2 and Health Act of 1973 (Part 1 (commencing with Section 6300) of Division 5 of
3 the Labor Code) for preventing the transmission of HIV, hepatitis B, and other blood-
4 borne pathogens in health care settings. As necessary, the board shall consult with the
5 Medical Board of California, the California Board of Podiatric Medicine, the Dental
6 Board of California, the Board of Registered Nursing, and the Board of Vocational
7 Nursing and Psychiatric Technicians of the State of California, to encourage appropriate
8 consistency in the implementation of this subdivision.

9 ~~The board shall seek to ensure that licensees are informed of the responsibility of~~
10 ~~licensees and others to follow infection control guidelines, and of the most recent~~
11 ~~scientifically recognized safeguards for minimizing the risk of transmission of blood-~~
12 ~~borne infectious diseases.~~

13 ~~(m)(l) The commission of verbal abuse or sexual harassment.~~

14 (m) Engaging in sexual misconduct or violating Section 726.

15 (n) Permitting a physical therapist assistant or physical therapy aide under one's
16 supervision or control to perform, or permitting the physical therapist assistant or
17 physical therapy aide to hold himself or herself out as competent to perform,
18 professional services beyond the level of education, training and experience of the
19 physical therapist assistant or aide.

20 (o) The revocation, suspension, or other discipline, restriction, or limitation
21 imposed by another state upon a license or certificate to practice physical therapy
22 issued by that state, or the revocation, suspension, or restriction of the authority to
23 practice physical therapy by any agency of the federal government.

24 (p) Viewing a completely or partially disrobed patient in the course of treatment if
25 the viewing is not necessary to patient evaluation or treatment under current standards.

26 (q) Engaging in any action violating Section 650.

27 (r) Charging a fee for services not performed.

28 (s) Engaging in any act that violates Section 651.

29 (t) Misrepresenting documentation of patient care or deliberate falsifying patient
30 records.

31 (u) Except as otherwise allowed by law, the employment of runners, cappers,
32 steerers, or other persons to procure patients.

33 (v) Engaging in any act that violates Section 654.2.

34 (w) Failure to maintain confidentiality, except as otherwise required or permitted
35 by law, of all information that has been received from a patient in confidence during the
36 course of treatment and all information about the patient which is obtained from tests or
37 other means.

38 (x) Habitual intemperance.

39 (y) The willful, unauthorized violation of professional confidence.

41 Section 2660.2 of the Business and Professions Code is amended to read:

42
43 2660.2. (a) The board may refuse a license to any applicant guilty of unprofessional
44 conduct or sexual activity referred to in Section 2660.1. The board may, in its sole

1 discretion, issue a public letter of reprimand in accordance with Section 2660.3 or may
2 issue a probationary license to any applicant for a license who is guilty of unprofessional
3 conduct but who has met all other requirements for licensure. The board may issue the
4 license subject to any terms or conditions not contrary to public policy, including, but not
5 limited to, the following:

- 6 (1) Medical or psychiatric evaluation.
- 7 (2) Continuing medical or psychiatric treatment.
- 8 (3) Restriction of the type or circumstances of practice.
- 9 (4) Continuing participation in a board-approved rehabilitation program.
- 10 (5) Abstention from the use of alcohol or drugs.
- 11 (6) Random fluid testing for alcohol or drugs.
- 12 (7) Compliance with laws and regulations governing the practice of

13 physical therapy.

14 (b) The applicant shall have the right to appeal the denial, public letter of
15 reprimand, or the issuance with terms and conditions, of any license in accordance with
16 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the
17 Government Code, and the board shall have all the powers granted therein. The action
18 shall be final, except that the propriety of the action is subject to review by the superior
19 court pursuant to Section 1094.5 of the Code of Civil Procedure.

20
21 Section 2660.3 of the Business and Professions Code is amended to read:

22
23 2660.3. In lieu of filing or prosecuting a formal accusation against a licensee, the board
24 may, upon stipulation or agreement by the licensee, issue a public letter of reprimand
25 after it has conducted an investigation or inspection as provided for in this chapter. The
26 public letter of reprimand may include a requirement for specified training or education.

27 The board shall notify the licensee of its intention to issue the letter 30 days before the
28 intended issuance date of the letter. The licensee shall indicate in writing at least 15
29 days prior to the letter's intended issuance date whether he or she agrees to the
30 issuance of the letter. The board, at its option, may extend the time within which the
31 licensee may respond to its notification. If the licensee does not agree to the issuance of
32 the letter, the board shall not issue the letter and may proceed to file the accusation.
33 The board may use a public letter of reprimand only for minor violations, as defined by
34 the board, committed by the licensee. A public letter of reprimand issued pursuant to
35 this section shall be disclosed by the board to an inquiring member of the public and
36 shall be posted on the board's Internet Web site.

37
38 Section 2660.4 is added to the Business and Professions Code, to read:

39
40 2660.4. A licensee who fails or refuses to comply with a request from the Board for the
41 medical records of a patient, that is accompanied by that patient's written authorization
42 for release of records to the board within 15 days of receiving the request and
43 authorization, shall pay to the board a civil penalty of one thousand dollars (\$1,000) per

1 day for each day that the documents have not been produced after the 15th day, unless
2 the licensee is unable to provide the documents within this time period for good cause.
3

4 Section 2660.5 of the Business and Professions Code is amended to read:
5

6 2660.5. The board shall deny a physical therapist license or physical therapist assistant
7 ~~approval~~ license to an applicant who is required to register pursuant to Section 290 of
8 the Penal Code. This section does not apply to an applicant who is required to register
9 as a sex offender pursuant to Section 290 of the Penal Code solely because of a
10 misdemeanor conviction under Section 314 of the Penal Code.
11

12 Section 2660.8 is added to the Business and Professions Code, to read:
13

14 2660.8. (a) A licensee whose matter has been heard by an administrative law judge of
15 the Medical Quality Hearing Panel as designated in Section 11371 of the Government
16 Code, or whose default has been entered or who has entered into a stipulation for
17 disciplinary action with the board, may, in accordance with the provisions of this
18 chapter:

19 (1) Have his or her license revoked upon order of the board.

20 (2) Have his or her right to practice suspended for a period not to exceed one
21 year upon order of the board.

22 (3) Be placed on probation and be required to pay the costs of probation
23 monitoring upon order of the board.

24 (4) Be publicly reprimanded by the board.

25 (5) Surrender of the license based on an order of the board.

26 (6) Have any other action taken in relation to discipline as part of an order of
27 probation, as the board or an administrative law judge may deem proper.
28

29 Section 2661 of the Business and Professions Code is amended to read:
30

31 2661. A plea or verdict of guilty or a conviction following a plea of nolo contendere
32 ~~made to a charge of a felony or of any offense which substantially relates to the~~
33 ~~qualifications, functions, or duties of a physical therapist~~ is deemed to be a conviction
34 within the meaning of this article. The board may order ~~the license suspended or~~
35 ~~revoked, or may decline to issue a license,~~ discipline of the licensee in accordance with
36 Section 2660 or the board may take action as authorized in Section 2660.2 on an
37 application when the time for appeal has elapsed, or the judgment of conviction has
38 been affirmed on appeal or when an order granting probation is made suspending the
39 imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the
40 Penal Code allowing that person to withdraw his or her plea of guilty and to enter a plea
41 of not guilty, or setting aside the verdict of guilty, or dismissing the accusation,
42 information, or indictment.
43

44 Section 2661.7 of the Business and Professions Code is amended to read:

1
2 2661.7. (a) A person whose license ~~or approval~~ has been revoked or suspended, or
3 who has been placed on probation, may petition the Physical Therapy Board of
4 California for reinstatement or modification of penalty, including modification or
5 termination of probation, after a period of not less than the following minimum
6 periods has elapsed from the effective date of the decision ordering that disciplinary
7 action:

8 (1) At least three years for reinstatement of a license or approval revoked for
9 unprofessional conduct, except that the board may, for good cause shown, specify in a
10 revocation order that a petition for reinstatement may be filed after two years.

11 (2) At least two years for early termination or one year for modification of a
12 condition of probation of three years or more.

13 (3) At least one year for ~~modification of a condition, or~~ reinstatement of a
14 license ~~or approval~~ revoked for mental or physical illness, or for modification of a
15 condition, or termination of probation of less than three years.

16 (b) The petition shall state any facts as may be required by the board. The
17 petition shall be accompanied by at least two verified recommendations from physical
18 therapists licensed by the board who have personal knowledge of the activities of the
19 petitioner since the disciplinary penalty was imposed.

20 (c) The petition may be heard by the board. The board may assign the petition
21 to an administrative law judge designated in Section 11371 of the Government Code.
22 After a hearing on the petition, the administrative law judge shall provide a proposed
23 decision to the ~~committee~~ board that shall be acted upon in accordance with the
24 Administrative Procedure Act.

25 (d) The board or the administrative law judge hearing the petition, may consider
26 all activities of the petitioner since the disciplinary action was taken, the offense for
27 which the petitioner was disciplined, the petitioner's activities during the time the license
28 was in good standing, and the petitioner's rehabilitative efforts, general reputation for
29 truth, and professional ability. The hearing may be continued, as the administrative law
30 judge designated in Section 11371 of the Government Code finds necessary.

31 (e) The administrative law judge designated in Section 11371 of the
32 Government Code when hearing a petition for reinstating a license ~~or approval~~, or
33 modifying a penalty, may recommend the imposition of any terms and conditions
34 deemed necessary.

