

Physical Therapy Board of California

SUNSET REVIEW REPORT

presented to the

**Joint Committee on Boards,
Commissions and Consumer Protection**



**Mandated by Senate Bill 2036
(Chapter 908, Statutes of 1994)**

First Review: October 1997

Second Review: September 2001

This Review: September 2005

Arnold Schwarzenegger, Governor

**Fred Aguiar, Secretary
State and Consumer Service Agency**

**Charlene Zettel, Director
Department of Consumer Affairs**

<h2>Physical Therapy Board of California</h2>
--

Members of the Board

**Donald A. Chu, PhD, PT, President
Lorraine K. Kimura, Vice President
Julie Brandt, Public Member
Ellen Wilson, Physical Therapist
Vacant, Public Member
Vacant, Physical Therapist
Vacant, Public Member**

Executive Officer of the Board

Steven K. Hartzell

**Prepared by the
Physical Therapy Board of California
1418 Howe Avenue, Suite 16
Sacramento, CA 95825-3291
Telephone: (916) 561-8200
FAX: (916) 263-2560**

Internet: www.ptb.ca.gov or www.ptbc.ca.gov

**Physical Therapy Board of California
Sunset Review Report**

TABLE OF CONTENTS

**PART 1
BACKGROUND INFORMATION AND OVERVIEW OF THE
CURRENT REGULATORY PROGRAM**

Background and Description of the Board and Professions	1
Brief History and Functions of the Board	1
Current Composition of the Board	2
Committees of the Board and Their Functions	2
Professions Licensed and Regulated by the Board	3
Major Changes to the Board since Last Sunset Review	3
Major Studies Conducted by the Board	5
Licensing Data	6
Budget and Staff	8
Current Fee Schedule and Range	8
Revenue and Expenditure History	9
Expenditures by Program Component	9
Fund Condition	10
Licensure Requirements	11
Education, Experience and Examination Requirements	11
Educational Requirements	11
Experience	12
Examination	12
Verification of Applicant Information	12
Examination Passage Rates/Occupational Analysis	13
Examination Passage Rate Comparisons	13
Average Time to Process Applications	14
Continuing Education/Competency Requirements	16
Comity/Reciprocity with Other States (Temporary Licensing Process)	16
Enforcement Activity	18
Enforcement Program Overview	19
Complaint Disposition Percentages	21
Case Aging Data	21
Time Frames	22
Cite and Fine Program	23
Diversion Program	24
Results of Complainant Satisfaction Survey	25

**Physical Therapy Board of California
Sunset Review Report**

TABLE OF CONTENTS

Enforcement Expenditures and Cost Recovery	26
Average Costs for Disciplinary Cases	26
Cost Recovery Efforts	27
Restitution Provided to Consumer	28
Compliant Disclosure Policy	28
Consumer Outreach, Education and Use of the Internet	30

PART 2.

**BOARD’S RESPONSE TO ISSUES IDENTIFIED AND FORMER
RECOMMENDATIONS MADE BY THE JOINT LEGISLATIVE SUNSET REVIEW
COMMITTEE**

Prior Issues	32
Issue #1 –Should the licensing and regulation of physical therapists be continued by the PTBC?	32
Issue #2 – Should the Board’s public protection authority be enhanced?	33
Issue #3 – Should the Board required continuing education of physical therapists and physical therapist assistants as a condition of license renewal?	33
Issue #4 – Should the Board eliminate the licensure of physical therapist assistants based on equivalent education and experience? under their scope of practice, be permitted to supervise physical therapy	33
Issue #5 – Should the Board implement, as a pilot program, a system whereby the Attorney General and the Office of Administrative Hearings costs for physical therapy license-related cases are “rolled forward” (as are the costs for investigations performed for the Board by the Division of Investigations of the Department of Consumer Affairs?)	34
Issue #6 – Should the Board research and pursue the use of photo licenses?	34
Issue #7 – Should the law examination be available through the Internet and should the Law examination be a licensure requirement?	35
Issue #8 – Should the Board be given authority to provide initial probationary certificates?	35
Issue #9 – Should the Board designate a staff liaison to work with International Medical Graduates (IMGs) and the programs that assist them?	35
Issue #10–Should the Board review its diversion program and consider the revision or elimination of the program?	36

**Physical Therapy Board of California
Sunset Review Report**

TABLE OF CONTENTS

**PART 2.
BOARD’S RESPONSE TO ISSUES IDENTIFIED AND FORMER
RECOMMENDATIONS MADE BY THE JOINT LEGISLATIVE SUNSET REVIEW
COMMITTEE continued**

Issue #11- Should the Board carry out its own probation monitoring?	36
Issue #12- Should the Board require its licensees to disclose misdemeanors and other criminal activity on their license renewal forms?	37
New Issues Facing the Board (PTBC)	37
Issue #1 – Should the PTBC seek legislation to revise its Physical Therapy Act to better reflect changes in the professional and educational requirements of the physical therapy profession and to clarify language that has proven to be misleading?	37
Issue #2 – Should the PTBC eliminate licensure of physical therapist assistants based on equivalency education and experience?	38
Issue #3 – Should the PTBC implement, as a pilot program, a system whereby the Attorney General and Office of Administrative Hearings costs for physical therapy license related cases are “rolled forward” ?	39
Issue #4 – Should the PTBC and included representation of a physical therapist assistant on the Board and request an additional public member appointment to the Board?	40
Issue #5 – Should the PTBC require continuing competency of physical therapists as a condition of license renewal?	40
Issue #6 – Should the PTBC seek legislation to permit physical therapists to use the prefix, suffix and affix of their academic degrees?	41
Issue #7 – Should the PTBC seek legislation to exempt from licensure those physical therapists and physical therapist assistants who are licensed in other states to enable them to teach educational courses and provide treatment to competing athletes of visiting teams?	42
Issue #8 – Should the PTBC seek legislation to deny licensure to applicants who are registered pursuant to Section 290 of the Penal Code?	43
Issue #9 – Should the PTBC seek legislation to clarify a diversion program participation fee may be charged not to exceed the actual cost of administering the program?	43
Issue #10 – Should the PTBC seek legislation to adjust fees to provide a sound financial base for the future?	43

**Physical Therapy Board of California
Sunset Review Report**

TABLE OF CONTENTS

TABLES

Table A – Board Member Composition	2
Table B – Licensing Data for Physical Therapists	6
Table C – Certification Data for Physical Therapists Electroneuromyographers and Kinesiological Electromyographers	6
Table D – Licensing Data for Physical Therapist Assistants	7
Table E – Authorized Board Fees	8
Table F – Comparison of Revenues and Expenditures	9
Table G – Expenditures by Program Component	10
Table H – Comparison of Revenues, Expenditures and Reserves	10
Table I – California and National Exam Passage Rate Comparison	14
Table J – Application to Licensure Process Time	15
Table K – Enforcement Program Activity	18
Table L – Complaint Disposition	21
Table M – Average Time to Process Board Cases	22
Table N – Time Frames for Closing Investigations	23
Table O – Cite and Fine Program Statistics	24
Table P – Diversion Program Statistics	24
Table Q – Consumer Satisfaction Survey	26
Table R – Case Investigation and Prosecution Costs	27
Table S – Cost Recovery Efforts	28
Table T – Complaint Disclosure Policy	29

EXHIBITS

Organization Chart on the Committees of the Board	Exhibit A
Applicant Satisfaction Survey	Exhibit B
Proposed Practice Act Revision	Exhibit C
Federation of State Boards of Physical Therapy Standards of Competence	Exhibit D

APPENDIX

2005 PTBC Strategic Plan

PHYSICAL THERAPY BOARD OF CALIFORNIA

PART 1. BACKGROUND INFORMATION AND OVERVIEW OF THE CURRENT REGULATORY PROGRAM

BACKGROUND AND DESCRIPTION OF THE BOARD AND PROFESSION

Include a short explanation of the history and function of the Board;

Brief History and Functions of the Board

The Physical Therapy Board of California (PTBC) is the state entity under the Department of Consumer Affairs (DCA) that licenses¹ and regulates physical therapists (PT), physical therapist assistants (PTA) and physical therapy aides in California.

The PTBC was established in 1953 to protect the California consumer from the incompetent, unprofessional or criminal practice of physical therapy. Since its establishment in 1953, the regulation of the profession has been changed and redefined by legislative and regulatory actions to ensure continued consumer protection while permitting the profession to respond as new and advanced technologies are developed. In carrying out its mission the PTBC does the following:

- Promotes legal and ethical standards of professional conduct,
- Investigates the background of applicants,
- Administers licensing examinations, promotes a national examination program that is reflective of the current practice of physical therapy,
- Licenses physical therapists and physical therapist assistants,
- Licenses foreign educated physical therapists who have education substantially equivalent to California requirements,
- Certifies physical therapists to perform electromyography,
- Investigates complaints from consumers,
- Takes disciplinary action and issues citations against licensees whenever appropriate, and
- Educates consumers about patient's rights and quality of service.

¹ Section 23.7 of the Business and Professions Code specifies: *Unless otherwise expressly provided, "license" means license, certificate, registration, or other means to engage in a Business or Profession regulated by this code or referred to in Section 1000 or 3600.* The Physical Therapy Practice Act (Act) generally uses the word license when referring to a physical therapist, certified when referring to a physical therapist authorized to perform electromyography and approval when referring to a physical therapist assistant. For consistency, this report generally uses the descriptive word in the act when referring to an individual classification and uses the generic word license when referring to more than one classification.

PTBC SUNSET REVIEW REPORT –September 1, 2005

Include the current composition of the Board (public vs. professional) and listing of Board Members, who appointed by, when appointed, when terms expire, and whether vacancies exist and for how long;

Current Composition of the Board

There are currently several vacant positions on the Board; two public member positions and one professional. The professional member currently serving her grace period is not seeking reappointment due to professional and family obligations. These obligations limit her ability to continue serving during the grace period, and she is only doing so to enable the PTBC to have a quorum to conduct business as mandated by statute. Table A below illustrates the current composition of the Board.

TABLE A – BOARD MEMBER COMPOSITION

BOARD COMPOSITION			
APPOINTEE	APPOINTED BY	TERM STARTED	TERM EXPIRES
<i>Donald A. Chu, PhD, President</i> Physical Therapist	Governor	01/07/99	06/01/06
<i>Julie Brandt</i> Public Member	Senate Rules Committee	09/09/03	06/01/07
<i>Lorraine K. Kimura, Vice President</i> Physical Therapist	Governor	11/13/03	06/01/06
<i>Ellen Wilson</i> Physical Therapist	Governor	10/02/01	06/01/05
Vacant (Since 6/01/05) Public Member	Governor		06/01/08
Vacant (Since 6/01/05) Physical Therapist	Governor		06/01/08
Vacant (Since 6/01/04) Public Member	Speaker of the Assembly		06/01/07

Describe the Committees of the Board and their functions, providing organization chart;

Committees of the Board and Their Functions

As previously reported, the Board normally has two standing committees, Licensing and Practice Issues. The committees are usually comprised of the PTBC members. The Board has delegated to the committees the authority to make decisions on qualifications of applicants and to respond to complex scope of practice questions. Committee recommendations beyond the delegated authority of the two committees must be acted on by the full Board. However, in recent months the Board has conducted business without the use of the standing committees because of Board Member vacancies. Once the vacancies are filled, the Board will resume use of the standing committees. Additionally, on occasion, particular issues may require the use of ad-hoc committees and might include other licensees or consumer representatives. Ad-hoc

PTBC SUNSET REVIEW REPORT –September 1, 2005

committees develop recommendations on the issue assigned and bring those recommendations to the full Board for action. Exhibit A contains an organization chart which outlines the committees of the Board.

Include who the Board licenses, titles, regulates, etc. (Practice Acts vs. Title Acts);

Professions Licensed and Regulated by the Board

As permitted by the Physical Therapy Practice Act, the Board licenses, certifies, and regulates the following physical therapy professionals:

- Physical Therapist (P.T.) (license) as known as in title protected by statute,
 - Registered Physical Therapist (R.P.T.) (license)
 - Licensed Physical Therapist (L.P.T.) (license)
 - Physiotherapist (license)
 - Licensed Physical Therapist Technician (license)
 - Registered Physical Therapist Technician (license)
 - Physical Therapist Technician (license)
- Physical Therapist Electroneuromyographer (certified)
- Physical Therapist Kinesiological Electromyographer (certified)
- Physical Therapist Assistant (license)
- Physical Therapy Assistant (license)

The PTBC does not license Physical Therapy Aides, but does regulate what duties and functions may be performed under the supervision of the physical therapist.

Include any major changes to the Board since the last review (internal changes, strategic planning, regulatory changes or recent legislation, etc.);

Major Changes to the Board since Last Sunset Review

The most significant internal changes since the last sunset review were those identified in the PTBC's last legislative report. During the review process, the PTBC identified four (4) areas where it needed to increase its statutory authority for purposes of public protection. The areas were (1) include PTs and PTAs in the mandated reporting of civil law suits and peer review (commonly referred to as Section 805 reporting), (2) require PTs to document all treatment in a patient record, (3) require PTs to provide complete information to patients regarding their treatment and care, and (4) modify Business and Profession (B&P) Code Section 2660 to redefine specifying causes for discipline as unprofessional conduct, and include the PTA in those sections that limits the violation to only the PT, thereby preventing the PTBC from taking disciplinary action against a physical therapist assistant who violates the Act.

The PTBC was successful in obtaining all the statutory authority requested with the exception of being included in the peer review reporting. In addition, the PTBC requested and received statutory authority to perform its own probation monitoring, require licensees to disclose misdemeanors and criminal activity on their license renewal forms, issue probationary licenses, and institute picture licenses. During the past four years the PTBC has instituted its probation monitoring program, is requiring licensees to disclose misdemeanors and criminal activity on

PTBC SUNSET REVIEW REPORT –September 1, 2005

their renewal forms and is issuing probationary licenses. The PTBC is still in the development stages of instituting picture licenses.

During the last review the PTBC also requested it be legislatively mandated to provide publications to increase the awareness of the public and licensees to current laws and regulations defining the practice of physical therapy and current issues that affect the public's safety. In prior years, the PTBC had difficulty obtaining the resources to produce newsletters and publish a resource book containing current laws and regulations. The PTBC received the requested mandate and is publishing its newsletter on a biannual basis and finalizing an all encompassing resource book containing current laws and regulations of not only the Physical Therapy Act but also of related laws and regulations which affect the physical therapy practitioners. The PTBC also developed and implemented a new administrative procedure manual for use by its new board members.

Since the last sunset review, the PTBC has made a number of regulatory changes. The major changes are as follows:

- Made a significant revision to its *Disciplinary Guidelines*, CCR 1399.15, and renamed them *Model Guidelines for Imposing Discipline and Issuing Citations*.
- Established a requirement that reports prepared by an electromyographer after a study include information explaining the purpose of the report and that the report is not intended to be a diagnostic finding.
- Revised its administrative citation regulation, CCR 1399.26, to clarify language and to incorporate citations for infractions that the PTBC determined were less egregious and did not always require a disciplinary action to obtain compliance and protect the public. Additionally, in an effort to establish a time frame in which a citation need no longer be disclosed, the PTBC sought, and continues to seek, an amendment to its administrative citation regulation to specify citations will be retained and disclosed for five (5) years from the date of issuance rather than seven (7) years.
- Amended CCR 1398.26, *Application for Foreign Graduates*, and adopted CCR 1398.26.5, *Clinical Service Requirements for Foreign Educated Applicants*, to streamline the clinical service requirements for graduates of non-approved educational programs.
- Adopted regulation CCR 1399.16, *Issuance of Initial Probationary License*, to clarify the PTBC's statutory authority to issue initial probationary licenses, established delegated authority in the absence of the Executive Officer, and clarified the Board's Model Guidelines would be used as the basis for terms and conditions of an initial probationary license.
- Amended CCR 1398.38, *Criteria for Approval of Physical Therapy Facilities to Supervise the Clinical Service of Foreign Educated Applicants*, to incorporate by reference a national form to be used by physical therapy facilities supervising foreign educated applicants during their period of clinical service.
- Adopted CCR 1398.26.1, *Satisfactory Documentary Evidence of Equivalent Degree for Licensure as a Physical Therapist*, to clarify the intent of educational equivalency is, and was, the physical therapy educational requirements at the time of graduation. This regulation also incorporates by reference five (5) forms (PTBC 10/2003) covering the entry level education equivalency review guidelines for graduates for the periods spanning December 1, 1955 through current year and mandates the credential evaluation services to

PTBC SUNSET REVIEW REPORT –September 1, 2005

utilize the forms in determining the education requirements of graduates of non-approved physical therapist educational programs who are applying for California licensure.

Include any major studies conducted by the Board (provide copy of any documents or reports produced by or under the direction of the Board);

Major Studies Conducted by the Board

In FY 2002/03, the PTBC established an ad hoc committee for the purpose of studying the current physical therapy education statutes and regulations to ensure they continued to provide public protection without causing artificial barriers to applicants for licensure. An education change was being proposed, a new post-baccalaureate requirement, which warranted a review of the PTBC's current standards for physical therapists and physical therapist assistants and the education criteria for graduates of approved and non-approved programs. The committee was comprised of a board member, physical therapist practitioners and educators, a public representative and a member of the Task Force on Culturally and Linguistically Competent Physicians and Dentists. The committee was charged with determining if there were inconsistencies between current educational requirements and the Board's standards, how the new post-baccalaureate requirement would impact graduates of non-approved educational programs and what process needed to be developed to ensure these graduates maintained educational equivalency. The committee made recommendations to the Board. These recommendations are incorporated into the PTBC's proposed revision of its Physical Therapy Practice Act. The PTBC also revised its regulations to ensure continuing educational equivalency for those graduates of non-approved physical therapist educational programs by clarifying educational equivalency is based on the educational standards at the time of graduation. The PTBC developed Entry Level Education Equivalency Review (ELEER) Guidelines to assist the credential evaluation services in determining educational equivalency which are now being considered nationally.

The PTBC also conducted studies on the supervision of Physical Therapist Assistants and the use of physical therapy aides. A task force was appointed for both issues and public forums were held on the use of aides in Los Angeles, Oakland, Sacramento and San Diego. The PTBC has incorporated the findings of these studies in its proposed revision of the Physical Therapy Practice Act.

In its last report, the PTBC reported working with the Federation of State Boards of Physical Therapy (FSBPT) to develop new application procedures that could expedite the examination process and possibly eliminate the need for temporary licensure. This project has been dropped nationally. The PTBC is addressing this matter in its proposed revision of the Practice Act.

The findings of the various studies conducted throughout the prior three years indicated to the PTBC that its Practice Act needed to be rewritten to clarify the changes occurring in the physical therapy profession, educational trends, and the need to better define language for consumer protection. Consequently, the PTBC conducted a major study and proposed revision of its Practice Act during the past year. The proposed revision is presented in Part II, *New Issues Facing the PTBC*, of this report.

PTBC SUNSET REVIEW REPORT –September 1, 2005

Licensing data which includes information the Board provides regarding the licensee (i.e., education completed, awards, certificates, certification, specialty areas, etc).

Licensing Data

As of June 30, 2005, 19,391 physical therapists and 4,808 physical therapist assistants are licensed by the PTBC. Additionally twenty-six (26) physical therapists are certified as electroneuromyographers (ENMG) and thirty-four (34) are certified as kinesiological electromyographers (KEMG). Tables B, C and D below provide licensing and certification data for the past four years.

TABLE B - LICENSING DATA FOR PHYSICAL THERAPISTS

LICENSING DATA	FY 2001/02	FY 2002/03	FY 2003/04	FY 2004/05
Total Licensed	17,501	18,188	18,901	19,391
California	14,795	15,451	16,011	16,402
Out-of-State	2,574	2,603	2,760	2,875
Out-of Country	132	134	130	132
Applications Received	1,484	1,593	1,181	1,334
Applications Denied	2	0	1	0
Licenses Issued	1,079	1,066	1,063	949
Renewals Issued	7,069	8,404	8,868	9,107
Statement of Issues Filed	0	1	2	0
Statement of Issues Withdrawn	1	0	0	1
Licenses Denied	2	0	1	0
Calstars and DCA Primary Status Summary Reports – For licenses issued through 6-30-05 source is PTBC License Log				

**TABLE C – CERTIFICATION DATA FOR
PHYSICAL THERAPIST ELECTRONEUROMYOGRAPHERS (ENMG)
AND KINESIOLOGICAL ELECTROMYOGRAPHERS (KEMG)**

CERTIFICATION DATA	FY 2001/02	FY 2002/03	FY 2003/04	FY 2004/05
Total ENMG Certified	27	25	25	26
California	20	18	18	20
Out-of-State	7	7	7	6
Out-of Country	0	0	0	0
Certificates Issued	2	0	0	1
Renewals Issued	11	16	13	22
Total KEMG Certified	30	30	30	34
California	27	27	27	30
Out-of-State	3	3	3	4
Out-of Country	0	0	0	0
Certificates Issued	0	0	0	4
Renewals Issued	20	7	19	12
DCA Primary Status Summary Report				

PTBC SUNSET REVIEW REPORT –September 1, 2005

**TABLE D – LICENSING DATA FOR
PHYSICAL THERAPIST ASSISTANTS**

OTHER LICENSEES	FY 2001/02	FY 2002/03	FY 2003/04	FY 2004/05
Total Licensees (by type)	4,559	4,612	4,710	*4,808
California	4,134	4,181	4,174	*4,319
Out-of-State	417	423	448	*482
Out-of-Country	8	8	8	7
Applications Received	251	256	234	237
Applications Denied	0	1	1	0
Licenses Issued	233	167	191	**231
Renewals Issued	2,199	2,171	2,301	2,153
Statement of Issues Filed	0	1	2	2
Statement of Issues Withdrawn	1	0	0	0
Licenses Denied	0	1	1	0
<p>Note: Sources CALSTARS *ASP Report # 95, **PTBC License Log for licenses issued through 6-30-05</p>				

PTBC SUNSET REVIEW REPORT –September 1, 2005

BUDGET AND STAFF

Discuss which fees are main source of revenues, when renewal is required, date of last fee(s) adjustment, and if any plans to increase fees and for what reasons. List all fees.