35 (f) No petition shall be considered while the petitioner is under sentence for any
36 criminal offense, including any period during which the petitioner is on court-imposed
37 probation or parole. No petition shall be considered while there is an accusation or
38 petition to revoke probation pending against the person. The board may deny,
39 without a hearing or argument, any petition filed pursuant to this section within a period
40 of two years from the effective date of the prior decision following a hearing under this
41 section.

42 (g) Nothing in this section shall be deemed to alter Sections 822 and 823.
43

1 Article 5.5 (commencing with Section 2662) of Chapter 5.7 of Division 2 of the Business
2 and Professions Code is amended and renumbered to read:

3
4 Article ~~5.5.~~ 7. Diversion Substance Abuse Rehabilitation Program

5
6 2662. It is the intent of the Legislature that the board shall seek ways and means to
7 identify and rehabilitate physical therapists and physical therapist assistants whose
8 competency is impaired due to abuse of dangerous drugs or alcohol so that they may
9 be treated and returned to the practice of physical therapy in a manner which will
10 not endanger the public health and safety.

11
12 2663. The board shall establish and administer a ~~diversion~~ substance abuse
13 rehabilitation program, hereinafter referred to as rehabilitation program, for the
14 rehabilitation of physical therapists and physical therapist assistants whose competency
15 is impaired due to the abuse of drugs or alcohol. The board may contract with any other
16 state agency or a private organization to perform its duties under this article. The board
17 may establish one or more ~~diversion-rehabilitation~~ evaluation committees to assist it in
18 carrying out its duties under this article. Any ~~diversion-rehabilitation~~ evaluation
19 committee established by the board shall operate under the direction of the ~~diversion~~
20 rehabilitation program manager, as designated by the executive officer of the board.
21 The program manager has the primary responsibility to review and evaluate
22 recommendations of the committee.

23
24 2664. (a) Any ~~diversion~~ rehabilitation evaluation committee established by the board
25 shall have at least three members. In making appointments to a ~~diversion~~ rehabilitation
26 evaluation committee, the board shall consider the appointment of persons who are
27 either recovering from substance abuse and have been free from substance abuse for
28 at least three years immediately prior to their appointment or who are knowledgeable in
29 the treatment and recovery of substance abuse. The board also shall consider the
30 appointment of a physician and surgeon who is board certified in psychiatry.

31 (b) Appointments to a ~~diversion~~ rehabilitation evaluation committee shall be by
32 the affirmative vote of a majority of members appointed to the board. Each appointment
33 shall be at the pleasure of the board for a term not to exceed four years. In its
34 discretion, the board may stagger the terms of the initial members so appointed.

35 (c) A majority of the members of a ~~diversion~~ rehabilitation evaluation committee
36 shall constitute a quorum for the transaction of business. Any action requires an
37 affirmative vote of a majority of those members present at a meeting constituting at
38 least a quorum. Each ~~diversion~~ rehabilitation evaluation committee shall elect from its
39 membership a chairperson and a vice chairperson. Notwithstanding the Bagley-Keene
40 Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of
41 Division 3 of Title 2 of the Government Code), relating to public meetings, a ~~diversion~~
42 rehabilitation evaluation committee may convene in closed session to consider matters
43 relating to any physical therapist or physical therapist assistant applying for or
44 participating in a ~~diversion~~ rehabilitation program, and a meeting which will be convened

1 entirely in closed session need not comply with Section 11125 of the Government Code.
2 A ~~diversion~~ rehabilitation evaluation committee shall only convene in closed session to
3 the extent it is necessary to protect the privacy of an applicant or participant. Each
4 member of a ~~diversion~~ rehabilitation evaluation committee shall receive a per diem and
5 shall be reimbursed for expenses as provided in Section 103.

6
7 2665. Each ~~diversion~~ rehabilitation evaluation committee has the following duties
8 and responsibilities:

9 (a) To evaluate physical therapists and physical therapist assistants who request
10 participation in the program and to make recommendations. In making
11 recommendations, the committee shall consider any recommendations from
12 professional consultants on the admission of applicants to the ~~diversion~~ rehabilitation
13 program.

14 (b) To review and designation of treatment facilities to which physical therapists
15 and physical therapist assistants in the ~~diversion~~ rehabilitation program may be referred.

16 (c) To receive and review information concerning physical therapists and physical
17 therapist assistants participating in the program.

18 (d) Calling meetings as necessary to consider the requests of physical therapists
19 and physical therapist assistants to participate in the ~~diversion~~ rehabilitation program, to
20 consider reports regarding participants in the program, and to consider any other
21 matters referred to it by the board.

22 (e) To consider whether each participant in the ~~diversion~~ rehabilitation program
23 may with safety continue or resume the practice of physical therapy.

24 (f) To set forth in writing the terms and conditions of the ~~diversion~~ rehabilitation
25 agreement that is approved by the program manager for each physical therapist and
26 physical therapist assistant participating in the program, including treatment,
27 supervision, and monitoring requirements.

28 (g) Holding a general meeting at least twice a year, which shall be open and
29 public, to evaluate the ~~diversion~~ rehabilitation program's progress, to prepare reports to
30 be submitted to the board, and to suggest proposals for changes in the ~~diversion~~
31 rehabilitation program.

32 (h) For the purposes of Division 3.6 (commencing with Section 810) of Title 1 of
33 the Government Code, any member of a ~~diversion~~ rehabilitation evaluation committee
34 shall be considered a public employee. No board or ~~diversion~~ rehabilitation evaluation
35 committee member, contractor, or agent thereof, shall be liable for any civil damage
36 because of acts or omissions which may occur while acting in good faith in a program
37 established pursuant to this article.

38
39 2666. (a) Criteria for acceptance into the ~~diversion~~ rehabilitation program shall
40 include all of the following:

41 (1) The applicant shall be licensed as a physical therapist or ~~approved~~ as a
42 physical therapist assistant by the board and shall be a resident of California.

1 (2) The applicant shall be found to abuse dangerous drugs or alcoholic
2 beverages in a manner which may affect his or her ability to practice physical therapy
3 safely or competently.

4 (3) The applicant shall have voluntarily requested admission to the program or
5 shall be accepted into the program in accordance with terms and conditions resulting
6 from a disciplinary action.

7 (4) The applicant shall agree to undertake any medical or psychiatric examination
8 ordered to evaluate the applicant for participation in the program.

9 (5) The applicant shall cooperate with the program by providing medical
10 information, disclosure authorizations, and releases of liability as may be necessary for
11 participation in the program.

12 (6) The applicant shall agree in writing to cooperate with all elements of the
13 treatment program designed for him or her.

14 Any applicant may be denied participation in the program if the board, the program
15 manager, or a ~~diversion~~ rehabilitation evaluation committee determines that the
16 applicant will not substantially benefit from participation in the program or that the
17 applicant's participation in the program creates too great a risk to the public health,
18 safety, or welfare.

19 (b) A participant may be terminated from the program for any of the following
20 reasons:

21 (1) The participant has successfully completed the treatment program.

22 (2) The participant has failed to comply with the treatment program designated
23 for him or her.

24 (3) The participant fails to meet any of the criteria set forth in subdivision (a) or
25 (c).

26 (4) It is determined that the participant has not substantially benefited from
27 participation in the program or that his or her continued participation in the program
28 creates too great a risk to the public health, safety, or welfare. Whenever an applicant is
29 denied participation in the program or a participant is terminated from the program for
30 any reason other than the successful completion of the program, and it is determined
31 that the continued practice of physical therapy by that individual creates too great a risk
32 to the public health, safety, and welfare, that fact shall be reported to the executive
33 officer of the board and all documents and information pertaining to and supporting that
34 conclusion shall be provided to the executive officer. The matter may be referred for
35 investigation and disciplinary action by the board. Each physical therapist or physical
36 therapy assistant who requests participation in a ~~diversion~~ rehabilitation program shall
37 agree to cooperate with the recovery program designed for him or her. Any failure to
38 comply with that program may result in termination of participation in the program.

39 The ~~diversion~~ rehabilitation evaluation committee shall inform each participant
40 in the program of the procedures followed in the program, of the rights and
41 responsibilities of a physical therapist or physical therapist assistant in the program, and
42 the possible results of noncompliance with the program.

1 (c) In addition to the criteria and causes set forth in subdivision (a), the board
2 may set forth in its regulations additional criteria for admission to the program or causes
3 for termination from the program.
4

5 2667. All board and ~~diversion~~ rehabilitation evaluation committee records and
6 records of proceedings and participation of a physical therapist or physical therapist
7 assistant in a program shall be confidential and are not subject to discovery or
8 subpoena.
9

10 2668. (a) A fee to cover the actual cost of administering the program shall be charged
11 for participation in the program. If the board contracts with any other entity to carry out
12 this article, at the discretion of the board, the fee may be collected and retained by that
13 entity.

14 (b) If the board contracts with any other entity to carry out this section, the
15 executive officer of the board, or his or her designee, shall review the activities and
16 performance of the contractor on a biennial basis. As part of this review, the board shall
17 review files
18 of participants in the program. However, the names of participants who entered the
19 program voluntarily shall remain confidential, except when the review reveals
20 misdiagnosis, case mismanagement, or noncompliance by the participant.