Current Fee Schedule and Range

The PTBC’s main source of revenue comes from fees related to the application and licensing of physical therapists and physical therapist assistants and includes application fees, initial license fees, and biennial license renewal fees.

TABLE E – AUTHORIZED BOARD FEES

Fee Name	Source Code	Current Amount	Statutory Limit	Fee Ceiling Statutory Authority
Prior Yr Accrued Delinquent Fee	125800 4M	Various	½ of renewal fee	2688(g) B & P
Prior Yr Accrued Delinquent Fee	125800 4B	Various	½ of renewal fee	2688(g) B & P
Application Fee – PT	125700 5N	\$ 50.00	\$ 75.00	2688(a) B & P
Application Fee – PTA	125700 5P	\$ 50.00	\$ 75.00	2688(e) B & P
Application Fee – Foreign PT	125700 5Q	\$100.00	\$125.00	2688(a) B & P
Initial License PT	125700 5E	\$120.00	\$150.00	2688(c) B & P
Initial License PTA	125700 5F	\$120.00	\$150.00	2688(f) B & P
Exam Fee – PT	125700 16	\$380.00	Actual cost	2688(b) B & P
Re-Exam Fee – PT	125700 XQ	\$380.00	Actual cost	2688(b) B & P
Exam Fee – PTA	125700 17	\$365.00	Actual cost	2688(b) B & P
Re-Exam Fee – PTA	125700 Q9	\$365.00	Actual cost	2688(b) B & P
Exam Fee – PT - L & R	125700 KW	\$ 85.00	Actual cost	2688(b) B & P
Re-Exam Fee – PT - L & R	125700 KX	\$ 85.00	Actual cost	2688(b) B & P
Exam Fee – PTA - L & R	125700 KY	\$ 85.00	Actual cost	2688(b) B & P
Re-Exam Fee – PTA – L & R	125700 KZ	\$ 85.00	Actual cost	2688(b) B & P
Duplicate License/Certification	125600 4E	\$ 15.00	\$ 20.00	2688(h) B & P
Endorsement	125600 4D	\$ 30.00	\$ 30.00	2688(i) B & P
ENMG Application Fee	125700 4S	\$100.00	\$200.00	2689(a) B & P
ENMG Examination Fee	125700 4H	\$500.00	\$500.00	2689(b) B & P
KEMG Application Fee	125700 4T	\$100.00	\$200.00	2689(a) B & P
KEMG Examination Fee	125700 4R	\$500.00	\$500.00	2689(b) B & P
ENMG Renewal Fee	125800 4E	\$ 50.00	\$200.00	2689(a) B & P
ENMG Delinquent Fee	125900 4E	\$ 25.00	½ of renewal fee	2688(g) B & P
KEMG Renewal Fee	125800 4F	\$ 50.00	\$200.00	2689(a) B & P
KEMG Delinquent Fee	125900 4F	\$ 25.00	½ of renewal fee	2688(g) B & P
Biennial Renewal – PT	125800 4L	\$120.00	\$150.00	2688(d) B & P
Biennial Renewal – PTA	125800 4N	\$120.00	\$150.00	2688(f) B & P
Delinquent Fee – PT	125900 4D	\$ 60.00	½ of renewal fee	2688(g) B & P
Delinquent Fee – PTA	125900 4L	\$ 60.00	½ of renewal fee	2688(g) B & P

PTBC SUNSET REVIEW REPORT –September 1, 2005

Provide a brief overview of revenues and expenditures;

Revenue and Expenditure History

In summary, the PTBC’s revenues and expenditures as shown in Table F indicates an overall pattern of stability, although the revenues have been less than the expenditures for the last three (3) years. This can be attributed to candidates for licensure being able to pay fees directly to the examination contractor, and the utilization of additional temporary staff to accomplish the PTBC’s programs. A regulatory change to increase the renewal fees is anticipated to be effective with those licenses renewed effective January 2006. The increase in the renewal fees is anticipated to bring the revenues and expenditures back into balance.

TABLE F – COMPARISON OF REVENUES AND EXPENDITURES

REVENUES	ACTUAL				PROJECTED	
	FY 01/02	FY 02/03	FY 03/04	FY 04/05	FY 05/06	FY 06/07
Licensing Fees	847,320	363,492	347,021	252,892	264,950	263,650
Fine & Cost Recovery	51,535	52,568	59,048	58,776	45,000	45,000
Renewals	1,234,685	1,270,064	1,341,845	1,358,325	1,411,850	1,435,850
Interest	68,675	39,891	23,044	25,018	25,000	25,000
TOTALS	2,202,215	1,726,015	1,770,958	1,695,011	1,746,800	1,769,500
EXPENDITURES	ACTUAL				PROJECTED	
	FY 01/02	FY 02/03	FY 03/04	FY 04/05	FY 05/06	FY 06/07
Personnel Services	532,213	577,120	779,865	886,896	904,633	922,726
Operating Expenses	1,681,535	1,690,524	1,463,009	1,416,420	1,444,748	1,473,643
Reimbursements	99,706	100,077	127,762	95,126	97,029	98,970
(-) Distributed Costs						
TOTALS	2,114,042	2,167,567	2,115, 112	2,208,190	2,252,355	2,297,399

Note: Source: Actual – CALSTARS, Projected - Workload & Revenue Report

Discuss the amounts and percentages of expenditures made by program components;

Expenditures by Program Component

The Expenditure by Program Component information displayed in Table G indicates that the majority of the expenditures (fifty-nine percent [59%]) as expected for the enforcement program. This is consistent with consumer protection being the PTBC’s statutory charge, mission, and strategic plan.

PTBC SUNSET REVIEW REPORT –September 1, 2005

TABLE G – EXPENDITURES BY PROGRAM COMPONENT

EXPENDITURES BY PROGRAM COMPONENT	FY 01/02	FY 02/03	FY 03/04	FY 04/05	Average % Spent by Program
Enforcement	960,859	1,496,521	1,457,897	1,347,578	59%
Examination	973,703	322,301	364,915	439,154	24%
Licensing	222,520	303,415	371,434	419,226	15%
Administration					
Diversion	47,679	45,330	46,167	49,983	2%
TOTALS	2,204,761	2,167,567	2, 240,413	2,255,941	
Note: Based on CALSTARS Month 13 & Expenditure by Program Component Prepared by PTBC Staff					

Discuss reserve level, spending trends, and if a mandated statutory reserve level exists. Also whether deficit may occur and whether fee increase or reductions is appropriate. Compare revenues, expenditures, and reserves in the table below.

Fund Condition

The PTBC does not have a statutorily required reserve. The PTBC’s goal is to have no less than a one (1) month or more than a six (6) month reserve. The analysis of fund condition indicates the reserve level is declining and could be less than one (1) month by the end of fiscal year 2007-08. The nature of expenditures and revenues has been changing over the last several years, mostly attributable to the ability of examination candidates to pay fees directly to the PTBC’s examination contractor. Consequently, both revenues and expenditures have been variable. To reflect what the PTBC believes to be a predictable change in expenditures based on the examination program changes, a Budget Change Proposal requesting a net reduction of the budget in the amount of \$169,000, effective with fiscal year 2005-06, has been submitted. Included as Issue #10 of the New Issues Facing the PTBC section of this report is a discussion regarding the need to adjust the fees and ceilings to ensure continued financial stability.

TABLE H – COMPARISON OF REVENUES, EXPENDITURES AND RESERVES

ANALYSIS OF FUND CONDITION	FY 02/03	FY 03/04	FY 04/05 Budget year	FY 05/06 projected	FY 06/07 projected	FY 07/08 projected
Total Reserves, July 1st	1,747	1,402	1,106	596	357	255
Total Rev. & Transfers	1,823	1,760	1,698	2,285	2,472	2,554
Total Resources	3,570	3,206	2,804	2,881	2,829	2,809
Total Expenditures	2,168	2,116	2,208	2,524	2,574	2,626
Reserve, June 30th	1,402	1,090	596	357	255	183
MONTHS IN RESERVE	6.9	6.3	3.0	1.7	1.2	.8
Note: Source- CALSTARS & PTBC Budget						

LICENSURE REQUIREMENTS

Discuss education, experience and examination requirements for all licensure categories that the Board regulates;

Education, Experience and Examination Requirements

Educational Requirements:

Physical Therapist

Graduate of an Approved Professional Education Program: The educational requirements consist of didactic, clinical, and research experiences in physical therapy using critical thinking and weight of evidence and include eighteen (18) weeks of full-time clinical experience with a variety of patients. Currently the student attains a masters or doctorate of physical therapy degree. The PTBC is working with the physical therapy educational programs to encourage these programs to provide opportunities to correct educational deficiencies of the graduates of non-approved programs.

Graduates Of Non-Approved Education Programs Not Located In The United States: The education received must be determined to be equivalent to educational requirements from an approved program at the time of graduation. The education program must entitle the applicant to practice as a physical therapist in the country where the diploma was issued. In addition, after passing the National Physical Therapy Examination (NPTE), applicants must complete a period of clinical service, which does not exceed nine (9) months, under the direction and supervision of a licensed physical therapist.

Physical Therapist Electromyographer

The educational requirement for a physical therapist to become certified to perform electromyography is the completion of regular or extension course work pertinent to electromyography obtained in an approved or approved public university, state college, or private postsecondary education institution which academic credit is awarded or continuing education course work acceptable to the PTBC, or documentation of the completion of a period of self-study which prepares the applicant to pass either an examination for certification as a electroneuromyographer or a kinesiological electromyographer.

Physical Therapist Assistant

Graduate of an Approved Education Program: The educational requirement is completion of the academic course work and clinical experience required by the physical therapist assistant program to be awarded an associate degree. The curriculum consists of a combination of basic sciences, applied clinical sciences, and progressive application through clinical experience in the treatment of patients of varying ages, disabilities, and diseases and reflects education in skills and judgment required of a physical therapist assistant.

PTBC SUNSET REVIEW REPORT –September 1, 2005

Experience

There is not an experience requirement for physical therapist and physical therapist assistant applicants who are graduates of approved educational programs. Physical therapist assistant applicants may either graduate from an approved educational program or combine work experience with post-secondary level education. Work experience must be obtained under the orders, direction and immediate supervision of (1) a California physical therapist licensed by the PTBC, (2) a physical therapist employed by the United States Government, or (3) out-of-state licensed physical therapist who has qualifications equivalent to a physical therapist licensed by the PTBC for experience obtained in another state, and is to include the treatment of patients of both sexes, varying ages and disabilities.

Examination:

PT and PTA applicants are required to pass both the National Physical Therapy Examination (NPTE) and the California Law Examination. In 1997, the PTBC implemented computer based testing thereby permitting applicants for licensure to schedule both the NPTE and the California Law Examination at their convenience at least six days a week.

PT and PTA applicants are not required to retake the NPTE if they are approved, licensed or registered as either a PT or PTA, at the time of application, in another state, a district or territory of the United States. However, these applicants are required to successfully pass the California Law Examination before licensure or approval. They are required to provide educational and experience documentation.

PTs seeking certification to perform electromyography must pass a written examination developed by the PTBC.

Applicants may retake any of the examinations three (3) times in twelve (12) consecutive months.

What does the Board do to verify information provided by the applicant regarding education and experience? What proof is used to check prior criminal history information, prior disciplinary actions, or other unlawful acts of the applicant?

Verification of Applicant Information:

The PTBC verifies all information provided by applicants regarding their education, experience and criminal background.

Applicants who graduate from approved physical therapy educational programs must have the school verify their education on a form provided by the PTBC. The form must be signed and stamped with the school's seal. Graduates of foreign physical therapy programs must have their educational credentials evaluated by a credential evaluation service recognized by the PTBC. Original transcripts must be submitted directly from the college or university providing the education. Work experience and general education requirements are validated by staff, as are examination passage scores.

PTBC SUNSET REVIEW REPORT –September 1, 2005

Fingerprints are required in order for PTBC to obtain criminal history background reports from the California Department of Justice and the Federal Bureau of Investigation. Any applicant with a criminal conviction must submit copies of arrest reports and court records.

Discuss passage rates for all examinations, whether there is legitimate justification for all exams, whether exams have had an occupational analysis performed and been validated and when, and the date of the next scheduled occupational analysis for each exam.

Examination Passage Rates/Occupational Analysis:

The PTBC contracts with the Federation of State Boards of Physical Therapy (FSBPT) to conduct examinations. A criterion-referenced scoring standard developed by the Federation was adopted in November 1994. California uses a passing score of 600, and reports scores based on a scale of 200 to 800. The same pass-points are now used by all states. Consequently, an applicant for licensure from another state rarely has to retake a national examination.

The last occupational analysis conducted by the FSBPT was completed in the spring of 2002. The national examination (NPTE) was updated based on the occupational analysis.

Compare the exam passage rates for all candidates for both a national exam (if applicable) and/or a California state exam(s) if provided.

Examination Passage Rate Comparisons:

Applicants for licensure as a PT or PTA in California must successfully pass the appropriate NPTE. The passage rate of California candidates, in comparison with the national level, is illustrated in Table I below. In addition to the respective national examinations, California applicants for licensure must pass an examination in California law prior to licensure. Out-of state and foreign educated applicants are subject to the same examinations as California educated applicants.

Based on available NPTE information obtained from the FSBPT website, the overall average pass rate for physical therapists and physical therapist assistants during the past four years is 73%. During this period, the pass rate was 74% for physical therapists and 73% for physical therapist assistant candidates. In contrast, for the same period, the NPTE average pass rate of first-time US approved school graduates is 82% for physical therapists and 73% for physical therapist assistants. An average of 87% of physical therapists and physical therapist assistant candidates passed the California Law Examination during the past four years.

California's overall passage rate is lower because they are combined scores of graduates from approved educational programs and those from non-approved programs. For example, in 2001/02, 80% of California's applicants for licensure passed the NPTE. When the candidates were analyzed based on how they met the licensure qualifications, 90% of the graduates of approved educational programs passed the examination while only 35% of the graduates of non-approved programs achieved a passing score. In 2002/03, the passing percentages were, 68% for all California candidates, 76% graduates of approved programs and 19% for graduates of non-approved programs; in 2003/04, 72% for graduates of approved programs and 18% for graduates of non-approved programs. Again, in 2004/05, 64% of approved program graduates

PTBC SUNSET REVIEW REPORT –September 1, 2005

were successful while only 19% of the non-approved graduates passed. It should also be noted that the NPTE was updated in 2002/03 based on the federation’s occupational analysis and is most likely the reason California’s passage rate dropped in the following three years.

**TABLE I - CALIFORNIA AND NATIONAL EXAM
PASSAGE RATE COMPARISONS**

COMBINED NATIONAL PHYSICAL THERAPY EXAMINATION				
YEARS	NATION-WIDE		CALIFORNIA ONLY	
	TOTAL CANDIDATES	PASSAGE RATE	TOTAL CANDIDATES	PASSAGE RATE
2001/02	14,238	68%	2,906	80%
2002/03	14,167	69%	3,128	68%
2003/04	14,558	76%	3,177	64%
2004/05	15,208	81%	2,996	63%

Note: GNEP denotes graduates from non-approved educational programs. GAEP reflects those who are graduates of approved educational programs. Used data from the Federation of State Boards of Physical Therapy Pass/Fail Rates. Data includes physical therapists (PT) and physical therapist assistants (PTA).

COMBINED CALIFORNIA LAW EXAMINATION				
	2001/02	2002/03	2003/04	2004/05
CANDIDATES	1,582	1,568	1,490	1,353
PASS %	88%	87%	85%	86%

Note: Data calculated from individual score reports and includes PTs and PTAs.

Discuss any increase or decrease in average time to process applications, provide exam and issue license.

Average Time to Process Applications

The PTBC has not had the advantage of the DCA Applicant Tracking System to track application process time over the past four years. This system has been installed as of July 7, 2005. The system will provide the PTBC with accurate and complete statistic gathering capability. Therefore, in order to provide the JLCSR with an indication of the processing time for fiscal years 2001 through 2004, the PTBC, as it did in its prior report, randomly sampled approximately two and one-half percent (2.5%) of the applications from each of the past four years.

In most cases, graduates from physical therapy education programs first complete the lecture and laboratory portion of their education during the normal academic schedule and then complete the clinical experience portion. Consequently, actual graduation is not conducive to the completion of the official transcript that would normally be required for licensure. In order to expedite the licensure process, the PTBC developed, in cooperation with the educational programs, a process whereby the new graduate submits the application to the PTBC along with the required PTBC form signed by the Registrar indicating proof the applicant has completed the coursework and clinical portion of his or her education. In addition, applicants must first successfully pass both the NPTE and the California Law Examinations prior to being licensed and they have sixty days in which to schedule and take the exams.

PTBC SUNSET REVIEW REPORT –September 1, 2005

During the last four years, for those individuals who pass the examination on the first attempt, the average processing time from the receipt of the application to the issuance of a license is 480 days for a graduate from a non-approved program and 82.5 days for a graduate from an approved program. The average time to license from the completion of examination to issuance for an approved applicant is 35 days. Applicants from non-approved programs must perform an up to a nine month clinical internship before they may obtain a license which results in an average licensure time of 311 days.

By relying on available technology such as the implementation of on-line examination registration and streamlining the licensing process the PTBC staff continues to decrease the time it takes to process licenses, thereby providing quality service. During the period of FY 2003 through FY 2004, the PTBC also surveyed applicants for licensure, *Applicant Satisfaction Survey* (Exhibit B), to determine the effectiveness of service being provided to its applicants. The PTBC received 2,594 responses during this period, 2,412 positive comments and 182 negative comments. The PTBC reviewed the negative responses and made changes to the licensing process to address the negative comments.

Table J indicates the results of the random sample and is based on the date the application was completed to licensure.

TABLE J – APPLICATION TO LICENSURE PROCESS TIME

AVERAGE NUMBER OF DAYS TO RECEIVE LICENSE	FY 2001/02		FY 2002/03		FY 2003/04		FY 2004/05	
	GNAEP	GAEP	GNAEP	GAEP	GNAEP	GAEP	GNAEP	GAEP
Application to Examination	225	96	265	53	203	72	260	60
Examination to Issuance	358	66	402	36	286	16	200	24
All Sampled Applicants	373		378		288		272	
Sampled Applicants Who Were Graduates of Approved Educational Programs	163		89		88		84	
Sampled Applicants Who Passed Examination on the First Attempt	540	150	480	60	480	60	420	60
Note: GNAEP denotes graduates from non-approved educational programs. GAEP reflects those who are graduates of approved educational programs.								

PTBC SUNSET REVIEW REPORT –September 1, 2005

Discuss briefly: changes made by the Board since last review to assure competency. How does the Board verify CE or other competency requirements?

Continuing Education/Competency Requirements

The practice act does not require continuing education (CE) for the renewal of a license. The Federation of State Boards of Physical Therapy studied the issue of continued competency and released its findings. As a result of the study, the Federation has committed to the development of a national framework that state licensing boards may use to assess continuing competency of physical therapy practitioners. It is the position of the Federation that it is a regulatory board's responsibility, in meeting its mission of protecting the public, to develop standards and measures for assuring entry level and continuing competence to practice physical therapy, and to also require remediation for those who do not meet the established standards. Currently, thirty (30) states require completion of continuing education for license renewal. Nineteen (19) of those states require approval of the continuing education courses taken for renewal.

The Federation's findings and the PTBC's need for CE statutory authority is discussed further as a new issue in Part 2 of the report.

Discuss briefly: temporary licensing process, or any other methods used to facilitate licensing of those from other states or foreign countries. Any anticipated changes or changes made since last review?

Comity/Reciprocity with Other States

Temporary Licensing Process (Practice by Applicants Awaiting Licensure)

California recognizes the approval of physical therapy educational programs by the Commission on Accreditation of Physical Therapy Education (CAPTE) of the American Physical Therapy Association (APTA). In the past, CAPTE has approved programs in Canada, Ireland, Netherlands, and Scotland. Currently CAPTE is only approving programs located in the United States. Graduates of CAPTE approved physical therapy educational programs may perform physical therapy procedures while awaiting the results of their first attempt on the NPTE as Physical Therapist License Applicants (PTLAs) under the supervision of a California licensed physical therapist.

Graduates of CAPTE approved physical therapist assistant programs in the United States may perform physical therapy procedures while awaiting the results of the first attempt on the licensure examination as Physical Therapist Assistant Licensure Applicant (PTALA) under the supervision of a California licensed physical therapist.

Graduates of physical therapy and physical therapist assistant educational programs must pass both the NPTE examinations and the California Law Examination prior to obtaining licensure. First time failure of the NPTE examinations results in automatic termination of the licensure applicant status. However, failure of the California Law Examination does not affect licensure applicant status. It simply delays licensure.

PTBC SUNSET REVIEW REPORT –September 1, 2005

Individuals who are graduates of approved educational programs and have been licensed as physical therapists or physical therapist assistants in other states may also work as licensure applicants under the supervision of California licensed physical therapists while they await Board approval of their license. These individuals must also successfully pass the California Law Examination prior to becoming licensed. The PTBC has received complaints that the requirement for physical therapists that are licensed in other states to work under supervision unfairly delays, or prevents them from accepting jobs where another physical therapist is not present. Consequently, the PTBC has included the authority to issue temporary permits, similar to those issued by the Board of Registered Nursing, in the recommended statutory revisions that are presented in Part II, New Issues Facing the PTBC, of this report.

Individuals applying to become physical therapists who have graduated from non-approved programs outside of the United States must first pass the NPTE before they are eligible to perform physical therapy as physical therapist licensure applicants. Once they have pass the NPTE, they must complete a period of clinical service, not to exceed nine months, under the supervision of a California licensed physical therapist prior to being eligible for licensure unless they have been licensed in another state and practicing for at least nine months. These individuals must also successfully pass the California Law Examination prior to licensure.