21 (c) Subdivision (a) shall apply to all new participants entering into the board's
22 ~~diversion~~ rehabilitation program on or after January 1, 2007. Subdivision (a) shall apply
23 on and after January 1, 2008, to participants currently enrolled as of December 31,
24 2007.
25

26 2669. Participation in a ~~diversion~~ rehabilitation program shall not be a defense to any
27 disciplinary action which may be taken by the board. This section does not preclude the
28 board from commencing disciplinary action against a physical therapist or physical
29 therapist assistant who is terminated unsuccessfully from the program under this
30 section. That disciplinary action may not include as evidence any
31 confidential information.
32

33 The heading of Article 6 (commencing with section 2670) of Chapter 5.7 of Division 2 of
34 the Business and Professions Code is amended and renumbered to read:
35

36 Article 6-8. Offenses and Enforcement Against this Chapter
37

38 Section 2672 of the Business and Professions Code is amended to read:
39

40 2672. Whenever any person has engaged or is about to engage in any acts or practices
41 which constitute or will constitute an offense against this chapter, the superior court of
42 any county, on application of ~~the Medical Board of California~~, the board, or ten (10) or
43 more persons holding physical therapist licenses issued under this chapter, may issue
44 an injunction or other appropriate order restraining the conduct. Proceedings under this

1 section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part
2 2 of the Code of Civil Procedure.

3
4 The heading of Article 6.5 (commencing with Section 2676) of Chapter 5.7 of Division 2
5 of the Business and Professions Code is repealed.

6
7 ~~Article 6.5 Continuing Competency~~

8
9 Section 2676 of the Business and Professions Code is amended and renumbered to
10 read:

11
12 ~~2676.~~

13
14 2649. (a) A person renewing his or her license ~~or approval~~ shall submit proof
15 satisfactory to the board that, during the preceding two years, he or she has completed
16 the required number of continuing education hours established by regulation by the
17 board, or such other proof of continuing competency as the board may establish by
18 regulation. Required continuing education shall not exceed 30 hours
19 every two years.

20 (b) The board shall adopt and administer regulations including, but not limited to,
21 continuing education intended to ensure the continuing competency of persons licensed
22 or approved pursuant to this chapter. The board may establish different requirements
23 for physical therapists and physical therapist assistants. The board may not require the
24 completion of an additional postsecondary degree or successful completion of an
25 examination as a condition of renewal, but may recognize these as demonstrative of
26 continuing competency. This program shall include provisions requiring random audits
27 of licensees and holders of approval in order to ensure compliance.

28 (c) The administration of this section may be funded through professional license
29 fees, continuing education provider fees, and ~~course approval~~ recognized approval
30 agency fees, or ~~both~~. The fees shall not exceed the amounts necessary to cover the
31 actual costs of administering this section.

32
33 The heading of Article 7 (commencing with Section 2680) of Chapter 5.7 of Division 2 of
34 Business and Professions Code is renumbered to read:

35
36 ~~Article 7.~~ 9. Fiscal Administration

37
38 Section 2682 of the Business and Professions Code is amended to read:

39
40 2682. There is in the State Treasury the Physical Therapy Fund. All collections from
41 persons licensed ~~or approved~~ or seeking to be licensed ~~or approved~~ shall be paid by the
42 board into the fund after reporting to the Controller at the beginning of each month the
43 amount and source of the collections. All money in the Physical Therapy Fund is
44 appropriated for the exclusive use of executing ~~to carry out the purposes of~~ this chapter.

1
2 Section 2683 of the Business and Professions Code is repealed.

3
4 ~~2683. Except as provided in Section 2684, the provisions of Article 19 (commencing~~
5 ~~with Section 2420) of Chapter 5 apply to the issuance and govern the expiration and~~
6 ~~renewal of licenses issued under this chapter.~~

7
8 Section 2684 of the Business and Professions Code is repealed.

9
10 ~~2684. (a) Notwithstanding Section 2422, any license or approval for the practice of~~
11 ~~physical therapy shall expire at midnight on the last day of the birth month of the~~
12 ~~licensee or holder of the approval during the second year of a two-year term, if not~~
13 ~~renewed.~~

14 ~~(b) To renew an unexpired license or approval, the licensee or the holder of the~~
15 ~~approval shall, on or before the dates on which it would otherwise expire, apply for~~
16 ~~renewal on a form prescribed by the board, pay the prescribed renewal fee, and submit~~
17 ~~proof of the completion of continuing education or competency required by the board~~
18 ~~pursuant to Article 6.5 (commencing with Section 2676). The licensee or holder of the~~
19 ~~approval shall disclose on his or her license renewal application any misdemeanor or~~
20 ~~other criminal offense for which he or she has been found guilty or to which he or she~~
21 ~~has pleaded guilty or no contest.~~

22 ~~(c) A license or approval that has expired may be renewed within five years upon~~
23 ~~payment of all accrued and unpaid renewal fees and satisfaction of the requirements~~
24 ~~described in subdivision (b).~~

25
26 Section 2685 of the Business and Professions Code is repealed.

27
28 ~~2685. At least 60 days before the expiration of any license or approval, the board shall~~
29 ~~mail to each licensee under this chapter, at the latest address furnished by the licensee~~
30 ~~to the executive officer, a notice stating the amount of the renewal fee and the date~~
31 ~~on which it is due, and that failure to pay it on or before the due date will result in~~
32 ~~expiration of the license.~~

33
34 The heading of Article 8 (commencing with Section 2690) of Chapter 5.7 of Division 2 of
35 the Business and Professions Code is renumbered to read:

36
37 Article ~~8-10~~. Physical Therapy Corporations

38
39 **GOVERNMENT CODE**

40
41 Section 12529 of the Government Code, as amended by Section 112 of Chapter 332 of
42 the Statutes of 2012, is amended to read:

1 12529. (a) There is in the Department of Justice the Health Quality Enforcement
2 Section. The primary responsibility of the section is to investigate and prosecute
3 proceedings against licensees and applicants within the jurisdiction of the Medical
4 Board of California, the California Board of Podiatric Medicine, the Board of Psychology,
5 Physical Therapy Board of California, or any committee under the jurisdiction of the
6 Medical Board of California.

7 (b) The Attorney General shall appoint a Senior Assistant Attorney General of the
8 Health Quality Enforcement Section. The Senior Assistant Attorney General of the
9 Health Quality Enforcement Section shall be an attorney in good standing licensed to
10 practice in the State of California, experienced in prosecutorial or administrative
11 disciplinary proceedings and competent in the management and supervision of
12 attorneys performing those functions.

13 (c) The Attorney General shall ensure that the Health Quality Enforcement
14 Section is staffed with a sufficient number of experienced and able employees that are
15 capable of handling the most complex and varied types of disciplinary actions against
16 the licensees of the board.

17 (d) Funding for the Health Quality Enforcement Section shall be budgeted in
18 consultation with the Attorney General from the special funds financing the operations of
19 the Medical Board of California, the California Board of Podiatric Medicine, the Board of
20 Psychology, Physical Therapy Board of California, and the committees under the
21 jurisdiction of the Medical Board of California, with the intent that the expenses be
22 proportionally shared as to services rendered.

23 (e) This section shall remain in effect only until January 1, 2014, and as of that
24 date is repealed, unless a later enacted statute, that is enacted before January 1,
25 2014, deletes or extends that date.

26
27 Section 12529 of the Government Code, as amended by Section 113 of Chapter 332 of
28 the Statutes of 2012, is amended to read:

29
30 12529. (a) There is in the Department of Justice the Health Quality Enforcement
31 Section. The primary responsibility of the section is to prosecute proceedings against
32 licensees and applicants within the jurisdiction of the Medical Board of California, the
33 California Board of Podiatric Medicine, the Board of Psychology, the Physical Therapy
34 Board of California, or any committee under the jurisdiction of the Medical Board of
35 California, and to provide ongoing review of the investigative activities conducted in
36 support of those prosecutions, as provided in subdivision (b) of Section 12529.5.

37 (b) The Attorney General shall appoint a Senior Assistant Attorney General of the
38 Health Quality Enforcement Section. The Senior Assistant Attorney General of the
39 Health Quality Enforcement Section shall be an attorney in good standing licensed to
40 practice in the State of California, experienced in prosecutorial or administrative
41 disciplinary proceedings and competent in the management and supervision of
42 attorneys performing those functions.

1 (c) The Attorney General shall ensure that the Health Quality Enforcement Section is
2 staffed with a sufficient number of experienced and able employees that are capable of
3 handling the most complex and varied types of disciplinary actions against the licensees
4 of the board.

5 (d) Funding for the Health Quality Enforcement Section shall be budgeted in
6 consultation with the Attorney General from the special funds financing the operations of
7 the Medical Board of California, the California Board of Podiatric Medicine, the Board of
8 Psychology, the Physical Therapy Board of California, and the committees under the
9 jurisdiction of the Medical Board of California, with the intent that the expenses be
10 proportionally shared as to services rendered.

11 (e) This section shall become operative January 1, 2014.

12 Section 12529.5 of the Government Code, as amended by Section 114 of Chapter 332
13 of the Statutes of 2012, is amended to read:

14
15 12529.5. (a) All complaints or relevant information concerning licensees that are within
16 the jurisdiction of the Medical Board of California, the California Board of Podiatric
17 Medicine, ~~or~~ the Board of Psychology, or the Physical Therapy Board shall be made
18 available to the Health Quality Enforcement Section.

19 (b) The Senior Assistant Attorney General of the Health Quality Enforcement
20 Section shall assign attorneys to work on location at the intake unit of the boards
21 described in subdivision (d) of Section 12529 to assist in evaluating and screening
22 complaints and to assist in developing uniform standards and procedures for processing
23 complaints.

24 (c) The Senior Assistant Attorney General or his or her deputy attorneys general
25 shall assist the boards or committees in designing and providing initial and in-service
26 training programs for staff of the boards or committees, including, but not limited to,
27 information collection and investigation.