PTBC SUNSET REVIEW REPORT –September 1, 2005

ENFORCEMENT ACTIVITY

TABLE K – ENFORCEMENT PROGRAM ACTIVITY

ENFORCEMENT DATA	FY 2001/02	FY 2002/03	FY 2003/04	FY 2004/05
Inquiries *				
Complaints Received (Source)	283	410	411	375
Public	119	101	113	97
Licensee/Professional Group	12	38	18	15
Governmental Agencies	143	254	252	221
Other	9	17	28	42
Complaints Filed (By Type)	283	410	411	375
Competence/Negligence	8	30	43	35
Unprofessional Conduct	39	62	65	45
Fraud	35	25	23	34
Health and Safety	0	1	0	0
Unlicensed Activity	94	94	99	101
Personal Conduct	107	198	181	160
Complaints Closed	252	279	533	340
Investigations Commenced	64	61	82	84
Compliance Actions **				
ISOs & TROs Issued	2	3	1	3
Citations and Fines	31	36	49	17
Public Letter of Reprimand	0	2	2	10
Cease & Desist/Warning	0	0	0	0
Referred for Diversion	1	1	2	6
Compel Examination	0	0	1	0
Referred for Criminal Action	9	5	6	9
Referred to AG's Office ***	53	42	58	55
Accusations Filed	14	24	26	33
Accusations Withdrawn	1	0	3	0
Accusations Dismissed	3	1	8	1
Stipulated Settlements	9	7	24	27
ALJ Decisions	5	7	5	5
Default Decisions	3	1	3	1
Other Decision	0	0	3	1
Disciplinary Actions				
Revocation	7	8	9	10
Voluntary Surrender	2	0	5	1
Suspension Only	1	2	0	1
Probation with Suspension	3	1	5	3
Probation	3	4	10	9
Probationary License Issued	1	0	3	1
Public Reproval	0	0	3	9
Probation Violations ****				
Suspension or Probation	0	0	0	0
Revocation or Surrender	0	0	0	0
Notes – Used ASP Reports				
*The PTBC does not track inquiries.				
**Numbers differ because this table does not include all categories				
***Total number of cases submitted to AG – Action not always taken in year referred.				
****Resolution of case is shown in year accusation filed, not necessarily in year decision occurred.				

PTBC SUNSET REVIEW REPORT –September 1, 2005

Discuss statistics in enforcement data. What is the source of most of the complaints? Are there some unique reporting requirements? For example, requiring local officials or organizations, or other professionals to report violations, or civil courts to report any judgments taken against the licensee. Any current problems with board's receiving relevant complaint information or obtaining information for investigation purposes? What are the largest number and type of complaints filed (incompetence, unprofessional conduct, etc.)? Explain which type of cases is being stipulated for settlement. Any significant changes since last review (increases or decreases)?

Enforcement Program Overview

The PTBC receives complaints from a variety of sources. Over the last four years, eighty-eight percent (88%) of the complaints received by the PTBC were filed by the public and insurance companies paying for care received by the public and governmental agencies with a consumer protection mandate.

The physical therapy profession filed the remaining twelve percent (12%) of the complaints. Although the PTBC has not tracked the actual percentage, many of the complaints filed by the profession were filed on behalf of patients who were concerned the treatment they received previously may have been inappropriate.

The PTBC does not have unique reporting requirements, and it has not experienced any problems obtaining information regarding its licensees from the following sources:

- The Department of Justice (DOJ) automatically reports licensee criminal activity pursuant to Penal Code Section 11105.2. DOJ not only notifies the PTBC of the identity of the convicted licensee, it also provides specific information concerning the conviction. DOJ also now notifies the PTBC of arrest and pending criminal matters.
- The Federation's National Data Bank provides notice regarding disciplinary actions taken against licensees in other states.
- The Department's Family Support unit works with the Department of Social Services to identify licensees who fail to comply with family support obligations.
- Settlements and arbitrations of \$3,000 or above (Business and Professions Code Section 800).
- Any state or federal agency that self insures a person who holds a license must report to the PTBC any settlement or arbitration award over \$3,000 (Business and Professions Code Section 801.1).

The PTBC does not have statutory authority to require reports from health plans or health care facilities. Licensees are not required to report unprofessional conduct or other violations of the Physical Therapy Practice Act committed by their peers to the PTBC. Hospitals, where many PTs and PTAs practice, measured competency through documentation of patient care and peer utilization review boards. However, when the PTBC attempted to add physical therapists to

PTBC SUNSET REVIEW REPORT –September 1, 2005

Section 805 of the Business and Professions Code in order to require hospitals to make reports to the PTBC, it was opposed by hospitals and deleted from the legislative proposal.

The most common complaints filed are unprofessional conduct, fraud, aiding and abetting of unlicensed activity, improper supervision of physical therapist assistants and physical therapy aides, and personal conduct.

Personal conduct cases include criminal convictions, discipline by other states, sexual misconduct, and substance (alcohol and/or drug related) complaints. During the past four fiscal years, forty-four percent (44%) of the complaints involved personal conduct.

Sexual misconduct cases take priority and are submitted to the department's Division of Investigation (DOI) with a request to expedite the investigation. Discipline taken from other State Boards and criminal history are usually handled in-house by the PTBC Consumer Protection Services' Analyst and then forwarded to the Office of the Attorney General (AG) for filing if warranted.

Unlicensed activity and aiding and abetting are two separate violations; however, are tracked under the same category of "Unlicensed Activity". In the last four fiscal years, twenty-six percent (26%) continues to be the percentage of complaints filed for unlicensed activity. Unlicensed activity includes practice by persons who have never been licensed to practice physical therapy in California. Cases filed with DOI for unlicensed activity consist of individuals altering a license and/or providing potential employers with a false license number. It also includes a licensee allowing a license to expire into delinquent status and providing services with a delinquent license. It could also involve unlicensed physical therapy aides performing patient-related tasks in an unsupervised capacity or physical therapist assistants practicing without the proper supervision. Complaints alleging unlicensed activity are forwarded to DOI for investigation.

The type of complaint that is filed against the licensee has no bearing on whether the resulting disciplinary case is stipulated for settlement. Pre-hearing settlement conferences before an Administrative Law Judge (ALJ) have proven to be successful and continue to be required as part of the Administrative Procedures Act (APA). The cost of prosecuting a case during an administrative hearing and the uncertain outcome of prosecuted cases causes the pre-hearing settlements to become an attractive option for the PTBC and its accused licensees. In its goal to achieve reasonable pre-hearing settlement terms in disciplinary cases, the PTBC seeks to achieve the outcome that would have been reached had the case been considered by an ALJ.

The PTBC is continuing to provide training courses for both its subject matter experts (SME) and investigators with the DOI. As previously reported, the training course for the investigators is a comprehensive two-day course developed in cooperation with DOI. The training for the SMEs is one day in length. The training sessions are intended to train DOI investigators and the PTBC's current SMEs and to become a recruitment tool for additional SMEs. The PTBC intends to continue offering the training to SMEs every two (2) years for recruitment and orientation purposes. The PTBC anticipates the training will increase the efficiency and effectiveness of both the investigators and SMEs and result in better presentations of cases at the administrative hearings. Additionally, the Executive Officer now participates in the settlement conferences to facilitate the settlement process.

PTBC SUNSET REVIEW REPORT –September 1, 2005

Discuss what percentages of complaints are referred for investigation, then to accusation, and end up having some disciplinary action taken. What overall statistics show as to increases or decreases in disciplinary action since last review.

Complaint Disposition Percentages

During the past four years, there has not been a significant change in the number of cases forwarded to DOI largely due to the PTBC initiating more in-house steps in case review such as issuing initial probationary licenses, increasing its citation authority, revising its Disciplinary Guidelines, and instituting in-house probation monitoring and expert consultant review. The PTBC is now forwarding only its urgent public harm cases to DOI. Thirty-three percent (33%) of the cases forwarded to DOI resulted in accusations being filed by the Attorney General’s office and sixty-seven percent (67%) of the accusations filed resulted in disciplinary action. Table L illustrates the overall disposition of number and percentage of PTBC complaints and includes a line showing the number of hours per year DOI has spent on PTBC investigations.

TABLE L – COMPLAINT DISPOSITION

NUMBER AND PERCENTAGE OF COMPLAINTS DISMISSED, REFERRED FOR INVESTIGATION, TO ACCUSATION AND FOR DISCIPLINARY ACTION				
	FY 2001/02	FY 2002/03	FY 2003/04	FY 2004/05
Complaints Received	283	410	411	375
Complaints Closed	252	279	533	340
Referred for Investigation	64	61	82	84
DOI Hours Per Year	3,062	3,107.5	2,673.5	2,381.25
Accusation Filed	14	24	26	33
Disciplinary Action	17	12	18	18
Note: Used DCA ASP Report				

Discuss time frames for processing complaints, investigation of cases, from completed investigation to formal charges being filed, and from filing of the accusation to final disposition of the case. Discuss if any changes from last review.

Case Aging Data

As reported in the previous sunset review, the PTBC sets limits on the number of hours DOI may spend on any investigation. Generally, the limit is in the range of eight to twenty hours and is based on the PTBC’s knowledge of the tasks required and any travel time involved. Additional hours may be approved after a case is initiated, but only after discussions between DOI and the PTBC’s enforcement analyst and/or the executive officer. The time frames to process a typical board case are as follows:

- Complaint received, assessed and assigned 10 days
- Case investigated and report prepared 1 – 14 months
- Administrative Review, hearing, decision and processing 1 – 12 months

The time from the receipt of a complaint by an AG referral is typically nine to fourteen months.

TABLE M – AVERAGE TIME TO PROCESS BOARD CASES

AVERAGE DAYS TO PROCESS COMPLAINTS, INVESTIGATE AND PROSCUTE CASES				
	FY 2001/02	FY 2002/03	FY 2003/04	FY 2004/05
Complaint Processing	141	157	178	159
Investigations	356	349	495	526
Pre-Accusations*	261	188	445	365
Post-Accusations**	265	220	276	185
TOTAL AVERAGE DAYS***	947	709	917	835

Note: Used DCA Reports #B99, D57 and D70
 * From completed investigation to formal charges being filed.
 ** From formal charges filed to conclusion of disciplinary case.
 *** From date complaint received to date of final disposition of disciplinary case.

Discuss time frames for closing of investigations and AG cases over past four years, and average percentage of cases taking over 2 to 4+ years, and decreases or increases in the percentage of cases being closed each year. Discuss any changes from last review.

Time Frames

As previously reported, the majority of cases forwarded to DOI are taking two years to be investigated and adjudicated. Delays are often within DOI and the AG, and therefore, outside of the control of the PTBC. Delays can be caused by the complexity of the case, staffing issues or, in the case of the AG’s office and the Office of Administrative Hearings (OAH), caseload and scheduling. The PTBC makes a conscious effort to establish timelines consistent with its Strategic Plan for those agencies it is dependent upon to carry out its mandate of consumer protection. However, these agencies must prioritize cases from other boards as well as those from the PTBC. This has resulted in delays in cases that are not consistent with the PTBC’s Strategic Plan but the PTBC is encouraged with the recent changes within DOI and believes investigation time frames will improve during the upcoming years.

PTBC SUNSET REVIEW REPORT –September 1, 2005

TABLE N – TIME FRAMES FOR CLOSING INVESTIGATIONS

INVESTIGATIONS CLOSED WITHIN:	FY 2001/02	FY 2002/03	FY 2003/04	FY 2004/05	AVERAGE % CASES CLOSED
90 Days	10	9	3	8	11%
180 Days	2	8	2	2	1%
1 Year	17	15	25	15	26%
2 Years	26	21	34	17	35%
3 Years	7	8	13	10	14%
Over 3 Years	2	5	15	11	12%
Total Cases Closed	62	64	90	63	
Note: Used DCA Report					
AG CASES CLOSED WITHIN:	FY 2001/02	FY 2002/03	FY 2003/04	FY 2004/05	AVERAGE % CASES CLOSED
1 Year	14	12	25	29	47%
2 Years	9	8	23	12	30%
3 Years	5	2	14	5	15%
4 Years	0	2	5	3	5%
Over 4 Years	2	0	1	1	2%
Total Cases Closed	30	24	68	50	
Note: Used DCA Report					
Disciplinary Cases Pending	68	73	54	50	

Discuss the extent to which the board has used cite and fine authority. Discuss any changes from last review and last time regulations were updated

Cite and Fine Program

As previously reported, the PTBC has an administrative citation program which authorizes it to issue citations to physical therapists, physical therapist assistants and unlicensed persons. Currently, fines range from \$100 to \$2,500 per investigation. The specific fine per violation is set by the executive officer. Fines are capped to prevent multiple violations from exceeding a dollar threshold.

The PTBC uses its citation authority only where appropriate. Originally PTBC determined it would issue citations only after a full investigation by DOI and only for those violations that were less egregious and not necessarily appropriate for discipline. During the past four years, the PTBC has had to implement other measures to investigate cases because DOI has had limited resources for investigating cases other than those that present an immediate threat to the public. Consequently, the numbers of citations issued during this period have declined. Additionally, in the past year, the PTBC has, based on the type of cases presented, used other means than citations. For example, the use of the public letter of reproof has increased as has the number of accusations and settlements. The PTBC continues to review its cases and update its citation authority as warranted.

PTBC SUNSET REVIEW REPORT –September 1, 2005

As previously reported, one of the PTBC’s licensees requested a hearing before an ALJ even though he was not protesting the specific violation, but because there was no set time frame for how long a citation remains public. While the citation was upheld, the PTBC agreed that there should be a specific time period for a citation to be part of the public record. The PTBC established in regulation a time period of seven (7) years that a citation would remain public. Many licensees have expressed concern to the PTBC that they consider seven years to be longer than should be required for a violation that was considered to be minor enough to not warrant discipline. Consequently, the PTBC is in the process of revising the regulation to specify that a citation shall be public for five (5) years from the date of issuance.

TABLE O – CITE AND FINE PROGRAM STATISTICS

CITATIONS AND FINES	FY 2001/02	FY 2002/03	FY 2003/04	FY 2004/05
Total Citations	31	36	49	17
Total Citations With Fines	31	36	47	14
Amount Assessed	\$30,000	\$30,400	\$48,330	\$7,420
Reduced, Withdrawn, Dismissed	22	25	26	1
AMOUNT COLLECTED	\$19,550	\$11,550	\$25,910	\$7,320
Note : Data Source-CAS				

Discuss the board’s diversion program, the extent to which it is used, the outcomes of those who participate, the overall costs of the program compared with its successes.

Diversion Program

As previously reported, the PTBC is authorized to administer a diversion program. The PTBC does not provide rehabilitative services. It only provides assistance in obtaining such services and in monitoring licensees who are in such programs to ensure they do not present a threat to the public.

The PTBC continues to contract with a private provider, Maximus, Inc., to provide confidential intervention, assessment, referral, and monitoring services for the rehabilitation of physical therapists and physical therapist assistants who are impaired due to dependency on alcohol or other chemical substances.

Since the last sunset review, the PTBC has increased its outreach program by advertising in its newsletter and other professional documents, and by partnering with state and national physical therapy associations to bring about awareness of the program at their many conferences and through announcements in their newsletters. During fiscal years 2003/04 and 2004/05, program participation more than doubled, indicating the outreach program is effective. The PTBC anticipates this trend will continue.

TABLE P – DIVERSION PROGRAM STATISTICS

PROGRAM STATISTICS	FY 2001/02	FY 2002/03	FY 2003/04	FY 2004/05
Total Program Cost	\$11,299	\$21,669	\$24,600	\$19,482
Total Participants	5	5	13	11
Successful Completions	1	0	1	0
Unsuccessful Completions	0	1	2	1

PTBC SUNSET REVIEW REPORT –September 1, 2005

Discuss the results of the Survey.

Results of Complainant Satisfaction Survey

The PTBC sent surveys to every consumer who filed a complaint with the board during the past four years, totaling 235. The PTBC did not send surveys to institutions and sister agencies because the PTBC felt the consumer's personal involvement perspective was more critical.

Twenty (20) surveys were returned undelivered. Ninety-two (92) responses were received, representing forty percent (40%) of those reaching the consumer. The number of responses received for each year is indicated in Table Q – Consumer Satisfaction Survey under the calendar year. During the past four (4) years surveys were received with some of the questions not answered. The percentages for these years are based on the actual number of consumers responding to each specific question.

The results of the survey indicate the PTBC is steadily improving its consumer services. Even though the PTBC continues to receive negative comments on some of the surveys, many of the comments reflect dissatisfaction with issues beyond the authority of the PTBC and misunderstandings as to why complaints did not constitute violations of the Practice Act.

To improve its consumer services the PTBC has taken the following steps during the past four years:

- Developed another more comprehensive case closure letter explaining the Practice Act and the types of complaints the board may address,
- Hired an in-house probation monitor who has been able to decrease the number of licensee violations,
- Recently hired an in-house expert consultant to improve the timeliness of complaint review,
- Continues to include relevant PTBC brochures and the consumer satisfaction survey with each closure letter and has included the brochure information on the website,
- Works with the complainants to identify their expectations of the outcome of their complaints – monetary or discipline,
- Is beginning to mediate resolution of monetary, access to patient records, and other appropriate complaints within the PTBC's authority.

TABLE Q – CONSUMER SATISFACTION SURVEY

CONSUMER SATISFACTION SURVEY RESULTS				
QUESTIONS	Percent Satisfied by Calendar Year			
No. Surveys Mailed: 235	2001	2002	2003	2004
No. Surveys Returned: 92				
No. Surveys Returned Undelivered: 20				
1. Were you satisfied with knowing where to file a complaint and whom to contact?	25%	73% 2 unanswered	83%	89%
2. When you initially contacted the board, were you satisfied with the way you were treated and how your complaint was handled?	50%	73% 3 unanswered	68%	75%
3. Were you satisfied with the information and advice you received on the handling of your complaint and any further action the board would take?	0% 1 unanswered	50% 2 unanswered	58%	58%
4. Were you satisfied with the way the board kept you informed about the status of your complaint?	0%	36% 5 unanswered	37%	44%
5. Were you satisfied with the time it took to process your complaint and to investigate, settle, or prosecute your case?	0%	40% 3 unanswered	34%	41% 1 unanswered
6. Were you satisfied with the final outcome of your case?	0%	30% 6 unanswered	27% 1 unanswered	37% 1 unanswered
7. Were you satisfied with the overall service provided by the board?	0%	46% 3 unanswered	41%	48%
5-point grading scale (i.e. 5,4,3, = satisfied to 1,2 = dissatisfied)				

ENFORCEMENT EXPENDITURES AND COST RECOVERY

Discuss the average costs incurred by the board for the investigation and prosecution of cases, and which type of cases average more than others. Explain if the board is having any difficulty in budgeting for Prosecution and Hearing costs, and whether cases may have been delayed because of cost overruns.

Average Costs for Disciplinary Cases

The PTBC is limited in its ability to closely track the costs of disciplinary cases due to delays in receiving expenditure reports from DOI and the AG. Some cases have also been delayed at the AG’s toward the end of fiscal years due to budgetary constraints. The previous sunset review committee recommended the PTBC seek the assistance of DCA, AG and OAH to explore the same funding mechanism as utilized for DCA DOI (roll forward). Unfortunately, in the

PTBC SUNSET REVIEW REPORT –September 1, 2005

absence of a Legislative mandate, the PTBC has not been able to generate any interest in alternative funding mechanisms. Consequently, the PTBC, in Part 2 of this report (New Issue #3), is seeking the assistance of the JLSRC to establish a funding program for AG and OAH costs utilizing the methodology currently used by the DOI.

Table R includes the actual expenditures for each fiscal year, however the average costs per case is based on the number of cases which were investigated or prosecuted regardless of whether the case was completed. Therefore, the average costs should be considered only an estimate.

TABLE R – CASE INVESTIGATION AND PROSECUTION COSTS

AVERAGE COST PER CASE INVESTIGATED	FY 2001/02	FY 2002/03	FY 2003/04	FY 2004/05
Cost of Investigation & Experts	\$436,351	\$460,360	\$445,729	\$359,258
Number of Cases Investigated	155	154	170	165
Average Cost Per Case	\$2,815	\$2,989	\$2,622	\$2,177
Number of Cases Closed	62	64	90	63
AVERAGE COST PER CASE REFERRED TO AG	FY 2001/02	FY 2002/03	FY 2003/04	FY 2004/05
Cost of Prosecution & Hearing	\$211,309	\$275,177	\$217,410	\$270,595
Average Cost Per Case	\$3,987	\$6,552	\$3,748	\$4,920
Number of Cases Referred	53	42	58	55
AVERAGE COST PER DISCIPLINARY CASE	\$6,802	\$9,541	\$6,370	\$7,097
Note: The number of cases “Referred to AG’s” will not reflect the number of cases actually filed. Investigative Costs for fiscal years 01/02, 02/03, and 03/04 are based on actual investigative costs, 04/05 is based on roll forward.				

Discuss the board’s efforts in obtaining cost recovery. Discuss any changes from the last review.

Cost Recovery Effort

As previously reported, the PTBC is authorized to request its licensees, who are disciplined through the administrative process, to reimburse the PTBC for its costs of investigating and prosecuting the cases. The PTBC’s request is made to the ALJ who presides over the hearing. The ALJ may award full or partial cost recovery or decline the PTBC’s request for recovery. The ALJ and the PTBC must consider the licensee’s ability to pay since the PTBC has limited resources to collect ordered cost recovery when a license is revoked or the licensee chooses to change professions or leave California. The PTBC is now reducing the cost recovered if the amount is paid within a certain period of time. If it is not received during that period, the total cost is due. This incentive generally motivates the licensee to remit the reduced amount, thereby resulting in greater recovery.

PTBC SUNSET REVIEW REPORT –September 1, 2005

TABLE S – COST RECOVERY EFFORTS

COST RECOVERY DATA	FY 2001/02	FY 2002/03	FY 2003/04	FY 2004/05
Total Enforcement Expenditures	\$960,859	\$1,496,521	\$1,457,897	\$1,347,578
#Potential Cases for Recovery*	14	24	26	33
#Cases Recovery Ordered	9	7	12	12
Amount Cost Recovery Ordered	\$28,227	\$24,818	\$37,875	\$56,783
Amount Collected	\$33,935*	\$20,788*	\$33,498*	\$40,992**

Note: Potential Cases for Recovery are those cases in which disciplinary action has been taken based on a violation, or violations, of the Practice Act.
 *Amounts from CALSTARS include carryovers from cost recovery ordered in prior fiscal years.
 **Amount for FY 2004/05 taken from check logs for FY 2004/05.