28 (d) The determination to bring a disciplinary proceeding against a licensee of the
29 boards shall be made by the executive officer of the boards or committees as
30 appropriate in consultation with the senior assistant.

31 (e) This section shall remain in effect only until January 1, 2014, and as of that
32 date is repealed, unless a later enacted statute, that is enacted before January
33 1, 2014, deletes or extends that date.

34
35 Section 12529.5 of the Government Code, as amended by Section 115 of Chapter 332
36 of the Statutes of 2012, is amended to read:

37
38 12529.5. (a) All complaints or relevant information concerning licensees that are within
39 the jurisdiction of the Medical Board of California, the California Board of Podiatric
40 Medicine, ~~or~~ the Board of Psychology, or the Physical Therapy Board of California shall
41 be made available to the Health Quality Enforcement Section.

1 (b) The Senior Assistant Attorney General of the Health Quality Enforcement
2 Section shall assign attorneys to assist the boards in intake and investigations and to
3 direct discipline-related prosecutions. Attorneys shall be assigned to work closely with
4 each major intake and investigatory unit of the boards, to assist in the evaluation and
5 screening of complaints from receipt through disposition and to assist in developing
6 uniform standards and procedures for the handling of complaints and investigations.
7 A deputy attorney general of the Health Quality Enforcement Section shall frequently be
8 available on location at each of the working offices at the major investigation centers of
9 the boards, to provide consultation and related services and engage in case review with
10 the boards' investigative, medical advisory, and intake staff. The Senior Assistant
11 Attorney General and deputy attorneys general working at is or her direction shall
12 consult as appropriate with the investigators of the boards, medical advisors, and
13 executive staff in the investigation and prosecution of disciplinary cases.
14 (c) The Senior Assistant Attorney General or his or her deputy attorneys general
15 shall assist the boards or committees in designing and providing initial and in-service
16 training programs for staff of the boards or committees, including, but not limited to,
17 information collection and investigation.
18 (d) The determination to bring a disciplinary proceeding against a licensee of the
19 boards shall be made by the executive officer of the boards or committees as
20 appropriate in consultation with the senior assistant.
21 (e) This section shall become operative January 1, 2014.
22

ATTACHMENT C
ADMINISTRATIVE MANUAL

PHYSICAL THERAPY BOARD OF CALIFORNIA



Board Member Administrative Manual

2012



STATE OF CALIFORNIA
dca
DEPARTMENT OF CONSUMER AFFAIRS

Members of the Board

Debra J. Alviso, PT, DPT – President

Martha J. Jewell, PT, Ph.D. – Vice-President

Donald A. Chu, PT, Ph.D., ATC, CSCS

Sara Takii, PT, DPT

James E. Turner, MPA

Carol A. Wallisch, MA, MPH

Executive Officer

Rebecca Marco

This manual is a general reference including laws, regulations and basic Board policies to guide the actions of Board members to ensure Board effectiveness and efficiency.

This Administrative Procedure Manual, regarding Board Policy, can be amended by a majority of affirmative votes of any current or future Board.

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Chapter I. Introduction

Acronyms / Definitions

- ALJ Administrative Law Judge
- B & P Business and Professions Code
- CPS Consumer Protection Services
- D of I Division of Investigation
- DCA Department of Consumer Affairs
- G. C. Government Code
- BOARD Physical Therapy Board of California
- SAM State Administrative Manual

Mission Statement The mission of the Physical Therapy Board of California is to promote and protect the interests of the people of California by the effective and consistent administration and enforcement of the Physical Therapy Practice Act.

Overview In 1953 the Physical Therapy Examining Committee was created by Chapter 1823, statutes of 1953 (AB1001). While the name has been changed to the Physical Therapy Board of California (Board), the charge to the Board by the legislature has always been protecting the public from the incompetent, unprofessional and criminal practice of physical therapy since its inception. The Board is one of approximately 36 regulatory entities which exist under the organizational structure of the Department of Consumer Affairs (DCA). The Board has a close and cooperative relationship with DCA.

The Board consists of seven members (four licensed physical therapists and three public members) who serve four-year terms (a maximum of two consecutive terms). The Governor appoints the four licensed physical therapists and one public member. The Senate Rules Committee and the Speaker of the Assembly each appoint one public member.

The Board appoints an executive officer as its administrator. The executive officer serves solely in the interest of the consumers of physical therapy services in California, as does the Board. The executive officer oversees the board's staff and ensures that all of its programs function efficiently and effectively.

The Board is funded solely by fees and fines paid by our licenses and applicants.

General Rules of Conduct Board members shall not speak to interested parties (such as vendors, lobbyists, legislators, or other governmental entities) on behalf of the Board or act for the Board without proper authorization.

Board members shall maintain confidentiality of information received in closed session.

Board members shall commit the time to prepare for Board meeting responsibilities. This includes the reviewing of Board meeting minutes, administrative cases to be reviewed and discussed, and the review of any other materials provided to the Board members by staff, which is related to official Board business.

Board members shall respect and recognize the equal role and responsibilities of all Board members, whether public or professional.

Board members shall act fairly and in a nonpartisan, impartial, and unbiased manner.

Board members shall treat all applicants and licensees in a fair and impartial manner.

Board members' actions shall uphold the Board's primary mission – protection of the public.

Board members shall not use their positions on the Board for political, personal, familial, or financial gain. Any employment subsequent to employment as a Board member shall be consistent with Executive Order 66-2.

All Board members shall act in accordance with their oath of office, and shall conduct themselves in a courteous, professional and ethical manner at all times.

Chapter II. Board Meeting Procedures

Frequency of Meetings

*(B&P Code § 2611
and Board Policy)*

The Board shall hold at least one regular meeting annually in the cities of Sacramento, Los Angeles and San Francisco.

Special meetings of the Board may be held at such times and locations as the Board deems necessary.

Due notice of each meeting and the time and place thereof shall be given each member in the manner provided by the law.

**Board Member Attendance
at Board Meetings**

(B&P Code § 106)

Board members shall attend each meeting of the Board. If a member is unable to attend, he or she must contact the Board President and ask to be excused from the meeting for a specific reason. The Governor has the power to remove from office any member appointed by him for continued neglect of duties, which may include unexcused absences from meetings.

Board members shall attend the entire meeting and allow sufficient time to conduct all Board business at each meeting.

**Public Attendance at Board
Meetings**

(G. C. §11120 et. seq.)

Meetings are subject to all provisions of the Bagley-Keene Open Meetings Act. This act governs meetings of state regulatory boards and meetings of committees or task forces of those boards where the committee consists of more than two members. It specifies meeting notice and agenda requirements and prohibits discussing or taking action on matters not included on the agenda.

If the agenda contains matters which are appropriate for closed session, the agenda must cite the particular statutory section and subdivision authorizing the closed session.

Quorum The majority of Board members shall constitute a quorum
(*Board Policy*) for the transaction of business.

The concurrence of a majority of those members of the Board present and voting at a duly noticed meeting at which a quorum is present shall be necessary to constitute an act or decision of the Board.

Agenda Items Any Board member may submit items for a meeting
(*Board Policy*) agenda during the "Future Agenda Items" section of a Board meeting or directly to the Executive Officer not fewer than 30 days prior to the meeting with the approval of the Board President or Chair of the Committee or Task Force.

Notice of Meetings In accordance with the Open Meetings Act, meeting
(*G. C. §11120 et seq.*) notices (including agendas for Board, Committee, or Task Force meetings) shall be sent to persons on the Board's mailing list at least 10 calendar days in advance. The notice shall include the name, work address, e-mail address, and work telephone number of a staff person who can provide further information prior to the meeting.

**Notice of Meetings to be Posted
on the Internet** Notice shall be given and also made available on the
(*Government Code section 11125 et
seq.*) Internet at least 10 days in advance of the meeting and shall include the name, address, and telephone number of any person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting. The written notice shall additionally include the address of the Internet site where notices required by this article are made available.

Record of Meetings The Board and each Committee or Task Force shall
(*G.C. § 6254 (a)*) keep an official record of all their proceedings. The minutes are a summary, not a transcript, of each Board, Committee or Task Force meeting. They shall be prepared by staff and submitted to members for review before the next meeting. Minutes shall be submitted for approval at the next scheduled meeting of the Board, Committee or Task Force. Draft minutes are not public documents until approved by the Board. When approved, the minutes shall serve as the official record of the meeting.

Tape Recording (Board Policy) The meeting may be tape-recorded if determined necessary for staff purposes. Tape recordings will be disposed of upon approval of the minutes in accordance with the Board's record retention schedule.

(G.C. § 11124.1 (b))

Any audio or video recording of an open and public meeting made for whatever purpose by or at the direction of the state body shall be subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), but may be erased or destroyed 30 days after the recording. Any inspection of an audio or video recording shall be provided without charge on equipment made available by the state body.

Meeting Rules (Board Policy) The Board will use Robert's Rules of Order, to the extent that it does not conflict with state law (e.g. Bagley-Keene Open Meeting Act), as a guide when conducting its meetings.

Public Comment (Open Meetings Act & Board Policy) Public comment is always encouraged and allowed, however, if time constraints mandate, the comments may be limited to a time specified by the Board President per person.

Due to the need for the Board to maintain fairness and neutrality when performing their adjudicative function, the Board shall not receive any substantive information from a member of the public regarding any matter that is currently under or subject to investigation or involves a pending criminal or administrative action.

1. If, during a Board meeting, a person attempts to provide the Board with substantive information regarding matters that are currently under or subject to investigation or involve a pending administrative or criminal action, the person shall be advised that the Board cannot properly consider or hear such substantive information, and the person shall be instructed to refrain from making such comments.

**Public Comment
(continued)**
(Board Policy)

2. If, during a Board meeting, a person wishes to address the Board concerning alleged errors of procedure or protocol or staff misconduct, involving matters that are currently under or subject to investigation or involve a pending administrative or criminal action, the Board will address the matter as follows:
 - a. Where the allegation involves errors of procedure or protocol, the Board may designate either its Executive Officer or a Board employee to review whether the proper procedure or protocol was followed and to report back to the Board.
 - b. Where the allegation involves significant staff misconduct, the Board may request the person to put the allegation in writing and send it to the Executive officer of the Board or the Director of DCA who may forward the allegation to D of I or CHP for investigation.
3. The Board may deny a person the right to address the Board and have the person removed if such person becomes disruptive at the Board meeting.
4. At the discretion of the Board President or Chair of the Committee, speakers may be limited in the amount of time to present to give adequate time to everyone who wants to speak. In the event the number of people wishing to address the Board exceeds the allotted time, the Board President or Chair of the Committee may limit each speaker to a statement of his/her name, organization, and whether they support or do not support the proposed action

(G.C. § 11125.7 (a), (b), (c))

Mail Ballots (G. C. § 11500 et seq.) The Board must approve any proposed decision or stipulation before the formal discipline becomes final and the penalty can take effect.

Proposed stipulations and decisions are mailed to each Board member for his or her vote. For stipulations, a background memorandum from the assigned deputy attorney general accompanies the mail ballot. A 10 calendar day deadline generally is given for the mail ballots for stipulations and proposed decisions to be completed and returned to the Board's office.

**Holding Disciplinary Cases
for Board Meetings**
(Board Policy)

When voting on mail ballots for proposed disciplinary decisions or stipulations, a Board member may wish to discuss a particular aspect of the decision or stipulation before voting. If this is the case, the ballot must be marked "hold for discussion," and the reason for the hold must be provided on the mail ballot. This allows staff the opportunity to prepare information being requested.

If the matter is held for discussion, staff counsel will preside over the closed session to assure compliance with the Administrative Procedure Act and Open Meeting Act.

Chapter III. Travel & Salary Policies & Procedures

Travel Approval
(DCA Memorandum 96-01)

The Board President's approval is required for all Board members for travel, except for travel to regularly scheduled Board, Committee, or Task Force meetings to which the Board member is assigned.

Approval of Unscheduled Travel
(Board Policy)

The President of the Board will be responsible for approving all unscheduled travel plans submitted by Board members and staff. Unscheduled travel plans will be submitted in writing to the Executive Officer for perspective and feasibility. The Executive Officer will then seek approval of the President.

Travel Arrangements
(Board Policy)

Board members should make their own travel arrangements but are encouraged to coordinate with Board staff on lodging accommodations.

Out-of-State Travel
(SAM section 700 et seq.)

For out-of-state travel, Board members will be reimbursed for actual lodging expenses, supported by receipts, and will be reimbursed for meal and supplemental expenses. Out-of-state travel for all persons representing the State of California is controlled by and must be approved by the Governor's Office.

Travel Claims
(SAM section 700 et seq. and DCA Memorandum 96-01)

Rules governing reimbursement of travel expenses for Board members are the same as for management-level state staff. All expenses shall be claimed on the appropriate travel expense claim forms or through CalATERS (California Automated Travel Expense Reimbursement System). If Board members use paper claims, Board staff maintain these forms and complete them as needed. Board members should submit their travel expense forms or information in CalATERS immediately after returning from a trip and no later than two weeks following the trip.

For the expenses to be reimbursed, Board members shall follow the procedures contained in DCA Departmental Memoranda, which are periodically disseminated by the Executive Officer and are provided to Board members.

Salary Per Diem Compensation in the form of salary per diem and reimbursement of travel and other related expenses for Board members is regulated by B&P Code Section 103, which states
(B&P Code § 103, 2606 & Board Policy)

“Each such member shall receive a per diem of one hundred dollars (\$100) for each day actually spent in the discharge of official duties, and shall be reimbursed for traveling and other expenses necessarily incurred in the performance of official duties. The payments in each instance shall be made only from the fund from which the expenses of the agency are paid and shall be subject to the availability of money. Notwithstanding any other provision of law, no public officer or employee shall receive per diem salary compensation for serving on those boards, commissions, committees, or the Consumer Advisory Council on any day when the officer or employee also received compensation for his or her regular public employment.”

In relevant part, this section provides for the payment of salary per diem for Board members “for each day actually spent in the discharge of official duties,” and provides that the Board member “shall be reimbursed for traveling and other expenses necessarily incurred in the performance of official duties.”

(Board Policy) Accordingly, the following general guidelines shall be adhered to in the payment of salary per diem or reimbursement for travel:

1. No salary per diem or reimbursement for travel-related expenses shall be paid to Board members, except for attendance at an official Board, committee or task force unless a substantial official service is performed by the Board member. Attendance at gatherings, events, hearings, conferences, or meetings other than official Board, Committee, or Task Force meetings, in which a substantial official service is performed, shall be approved in advance by the Board President. The Executive Officer shall be notified of the event and approval shall be obtained from the Board President prior to Board member’s attendance.

Salary Per Diem
(Board Policy)

Continued

2. The term “day actually spent in the discharge of official duties” shall mean such time as is expended from the commencement of a Board, Committee, or Panel meeting to the conclusion of that meeting. Where it is necessary for a Board member to leave a meeting early, the Board President shall determine if the member has provided a substantial service during the meeting, and if so, shall authorize payment of salary per diem and reimbursement for travel-related expenses.

For Board-specified work, Board members will be compensated for actual time spent performing work authorized by the Board President. That work includes, but is not limited to, authorized attendance at other gatherings, events, meetings, hearings, or conferences. It includes preparation time for Board, Committee, or Task Force meetings.

Pursuant to Board Policy TRV 08-11, it is the Board’s intent that a member shall receive a per diem for the day for any work performed within the 24-hour period.

Chapter IV. Selection of Officers & Committees

- Officers of the Board** The Board shall select a President annually.
(B&P Code § 2604)
- Election of Officers** The Board shall elect the officers at the last meeting of the calendar year. Officers shall serve a term of one year beginning the next calendar year. All officers may be elected on one motion or ballot as a slate of officers unless more than one Board member is running per office. An officer may be re-elected and serve for more than one term.
(Board Policy)
- Officer Vacancies** If an office becomes vacant during the year, an election shall be held at the next meeting. If the office of the President becomes vacant, the Vice President shall assume the office of the President. Elected officers then shall serve the remainder of the term.
(Board Policy)
- Committee or Task Force Appointments** The Board President shall establish Committees, whether standing or special, as he or she deems necessary. The composition of the Committees and the appointment of the members shall be determined by the Board President in consultation with the Vice President, and the Executive Officer. Committees may include the appointment of non-Board members.
(Board Policy)
- Attendance at Board Meetings** If a Board member wishes to attend a meeting of a Committee or Task Force of which he or she is not a member that Board member should notify the Committee or Task Force chair and staff. Board members who are not members of the Committee or Task Force that is meeting cannot vote during the Committee or Task Force meeting and may participate only as observers if a majority of the Board is present at a Committee meeting.
(G. C. §11120 et seq.)

Board Member Addresses
(Board Policy) Board member addresses and telephone numbers are confidential and shall not be released to the public without expressed authority of the individual Board member. However, if the Board member is a licensed with the Board their addresses are available to the public upon request in accordance with the Public Records Act. Also, if a teleconference is held from the home of a Board member, the address, of where the teleconference occurs, must be published.

Board Member Written Correspondence and Mailings
(Board Policy) All correspondence, press releases, articles, memoranda or any other communication written by any Board member in his or her official capacity must be provided to the Executive Officer.

Communications: Other Organizations /Individuals/Media
(Board Policy) All communications relating to any Board action or policy to any individual or organization, or a representative of the media shall be made only by the Board President, his or her designee, or the Executive Officer. Any Board member who is contacted by any of the above should inform the Board President or Executive Officer who shall then inform the Office of Public Relations of the contact.

Chapter V. Board Administration & Staff

Board Administration
(DCA Reference Manual) Board members should be concerned primarily with formulating decisions on Board policies rather than decisions concerning the means for carrying out a specific course of action. It is inappropriate for Board members to become involved in the details of program delivery. Strategies for the day-to-day management of programs and staff shall be the responsibility of the Executive Officer. Board members should not interfere with day-to-day operations, which are under the authority of the Executive Officer.

Executive Officer
(B & P Code § 2607.5) The Board may appoint an Executive Officer. The Executive Officer is responsible for the financial operations and integrity of the Board, and is the official custodian of records. The Executive Officer is an at will employee, who serves at the pleasure of the Board, and may be terminated, with or without cause, in accordance with the provisions of the Bagley-Keene Open Meeting Act.

Executive Officer Evaluation
(Board Policy) Board members shall evaluate the performance of the Executive Officer at least on an annual basis.

Board Staff
(DCA Reference Manual) Employees of the Board, with the exception of the Executive Officer, are civil service employees. Their employment, pay, benefits, discipline, termination, and conditions of employment are governed by a myriad of civil service laws and regulations and often by collective bargaining labor agreements. Because of this complexity, it is most appropriate that the Board delegate all authority and responsibility for management of the civil service staff to the Executive Officer. Board members shall not intervene or become involved in specific day-to-day personnel transactions.