RESTITUTION PROVIDED TO CONSUMER

Discuss the board’s efforts in obtaining restitution for the individual complainant, and whether they have any formal restitution program and the types of restitution that the board attempts to collect, i.e., monetary, services, etc. Discuss any changes from last review.

The PTBC does not have statutory authority to mandate restitution to the consumer. However, Business and Professions Code 465(d) provides limited authority for the Board to encourage alternative dispute resolution techniques. Consequently, the PTBC is attempting to determine, as part of the initial complaint review, if the complaint is of a monetary or other nature where dispute resolution may be appropriate. This process is in the development stage, and as yet, only a few complaints have been identified as meeting the criteria. The PTBC is confident this program will result in physical therapists making voluntary restitution without the need for the PTBC to seek statutory authority.

COMPLAINT DISCLOSURE POLICY

Briefly describe the board’s complaint disclosure policy. At what point in the disciplinary process is information made available to the public concerning the licensee and what type of information is made available? Does the Board have problems obtaining particular types of information?

As previously reported, the PTBC follows the same complaint disclosure policy as does the DCA and other health care boards. Disciplinary information is disclosed to the public once formal action has been filed; an Accusation, Statement of Issues, Interim Suspension Order or Temporary Restraining Order, has been filed, or a Letter of Reprimand has been issued. Citations and Fines are made public once they have been issued. Complaints that are in the review and investigative stages are not available to the public.

PTBC SUNSET REVIEW REPORT –September 1, 2005

Although prior disciplinary action remains on the licensure record indefinitely, PTBC is proposing a regulation that would reduce the public retention period for Cite and Fine information from the licensing file from seven (7) to five (5) years.

In an effort to alert and protect physical therapy consumers, the PTBC issues news releases regarding violations of the Physical Therapy Practice Act once disciplinary actions are final and, in some cases, after an accusation has been filed. The PTBC publishes a listing of disciplinary actions taken in its newsletter which has raised community awareness of disciplinary actions taken by the PTBC. The PTBC continues to publish a monthly listing of disciplinary actions in the Medical Board of California’s monthly Hot Sheet. The PTBC provides disciplinary information to the Federation’s National Database for Physical Therapists and Physical Therapist Assistants and to the National Practitioners’ Database. The PTBC also notifies other states of any disciplinary actions taken against licensees if the PTBC is aware that these individuals are licensed or applying for licensure in other states. The PTBC also posts all disciplinary actions taken on its website. The accusation, statement of issues and order for all new actions are available on the website and past documents are being included on the website as resources allow.

TABLE T – COMPLAINT DISCLOSURE POLICY

TYPE OF INFORMATION PROVIDED	YES	NO
Complaint Filed		✓
Citation	✓	
Fine	✓	
Letter of Reprimand	✓	
Pending Investigation		✓
Investigation Completed		✓
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		
Misdemeanor		

**CONSUMER OUTREACH,
EDUCATION AND USE OF THE INTERNET**

Discuss what methods are used by the Board to provide consumer outreach and education.

The PTBC provides consumer outreach and education through various means. Disciplinary actions taken are published on a monthly basis in the Medical Board's Hot Sheet as well as biannually in the PTBC's newsletter. As previously reported, the PTBC developed four brochures addressing consumer concerns and continue to provide them to the consumer (*How Complaints Are Handled, The Physical Therapy Laws and Regulations as They Relate to Patient Records, Services Available to the Consumer from the PTBC, and Physical Therapy Never Includes Sex*). The PTBC also provides each complainant with a copy of the Consumer Satisfaction Survey in an effort to ascertain how better to provide complaint services to the consumer. Additionally, the PTBC has published four newsletters that have been mailed to all active and delinquent licensees, physical therapy practices, and consumers on the PTBC's mailing list. The PTBC has published a newsletter biannually since 2003.

Discuss whether the Board offers online information to consumers about the activities of the Board, where and how to file complaints, and information about licensees, or believes it is feasible/appropriate to do so.

The PTBC offers a number of online services to the consumer as well as to its clients. Consumers can access information about the PTBC, its laws and regulations governing physical therapy, board meeting schedules and agendas, e-mail links, newsletters, the information contained in the four above mentioned brochures and they can obtain complaint forms. In fact, the PTBC installed a second website link in response to reports that some consumers were confused by the existing address. Currently, the PTBC website can be accessed by either address - ptb.ca.gov or ptbc.ca.gov.

Discuss whether the Board conducts online business with consumers/licensees, or believes it is feasible/appropriate to do so.

As previously reported, other than providing information, the PTBC is not yet conducting online business with consumers and licensees. However, the PTBC believes conducting online business can expedite processes and minimize costs to both the consumer and the licensee. Conducting PTBC online business would be feasible in a number of ways, including consumers filing complaints, applicants filing applications, and licensees renewing licenses and certificates. The PTBC is most anxious to become a part of the online services available through DCA.

Discuss whether the Board offers online license information and applications (initial and renewal licenses, address changes, etc.), or believes it is feasible/appropriate to do so.

The PTBC has implemented online licensure verification and made the licensure application, complaint, name and address and other forms available on its website. As previously reported, the PTBC believes it is feasible to file these forms online, however, issues related to ensuring

PTBC SUNSET REVIEW REPORT –September 1, 2005

authenticity of the documents still need to be resolved. The PTBC will continue to pursue online filing.

Discuss whether the board offers online testing/examination services for both initial and renewal licenses, or believes it is feasible/appropriate to do so.

As previously reported, the examination and renewal is currently not online. Although both the California Law Examination and the NPTE are available nation-wide at least six days per week, examination security concerns prevent the PTBC from offering the examinations online.

What streamlining of administrative functions would be necessary if the above services and information was provided via the Internet?

The PTBC is committed to enhancing the services to consumers and licensees by use of the Internet. The projects to enable online application, online renewal and adding information to the PTBC's home page require the assistance and approval of DCA. The establishment of Legislative mandates may be of assistance in enabling the PTBC to improve services to consumers and its licensees.

Please describe if there are other ways use of the Internet by the Board could improve services to consumers/licensees.

The PTBC is committed to enhancing the services to consumers and licensees by use of the Internet. The projects to enable online application, online renewal and adding information to the PTBC's home page will stretch the Board's current budgetary authority. When these projects are accomplished, or additional resources are obtained, the PTBC will continue to explore other enhancements such as developing electronic communications with licensees. .

Discuss what types of practices are increasingly occurring outside California's traditional "marketplaces" that fall under the jurisdiction of your Board.

As the PTBC reported during its last sunset review, many physical therapists are making physical therapy instructions available to their patients on the Internet and the PTBC would have no jurisdiction outside California should consumers experience harm by following the instructions of physical therapists in another states. Although the PTBC foresaw several problems with this practice, nothing of significance has occurred in the past four years.

Discuss what type of challenges the Board faces with respect to online advice "practice without presence", privacy, targeted marketing, and other issues.

As previously reported, unlicensed individuals may attempt to practice illegally using the anonymous nature of the Internet to evade action by the Board. Further, the use of tele-medical instructions may be used as a general advertisement resource for the solicitation of patients. Again, the PTBC would have no jurisdiction should such advertisements violate California's advertising laws. The PTBC has addressed the need for the Practice Act to clarify the legality of providing consultative services and proposed statutory changes are presented in Part II, New Issues Facing the PTBC, of this report.

PTBC SUNSET REVIEW REPORT –September 1, 2005

Discuss whether the board has any plans to regulate Internet business practices or believes there is a need to do so.

As previously reported, the PTBC has minimal authority to regulate services offered or provided on the Internet. To the extent that Internet business is conducted between California physical therapists and California consumers the PTBC would investigate complaints.

PART 2

PHYSICAL THERAPY BOARD OF CALIFORNIA

BOARD'S RESPONSE TO ISSUES IDENTIFIED AND FORMER RECOMMENDATIONS MADE BY THE JOINT LEGISLATIVE SUNSET REVIEW COMMITTEE

Provide some background information concerning the issue as it pertains to the Board; short discussion of recommendation if made by the Joint Committee during its last review of the Board; what action the Board took pursuant to the recommendation or findings made by the Joint Committee; any recommendation(s) the Board would have for still dealing with the issue; and if new issue not previously addressed Joint Committee, provide short discussion of issue, recommendation or action which could be taken by the Board, Joint Committee, Department of Consumer Affairs, or Legislature to deal with the issue.

PRIOR ISSUES

The Joint Legislative Sunset Review Committee (JLSRC) identified 12 issues in the PTBC's last sunset review in its final findings and recommendations. The following is a brief background of each issue, the JLSRC's recommendation, the PTBC's actions and, if relevant, the PTBC's recommendation for still dealing with the issue.

ISSUE #1: *Should the licensing and regulation of physical therapists be continued by the PTBC?*

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

The PTBC recommends licensure of physical therapists and physical therapist assistants continue.

ISSUE #2: *Should the Board’s public protection authority be enhanced?*

The Committee recommended the Board’s public protection authority be enhanced by the clarification and/or inclusion of physical therapists in specific statutes as follows:

- Physical therapists should be included in Business and Professions Code Section 800 reporting requirements, requiring that civil settlements and actions taken by peer review bodies be reported to the appropriate licensing boards. The Department supported including physical therapists in this reporting requirement.
- Require physical therapists to document patient evaluation, goals, treatment plan and treatment summary in the patient’s record and to legibly sign the patient record.
- Include physical therapists in Health and Safety Code Section 123105 which specifies health care professionals must provide patient record access to patients.

The recommended public protection authority was implemented through statutory revision.

ISSUE #3: *Should the Board require continuing education of physical therapists and physical therapist assistants as a condition of license renewal?*

The Department and Committee did not support the PTBC’s proposal to require continuing education as a condition for licensure renewal. The Department and Committee recommended the PTBC demonstrate a deficiency within the profession or changes in the profession that can be addressed through specified continuing education prior to adopting such a requirement.

The Federation of State Boards of Physical Therapy has completed a study (Exhibit D) regarding the need for physical therapists to demonstrate continued competency in order to ensure the public receives not only competent, but safe care from physical therapists. This issue is discussed further in the New Issues Facing the PTBC, Issue #5, of this report.

ISSUE #4: *Should the Board eliminate the licensure of physical therapist assistants based on equivalent education and experience?*

The Committee recommended the PTBC continue to provide licensure for physical therapist assistants (PTAs) who do not graduate from an approved two-year PTA program but can establish they have equivalent education and experience. The Committee recommended this option remain due to the belief that it provides an important pathway into the profession for many nontraditional licensees including International Medical graduates (IMGs) and those who find pursuit of a two-year program cost prohibitive.

The Committee was rightfully concerned that a pathway might be closed to individuals with the qualifications to provide physical therapy services to the public. Unfortunately, the individuals that raised the concern with the Committee did not appear to fully understand the issue. The statutory authority the PTBC was seeking to eliminate did not provide an option for licensure

PTBC SUNSET REVIEW REPORT –September 1, 2005

for IMGs. The pathway requires a minimum of three (3) years of full time experience performing physical therapy procedures under the supervision of a physical therapist. Very few people now qualify to apply under this pathway, and very few of those who do are able to pass the examination.

The PTBC has worked diligently to document the educational requirements a foreign educated physical therapist must have to seek licensure in California. The recent enactment of regulations that clearly define the educational requirements, based on year of graduation, are the first clear statements provided by any state. The PTBC is also one of the few states that will allow foreign educated physical therapists to seek licensure as a physical therapist assistant if they do not meet the requirements for licensure as a physical therapist. The provision to do so is under separate authority from this equivalent education statute. Consequently, the PTBC is once again including the request to eliminate this pathway as Issue #2 under New Issues Facing the PTBC.

ISSUE #5: *Should the Board implement, as a pilot program, a system whereby the Attorney General and the Office of Administrative Hearings costs for physical therapy license-related cases are “rolled forward” (as are the costs for investigations performed for the Board by the Division of Investigation of the Department of Consumer Affairs?)*

Although the Committee commended the PTBC for thinking creatively, the Department did not support the establishment of a “roll forward” funding mechanism pilot project for payment of fees to the Attorney General and the Office of Administrative Law. Establishment of such a pilot would represent a significant departure from the existing practice of the Department’s regulatory programs. The Department suggested if the PTBC felt strongly about pursuing such a pilot program that it obtain input from the Department, the Attorney General’s Office, and the Office of Administrative Hearings to develop a more clearly delineated pilot program prior to returning for statutory authority.

The PTBC believes the pilot project should still be pursued although the various agencies are not interested in doing so. The PTBC needs statutory authority to pursue the “roll forward” funding mechanism and will again be seeking such authority under New Issues Facing the PTBC, Issue #3.

ISSUE #6: *Should the Board research and pursue the use of photo licenses?*

Both the Committee and the Department support the PTBC’s desire to move forward with “permanent” licenses in order to reduce license fraud and serve as a more permanent form of identification. However, prior to such an undertaking, the PTBC should consult with the Department of Motor Vehicles, the Employment Development Department, and the Department to develop a more specific proposal and determine the cost of implementation.

The PTBC retains the desire to move forward with “permanent” licenses in order to reduce license fraud but is awaiting the Department’s ability to assist in this matter.

ISSUE #7: *Should the California Law Examination be available through the Internet and should the examination be a licensure requirement?*

Both the Committee and the Department do not support the PTBC's proposal to administer the California Law Examination (CLE) via the Internet. The concern was that placing the examination on the Internet would impair exam security and reduce Board control of the testing environment of an examination which could ultimately be used as grounds to deny a license. Further, both the Committee and the Department do not support requiring passage of the CLE as a requirement to apply for licensure, stating this practice is inconsistent with any of the Department's other regulatory programs and no justification for making it a prerequisite has been demonstrated.

The PTBC still believes the examination security issues for the CLE are different than those that should always be required for a national practice examination. The PTBC also believes that technology will evolve so that this concept may be raised again in the future, however the PTBC is no longer pursuing this issue at this time.

ISSUE #8: *Should the Board be given the authority to provide an initial probationary certificate?*

Both the Committee and the Department recommended the PTBC be given authority to provide a probationary certificate. The PTBC is to develop a data collection and tracking system to evaluate the success of the probationary certificate mechanism and is to work with the Department to develop the tracking system and to make progress reports to the Department on the use of this authority.

The PTBC has implemented issuance of initial probationary licenses and has issued, through June 30, 2005, three (3) such licenses over the past four years. The PTBC continues to provide the Department with progress reports.

ISSUE #9: *Should the Board designate a staff liaison to work with International Medical Graduates (IMGs) and the programs that assist them?*

Both the Committee and the Department recommended the PTBC should designate a staff liaison to work with International Medical Graduates (IMGs) and programs that assist them. The Task Force on Culturally and Linguistically Competent Physicians and Dentists, co-chaired by the DCA Director, examined issues pertaining to the need to increase access to health care for low-income consumers living in medically underserved areas. During the Task Force's review and subsequent hearings, it became apparent that many IMGs who wished to practice in the U.S. health care delivery system in some capacity needed additional education and training for licensure. The Task Force felt it was possible that many IMGs may be qualified for careers as physical therapists or physical therapist assistants but were unaware of the licensing requirements and professional options that exist. The Department recommended the PTBC designate a staff liaison to work with IMGs and the programs devoted to facilitating their licensure and re-entry into their profession.

PTBC SUNSET REVIEW REPORT –September 1, 2005

The PTBC concurred with the recommendations and designated as liaison the staff person assigned to license graduates of non-approved physical therapy educational programs. In addition, the PTBC invited a member of the Task Force to participate in an ad hoc committee review of the physical therapy educational programs, both non-approved and approved. The Task Force member attended the ad hoc committee meetings and provided input.

ISSUE #10: Should the Board review its diversion program and consider the revision or elimination of the program?

The Committee recommended the PTBC should consider revising its diversion program to provide for licensee participants to pay for their monitoring costs or eliminating the program entirely.

The PTBC concurs with the recommendation that the statutory language should be revised to require the program participant to pay monitoring costs. The PTBC currently has statutory authority (Business and Professions Code Section 2268[a]) which states a fee not to exceed \$100 may be charged the licensee for program participation. However, the language is not clear as to the intent and appears to be limiting in the amount that can be collected. The PTBC has included a revision to B&P Code 2268(a) in its proposed revision of the Physical Therapy Practice Act to clarify the intent is the total cost of monitoring. The PTBC does not concur with elimination of the program, believing the program to be an important tool in consumer protection. The PTBC has increased its outreach program by advertising in its newsletter and other professional documents, and by partnering with state and national physical therapy associations to bring about awareness of the program at their many conferences and announcements in their newsletters. During fiscal years 2003/04 and 2004/05 program participation more than doubled, indicating the outreach program is effective.

ISSUE #11: Should the Board carry out its own probation monitoring?

The Committee concurred and provided legislative support to authorize the PTBC to carry out its own probation monitoring of disciplined licensees practicing under probationary restrictions and to obtain the authority to mandate probation monitoring costs.

The PTBC appreciates the Committee's support in this matter and has established an in-house probation monitoring program that is effective and more economical. To date, the in-house probation monitoring, using a non-investigative staff member, has reduced the PTBC's monitoring costs by almost two-thirds (2/3) (DOI rate of \$121 per hour compared to PTBC rate of \$39.00 per hour) and has freed the higher salaried DOI investigators to focus on complaints where the issue of the public's safety is yet to be determined.

ISSUE #12: *Should the Board require its licensees to disclose misdemeanors and other criminal activity on their license renewal forms?*

The Committee concurred with the PTBC's recommendation that the PTBC require its licensees to disclose misdemeanors and other criminal activity on their license renewal forms and provided legislative support authorizing the PTBC to do so.

The PTBC appreciates the Committee's support and has established the disclosure requirement on its license renewal forms.

NEW ISSUES FACING THE PTBC

ISSUE #1: *Should the PTBC seek legislation to revise its Physical Therapy Act to better reflect changes in the professional and educational requirements of the physical therapy profession and to clarify language that has proven to be misleading?*

The PTBC is seeking the JLSRC's assistance to effect changes to its practice act and has listed it as Issue #1. The PTBC, after receiving input from the findings of several major studies, ad hoc committees and public forums and after a careful review of its consumer complaints, realized it needed to rewrite its practice act to reflect changes in the professional and educational requirement of the physical therapy profession and to clarify current language that has proven to be misleading. Exhibit C of this report contains the proposed revisions. The following is a brief outline of the changes:

- Change the composition of the board from seven (7) members to nine (9) by adding a physical therapist assistant position and another public member. The composition would be as follows: four (4) physical therapists (one of whom shall be involved in physical therapy education), one physical therapist assistant and four (4) public members,
- Clarify definitions as follows:
 - Clarifies what is a "clinical supervisor",
 - Change language to standardize physical therapy terminology as used by the American Physical Therapy Act (APTA),
 - Defines more clearly terminology related to physical therapy aides, physical therapist assistants, physical therapists, physical therapy technicians and physiotherapy, and
 - Clarify the intent of "direct and immediate supervision",
- Mandates advocacy for patients,
- Redefines the scope of practice of physical therapy,
- Establishes the authority for a temporary permit to practice for individuals who are licensed in another state at the time of application,
- Clarifies the use of physical therapy aides,
- Establishes a code of professional conduct,
- Redefines patient care management,
- Reestablishes the use of titles by physical therapists,

PTBC SUNSET REVIEW REPORT –September 1, 2005

- Mandates demonstrated proficiency in English as part of the examination requirements,
- Redefines clinical service,
- Reaffirms a progressive pathway for applicants who satisfactorily completed a physical therapist educational program that is not an approved program and is not located in the United States or whose courses are not equivalent to that required by permitting these applicants to apply for licensure as a physical therapist assistant,
- Establishes that physical therapist graduates from non-approved programs who apply for licensure as a physical therapist assistant do not need to complete a period of clinical service,
- Mandates the PTBC to deny licensure to applicants who are required to register pursuant to Section 290 of the Penal Code,
- Redefines the issuance of probationary licenses,
- Clarifies temporary permit to practice,
- Clarifies that any action taken by another state is grounds for disciplinary action by the PTBC,
- Establishes a continuing education and competency provisions for licensees of the PTBC,
- Permits students enrolled in approved physical therapist or physical therapist assistant programs to enter the PTBC's diversion program if they meet the diversion criteria,
- Clarifies a diversion program participation fee may be charged not to exceed the actual cost of administering the program, and
- Raises the ceiling on licensing fees to \$200.

The PTBC has incorporated a number of issues in the practice act revision. Should the JLSRC chose to address those issues under Issue #1, New Issues Facing the Board, #4 through #10, will not need addressing.

The PTBC recommends the JLSRC assist the PTBC in obtaining Legislation to revise the Physical Therapy Practice Act.

ISSUE #2: *Should the PTBC eliminate licensure of physical therapist assistants based on equivalency education and experience?*

As previously reported, California is the only State in the nation that still provides this avenue for licensure. The Board has utilized its regulatory authority to revise the definition of equivalency. However, even with more comprehensive requirements, the passage rate for equivalency applicants on the licensure examination still remains approximately one third ($\frac{1}{3}$) of the national passage rate. The passage rate for graduates of approved educational program is approximately two thirds ($\frac{2}{3}$) of the nation passage rate.

In its proposed revision to its practice act (Issue #1), the PTBC is establishing a progressive pathway for applicants who satisfactorily completed a physical therapist educational program that is not an approved program and is not located in the United States or whose courses are not equivalent to that required by permitting these applicants to apply for licensure as a physical therapist assistant. Further, the proposed revision provides that physical therapist graduates from non-approved programs who apply for licensure as a physical therapist assistant do not need to complete a period of clinical service.

PTBC SUNSET REVIEW REPORT –September 1, 2005

The PTBC believes that since the graduate from non-approved educational programs may now gain licensure, and given the educational trends occurring in the physical therapy profession, along with the availability of approved educational programs throughout the state, this avenue may no longer be prudent for public safety. The PTBC believes this issue merits the consideration by the Legislature.

The PTBC recommends the JLSRC assist the PTBC in eliminating this avenue of licensure.