- Experts - Consultants**
(Board Policy) The Board requires special services, certain content experts, or consultants for specific project and problems. Such services are arranged by means of state approved contracts established in the standard ways. Consistent with state law, such individuals may not serve as members of subcommittees; nor may they function as (e.g.,) ex officio members of the Board.
- Board Budget**
(Board Policy) The Executive Officer or the Executive Officer's designee will attend and testify at the legislative budget hearings and shall communicate all budget issues to the Administration and Legislature.
- Business Cards**
(Board Policy) Business cards will be provided to each Board member with the Board's name, address, telephone number, fax number, Web site address and e-mail address.
- Strategic Planning**
(Board Policy) The Board will conduct periodic strategic planning sessions.
- Projects/Approval for New Projects**
(Board Policy) The President of the Board will be responsible for approving all new projects submitted by Board members and staff. New projects will be submitted in writing to the Executive Officer for perspective and feasibility.

Legislation - Definition of the Positions Taken by the Physical Therapy Board Regarding Proposed Legislation
(Board Policy)

The Board will adopt the following positions regarding pending or proposed legislation.

Oppose: The Board will actively oppose proposed legislation and demonstrate opposition through letters, testimony and other action necessary to communicate the oppose position taken by the Board.

Disapprove: The Board will communicate a general disapprove position but will not actively lobby the legislature regarding the proposed legislation.

Watch: The watch position adopted by the Board will indicate concern regarding the proposed legislation. The Board staff and members will closely monitor the progress of the proposed legislation and amendments before taking a position to oppose, disapprove, approve, or support.

Approve: The Board will communicate a general approve position but will not actively lobby the legislature regarding the proposed legislation.

Support: The Board will actively support proposed legislation and demonstrate support through letter, testimony and any other action necessary to communicate the support position taken by the Board.

Board Policy LEG 05-12 provides the Board President the authority to take interim positions on pending legislation on behalf of the Board, if necessary. The interim position taken by the Board President is the interim position of the Board until the next meeting of the Board at which the Board will decide to either ratify the interim position or reject it.

Chapter VI. Enforcement and Disciplinary Actions

Administrative Hearings

(B&P § 2608)

Administrative hearings shall be conducted in compliance with the Administrative Procedures Act, Chapter 5, G. C. § 11500 et. seq. In addition, licensees who file petitions for penalty relief to reinstate license, modify terms of probation, or terminate probation can also be heard before an ALJ with participation by the members of the Board.

Administrative hearings on accusation against Board licensees must be conducted thoroughly and completely, but also with sensitivity to differing situations and choices by individuals accused of misconduct. It is the Board's obligation to both the citizens of California and to the accused licensee or other parties that equitable procedures, as provided within the context of the Administrative Procedures act, be available, accessible and followed faithfully. In doing such, the Board adheres to the due process and equal protection clauses of the California and United States Constitutions.

ALJ Decisions / Acceptance Standard for ALJ Decisions

(G. C. § 11500 et. seq.)

Disciplinary decisions proposed by administrative law judges shall be evaluated on a case-by-case basis by the Board. The Board shall evaluate such proposals on the basis of five criteria. Proposed decisions must attempt to:

1. Be based on the community standards of medical/ health care and standards of practice
2. Respond to the situation in a way consistent with the nature and degree of the violation
3. Serve as a reflection of the Boards commitment to protect the health and safety of the citizens of California
4. Be reasonable and practical in terms of implementation

Decisions judged by any Board member that does not meet one or more of these criteria may be judged unacceptable by the Board. If the Board votes to non-adopt the proposed decision, it can call up the hearing transcript, and decide the case itself.

Discipline Action and Disclosure of Information

(G.C. § 6250 et. Seq. & B&P Code § 125.9)

Disciplinary action is public information once an accusation has been filed. The information disclosed shall be the accusation and decision documents.

Information concerning citations or citation and fines shall be disclosed once the citation or citation and fine are issued. Such citation information shall be provided upon request; it shall be accompanied by the explanation that payment of a citation is considered a satisfactory resolution, but is not tantamount to either an admission of violation or judicial determination of a violation.

Disciplinary information, information about citations or citations and fines, shall be disclosed to the public by means of the Board website and newsletter. Additionally, in accordance with DCA policy, the Board shall provide a copy of the accusation and decision without charge to any member of the public upon request.

Investigative Staff and Services

(Board Policy)

The Board shall utilize the Division of Investigations for investigator and investigative services.

Priority of Complaints

(Board Policy)

The Board has adopted the DCA's complaint prioritization policy. See Appendix A for a description of this policy.

Investigations / Time Limitations
(Board Policy)

The standard investigation in a typical case shall be limited initially to no more than twenty hours of investigative work. Investigators are asked to contact the Lead, or Manger of the CPS program to request prior approval of additional time to complete particular cases. Such additional time may be granted at their discretion. Alternative ways of efficiently and effectively completing the investigation shall be considered before and approval for additional time is granted.

Chapter VII. Other Policies and Procedures

Board Member Disciplinary Actions
(Board Policy) A member may be censured by the Board if, after a hearing before the Board, the Board determines that the member has acted in an inappropriate manner.

The President of the Board shall sit as chair of the hearing unless the censure involves the President's own actions, in which case the Vice President of the Board shall sit as President. In accordance with the Open Meeting Act, the censure hearing shall be conducted in open session.

Removal of Board Members
(B&P Code § 106) The Governor has the power to remove from office, at any time, any member of any Board appointed by him or her for continued neglect of duties required by law or for incompetence or unprofessional or dishonorable conduct.

Resignation of Board Members
(G. C. §1750) In the event that it becomes necessary for a Board member to resign, a letter shall be sent to the appropriate appointing authority (Governor, Senate Rules Committee, or Speaker of the Assembly) with the effective date of the resignation. Written notification is required by state law. A copy of this letter also shall be sent to the Officer of the Department, the Board President, and the Executive Officer.

Conflict of Interest No Board member may make, participate in making, or in any way attempt to use his or her official position to influence a governmental decision in which he or she knows or has reason to know he or she has a financial interest. Any Board member who has a financial interest shall disqualify himself or herself from making or attempting to use his or her official position to influence the decision. Any Board member who feels he or she is entering into a situation where there is a potential for a conflict of interest should immediately consult the Executive Officer or the Board's legal counsel.
(G. C. §87100)

Board members should refrain from attempting to influence staff regarding applications for licensure or potential disciplinary matters.

Service of Legal Documents If a Board member is personally served as a party in any legal proceeding related to his or her capacity as Board member, he or she must contact the Executive Officer immediately.

Gifts from Candidates Gifts of any kind to Board members from candidates for licensure with the Board shall not be permitted.
(Board Policy)

Communication with Interested Parties Board members are required to disclose at Board meetings all discussions and communications with interested parties regarding any item pending or likely to be pending before the Board. The Board minutes shall reflect the items disclosed by the Board members.

Request for Records Access No Board member may access the file of a licensee or candidate without the Executive Officer's knowledge and approval of the conditions of access. Records or copies of records shall not be removed from the Board's office.
(Board Policy)

Ex Parte Communications
(G. C. §11430.10 et seq.)

The Government Code contains provisions prohibiting *ex parte* communications. An “*ex parte*” communication is a communication to the decision-maker made by one party to an enforcement action without participation by the other party. While there are specified exceptions to the general prohibition, the key provision is found in subdivision (a) of section 11430.10, which states:

“While the proceeding is pending, there shall be no communication, direct or indirect, regarding any issue in the proceeding to the presiding officer from an employee or representative or if an agency that is a party or from an interested person outside the agency, without notice and an opportunity for all parties to participate in the communication.”

Occasionally, an applicant who is being formally denied licensure, or a licensee against whom a disciplinary action is being taken, will attempt to directly contact Board members.

If the communication is written, the member should read only enough to determine the nature of the communication. Once he or she realizes it is from a person against whom an action is pending, he or she should reseal the documents and send them to the Executive Officer.

If a Board member receives a telephone call from an applicant or licensee against whom an action is pending, he or she should immediately tell the person they cannot speak to him or her about the matter. If the person insists on discussing the case, he or she should be told that the Board member will be required to recuse him or herself from any participation in the matter. Therefore, continued discussion is of no benefit to the applicant or licensee.

If a Board member believes that he or she has received an unlawful *ex parte* communication, he or she should contact the Board’s assigned attorney or Executive Officer.

Board Member Training Requirements

Upon initial appointment, Board members will be given an overview of Board operations, policies, and procedures by Board Executive Staff.

(B&P Code § 453)

Every newly appointed or reappointed Board member shall, within one year of assuming office, complete a training and orientation program offered by the Department of Consumer Affairs. This is in addition to the Board orientation given by Board staff.

(G. C. §11146)

All Board members are required to file an annual Form 700 statement of economic interest. Members must also complete an orientation course on the relevant ethics statutes and regulations that govern the official conduct of state officials. The Government Code requires completion of this ethics orientation within the first six months of appointment and completion of a refresher every two years thereafter.

(G. C. §12950.1)

AB 1825 (Chapter 933, Statutes of 2004, Reyes) requires supervisors, including Board members, to complete two hours of sexual harassment prevention training by January 1, 2006, and every two years thereafter.

Outreach/Information/Complaints*(Board Policy)*

Outreach and consumer education shall be provided by the Board to consumers regarding the role of the Board and how to file complaints against practitioners. This information shall be provided by the Board through:

1. Board's Newsletter
2. Speaking engagements by Board members and staff
3. Press release and public affairs announcements
4. Telephone responses
5. Written, faxed and e-mailed inquiries
6. The Board's Website

Additional sources of information concerning the Board and the complaint process specifically shall include:

- a. Various services and information of the Board
- b. Services and publication of the Consumer Protection Services Program

Complaint Prioritization Guidelines for DCA Health Care Agencies

As complaints are received, a staff person should immediately review each complaint to determine the appropriate course of action based on the complaint prioritization guidelines. The table below represents true guidelines –depending on the facts, a different level of priority may be warranted. For example, a complaint based on a report from a health care practitioner data bank (normally routine) may be re-prioritized to a higher level of response based on the nature of the underlying acts.

Agencies should continue to review complaints warranting urgent or high attention to determine whether to seek an Interim Suspension Order, a Penal Code section 23 'request or other interim action as described in Deputy Director for Legal Affairs Doreatha Johnson's memorandum dated December 15, 2008.

Priority Level	Complaint Category
Urgent (Highest Priority)	<p>In general, any act resulting in death or serious injury)'</p> <p>Gross negligence, incompetence or repeated negligent acts that - involve death or serious bodily injury –</p> <p>Drug or alcohol abuse by the licensee resulting in death or serious bodily injury.</p> <p>Repeated acts of clearly excessive prescribing, furnishing or administering of controlled substances, or repeated acts of prescribing w/o a good faith exam</p> <p>Sexual misconduct with patient during course of treatment or examination</p> <p>Practicing while under the influence of drugs or alcohol</p> <p>Physical or mental abuse with injury.</p> <p>Unlicensed activity alleged to have resulted in patient injuries</p> <p>Aiding and abetting unlicensed activity -alleged to have resulted in -patient injuries</p> <p>Arrests or convictions substantially related to the area of practice (Note: may be re-categorized based on the nature of the underlying acts)</p> <p>Impairments (mental, physical or as a result of alcohol or -drug abuse including termination from a diversion-program)</p> <p>Theft of prescription drugs</p> <p>Furnishing prescription drugs without a prescription</p>

Complaint Prioritization Guidelines for DCA Health Care Agencies

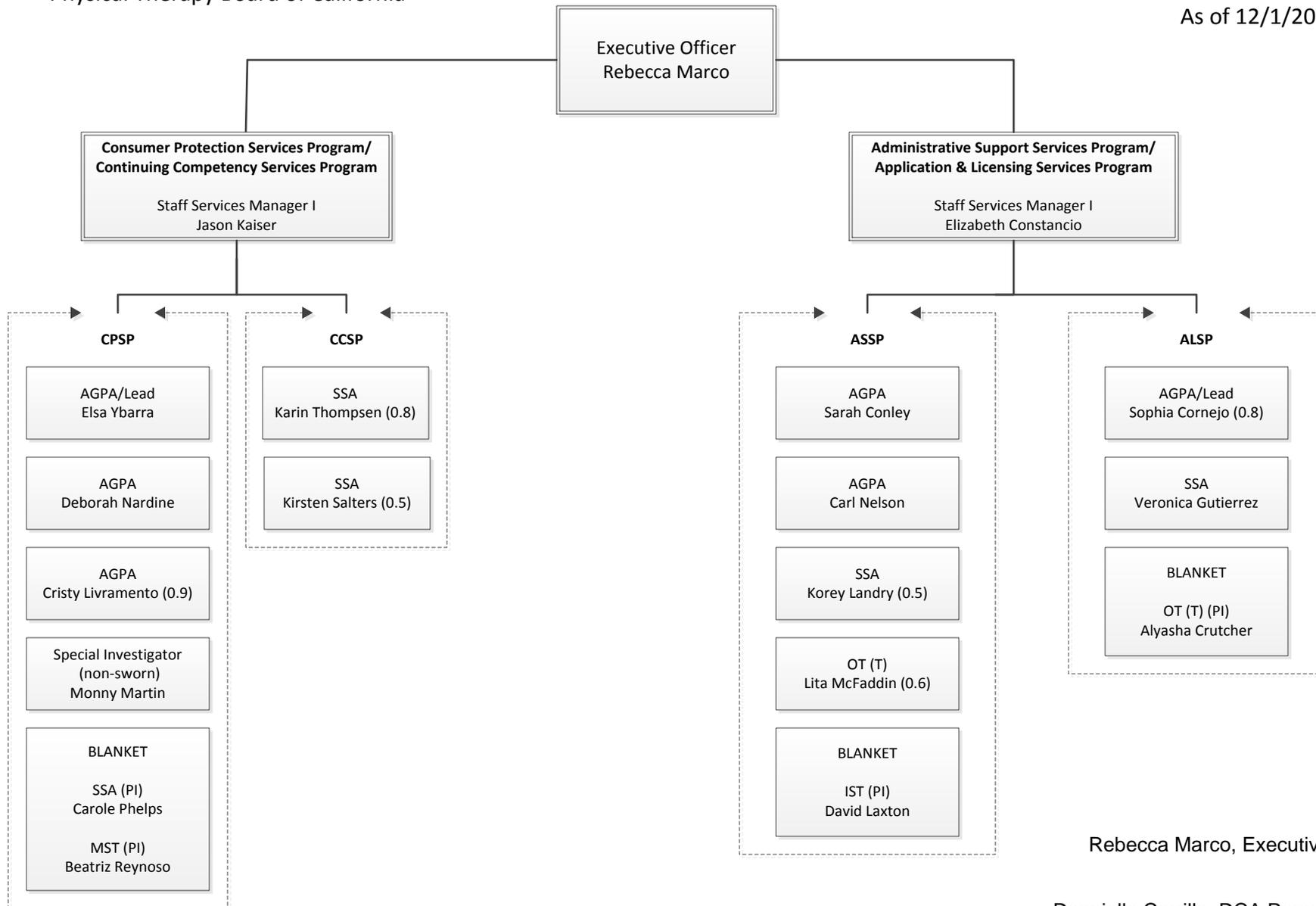
(Continued)

Priority Level	Complaint Category
High	<ul style="list-style-type: none"> Negligence or incompetence without serious bodily injury Physical or mental abuse (without injury) Diversion drop outs 805 Health Facility reports Complaints about licensees on probation(whether or not injury) Prescribing drugs without "good faith" exam(where authority to prescribe exists) Prescribing or dispensing drugs without authority Multiple complaints of the same allegation Complaints with multiple prior complaints Unlicensed activities (with no apparent harm) Aiding and abetting unlicensed activity * with no apparent harm) When evidence will likely be destroyed or unavailable
Routine	<ul style="list-style-type: none"> False/misleading advertising Patient abandonment Fraud Failure to release medical records Record keeping violations Applicant misconduct National Practitioner Data bank reports Workers Compensation Complaints Non-jurisdictional complaints (fee disputes, billing) Exam subversion(exam not compromised) Continuing Education Breach of confidentiality