ISSUE #3: *Should the PTBC implement, as a pilot program, a system whereby the Attorney General and the Office of Administrative Hearings costs for physical therapy license-related cases are “rolled forward” (as are the costs for investigations performed for the Board by the Division of Investigation of the Department of Consumer Affairs?)*

During its last sunset review the PTBC asked to implement, as a pilot program, a system whereby AG and OAH costs utilizing the roll forward method be explored. The roll forward funding sets specific budgeted cost amounts based on historical and anticipated workload, and provides for an adjustment to actual cost two years in the future. The DOI has been funded for several years utilizing this method permitting DOI to continue investigations even when the annual budget may have been exhausted. An adjustment to actual cost is then made in year three of the cycle. The PTBC would then be able, if the PTBC had the authority to use the roll forward method, to adjust fees if enforcement costs vary significantly from traditional levels.

Although the Committee commended the PTBC for thinking creatively, the Department did not support the establishment of a “roll forward” funding mechanism pilot project for payment of fees to the Attorney General and the Office of Administrative Law, stating such a pilot would represent a significant departure from the existing practice of the Department’s regulatory programs. The Department suggested if the PTBC felt strongly about pursuing such a pilot program that is obtain input from the Department, the Attorney General’s Office, and the Office of Administrative Hearings to develop a more clearly delineated pilot program prior to returning for statutory authority. Unfortunately, without a Legislative mandate, there has been no interest from DCA in assisting the PTBC in developing a formal proposal.

The specifics of the proposal are easily identified since a roll forward funding mechanism for DCA DOI has been utilized for over fifteen (15) years. The fifteen (15) years of experience demonstrates that the concept is sound.

The PTBC continues its belief that the roll forward system would be appropriate for funding all three (3) entities that provide support to the PTBC’s enforcement program. However, the PTBC also believes that without a Legislative mandate from the Legislature it will not be a priority. Therefore, the PTBC is again seeking the JLSRC’s support to provide in statute a requirement for a pilot program utilizing this system for the Office of the Attorney General and the Office of Administrative Hearings. As an alternative, a requirement for at least one of the agencies would demonstrate the feasibility beyond DOI.

The PTBC recommends the JLSRC explore a roll forward funding system as a pilot program.

ISSUE #4: *Should the PTBC include representation of a physical therapist assistant on the Board and request an additional public member appointment to the Board?*

Due to the importance of this issue the PTBC is addressing this issue outside its inclusion in the revision of its practice act.

The PTBC believes it would benefit the consumer and the profession if the composition of the board was changed from seven (7) members to nine (9) by adding a physical therapist assistant position and another public member. The composition would be as follows: four (4) physical therapists (one of whom shall be involved in physical therapy education), one physical therapist assistant and four (4) public members. The physical therapist assistants who are licensed by the PTBC have no direct representation and this is contrary to the concept of boards consisting of those that are regulated and members of the public. The addition of another public member would slightly increase the representation of the public on the board (to 44% from 43%) as opposed to decreasing the public representation to only 38% if only a physical therapist assistant was added to the board.

The PTBC recommends the JLSRC assist the PTBC is adding a physical therapist assistant and another public member to its board.

ISSUE #5: *Should the PTBC require continuing competency of physical therapists as a condition of license renewal?*

Although the PTBC is addressing continued competency and continuing education under Issue #1 of the New Issues Facing the Board, the proposed revision of the Physical Therapy Practice Act, because of its importance, the PTBC is addressing continued competency and continuing education as its own issue.

During its last sunset review the PTBC requested assistance from the JLSRC in obtaining legislative authority to adopt and administer standards for continuing education for physical therapists and physical therapist assistants. In addition, the PTBC sought legislative authority to adopt and set standards for providers of physical therapy continuing education and establish statutory authority for fees and appropriate program staff.

The Department and Committee did not support the PTBC's proposal to require continuing education as a condition for licensure renewal. The Department and Committee recommended the PTBC demonstrate a deficiency within the profession or changes in the profession that can be addressed through specified continuing education prior to adopting such a requirement.

The PTBC is proposing its physical therapist licensees obtain at least thirty hours (30) hours of continuing education every two years.

Since the last report, the Federation of State Boards of Physical Therapy completed its nationwide study of continued competency and released its findings. The standards the Federation developed, *Standards of Competence* (Exhibit D), went through an extensive review

PTBC SUNSET REVIEW REPORT –September 1, 2005

process first by the licensing jurisdictions and then clinicians from a wide variety of regions and practice settings and a final sixty (60) day comment period. The standards are divided into two (2) domains which include professional practice and patient/client management. The domains are familiar to physical therapists as they follow the educational model used throughout the United States. Each domain is considered equally important because of the rapidly changing health care environment in which physical therapists practice, the overall impact of attributes and behaviors beyond clinical performance and the importance of practice setting management on overall physical therapy practice.

Since physical therapists across the nation practice in diverse settings and areas of practice, the *Standards of Competence* are intended to apply to the performance of all physical therapists regardless of practice setting. The Federation acknowledges that some of the performance requirements will fit some areas of practice better than others. Although physical therapists are licensed to practice across the broad spectrum of physical therapy, they are expected to demonstrate competence only within the context of their practice environment and role description. Since some standards may not be applicable to some practice settings such as education, administration or research, the Federation believes the licensing boards will need to make accommodations and potentially modify the standards for these practice settings.

The Federation did not develop standards for physical therapist assistants (PTAs) even though it recognizes that many states regulate PTAs. The Federation did not consider standards for PTAs to be necessary since all jurisdictions require PTAs to work under the supervision of the physical therapist and the supervising physical therapist has the responsibility and obligation to determine a PTA's competence. Further, it is also the supervising physical therapist's responsibility to direct PTAs toward appropriate training and skill development to maintain and improve their knowledge and skills. The Federation included this responsibility in the standards of competence for physical therapists. The Federation considered requirements for re-certification or re-licensure for PTAs may cause an over burdensome form of regulation.

Based on the Federation's findings, the PTBC recommends the JLSRC assist the PTBC in obtaining legislation to require continuing education as a condition of license renewal for physical therapists.

Issue # 6: Should the PTBC seek legislation to permit physical therapists to use the prefix, suffix and affix of their academic degrees?

Due to the importance of this issue the PTBC is also addressing this issue outside its inclusion in the revision of its practice act.

The academic levels of physical therapy education have advanced from the baccalaureate degree to a doctorate level degree. A significant number of students are now obtaining a "Doctor of Physical Therapy" degree. This trend is expected to continue and within the next five (5) years the majority, if not all students will graduate with a doctorate degree.

The Physical Therapy Practice Act currently specifies that licensure as a physical therapist does not authorize the use of the title "Doctor". The Medical Practice Act specifies that no person other than a physician and surgeon may use the title "Doctor" to represent that they are a

PTBC SUNSET REVIEW REPORT –September 1, 2005

physician and surgeon. While current law does not provide specific authority for a physical therapist with a doctorate level to use the title “Doctor”, the prohibitions are against the use of the title to indicate that a person is a physician and surgeon. Some physical therapists are using the title “Doctor”, however, their intent is to indicate that they are a Doctor of Physical Therapy, not a physician and surgeon.

The PTBC is seeking legislative language to permit licensees with the professional doctoral degree to be referred to as “Doctor”, and to require that “physical therapist” follow their name irregardless of the type of communication (verbal, written, or name badge) to insure that there is an understanding that the person is a physical therapist, not a physician and surgeon.

The PTBC recommends the JLSRC assist the PTBC in obtaining legislative language to permit physical therapists to use the prefix, suffix and affix of their academic degrees.

Issue #7: Should the PTBC seek legislation to exempt from licensure those physical therapists and physical therapist assistants who are licensed in other states to enable them to teach educational courses and provide treatment to competing athletes of visiting teams?

Due to the importance of this issue the PTBC is addressing this issue outside its inclusion in the revision of its practice act.

California law currently does not allow a physical therapist or physical therapist assistant licensed in another state to provide any physical therapy care in California without first obtaining California licensure. Many physical therapists, who are recognized experts, travel to California to provide educational seminars and may demonstrate on patients as part of the seminar. This could be considered unlicensed practice of physical therapy.

In addition, many athletic teams and performing arts companies employ physical therapists and physical therapist assistants to provide care for the athletics while engaged in competitive events throughout the United States. When the care is provided in California, this again would be considered unlicensed practice.

The PTBC is proposing that statutory authority be added to allow physical therapists, and physical therapist assistants when traveling with a physical therapist, to provide physical therapy in connection with teaching or participating in educational seminars for a limited time period of sixty (60) days in a calendar year, and allow them to provide physical therapy to individuals affiliated with or employed by established athletic teams, athletic organizations or performing arts companies temporarily practicing, competing or performing in California for no more than sixty (60) days in a calendar year.

The PTBC recommends the JLSRC assist the PTBC in obtaining legislation to permit physical therapists and physical therapist assistants licensed in other states to provide physical therapy care on a limited basis while teaching or participating in educational seminars and/or when affiliated or employed by established athletic teams and organizations or performing arts companies who are temporarily visiting California.

Issue #8: *Should the PTBC seek legislation to deny licensure to applicants who are required to register pursuant to Section 290 of the Penal Code?*

Due to the importance of this issue the PTBC is addressing this issue outside its inclusion in the revision of its practice act.

The PTBC does not currently have statutory authority to deny licensure to applicants who are required to register pursuant to Section 290 of the Penal Code. The PTBC is seeking such authority because it believes such individuals should not be engaged in the hands on practice of physical therapy for the safety of the California consumer.

The PTBC recommends the JLSRC assist the PTBC in obtaining legislation to deny licensure to applicants who are required to register pursuant to Section 290 of the Penal Code.

Issue #9: *Should the PTBC seek legislation to clarify diversion program participation fee may be charged not to exceed the actual cost of administering the program?*

Due to the importance of this issue the PTBC is addressing this issue outside its inclusion in the revision of its practice act.

During its last sunset review, the Committee recommended the PTBC consider revising its diversion program to provide for licensee participants to pay for their monitoring costs. The PTBC currently has statutory authority (Business and Professions Code Section 2268[a]) which states a fee not to exceed \$100 may be charged the licensee for program participation. However, the language is not clear as to the intent and appears to be limiting in the amount that can be collected. The PTBC concurs with the recommendation that the statutory language should be revised to require the program participant to pay monitoring costs. The PTBC has included a revision to B&P Code 2268(a) in its proposed revision of the Physical Therapy Practice Act to clarify the intent is the total cost of monitoring.

The PTBC recommends the JLSRC assist the PTBC in amending Business and Professions Code 2668(a) to reflect that a diversion program participation fee may be charged not to exceed the cost of administering the program.

Issue #10: *Should the PTBC seek legislation to adjust fees to provide a sound financial base for the future?*

Due to the importance of this issue the PTBC is addressing this issue outside its inclusion in the revision of its practice act.

Business and Professions Code 2688, *Fee Schedule*, provides the PTBC with statutory authority to collect fees in connection with licenses or approvals for the practice of physical therapy. The ceilings on the initial license and renewal fees were established in 1997. The fees that the

PTBC SUNSET REVIEW REPORT –September 1, 2005

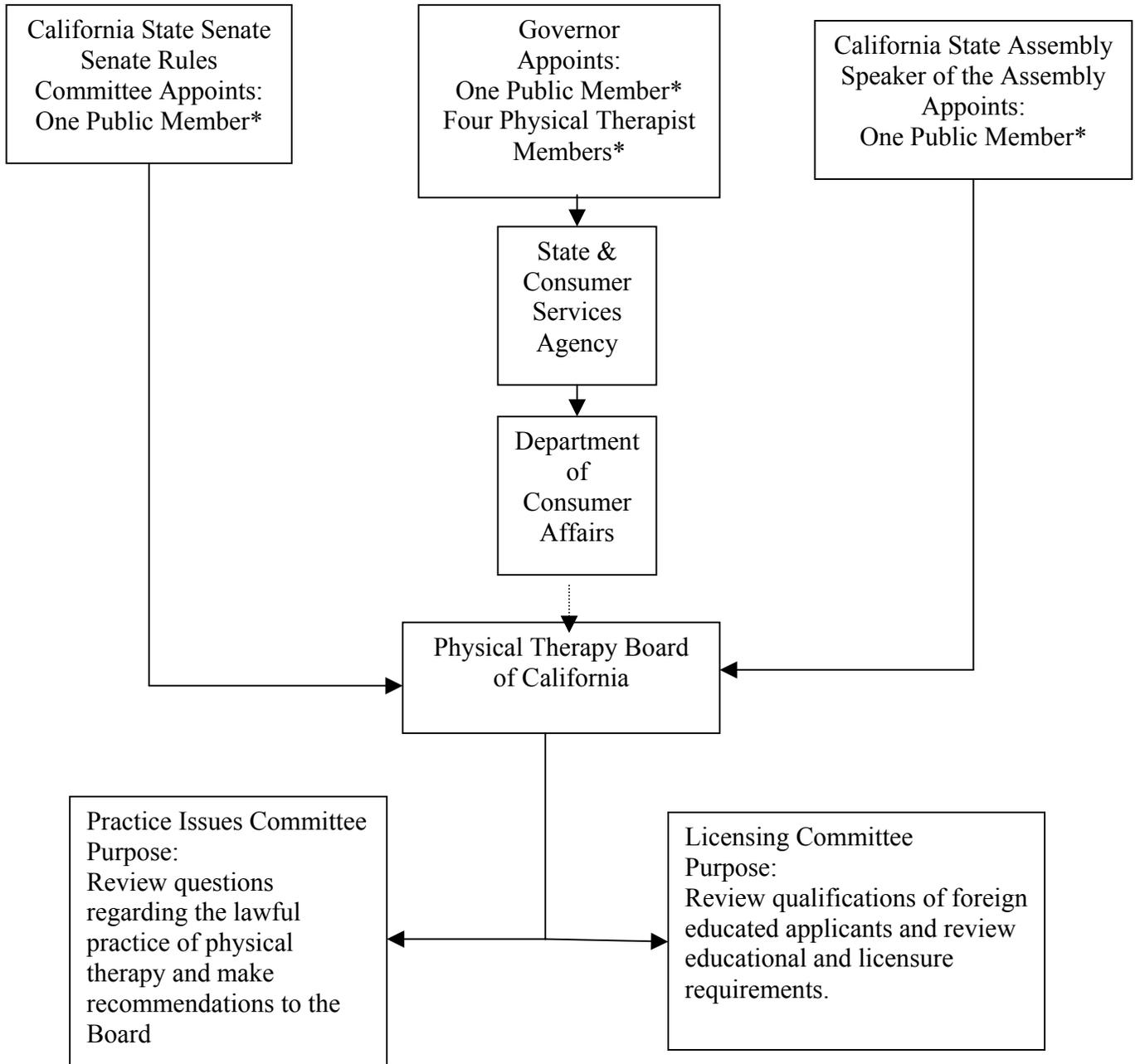
PTBC charges for services performed on the request of a licensee, replacement copies of a license, endorsement of licensure sent to another state, and so forth, were established at a set amount over fifteen (15) years ago.

The PTBC has just recently conducted rulemaking to raise the renewal fee to the statutory maximum, one hundred and fifty dollars (\$150). The same rulemaking seeks to lower the initial license fee to seventy-five dollars (\$75). The lowering of the initial license fee is based on the fact that the license period for the first license is thirteen (13) to twenty-four (24) months as compared to a full twenty-four (24) month period of licensure upon renewal.

The PTBC believes that taking eight (8) years to raise the renewal fee to the statutory maximum demonstrates that the PTBC is fiscally responsible. The need to be fiscally responsible necessitates an increase in the ceiling for the renewal and initial license fees. The fees for administrative services and the processing of applications need to be set at an amount based on the cost of providing the service. Consequently, the PTBC is proposing that a statutory ceiling be set for these fees as well, along with a requirement that the actual fee be set in regulation based on the cost of providing the service.

The PTBC recommends the JLSRC assist the PTBC in amending Business and Professions Code 2688 to adjust fees to provide a sound financial base for the future.

Physical Therapy Board of California
Organization Chart



*By statute, one of the physical therapist members must be involved in the education of physical therapists. Statute also specifies that not more than one member shall be appointed from the full time faculty of any university, college, or other educational institution.

Physical Therapy Board of California

Applicant Satisfaction Survey	Yes	No
Was an Application for Examination/Licensure mailed to you within fourteen (14) days of your request?	230	8
Was a letter acknowledging the Board’s receipt of your Application for Examination/Licensure mailed to you within thirty (30) days after you sent it to the Board?	183	5
If the Board notified you of missing documents to complete your application did we send you a postcard upon receiving them?	189	29
Once you returned a Registration Application for Examination did we make you eligible to take the exam(s) within three (3) weeks of mailing it to us?	253	14
Did you receive a Score Report from the Board within three (3) weeks of taking the National Examination?	218	9
Did you receive a Score Report from the Board within three (3) weeks of taking the California Law Examination?	215	7
Did you receive a Physical Therapy License Number within three (3) weeks of submitting all documents and completing all exams necessary for Licensure?	274	29
Were telephone communications with the Board answered in a courteous and informative manner?	225	23
Were telephone messages or e-mail communications answered within five (5) working days?	196	29
Did you find the FSBPT website examination registration section convenient and easy to use?	243	16
Did you find the Board’s website licensing section informative and easy to use?	186	13
Total Positive Responses: 2412		Total Negative Responses: 182

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48

**Proposed Draft
Physical Therapy Board of California
September 1, 2005**

Physical Therapy Practice Act

Sources are in boxes = Law, Regulation, Federation State Boards of Physical Therapy's Model Practice Act (MPA), New Language (New), & American Physical Therapy Association's Guide (APTA)

Article 1. Administration and General Provisions

1.1 Legislative intent

This chapter may be cited as the Physical Therapy Practice Act. 2600

1.2 Enforcement and administration of chapter

The Physical Therapy Board of California, hereafter referred to as the board, shall enforce and administer this chapter.

This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473). 2602

1.3. Priority to protect the public

Protection of the public shall be the highest priority for the Physical Therapy Board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount. **2602.1**

1.4. Definitions

For purposes of this chapter, the following terms have the meaning set forth below, unless the context requires otherwise. MPA

(a) "Board" means the Physical Therapy Board of California. 2601

(b) "Clinical supervisor" means a physical therapist licensed pursuant to this chapter who is supervising physical therapist and/or physical therapist assistant students while they are rendering and/or assisting with physical therapy services as part of their academic training. New

(c) "Mobilization or manipulation" means a manual therapy technique comprising a continuum of skilled passive movements to the joints and/or related soft tissues that are applied at varying speeds and amplitudes. APTA

EXHIBIT C – PTBC Sunset Review Report – September 1, 2005

1
2 (d) “Non patient related task” means a task related to observation of the patient,
3 transport of the patient, physical support only during gait or transfer training,
4 housekeeping duties, clerical duties, and similar functions. **2630**

5
6 (e) “Patient related task” means a physical therapy service rendered directly to the
7 patient. **2630**

8
9 (f) “Physical therapist assistant” means a person who is licensed pursuant to this
10 chapter to assist in the provision of physical therapy under the supervision of a licensed
11 physical therapist. “Physical therapy assistant” and “physical therapist assistant” shall
12 be deemed identical and interchangeable. **2655(b)(a) & MPA**

13
14 (g) “Physical therapist” means a person who is licensed pursuant to this chapter to
15 practice physical therapy. **New & 2622, 2655**

16
17 (h) “Physical therapy technician” and “physical therapy aide” shall be deemed identical
18 and interchangeable. **New & 2622**

19
20 (i) “Physiotherapy” shall be synonymous with “physical therapy”. **MPA & 2622**

21
22 (j) “Supervision” means a supervising physical therapist is in close enough proximity to
23 be instantly at hand at all times to provide advice or instruction.

24
25 **1.5. Members of Board** **Don't Repeal**

26 The Physical Therapy Board of California shall consist of nine (9) members. The
27 members of the board shall consist of the following: four physical therapists, one of
28 whom shall be involved in physical therapy education, one physical therapist assistant,
29 and four public members. Public members shall not be licentiates of the board or any
30 other board under the Medical Board of California or any board referred to in Sections
31 1000 and 3600 and shall have an interest in consumer protection. **2603**

32
33 The members of the board shall be appointed for a term of four years, expiring
34 on the first day of June of each year. **2604**

35
36 The Governor shall appoint two of the public members and four physical therapist
37 members and one physical therapist assistant member of the board as provided in
38 Section **2603**. The Senate Rules Committee and the Speaker of the Assembly shall
39 each appoint a public member. Not more than one member of the board shall be
40 appointed from the full-time faculty of any university, college, or other educational
41 institution. **2604**

42
43 No person may serve as a member of the board for more than two consecutive
44 terms. Vacancies shall be filled by appointment for the unexpired term. Annually, the
45 board shall elect one of its members as president and one as vice-president. **2604**

EXHIBIT C – PTBC Sunset Review Report – September 1, 2005

1 The appointing power shall have the power to remove any member of the board
2 from office for neglect of any duty required by law or for incompetence or unprofessional
3 or dishonorable conduct. **2604**

4
5 **1.6 Member qualifications** **Don't Repeal**

6 (a) The physical therapist and physical therapist assistant members shall be appointed
7 from persons having all of the following qualifications:

- 8 (1) Be a citizen of California.
9 (2) Possess an unrestricted license in California pursuant to this chapter.
10 (3) Have been licensed for five (5) years before their appointment pursuant to this
11 chapter. **2603 & New**

12
13 (b) The public members shall be appointed from persons having all of the following
14 qualifications:

- 15 (1) Be a citizen of California
16 (2) Not be an officer or faculty member of any college, school or institution engaged
17 in physical therapy education.
18 (3) Not be a licentiate of the Medical Board of California or of any board under this
19 division or of any board referred to in Sections 1000 and 3600.