ATTACHMENT D
YEAR-END ORGANIZATION CHARTS
FOR LAST FIVE FISCAL YEARS

Department of Consumer Affairs
Physical Therapy Board of California

Fiscal Year 2012/13
13.1 Authorized Positions
As of 12/1/2012

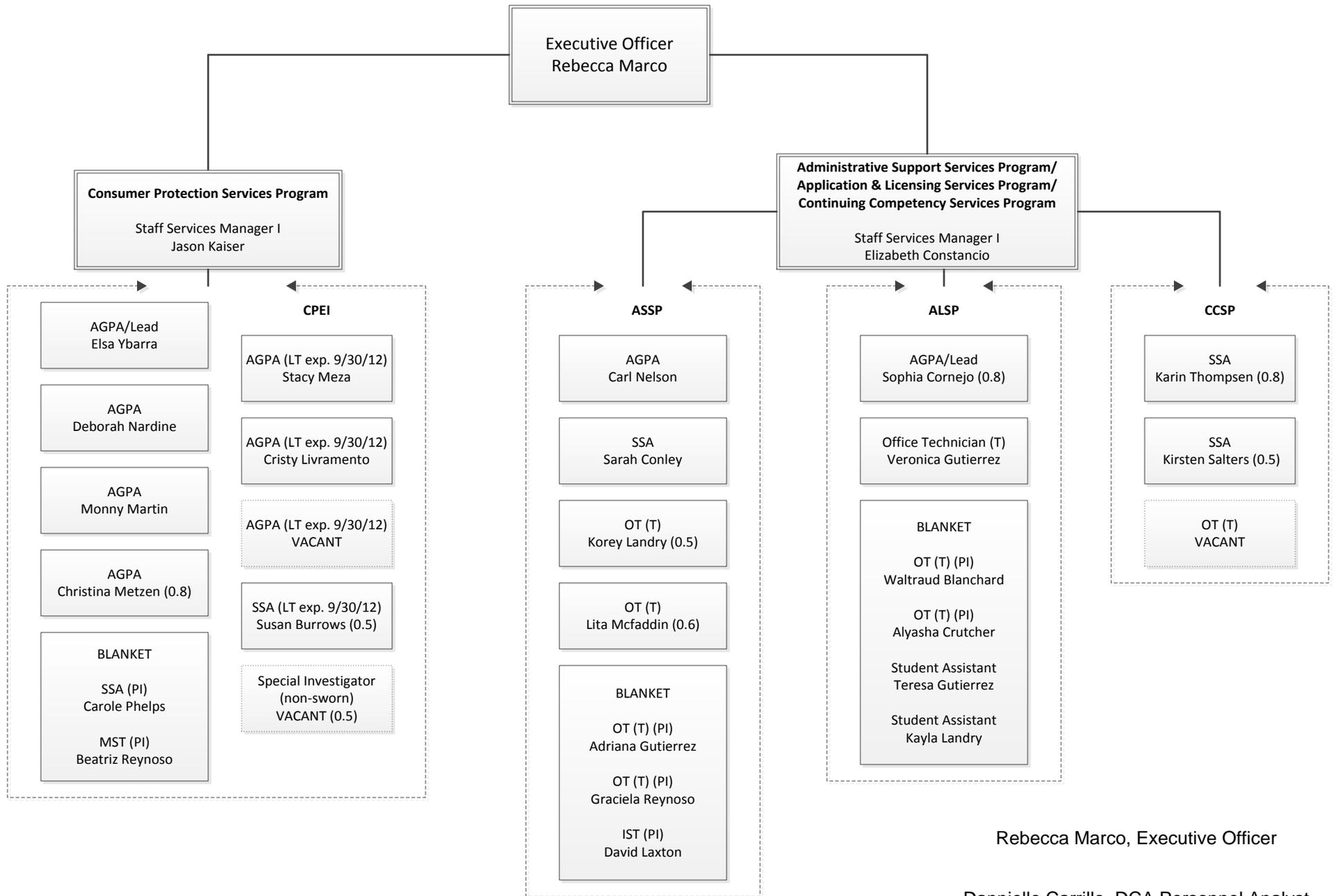


Rebecca Marco, Executive Officer

Danielle Carrillo, DCA Personnel Analyst

Department of Consumer Affairs
Physical Therapy Board of California

Fiscal Year 2011/12
18 Authorized Positions

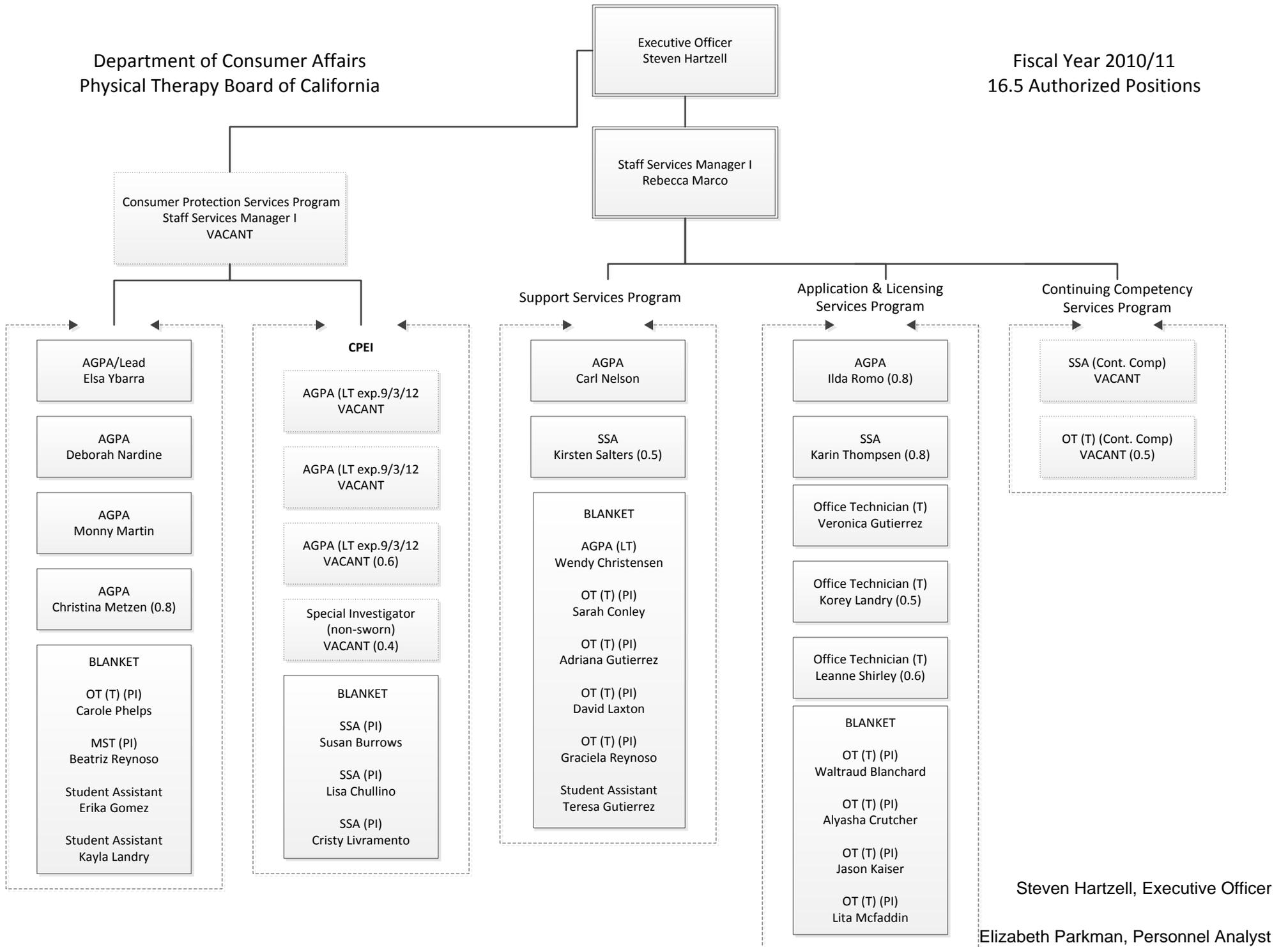


Rebecca Marco, Executive Officer

Danielle Carrillo, DCA Personnel Analyst

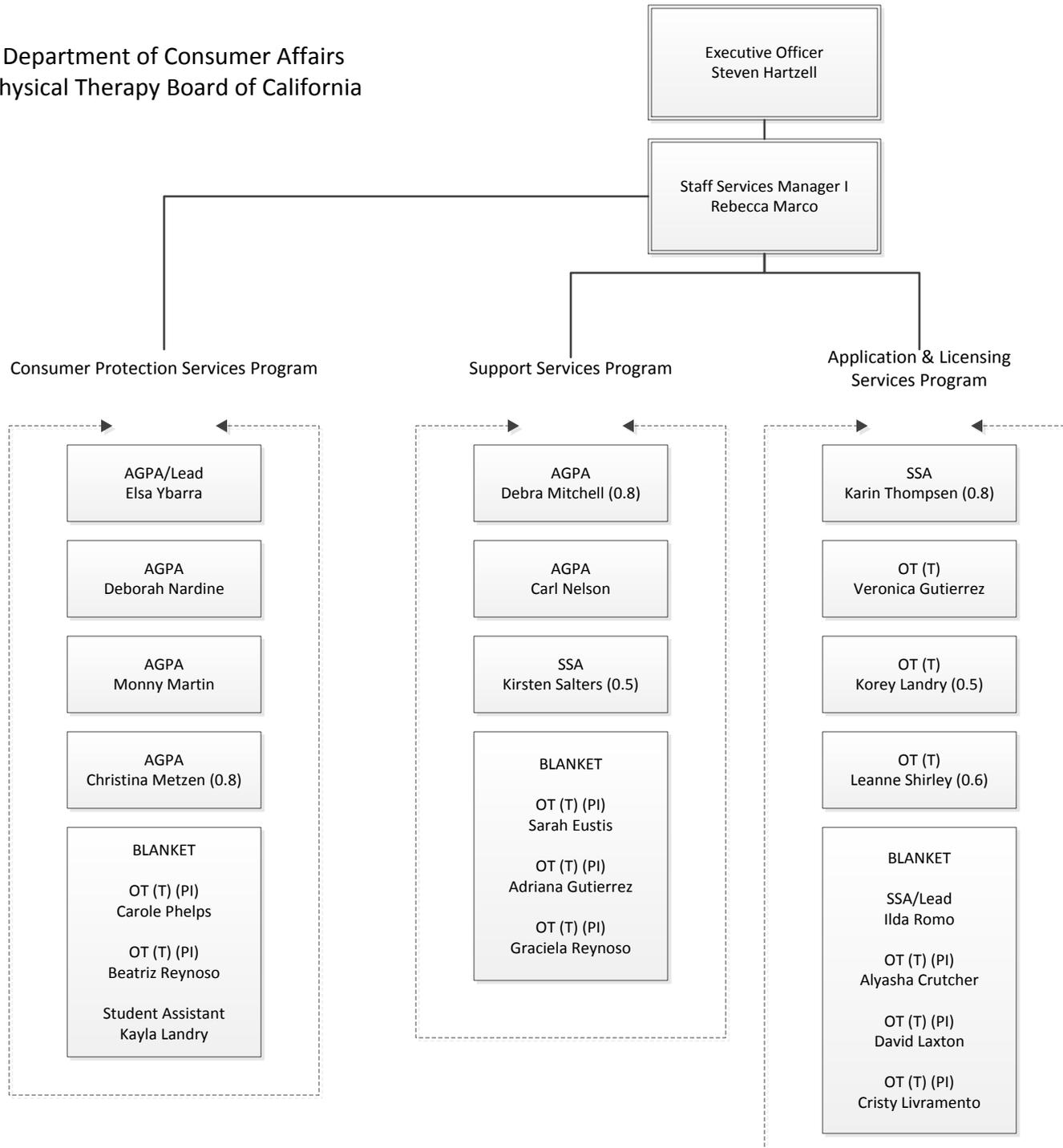
Department of Consumer Affairs
Physical Therapy Board of California

Fiscal Year 2010/11
16.5 Authorized Positions



Department of Consumer Affairs
Physical Therapy Board of California

Fiscal Year 2009/10
11 Authorized Positions



Steven Hartzell, Executive Officer

Reba Dillon, Personnel Analyst