20 **2604.5 & New**

21
22 **1.7. Compensation and expenses**

23 Each member of the board shall receive a per diem and expenses as provided in
24 Section 103. **2606**

25
26 **1.8. Powers and Duties of the Board** **MPA**

27 The board shall:

28 (a) Evaluate the qualifications of applicants for licensure. **MPA & 2634**

29
30 (b) Provide for the examination of physical therapists and physical therapist assistants
31 and establish a passing score for each examination. **MPA & 2605**

32
33 (c) Issue all licenses for the practice of physical therapy in California. Except as
34 otherwise required by the director pursuant to Section 164, the license issued by the
35 board shall describe the licensee as a "physical therapist or physical therapist assistant
36 licensed by the Physical Therapy Board of California." **2609 & 2632**

37
38 (d) Suspend and revoke licenses, and otherwise enforce the provisions of this chapter.
39 **2609**

40
41 (e) Publish at least annually, a newsletter that includes but is not necessarily limited to
42 actions taken by the board, disciplinary actions, and statutory and regulatory changes.

43 **Revised MPA**

44
45 (f) Provide for the timely orientation and training of new professional and public
46 appointees to the board directly related to board licensing and disciplinary function, and
47 board rules, policies and procedures. **MPA**

EXHIBIT C – PTBC Sunset Review Report – September 1, 2005

1 (g) Adopt a program of consumer and professional education in matters relevant to the
2 professional practice of physical therapy. **MPA**

3
4 **1.9. Executive officer; powers and duties**

5 The board may appoint a person exempt from civil service who shall be
6 designated as an executive officer and who shall exercise the powers and perform the
7 duties delegated by the board and vested in him or her by this chapter. **2607.5**

8
9 This section shall become inoperative on July 1, 2011, and, as of January 1,
10 2012, is repealed, unless a later enacted statute, which becomes effective on or before
11 January 1, 2012, deletes or extends the dates on which it becomes inoperative and is
12 repealed. The repeal of this section renders the board subject to the review required by
13 Division 1.2 (commencing with Section 473). **2607.5**

14
15 **1.10 Employees; contracts with consultants**

16 The board may employ, subject to law, and, except as provided in Section 159.5,
17 such employees as it may deem necessary to carry out its powers and duties. **2607**

18
19 The board may enter into contracts for services necessary for enforcement of
20 this act and as necessary select and contract with physical therapy consultants who are
21 licensed physical therapists to assist it in its programs on an intermittent basis.
22 Notwithstanding any other provision of law, the board may contract with these
23 consultants on a sole source basis. For the purposes of Division 3.6 (commencing with
24 Section 810) of Title 1 of the Government Code, any consultant under contract with the
25 board shall be considered a public employee. **2607**

26
27 **1.11. Rules and regulations; adoption**

28 The board shall adopt such regulations as may be reasonably necessary to effectuate
29 the provisions of this chapter. In adopting regulations the board shall comply with
30 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the
31 Government Code. **2615**

32
33 **1.12. Meetings; officers; quorum**

34 The board shall hold at least one regular meeting annually in the Sacramento,
35 Los Angeles and San Francisco regions. **2611**

36
37 The board shall give notice of each meeting in accordance with the Bagley-
38 Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of
39 Part 1 of Division 3 of Title 2 of the Government Code). **2612**

40
41 A majority of board members shall constitute a quorum for the transaction of
42 business **MPA**

43
44 **Article 2. Scope of Regulation and Exemptions**

45
46 **2.1 Necessity for license**

47 It is unlawful for any person or persons to practice, or offer to practice, physical therapy
48 in this state for compensation received or expected, or to hold himself or herself out as

EXHIBIT C – PTBC Sunset Review Report – September 1, 2005

1 a physical therapist, unless at the time of so doing the person holds a valid, unexpired,
2 and unrevoked license issued under this chapter. **2630**

3
4 **2.2. Scope of Practice**

5 Physical therapy means:

6
7 (a) Examining, evaluating and testing persons with mechanical, physiological and
8 developmental impairments, functional limitations, and disabilities or other health and
9 movement related conditions in order to develop a plan of therapeutic intervention and
10 initiate treatment; **New**

11
12 (b) Alleviating impairments, functional limitations and disabilities by designing,
13 implementing and modifying therapeutic interventions that may include, but are not
14 limited to, therapeutic exercise; functional training in self-care, and in-home, community
15 or work integration or re-integration; manual therapy, including mobilization or
16 manipulation; therapeutic massage; prescription, application and, as appropriate,
17 fabrication of assistive, adaptive, orthotic, prosthetic, protective and supportive devices
18 and equipment; airway clearance techniques; integumentary protection and repair
19 techniques; debridement and wound care; physical agents or modalities; mechanical
20 and electrical therapeutic modalities; and patient related instruction;

21
22 (c) Reducing the risk of injury, impairment, functional limitation and disability;

23
24 (d) Promoting and maintaining physical fitness to enhance the bodily movement related
25 health and wellness of individuals through the use of physical therapy interventions;
26 **2620(d)**

27
28 The use of roentgen rays and radioactive materials, for diagnostic and
29 therapeutic purposes, and the use of electricity for surgical purposes, including
30 cauterization, are not authorized under the term “physical therapy” as used in this
31 chapter. **MPA, 2620**

32
33 **2.3. Topical medications**

34 A physical therapist licensed pursuant to this chapter may purchase, store, and apply
35 topical medications as part of the practice of physical therapy as defined in Section
36 **2620** if he or she complies with regulations duly adopted by the board pursuant to this
37 section and the Administrative Procedure Act. The board shall adopt regulations
38 implementing this section after meeting and conferring with the Medical Board of
39 California and the California State Board of Pharmacy specifying those topical
40 medications applicable to the practice of physical therapy and protocols for their use.
41 Nothing in this section shall be construed to authorize a physical therapist to prescribe
42 medications. **2620.3**

43
44 **2.4. Certification to Penetrate Tissues for the Purpose of Neuromuscular
45 Evaluation – Standard Procedures 2620.5**

46 A physical therapist may, upon specified authorization of a physician and surgeon,
47 perform tissue penetration for the purpose of evaluating neuromuscular performance as
48 a part of the practice of physical therapy, as defined in Section 2620, provided the
49 physical therapist is certified by the board to perform the tissue penetration and

EXHIBIT C – PTBC Sunset Review Report – September 1, 2005

1 evaluation and provided the physical therapist does not develop or make diagnostic or
2 prognostic interpretations of the data obtained. Any physical therapist who develops or
3 makes a diagnostic or prognostic interpretation of this data is in violation of the Medical
4 Practice Act (Chapter 5 (commencing with Section 2000) of Division 2), and may be
5 subject to all of the sanctions and penalties set forth in that act.
6

7 The board, after meeting and conferring with the Division of Licensing of the
8 Medical Board of California, shall do all of the following:
9

10 (a) Adopt standards and procedures for tissue penetration for the purpose of
11 evaluating neuromuscular performance by certified physical therapists.
12

13 (b) Establish standards for physical therapists to perform tissue penetration for the
14 purpose of evaluating neuromuscular performance.
15

16 (c) Certify physical therapists meeting standards established by the board pursuant to
17 this section.
18

19 **2.5. Practice of medicine.**

20 This chapter does not authorize a physical therapist to practice medicine, surgery, or
21 any other form of healing except as authorized by Section 2620, or to engage in the
22 practice of chiropractic. **2621**
23

24 **2.6. Practice by other licensed healing arts providers.**

25 Nothing in this chapter shall be construed to restrict or prohibit other healing arts
26 practitioners licensed or registered under this division from practice within the scope of
27 their license or registration. **2620(b)**
28

29 **2.7. Exemptions**

30 The following persons are exempt from the licensure requirements of this chapter when
31 engaged in the following activities:
32

33 (a) Physical Therapist Student - A regularly matriculated student undertaking a course
34 of professional instruction in an approved physical therapist educational program or a
35 student enrolled in a program of supervised clinical education under the direction of an
36 approved physical therapist educational program pursuant to Section **2651** or a student
37 enrolled in a Doctor of Physical Therapy transition or bridge educational program that is
38 offered by a physical therapist educational program accredited by a regional or national
39 accrediting body recognized by the United States Department of Education may perform
40 physical therapy as a part of his or her course of study. **2650.2**
41

42 (b) Physical Therapist Assistant Student - A regularly matriculated student undertaking
43 a course of instruction in an approved physical therapist assistant educational program
44 or a student enrolled in a program of supervised clinical education under the direction of
45 an approved physical therapist assistant educational program pursuant to Section
46 **2655.9**, may perform physical therapy techniques as a part of his or her course of study.
47 **2655.75 rewritten**
48

EXHIBIT C – PTBC Sunset Review Report – September 1, 2005

1 (c) A physical therapist or physical therapist assistant who is licensed in another
2 jurisdiction of the United States or credentialed to practice physical therapy in another
3 country if that person is teaching, demonstrating or providing physical therapy in
4 connection with teaching or participating in an educational seminar of no more than
5 sixty (60) days in a calendar year.
6

7 (d) A physical therapist located outside this state, when in actual consultation, whether
8 within this state or across state lines, with a licensed physical therapist of this state, or
9 when an invited guest of the American Physical Therapy Association or one of their
10 components, or of an approved physical therapy school or college for the sole purpose
11 of engaging in professional education through lectures, clinics, or demonstrations, if he
12 or she is, at the time of the consultation, lecture, or demonstration a licensed physical
13 therapist in the state or country in which he or she resides. This physical therapist shall
14 not open an office, appoint a place to meet patients, receive calls from patients within
15 the limits of this state, give orders, or have ultimate authority over the care of a physical
16 therapy patient who is located within this state.
17

18 (e) A physical therapist who is licensed in another jurisdiction of the United States or
19 credentialed to practice physical therapy in another country if that person by contract or
20 employment is providing physical therapy to individuals affiliated with or employed by
21 established athletic teams, athletic organizations or performing arts companies
22 temporarily practicing, competing or performing in the state for no more than sixty (60)
23 days in a calendar year.
24

25 (f) A physical therapist assistant who is licensed in another jurisdiction of the United
26 States and is assisting a physical therapist engaged specifically in activities related to
27 subdivisions (d) or (e) of this section.
28

29 **2.8. Physical therapist assistant supervision; prohibited practices**

30 (a) A physical therapist assistant may assist in the provision of physical therapy services
31 only under the supervision of a physical therapist licensed by the board. A licensed
32 physical therapist shall at all times be responsible for the extent, kind, and quality of all
33 physical therapy services provided by the physical therapist assistant. **2655.7 &**
34 **1398.44**

35
36 (b) Neither a physical therapist license applicant nor a physical therapy student may
37 independently supervise a physical therapist assistant or physical therapy aide.
38

39 (c) A physical therapist assistant shall not perform any evaluation of a patient or prepare
40 a discharge summary. The supervising physical therapist shall determine which
41 elements of the treatment plan, if any, shall be assigned to the physical therapist
42 assistant. Assignment of patient care shall be commensurate with the competence of
43 the physical therapist assistant.
44

45 (d) A physical therapy assistant shall not provide any physical therapy services
46 whatsoever at any facility or office in which the physical therapist assistant or a member
47 of the physical therapist assistant's immediate family possesses any ownership interest.
48

49 **2.9. Physical therapy aides**

EXHIBIT C – PTBC Sunset Review Report – September 1, 2005

1 (a) A "physical therapy aide" is an unlicensed person, who is at least 18 years of age,
2 and who has had at least the minimum amount of hours of appropriate training pursuant
3 to standards established by the board. The physical therapy aide shall be issued a
4 certificate by the training institution or instructor indicating satisfactory completion of the
5 required training. A copy of the certificate shall be retained as a record by each
6 employer of the physical therapy aide.
7

8 (b) A physical therapist licensed pursuant to this chapter may utilize the services of one
9 aide engaged in patient-related tasks to assist the physical therapist in his or her
10 practice of physical therapy. The aide shall at all times be under the orders, direction,
11 and immediate supervision of the physical therapist. Nothing in this section shall
12 authorize an aide to independently perform physical therapy or any physical therapy
13 procedure. The board shall adopt regulations that set forth the standards and
14 requirements for the orders, direction, and immediate supervision of an aide by a
15 physical therapist. The physical therapist shall provide direct and immediate supervision
16 of the aide. When patient-related tasks are provided to a patient by an aide, the
17 supervising physical therapist shall, at some point during the treatment day, provide
18 direct service to the patient as treatment for the patient's condition, or to further evaluate
19 and monitor the patient's progress, and shall correspondingly document the patient's
20 record.
21

22 (c) The administration of massage, external baths, or normal exercise not a part of a
23 physical therapy treatment shall not be prohibited by this section. **2630**
24

25 (d) A physical therapy aide shall not provide any services whatsoever at any facility or
26 office in which the physical therapy aide or a member of the physical therapy aide's
27 immediate family possesses any ownership interest.
28
29

30 **2.10. Code of professional conduct**

31 The board may by regulation, prescribe, amend, or repeal rules of professional conduct
32 appropriate to the establishment and maintenance of a high standard of integrity and
33 dignity in the profession. In addition to the requirements contained in Chapter 4
34 (commencing with Section 11370) of Part 1 of Division 3 of Title 2 of the Government
35 Code, a copy of the rules shall be mailed to every holder of a license under this chapter
36 at least 30 days prior to a date named for a public hearing held for the purpose of
37 receiving and considering objections to any of the proposed provisions. Every licensee
38 of the board in this state shall be governed and controlled by the rules and standards
39 adopted by the board. **5018**
40

41 **2.11. Patient Care Management**

42 A physical therapist shall be responsible for managing all aspects of the physical
43 therapy care of each patient, including but not limited to the following:
44

45 (a) Perform, document, and sign the initial evaluation, which shall include written goals
46 and treatment plan for each patient and when the patient is to be reevaluated, and any
47 required periodic reevaluations.
48

EXHIBIT C – PTBC Sunset Review Report – September 1, 2005

1 (b) Inform the patient of the benefits and substantial risks, if any, of the recommended
2 intervention and treatment alternatives prior to initiating a plan of care.

3
4 (c) Determine and direct the utilization of physical therapist assistant and the physical
5 therapy aide and document that delegation of care.

6
7 (d) Direct, describe, document, and sign in the patient record, the care provided to each
8 patient on each date of service.

9
10 (e) Perform, document, and sign the discharge summary, including response to
11 therapeutic intervention at the time of discharge.

12
13 A violation of this section constitutes unprofessional conduct. **MPA**

14
15 **2.12. Use of titles by physical therapist**

16 **Use of titles and Terms; Restrictions; Classification of Violation**

17 (a) A person holding a license as a physical therapist issued by the board may use the
18 title "physical therapist" or the letters "P.T." or any other words, letters or figures which
19 indicate that the person using same is a licensed physical therapist. No other person
20 shall be so designated or shall use the term licensed or registered physical therapist,
21 licensed or registered physiotherapist, or the letters "L.P.T.," "R.P.T.," or "P.T.". **2633**

22
23 (b) A licensed physical therapist who has received the degree of Doctor of Physical
24 Therapy (DPT), Doctor of Philosophy (Ph.D.), or Doctor of Education (Ed.D.), or other
25 equivalent degree from a duly accredited institution, as specified in Section 2633 of the
26 Code, may:

27 (1) in any written communication, use the initials DPT, Ph.D., or Ed.D., as
28 applicable, following the licensee's name;

29 (2) in any written communication, use the title "Doctor" or the abbreviation "Dr."
30 preceding the licensee's name, if the licensee's name is immediately followed by an
31 unabbreviated specification of the applicable doctorate degree held by the licensee; and

32 (3) in any spoken communication while engaged in the practice of physical
33 therapy, use the title doctor preceding the person's name, if the speaker specifies that
34 he or she is a physical therapist. **New**

35
36 (c) For purposes of this section, "written communication" includes a badge bearing the
37 licensee's name. **New**

38
39 (d) Notwithstanding this section, a physical therapist licensed under this chapter may
40 use an initial or other suffix indicating possession of a specific academic degree earned
41 at, and issued by, an institution accredited by the Western Association of Schools and
42 Colleges or any accrediting agency recognized by the National Commission on
43 Accrediting or the United States Department of Education which the board determines is
44 equivalent, except that the initials "M.D." shall not be used. **2633**

45
46 (e) A person shall not advertise or otherwise promote another person as being a
47 "physical therapist" or "physiotherapist" unless the individual so advertised or promoted
48 is licensed as a physical therapist under this chapter. A person who offers, provides or
49 bills any other person for services shall not characterize those services as "physical

EXHIBIT C – PTBC Sunset Review Report – September 1, 2005

1 therapy” or “physiotherapy” unless the individual performing those services is a person
2 legally authorized to practice physical therapy.

3
4 **2.13. Use of titles by physical therapist assistant**

5 A person licensed as a physical therapist assistant by the board may use the title
6 “physical therapist assistant” or “physical therapy assistant” or the letters “PTA” or any
7 other words, letters, or figures that indicate that the person is a physical therapist
8 assistant licensed pursuant to this chapter. **2655.11 revised**

9
10 No other person shall be so designated or shall use the term “physical therapist
11 assistant” or “PTA”. The license of a physical therapist assistant shall not authorize the
12 use of the prefix “LPT”, “RPT”, “PT”, or “Dr.” or the title “physical therapist”, “doctor”, or
13 any suffix or affix indicating or implying that the physical therapist assistant is a physical
14 therapist or doctor. **2655.11**

15
16 **2.14. Use of titles by students**

17 During the period of clinical practice referred to in Section **2650** or in any similar period
18 of observation or related educational experience involving recipients of physical therapy,
19 a person so engaged shall be identified only as a “physical therapist student or physical
20 therapist intern”, “physical therapist assistant student” or “physical therapist assistant
21 intern” as authorized by the board in its regulations. **2655.11 continued & 2650.1**

22
23
24 **2.15. Posting of Notice**

25 A licensed physical therapist shall post, in a conspicuous location in the licensee’s
26 principal physical therapy business office, a “NOTICE TO CONSUMERS”. The
27 “NOTICE TO CONSUMERS” shall include the board’s website, address, and phone
28 number, and such information the board may prescribe by regulation. **New**

29
30 **Article 3. Qualifications and Requirements for Licensure**

31
32 Educational Requirements for the Physical Therapist and Physical Therapist Assistant.
33 **2650 & 2659**

34
35 **3.1. Educational standards**

36 (a) The physical therapist educational requirements are as follows:

37
38 (1) Except as otherwise provided in this chapter, each applicant for a license as a
39 physical therapist shall be a graduate of a professional degree program of an accredited
40 post secondary institution or institutions approved by the board, and shall have
41 completed a professional education including academic course work and clinical
42 internship in physical therapy. **2650**

43
44 (2) Unless otherwise specified by the board by regulation, the educational
45 requirements shall include instruction in the subjects prescribed by the Commission on
46 Accreditation in Physical Therapy Education of the American Physical Therapy
47 Association or the Accreditation Council of Canadian Physiotherapy Academic
48 Programs and shall include a combination of didactic and clinical experiences. The

EXHIBIT C – PTBC Sunset Review Report – September 1, 2005

1 clinical experience shall include at least eighteen weeks of full-time experience with a
2 variety of patients. **2650**

3
4 (b) The physical therapist assistant educational requirements are as follows:

5
6 (1) Except as otherwise provided in this chapter, each applicant for a license as a
7 physical therapist assistant shall be a graduate of a physical therapist assistant program
8 of an accredited post secondary institution or institutions approved by the board, and
9 shall have completed both the academic and clinical experience required by the
10 physical therapist assistant program, and have been awarded the associate degree.

11
12 (2) Unless otherwise specified by the board by regulation, the educational
13 requirements shall include instruction in the subjects prescribed by the Commission on
14 Accreditation in Physical Therapy Education of the American Physical Therapy
15 Association and shall include a combination of didactic and clinical experiences. The
16 clinical experience shall include at least eighteen weeks of fulltime experience with a
17 variety of patients. **2655.9(a)(b)**

18
19 **3.2. Approved Educational Programs**

20 The board shall approve only those physical therapist or physical therapist
21 assistant educational programs that prove to the satisfaction of the board that they
22 comply with the minimum physical therapist or physical therapist assistant educational
23 requirements set forth in this chapter and as adopted by the board pursuant to this
24 chapter. **2651 & 2655.9**

25
26 Physical therapist and physical therapist assistant educational programs that are
27 accredited by the Commission on Accreditation and Physical Therapy Education of the
28 American Physical Therapy Association or the Accreditation Council of Canadian
29 Physiotherapy, or such other body as may be approved by the board by regulation, shall
30 be deemed approved by the board unless the board determines otherwise. **2651 &**
31 **2655.9**

32
33 Nothing contained in this chapter shall prohibit the board from disapproving any
34 foreign physical therapist educational program or from denying an applicant if, in the
35 opinion of the board the instruction received by the applicant or the courses were not
36 equivalent to that required by this chapter.

37
38 **License 2630**

39
40 **Qualifications for Licensure**

41 **2632, 2635, 2635, 2636.1, 2637, 2653, 2655.3, 2655.5, 2655.71, 2081, 3352**

42
43 **3.3. Qualifications for Physical Therapist**

44 An applicant for a license as a physical therapist shall:

45
46 (a) Be a person over 18 years of age. **2635**

47 (b) File an application on a form provided by the board. Each application shall contain a
48 legal verification signed by the applicant verifying under penalty of perjury that the

EXHIBIT C – PTBC Sunset Review Report – September 1, 2005

1 information provided by the applicant is true and correct and that any information in
2 supporting documents provided by the applicant is true and correct and shall be
3 accompanied by the fee provided for in Section **2688**. **2632**

4
5 (c) Not use any controlled substance; or use any dangerous drugs specified in Section
6 4022, or use alcoholic beverages, to the extent, or in such a manner as to be dangerous
7 or injurious to the licensee, or to any other person or to the public, or to the extent that
8 such use impairs the ability of the licensee to practice physical therapy safely or not
9 have any misdemeanor or any felony involving the use, consumption, or self-
10 administration of any of the substances referred to in this section, or any combination
11 thereof. **2635**

12
13 (d) Be a graduate of a physical therapist education program approved by the board at
14 the time of graduation. **Section 2650**

15
16 (e) Not have committed any act or crime constituting grounds for denial of licensure
17 under Section 480.

18
19 (f) Pass the examination required by Section **2636** and approved by the board and the
20 board examination demonstrating knowledge of laws and regulations in California
21 related to the practice of physical therapy. **2636**

22
23 **3.4. Qualifications for Physical Therapist Assistant**

24 An applicant for a license as a physical therapist assistant shall:

25
26 (a) Be a person over 18 years of age. **2635**

27
28 (b) File an application on a form provided by the board. Each application shall contain a
29 legal verification signed by the applicant verifying under penalty of perjury that the
30 information provided by the applicant is true and correct and that any information in
31 supporting documents provided by the applicant is true and correct and shall be
32 accompanied by the fee provided for in Section **2688**. **2632**

33
34 (c) Not use any controlled substance; or use of any dangerous drugs specified in
35 Section 4022, or use alcoholic beverages, to the extent, or in such a manner as to be
36 dangerous or injurious to the licensee, or to any other person or to the public, or to the
37 extent that such use impairs the ability of the licensee to practice physical therapy safely
38 or not have any misdemeanor or any felony involving the use, consumption, or self-
39 administration of any of the substances referred to in this section, or any combination
40 thereof. **2635 & 2655.3(c)**

41
42 (d) Meet one of the following education requirements:

43
44 (1) Be a graduate of a physical therapist assistant education program approved
45 by the board at the time of graduation. **2655.3(a)**

46
47 (2) Be a graduate of an approved physical therapy program at the time of
48 graduation.

1
2 (e) Not have committed any act or crime constituting grounds for denial of licensure
3 under Section 480. **2655.3(d)**

4
5 (f) Pass the examination required by Section **2636** and approved by the board and the
6 board examination demonstrating knowledge of laws and regulations in California
7 related to the practice of physical therapy. **2655.3(b)**

8
9 **3.5. Qualifications for a Physical Therapist from a Foreign Educational Program**

10 An applicant for a license as a physical therapist who has graduated from a foreign
11 physical therapist educational program that is not approved by the board shall meet all
12 the following requirements: **2653**

13
14 (a) Be a person over 18 years of age. **2635**

15
16 (b) File an application on a form provided by the board. Each application shall contain a
17 legal verification signed by the applicant verifying under penalty of perjury that the
18 information provided by the applicant is true and correct and that any information in
19 supporting documents provided by the applicant is true and correct and shall be
20 accompanied by the fee provided for in Section **2688**. **2632**

21
22 (c) Not use any controlled substance; or use of any dangerous drugs specified in
23 Section 4022, or use alcoholic beverages, to the extent, or in such a manner as to be
24 dangerous or injurious to the licensee, or to any other person or to the public, or to the
25 extent that such use impairs the ability of the licensee to practice physical therapy safely
26 or not have any misdemeanor or any felony involving the use, consumption, or self-
27 administration of any of the substances referred to in this section, or any combination
28 thereof. **2635**

29
30 (d) Furnish documentary evidence satisfactory to the board, that he or she has
31 completed a professional degree in a physical therapist educational program
32 substantially equivalent at the time of his or her graduation to that issued by a board
33 approved physical therapist educational program. The professional degree must entitle
34 the applicant to practice as a physical therapist in the country where the diploma was
35 issued. The physical therapy education received by the applicant shall meet the criteria
36 set forth in subdivision (a) (2) of section **2650**. The board may require an applicant to
37 submit documentation of his or her education to a credential evaluation service for
38 review and a report to the board. **2653(b)**

39
40 An applicant for licensure as a physical therapist who satisfactorily completed a
41 physical therapist educational program that is not an approved program, is not located
42 in a United States jurisdiction, and is determined not equivalent to a United States
43 professional degree may satisfy the educational requirement by graduation from a
44 Doctor of Physical Therapy transition or bridge educational program that is offered by a
45 physical therapist educational program accredited by a regional or national accrediting
46 body recognized by the United States Department of Education.

EXHIBIT C – PTBC Sunset Review Report – September 1, 2005

1 (e) Demonstrate proficiency in English by achieving a score specified by the board on
2 the Test of Spoken English administered by the Educational Testing Services or such
3 other examination as may be specified by the board by regulation. **New**
4

5 (f) Pass the written examinations required by section **2636**. The requirement to pass the
6 written licensure examinations shall not apply to an applicant who at the time of
7 application has passed, to the satisfaction of the board, an examination for licensure in
8 another state, district, or territory of the United States, that is, in the opinion of the board
9 comparable to the examination given in this State. All applicants must pass the
10 California law examination. **2653(a)**
11

12 (g) Complete nine (9) months of clinical service under the direct and immediate
13 supervision of a licensed physical therapist licensed by a U.S. jurisdiction in a location
14 approved by the board, in a manner satisfactory to the board. The applicant shall have
15 passed the written examinations required in Sections **2636** prior to commencing the
16 period of clinical service. The board shall require the supervising physical therapist to
17 evaluate the applicant and report his or her findings to the board. The board may in its
18 discretion waive all or part of the required clinical service pursuant to guidelines set forth
19 in its regulations. During the period of clinical service until he or she is issued a license
20 as a physical therapist by the board, the applicant shall be identified as “physical
21 therapist licensed applicant”. If an applicant fails to complete the required period of
22 clinical service, the board may, for good cause shown, allow the applicant to complete
23 another period of clinical service. **2653(b) & 2655.3**
24

25 **3.6. Qualifications for a Physical Therapist Assistant from a Foreign Educational**
26 **Program**

27 An applicant who satisfactorily completed a physical therapist educational program that
28 is not an approved program and is not located in the United States or the courses were
29 not equivalent to that required by this chapter may apply for licensure as a physical
30 therapist assistant.
31

32 In addition to the requirements contained in **Section 3.4**, the applicant shall furnish
33 documentary evidence satisfactory to the board that he or she has completed a physical
34 therapist educational program that entitles the applicant to practice as a physical
35 therapist in the country in which the professional education was obtained. The board
36 may require an applicant to submit documentation of his or her education to a
37 credentials evaluation service for review and a report to the board.
38

39 **3.7. Registered Sex Offenders**

40 The board shall deny a physical therapist or physical therapist assistant license to an
41 applicant who is required to register pursuant to Section 290 of the Penal Code. This
42 subdivision does not apply to an applicant who is required to register as a sex offender
43 pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction
44 under Section 314 of the Penal Code. **[derived from 2221(d)]**
45

46 **3.8. Probationary licenses**

47 **[2660.2.]** (a) The board may refuse a license to any applicant guilty of unprofessional
48 conduct or sexual activity referred to in Section **2660.1**. The board may, in its sole
49 discretion, issue a public letter of reprimand in accordance with **Section 4.7** or may

EXHIBIT C – PTBC Sunset Review Report – September 1, 2005

1 issue a probationary license to any applicant for a license who is guilty of unprofessional
2 conduct but who has met all other requirements for licensure. The board may issue the
3 license subject to any terms or conditions not contrary to public policy, including, but not
4 limited to, the following:

- 5 (1) Medical or psychiatric evaluation.
- 6 (2) Continuing medical or psychiatric treatment.
- 7 (3) Restriction of the type or circumstances of practice.
- 8 (4) Continuing participation in a board-approved rehabilitation program.
- 9 (5) Abstention from the use of alcohol or drugs.
- 10 (6) Random fluid testing for alcohol or drugs.
- 11 (7) Compliance with laws and regulations governing the practice of physical
12 therapy.

13
14 (b) The applicant shall have the right to appeal the denial, or public letter of reprimand,
15 or the issuance with terms and conditions, of any license in accordance with Chapter 5
16 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government
17 **Code**, and the board shall have all the powers granted therein. The action shall be final,
18 except that the propriety of the action is subject to review by the superior court pursuant
19 to Section 1094.5 of the **Code** of Civil Procedure. **2660.2(b)**

20
21 **3.9. Examination** **2605, 2636, 2638, 2655.4, 2655.6**

22 (a) Except as otherwise provided in this chapter, no person shall receive a license under
23 this chapter without first successfully passing an examination given under the direction
24 of the board. An applicant may take the physical therapist or physical therapist
25 assistant examination after the applicant has met the educational requirement for
26 licensure. The examination for physical therapists shall test entry-level competence to
27 practice physical therapy and may include examination and evaluation, diagnosis,
28 prognosis, treatment intervention, prevention and consultation. The examination for
29 physical therapist assistants shall test for entry level competence to practice as a
30 physical therapist assistant in the technical application of physical therapy services.
31 **2636**

32
33 **Inserted 5082.1.** (b) The examination required by the board for the granting of a
34 license pursuant to this chapter may be conducted by the board or by a public or private
35 organization specified by the board. The examination shall be conducted under a
36 uniform examination system and for that purpose, the board may make such
37 arrangements with organizations furnishing examination material as may, in its
38 discretion, be desirable.

39
40 The board shall, however, establish a passing score for each examination. Every
41 applicant who is otherwise qualified as provided in this chapter and who receives a
42 passing grade as established by the board on the examination shall be granted a
43 license. **2636.1 & 2637--used 3517 Language**

44
45 **3.10. Examination subversion**

46 In addition to the penalties prescribed by Section 123, if the board determines that an
47 applicant, examinee, or licensee has engaged, or has attempted to engage, in conduct
48 that subverts or undermines the integrity of the examination process as described in

1 that section, the board may disqualify the applicant from taking the examination or may
2 deny application for licensure or revoke the license. **New—in place of 2660(e)**

3
4 **3.11. Physical Therapist License Applicant and Physical Therapist Assistant**
5 **License Applicant** 2640 & 2655.93

6 (a) Practice.

7 (1) Every graduate of an approved physical therapist or physical therapist
8 assistant education program who has filed a complete application for licensure with the
9 board for the first time may, following receipt of a letter authorizing the applicant to
10 perform physical therapy services as a physical therapist license applicant or physical
11 therapist assistant license applicant, as appropriate, under the direct and immediate
12 supervision (as defined in this chapter) of a physical therapist licensed in this state for
13 90 days pending the results of the first examination required by Section **2636** taken by
14 the applicant. A supervising physical therapist shall document receipt of the letter
15 authorizing the physical therapist license applicant or physical therapist assistant
16 license applicant status and record the expiration date of such status in the employee
17 record. A supervising physical therapist shall require the applicant to provide
18 documentation of the license issued at the conclusion of the physical therapist license
19 applicant or physical therapist assistant license applicant status. During this period, the
20 applicant shall identify himself or herself only as a “physical therapist license applicant”
21 or “physical therapist assistant license applicant”, as appropriate. If the applicant
22 passes the examination, the physical therapist license applicant or physical therapist
23 assistant license applicant status shall remain in effect until a license is issued, or
24 licensure is denied by the board. 2639, 2655.91, 2655.93

25
26 (2) A person shall not be considered a graduate unless he or she has
27 successfully completed all the clinical training and internships required for graduation
28 from the program. 2639, 2655.93

29
30 (3) If the applicant fails to take the examination within 90 days or fails to pass the
31 examination or receive a license, all privileges under this section shall terminate. An
32 applicant may only qualify once to perform as a physical therapist license applicant or
33 once as a physical therapist assistant license applicant. 2639, 2655.93

34
35 (b) Supervision

36 (1) A physical therapist license applicant or physical therapist assistant license
37 applicant whose application for licensure has been filed and reviewed by the board may
38 perform once as a physical therapist license applicant or once as a physical therapist
39 assistant license applicant if he or she is under the direct and immediate supervision of
40 a physical therapist licensed by the board. The applicant shall document each treatment
41 in the patient record, along with his or her signature.

42
43 (2) It is unprofessional conduct for a physical therapist to permit an applicant to
44 work as a license applicant after the termination of applicant status. 2640

45
46 **3.12. Licensure Without Examination**

47 **2636.5.** (a) An applicant may be issued a license without a written examination if the
48 applicant meets all of the following:

EXHIBIT C – PTBC Sunset Review Report – September 1, 2005

1 (1) The applicant is at the time of application licensed or registered as a physical
2 therapist or, if applying for licensure as a physical therapist assistant, is licensed or
3 registered as a physical therapist assistant in a state, district, or territory of the United
4 States having, in the opinion of the board, requirements for licensing or registration
5 equal to or higher than those in California at the time of initial licensure, and he or she
6 has passed, to the satisfaction of the board, an examination for licensing or registration
7 that is, in the opinion of the board, comparable to the examination used in this state for
8 the license for which application has been made.

9
10 (2) The applicant is a graduate of a physical therapist education program
11 approved by the board, or has met the requirements of Section 2653 or, if applying for
12 licensure as a physical therapist assistant, is a graduate of either a physical therapist or
13 a physical therapist assistant education program approved by the board.

14
15 (3) The applicant has filed an application as provided in Section **2632** and meets
16 the requirements prescribed by Sections **2635 and 2650**.

17
18 (b) An applicant for licensure under subdivision (a), whose application is based on a
19 certificate issued by a physical therapy licensing authority of another state may be
20 required to pass an oral examination given by the board and file a statement of past
21 work activity.

22
23 **3.13. Temporary Permit to Practice –Licensure by Endorsement** **MPA 3.05 [2733]** (a)
24 Upon approval of an application filed pursuant to **Section 3.12**, and upon the payment
25 of the fee prescribed by **Section ?** the board may issue a temporary permit to practice
26 as a physical therapist or physical therapist assistant for a period of 90 days from the
27 date of issuance. **2636.5(c) & New**

28 (b) A temporary permit to practice as a physical therapist or physical therapist assistant
29 shall terminate upon notice thereof by certified mail, return receipt requested, if it is
30 issued by mistake or if the application for licensure is denied.

31
32 (c) The board may extend a temporary permit issued to any person who, in the
33 judgment of the board, has been excusably delayed in completing his or her application
34 for or the minimum requirements for a license, but the board may not extend a
35 temporary permit more than twice.

36
37 **Article 4. Enforcement**

38
39 **4.1. Grounds for Disciplinary Action**

40 **[2234]** Unprofessional conduct constitutes grounds for discipline or for denial of a
41 license or issuance of a probationary license. In addition to other provisions of this
42 chapter, unprofessional conduct includes, but is not limited to, the following:

43
44 **[2266, 2620.7(a)-(c)]** (a) Failure of a physical therapist to maintain adequate and
45 accurate records relating to the provision of services to his or her patients.

46
47 (b) Advertising in violation of Section 17500. **2660(a)**

EXHIBIT C – PTBC Sunset Review Report – September 1, 2005

1 (c) Obtaining or attempting to obtain a license or certificate by fraud or
2 misrepresentation. **2660(b)**

3
4 (d) Conviction of a crime that substantially relates to the qualifications, functions, or
5 duties of a physical therapist or physical therapist assistant. The record of conviction or
6 a certified copy thereof shall be conclusive evidence of that conviction. **2660(d)**

7
8 (e) **[3750 (a)(b)(d)]** Obtained or possessed in violation of law, or except as directed by a
9 licensed physician and surgeon, dentist, or podiatrist administered to himself or herself,
10 or furnished or administered to another, any controlled substances as defined in
11 Division 10 (commencing with Section 11000) of the Health and Safety Code, or any
12 dangerous drug as defined in Article 2 (commencing with Section 4015) of Chapter 9.
13 **2660(f), (g)**

14
15 (1) Used any controlled substance as defined in Division 10 (commencing with
16 Section 11000) of the Health and Safety Code, or any dangerous drug as defined in
17 Article 2 (commencing with Section 4015) of Chapter 9.

18 (2) Been convicted of a criminal offense involving the consumption or self-
19 administration of any of the substances described in subdivisions (f) and (1), or the
20 possession of, or falsification of a record pertaining to, the substances described in
21 subdivision (f), in which event the record of the conviction is conclusive evidence
22 thereof.

23
24 (f) Gross negligence or repeated acts of negligence in the practice or delivery of
25 physical therapy care. **2660(h)**,

26
27 (g) Conviction of a violation of any of the provisions of this chapter or of the State
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 State Medical Practice Act. **2660(i)**

31
32 (h) The aiding or abetting of any person to violate this chapter or any regulations duly
33 adopted under this chapter. **2660(j)**

34
35 (i) The aiding or abetting of any person to engage in the unlawful practice of physical
36 therapy. **2660(k)**

37
38 (j) The commission of any fraudulent, dishonest, or corrupt act which is substantially
39 related to the qualifications, functions, or duties of a physical therapist or a physical
40 therapist assistant. **2660(l)**

41
42 (k) **[2660(m)]** Except for good cause, the knowing failure to protect patients by failing to
43 follow infection control guidelines of the board, thereby risking transmission of blood-
44 borne infectious diseases from licensee to patient, from patient to patient, and from
45 patient to licensee. In administering this subdivision, the board shall consider
46 referencing the standards, regulations, and guidelines of the State Department of Health
47 Services developed pursuant to Section 1250.11 of the Health and Safety Code and the
48 standards, regulations, and guidelines pursuant to the California Occupational Safety

EXHIBIT C – PTBC Sunset Review Report – September 1, 2005

1 and Health Act of 1973 (Part 1 (commencing with Section 6300) of Division 5 of the
2 Labor Code) for preventing the transmission of HIV, hepatitis B, and other blood-borne
3 pathogens in health care settings. As necessary, the board shall consult with the
4 Medical Board of California, the California Board of Podiatric Medicine, the Board of
5 Dental Examiners of California, the Board of Registered Nursing, and the Board of
6 Vocational Nursing and Psychiatric Technicians, to encourage appropriate consistency
7 in the implementation of this subdivision.
8

9 (l) Practicing or offering to practice beyond the scope of the practice of physical therapy.

10 **New**

11
12 (m) **[4980(t)]** Permitting a physical therapist assistant or physical therapy aide under
13 one's supervision or control to perform, or permitting the physical therapist assistant or
14 physical therapy aide to hold himself or herself out as competent to perform,
15 professional services beyond the physical therapist assistant or physical therapy aides
16 level of education, training, or experience. **New**
17

18 (n) **[2305]**. The revocation, suspension, or other discipline, restriction, or limitation
19 imposed by another state upon a license or certificate to practice physical therapy
20 issued by that state, or the revocation, suspension, or restriction of the authority to
21 practice physical therapy by any agency of the federal government. **New**
22

23 (o) Engaging in sexual misconduct or violating Section 726. A patient, client or
24 customer of a licentiate under this chapter is conclusively presumed to be incapable of
25 giving free, full, and informed consent to any sexual activity. **2660.1 & New**
26

27 (p) The commission of verbal abuse or sexual harassment. **2660(n)**
28

29 (q) Viewing a completely or partially disrobed patient in the course of treatment if the
30 viewing is not necessary to patient evaluation or treatment under current standards.

31 **New**

32
33 (r) Engaging in any act violating Section 650. **New**
34

35 (s) Charging a fee for services not performed. **New**
36

37 (t) Engaging in any act that violates Section 651. **New**
38

39 (u) Misrepresenting documentation of patient care or deliberate falsifying of patient
40 records.
41

42 (v) **[2273]** Except as otherwise allowed by law, the employment of runners, cappers,
43 steerers, or other persons to procure patients. **New**
44

45 (w) Engaging in any act that violates Section 654.2. **New**
46

47 (x) **[4982(m)]** Failure to maintain confidentiality, except as otherwise required or
48 permitted by law, of all information that has been received from a patient in confidence

EXHIBIT C – PTBC Sunset Review Report – September 1, 2005

1 during the course of treatment and all information about the patient which is obtained
2 from tests or other means. **New**

3
4 **4.2. Conviction defined; time of action by board**

5 A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed
6 to be a conviction within the meaning of this article. The board may order discipline of
7 the licensee in accordance with Section **2660** or the board may order the denial of the
8 license when the time for appeal has elapsed or the judgment of conviction has been
9 affirmed on appeal or when an order granting probation is made suspending imposition
10 of sentence, irrespective of a subsequent order under the provisions of Section 1203.4
11 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter
12 a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation,
13 complaint, information, or indictment. **2661**

14
15 **4.3. Patient Records**

16 Patient records shall be maintained for a period of no less than seven years following
17 the discharge of the patient, except that the records of unemancipated minors shall be
18 maintained at least one year after the minor has reached the age of 18 years, and not in
19 any case less than seven years. A violation of this section shall constitute
20 unprofessional conduct. **2620.7(d)**

21
22 **4.4. Name and address changes**

23 Each licensee shall report to the board a name change or change in address of record
24 within thirty (30) days after the date of that change, giving both the old and new
25 address, or old and new name, as the case may be. If an address reported to the board
26 is a post office box, the licensee shall also provide the board with a street address. If
27 another address is the licensee's address of record, he or she may request that the
28 second address not be disclosed to the public. **2021**

29
30 **4.5. [2608.5] Inspections; reports**

31 The board may inspect, or require reports from, a general or specialized hospital or any
32 other facility providing physical therapy care, treatment or services and the physical
33 therapy staff thereof, with respect to the physical therapy care, treatment, services, or
34 facilities provided therein, and may inspect physical therapy patient records with respect
35 to the care, treatment, services, or facilities. The authority to make inspections and to
36 require reports as provided by this section shall not be delegated by the board to any
37 person other than a physical therapist and shall be subject to the restrictions against
38 disclosure described in Section **2263**. Failure to cooperate with the investigation or to
39 provide the requested report constitutes unprofessional conduct.

40
41 **4.6. [2225.5] Failure to provide records**

42 A licensee who fails or refuses to comply with a request for the medical records of a
43 patient, that is accompanied by that patient's written authorization for release of records
44 to the board within 15 days of receiving the request and authorization, shall pay to the
45 board a civil penalty of one thousand dollars (\$1,000) per day for each day that the
46 documents have not been produced after the 15th day, unless the licensee is unable to
47 provide the documents within this time period for good cause. **New**

48
49 **4.7. [2233] Public letters of reprimand**

EXHIBIT C – PTBC Sunset Review Report – September 1, 2005

1 The board may, by stipulation or settlement with a licensee, issue a public letter of
2 reprimand after it has conducted an investigation or inspection as provided in this
3 chapter, in lieu of filing or prosecuting a formal accusation. The licensee shall indicate
4 agreement or nonagreement in writing within 30 days of formal notification by the board
5 of its intention to issue the letter. The board, at its option, may extend the response
6 time. Use of a public reprimand shall be limited to minor violations. **New**

7
8 **4.8. Hearings**

9 The board shall hear all matters, including but not limited to, any contested case or any
10 petition for reinstatement, restoration, or modification of probation. The procedure in all
11 matters and proceedings relating to the denial, suspension, revocation or probationary
12 restriction of licenses by the board under this chapter shall be governed by the
13 provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title
14 2 of the Government Code. If a contested case is heard by the board, the hearing
15 officer who presided at the hearing shall be present during the board's consideration of
16 the case and, if requested, shall assist and advise the board. **2608, 2614**

17
18 **4.9. Disciplinary Actions; Penalties**

19 **[2227]** (a) A licensee whose matter has been heard by an administrative law judge of
20 the Medical Quality Hearing Panel as designated in Section 11371 of the Government
21 Code, or whose default has been entered or who has entered into a stipulation for
22 disciplinary action with the board, may, in accordance with the provisions of this
23 chapter:

- 24
25 (1) Have his or her license revoked upon order of the board.
26
27 (2) Have his or her right to practice suspended for a period not to exceed one year
28 upon order of the board.
29
30 (3) Be placed on probation and be required to pay the costs of probation monitoring
31 upon order of the board.
32
33 (4) Be publicly reprimanded by the board.
34
35 (5) Based on an order of the board, surrender of a license.
36
37 (6) Have any other action taken in relation to discipline as part of an order of
38 probation, as the board or an administrative law judge may deem proper.
39
40

41 **4.10. Petitions for reinstatement or reduction of penalty **2661.7****

42 (a) A person whose license has been revoked or suspended, or who has been placed
43 on probation, may petition the Physical Therapy Board of California for reinstatement or
44 modification of penalty, including modification or termination of probation, after a period
45 of not less than the following minimum periods has elapsed from the effective date of
46 the decision ordering that disciplinary action:
47

EXHIBIT C – PTBC Sunset Review Report – September 1, 2005

1 (1) At least three years for reinstatement of a license revoked for unprofessional
2 conduct, except that the board may, for good cause shown, specify in a revocation
3 order that a petition for reinstatement may be filed after two years.
4

5 (2) At least two years for early termination, or one year for modification of a condition
6 of probation of three years or more.
7

8 (3) At least one year for reinstatement of a license revoked for mental or physical
9 illness, or for modification of a condition, or termination of probation of less than three
10 years.
11

12 (b) The petition shall state any facts as may be required by the board. The petition
13 shall be accompanied by at least two verified recommendations from physical therapists
14 licensed by the board who have personal knowledge of the activities of the petitioner
15 since the disciplinary penalty was imposed.
16

17 (c) The petition may be heard by the board. The board may assign the petition to an
18 administrative law judge designated in Section 11371 of the Government Code. After a
19 hearing on the petition, the administrative law judge shall provide a proposed decision
20 to the board that shall be acted upon in accordance with the Administrative Procedure
21 Act.
22

23 (d) The board or the administrative law judge hearing the petition, may consider all
24 activities of the petitioner since the disciplinary action was taken, the offense for which
25 the petitioner was disciplined, the petitioner's activities during the time the license was
26 in good standing, and the petitioner's rehabilitative efforts, general reputation for truth,
27 and professional ability. The hearing may be continued, as the administrative law judge
28 designated in Section 11371 of the Government Code finds necessary.
29

30 (e) The administrative law judge designated in Section 11371 of the Government Code
31 when hearing a petition for reinstating a license, or modifying a penalty, may
32 recommend the imposition of any terms and conditions deemed necessary.
33

34 (f) No petition shall be considered while the petitioner is under sentence for any
35 criminal offense, including any period during which the petitioner is on court-imposed
36 probation or parole. No petition shall be considered while there is an accusation or
37 petition to revoke probation pending against the person. The board may deny, without a
38 hearing or argument, any petition filed pursuant to this section within a period of two
39 years from the effective date of the prior decision following a hearing under this section.
40

41 (g) Nothing in this section shall be deemed to alter Sections 822 and 823. **2661.7**
42

43 **Article 5. Continuing Education and Competency**
44

45 **5.1. [3719]** Each person renewing his or her license shall submit proof satisfactory to
46 the board that, during the preceding two-year period, he or she completed the required
47 number of continuing education hours established by regulation of the board or such
48 other proof of continuing competency as the board may establish by regulation.
49 Required continuing education shall not exceed 30 hours every two years.

EXHIBIT C – PTBC Sunset Review Report – September 1, 2005

1 The board shall adopt and administer regulations, including but not limited to,
2 continuing education, intended to ensure the continuing competency of persons
3 licensed pursuant to this chapter. **New**

4
5 Article 6. Diversion Program

6
7 **6.1. Legislative intent**

8 The board shall seek ways and means to identify and rehabilitate physical therapists
9 and physical therapist assistants whose competency is impaired due to abuse of
10 controlled substances or other habit-forming drugs, chemicals or alcohol so that they
11 may be treated and returned to the practice of physical therapy in a manner which will
12 not endanger the public health and safety. **2662**

13
14 The board may permit individuals enrolled in an approved physical therapy or physical
15 therapist assistant program to participate in its diversion program, provided, however,
16 that any such student who participates in the diversion program shall pay all cost of the
17 program. **New**

18
19 **6.2. Diversion Evaluation Committee**

20 The board shall establish and administer a diversion program for the rehabilitation of
21 physical therapists and physical therapist assistants whose competency is impaired due
22 to the abuse of controlled substances or other habit-forming drugs, chemicals or
23 alcohol. The board may contract with any other state agency or a private organization
24 to perform its duties under this article. The board may establish one or more diversion
25 evaluation committees to assist it in carrying out its duties under this article. **2663**

26
27 **6.3. Composition**

28 (a) Any diversion evaluation committee established by the board shall have at least
29 three members. In making appointments to a diversion evaluation committee, the board
30 shall consider the appointment of persons who are either recovering from substance
31 abuse and have been free from substance abuse for at least three years immediately
32 prior to their appointment or who are knowledgeable in the treatment and recovery of
33 substance abuse. The board also shall consider the appointment of a physician and
34 surgeon who is board certified in psychiatry.

35
36 (b) Appointments to a diversion evaluation committee shall be by the affirmative vote of
37 a majority of members appointed to the board. Each appointment shall be at the
38 pleasure of the board for a term not to exceed four years. In its discretion, the board
39 may stagger the terms of the initial members so appointed.

40
41 (c) A majority of the members of a diversion evaluation committee shall constitute a
42 quorum for the transaction of business. Any action requires an affirmative vote of a
43 majority of those members present at a meeting constituting at least a quorum. Each
44 diversion evaluation committee shall elect from its membership a chairperson and a vice
45 chairperson. Notwithstanding the Bagley-Keene Open Meeting Act (Article 9
46 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the
47 Government Code), relating to public meetings, a diversion evaluation committee may
48 convene in closed session to consider matters relating to any physical therapist or

EXHIBIT C – PTBC Sunset Review Report – September 1, 2005

1 physical therapist assistant applying for or participating in a diversion program, and a
2 meeting which will be convened entirely in closed session need not comply with Section
3 11125 of the Government Code. A diversion evaluation committee shall only convene
4 in closed session to the extent it is necessary to protect the privacy of an applicant or
5 participant. Each member of a diversion evaluation committee shall receive a per diem
6 and shall be reimbursed for expenses as provided in Section 103. **2664**

7
8 **6.4. Duties and Responsibilities**

9 Each diversion evaluation committee has the following duties and responsibilities:

- 10
11 (a) The evaluation of physical therapists and physical therapist assistants who request
12 participation in the program and the consideration of any recommendations from
13 professional consultants on the admission of applicants to the diversion program.
14
15 (b) The review and designation of treatment facilities to which physical therapists and
16 physical therapist assistants in the diversion program may be referred.
17
18 (c) The receipt and review of information concerning physical therapists and physical
19 therapist assistants participating in the program.
20
21 (d) Calling meetings as necessary to consider the requests of physical therapists and
22 physical therapist assistants to participate in the diversion program, to consider reports
23 regarding participants in the program, and to consider any other matters referred to it by
24 the board.
25
26 (e) The consideration of whether each participant in the diversion program may with
27 safety continue or resume the practice of physical therapy.
28
29 (f) Setting forth in writing a treatment program for each participant in the diversion
30 program with requirements for supervision and surveillance.
31
32 (g) Holding a general meeting at least twice a year, which shall be open and public, to
33 evaluate the diversion program's progress, to prepare reports to be submitted to the
34 board, and to suggest proposals for changes in the diversion program.
35
36 (h) For the purposes of Division 3.6 (commencing with Section 810) of Title 1 of the
37 Government Code, any member of a diversion evaluation committee shall be
38 considered a public employee. No board or diversion evaluation committee member,
39 contractor, or agent thereof, shall be liable for any civil damage because of acts or
40 omissions which may occur while acting in good faith in a program established pursuant
41 to this article. **2665**

42
43 **6.5. Criteria for Acceptance**

44 (a) Criteria for acceptance into the diversion program shall include all of the following:

- 45
46 (1) The applicant shall be licensed as a physical therapist or as a physical
47 therapist assistant by the board or shall be enrolled in an approved physical therapy or
48 physical therapist assistant program and shall be a resident of California.
49

EXHIBIT C – PTBC Sunset Review Report – September 1, 2005

1 (2) The applicant shall be found to abuse controlled substances or other habit-
2 forming drugs, chemicals or alcohol in a manner which may affect his or her ability to
3 practice physical therapy safely or competently.
4

5 (3) The applicant shall have voluntarily requested admission to the program or
6 shall be accepted into the program in accordance with terms and conditions resulting
7 from a disciplinary action.
8

9 (4) The applicant shall agree to undertake any medical or psychiatric examination
10 ordered to evaluate the applicant for participation in the program.
11

12 (5) The applicant shall cooperate with the program by providing medical
13 information, disclosure authorizations, and releases of liability as may be necessary for
14 participation in the program.
15

16 (6) The applicant shall agree in writing to cooperate with all elements of the
17 treatment program designed for him or her. Any applicant may be denied participation
18 in the program if the board, its designee, or a diversion evaluation committee, as the
19 case may be, determines that the applicant will not substantially benefit from
20 participation in the program or that the applicant's participation in the program creates
21 too great a risk to the public health, safety, or welfare.
22

23 (b) A participant may be terminated from the program for any of the following reasons:
24

25 (1) The participant has successfully completed the treatment program.
26

27 (2) The participant has failed to comply with the treatment program designated for him
28 or her.
29

30 (3) The participant fails to meet any of the criteria set forth in subdivision (a) or (c).
31

32 (4) It is determined that the participant has not substantially benefited from
33 participation in the program or that his or her continued participation in the program
34 creates too great a risk to the public health, safety, or welfare. Whenever an applicant
35 is denied participation in the program or a participant is terminated from the program for
36 any reason other than the successful completion of the program, and it is determined
37 that the continued practice of physical therapy by that individual creates too great a risk
38 to the public health, safety, and welfare, that fact shall be reported to the executive
39 officer of the board and all documents and information pertaining to and supporting that
40 conclusion shall be provided to the executive officer. The matter may be referred for
41 investigation and disciplinary action by the board. Each physical therapist or physical
42 therapy assistant who requests participation in a diversion program shall agree to
43 cooperate with the recovery program designed for him or her. Any failure to comply
44 with that program may result in termination of participation in the program.
45

46 The diversion evaluation committee shall inform each participant in the program of the
47 procedures followed in the program, of the rights and responsibilities of a physical
48 therapist or physical therapist assistant in the program, and the possible results of
49 noncompliance with the program.

EXHIBIT C – PTBC Sunset Review Report – September 1, 2005

1 (c) In addition to the criteria and causes set forth in subdivision (a), the board may set
2 forth in its regulations additional criteria for admission to the program or causes for
3 termination from the program. **2666**

4
5 **6.6. Confidentiality of Records**

6 All board and diversion evaluation committee records and records of proceedings and
7 participation of a physical therapist or physical therapist assistant in a program shall be
8 confidential and are not subject to discovery or subpoena. **2667**

9
10 **6.7. Participation Fee**

11 A fee may be charged for participating in the program, not to exceed the actual cost of
12 administering the program. **2668 & 3534.8**

13
14 (b) If the board contracts with any other entity to carry out this section, the executive
15 officer of the board, or his or her designee, shall review the activities and performance
16 of the contractor on a biennial basis. As part of this review, the board shall review files
17 of participants in the program. However, the names of participants who entered the
18 program voluntarily shall remain confidential, except when the review reveals
19 misdiagnosis, case mismanagement, or noncompliance by the participant. **2668**

20
21 **6.8. Participation Not a Defense**

22 Participation in a diversion program shall not be a defense to any disciplinary action that
23 may be taken by the board. This section does not preclude the board from commencing
24 disciplinary action against a physical therapist or physical therapist assistant who is
25 terminated unsuccessfully from the program under this section. That disciplinary action
26 may not include as evidence any confidential information. **2669**

27
28 **Article 7. Professional Physical Therapy Corporations**

29
30 **7.1. Professional corporations**

31 A physical therapy corporation is a corporation that is authorized to render professional
32 services, as defined in Section 13401 of the Corporations Code, so long as that
33 corporation and its shareholders, officers, directors, and employees rendering
34 professional services who are physical therapists are in compliance with the Moscone-
35 Knox Professional Corporation Act, this article and all other statutes and regulations
36 now or hereafter enacted or adopted pertaining to the corporation and the conduct of its
37 affairs.

38 With respect to a physical therapy corporation, the governmental agency referred to in
39 the Moscone-Knox Professional Corporation Act is the Physical Therapy Board of
40 California. **2690**

41
42 **7.2. Unprofessional conduct; violations**

43 It shall constitute unprofessional conduct and a violation of this chapter for any person
44 licensed under this chapter to violate, attempt to violate, directly or indirectly, or assist in
45 or abet the violation of, or conspire to violate any provision or term of this article, the
46 Moscone-Knox Professional Corporation Act, or any regulations duly adopted under
47 those laws. **2691**

48
49 **7.3. Unprofessional conduct; conduct of practice**

EXHIBIT C – PTBC Sunset Review Report – September 1, 2005

1 A physical therapy corporation shall not do or fail to do any act the doing of which or
2 the failure to do which would constitute unprofessional conduct under any statute or
3 regulation, now or hereafter in effect. In the conduct of its practice, it shall observe and
4 be bound by such statutes and regulations to the same extent as a person holding a
5 license under this chapter. **2692**

7.4. Name

7
8 The name of a physical therapy corporation and any name or names under which it
9 may render professional services shall contain the words "physical therapy" or "physical
10 therapist", and wording or abbreviations denoting corporate existence. **2693**

7.5. Shareholders, officers, and directors; license requirement

11
12
13 Except as provided in Section 13403 of the Corporations Code, each shareholder,
14 director and officer of a physical therapy corporation, except an assistant secretary and
15 an assistant treasurer, shall be a licensed person as defined in Section 13401 of the
16 Corporations Code. **2694**

7.6. Income; disqualified shareholder

17
18
19 The income of a physical therapy corporation attributable to professional services
20 rendered while a shareholder is a disqualified person, as defined in Section 13401 of
21 the Corporations Code, shall not in any manner accrue to the benefit of such
22 shareholder or his or her shares in the physical therapy corporation. **2695**

7.7. Regulations

23
24
25 The board may adopt and enforce regulations to carry out the purposes and objectives
26 of this article, including regulations requiring (a) that the bylaws of a physical therapy
27 corporation shall include a provision whereby the capital stock of the corporation owned
28 by a disqualified person (as defined in Section 13401 of the Corporations Code), or a
29 deceased person, shall be sold to the corporation or to the remaining shareholders of
30 the corporation within the time as the regulations may provide, and (b) that a physical
31 therapy corporation shall provide adequate security by insurance or otherwise for claims
32 against it by its patients arising out of the rendering of professional services. **2696**

Article 8. Renewal of Licenses

8.1. [2684] Expiration and renewal of licenses

33
34
35
36
37 (a) Notwithstanding **Section 2422**, any license for the practice of physical therapy shall
38 expire at 12 midnight on the last day of the birth month of the licensee during the
39 second year of a two-year term, if not renewed.

40 (b) To renew an unexpired license, the licensee shall, on or before the dates on which
41 it would otherwise expire, apply for renewal on a form prescribed by the board and pay
42 the prescribed renewal fee. The licensee shall disclose on his or her license renewal
43 application any misdemeanor or other criminal offense for which he or she has been
44 found guilty or to which he or she has pleaded guilty or no contest.

8.2. Notice to pay renewal fee

45
46
47 At least 60 days before the expiration of any license, the board shall mail to each
48 licensee under this chapter, at the latest address furnished by the licensee to the

EXHIBIT C – PTBC Sunset Review Report – September 1, 2005

1 executive officer, a notice stating the amount of the renewal fee and the date on which it
2 is due, and that failure to pay it on or before the due date will result in expiration of the
3 license. **2685**

4
5 **8.3. Delinquent renewal of license**

6 **[2427]** A license which has expired may be renewed at any time within three years after
7 its expiration on filing an application for renewal on a form prescribed by the board and
8 payment of all accrued renewal fees and any other fees required by **Section ?**. If the
9 license is not renewed within 30 days after its expiration, the licensee, as a condition
10 precedent to renewal, shall also pay the prescribed delinquency fee, if any. Except as
11 provided in **Section ?**, renewal under this section shall be effective on the date on
12 which the renewal application is filed, on the date on which the renewal fee or accrued
13 renewal fees are paid, or on the date on which the delinquency fee or the delinquency
14 fee and penalty fee, if any, are paid, whichever last occurs. If so renewed, the license
15 shall continue in effect through the expiration date set forth in **Section 8.1** which next
16 occurs after the effective date of the renewal, when it shall expire and become invalid if
17 it is not again renewed.

18
19 **8.4. Application for new license after cancelled license** **2684**

20 **[2428]** (a) A person who fails to renew his or her license within three years after its
21 expiration may not renew it, and it may not be reissued, reinstated, or restored
22 thereafter, but that person may apply for and obtain a new license if he or she:

23
24 (1) Has not committed any acts or crimes constituting grounds for denial of licensure
25 under Division 1.5 (commencing with Section 475).

26
27 (2) Takes and passes the examination, if any, which would be required of him or her if
28 application for licensure was being made for the first time, or otherwise establishes to
29 the satisfaction of the board that, with due regard for the public interest, he or she is
30 qualified to practice the profession or activity for which the applicant was originally
31 licensed.

32
33 (3) Pays all of the fees that would be required if application for licensure was being
34 made for the first time.

35
36 The board may provide for the waiver or refund of all or any part of an examination fee
37 in those cases in which a license is issued without an examination pursuant to this
38 section. **New**

39
40 **Article 9. Revenue**

41
42 **9.1. Physical Therapy Fund** **Don't Repeal**

43 There is in the State Treasury the Physical Therapy Fund. All collections from persons
44 licensed or approved or seeking to be licensed or approved shall be paid by the board
45 into the fund after reporting to the Controller at the beginning of each month the amount
46 and source of the collections. All money in the Physical Therapy Fund is appropriated
47 to carry out the purposes of this chapter. **2682**

1 **9.2. Monthly report; disposition of collections**

2 Within 10 days after the beginning of each calendar month the board shall report to the
3 State Controller the amount and source of all collections made from persons licensed or
4 seeking to be licensed under this chapter and at the same time pay all such sums into
5 the State Treasury, where they shall be credited to the Physical Therapy Fund. **2681**
6

7 **9.3. Fines and forfeitures credited to physical therapy fund**

8 All fees earned by the board and all fines and forfeitures of bail to which the board is
9 entitled shall be reported at the beginning of each month, for the month proceeding, to
10 the State Controller. At the same time, the entire amount of these collections shall be
11 paid into the State Treasury and shall be credited to the Physical Therapy Fund.
12

13 This fund shall be for the uses of the board and is continuously appropriated to the
14 board to pay all salaries and all other expenses necessarily incurred in carrying into
15 effect the provisions of this chapter. **2687**
16

17 **9.4. Fees**

18 The amount of fees provided in connection with licenses for the practice of physical
19 therapy is as follows:
20

21 (a) The application fee for a physical therapist's license shall be established by the
22 board at not more than one hundred and fifty dollars (\$150). The application fee for an
23 applicant under Section **2653** shall be established by the board at not more than two
24 hundred dollars (\$200).
25

26 (b) The examination and reexamination fees for the physical therapist examination,
27 physical therapist assistant examination, and the examination to demonstrate
28 knowledge of the rules and regulations related to the practice of physical therapy shall
29 be the actual cost to the board of the development and writing of, or purchase of the
30 examination, and grading of each written examination, plus the actual cost of
31 administering each examination. The board may in its discretion require the fee for the
32 examination required by Section **2636** to be paid directly to the examination provider.
33

34 (g) The initial license fee for a physical therapist license shall be fixed by the board at
35 not more than one hundred dollars (\$100).
36

37 (h) The renewal fee for a physical therapist license shall be fixed by the board at not
38 more than two hundred dollars (\$200).
39

40 (i) A fee to be set by the board of not more than one hundred and fifty dollars (\$150)
41 shall be charged for each application for license as a physical therapist assistant.
42

43 (j) A fee to be set by the board of not more than one hundred dollars (\$100) shall be
44 charged for the issuance of and for the renewal of each license as a physical therapist
45 assistant.
46

47 (k) The renewal fee for a physical therapist assistant license shall be fixed by the board
48 at not more than two hundred dollars (\$200).
49

EXHIBIT C – PTBC Sunset Review Report – September 1, 2005

1 (l) The duplicate wall certificate fee shall not exceed fifty dollars (\$50). The duplicate
2 renewal receipt fee shall not exceed fifty dollars (\$50).

3
4 (m) The endorsement or letter of good standing fee is fifty dollars (\$50).

5
6 (n) The amount of any fee established by statute or by the board pursuant to statutory
7 authority that is in effect when this section becomes operative on January 1, 2007,
8 pursuant to subdivision (10), shall remain in effect after that operative date, unless the
9 board establishes a fee amount that is less or greater than the previously established
10 fee amount as permitted by law.

11
12 (o) This section shall become operative on January 1, 2007. **2688**

13
14 **9.5. Report on increased fees**

15 The board shall submit a report to the fiscal and appropriate policy committees of the
16 legislature whenever the board increases any fee. The report shall specify the
17 justification for the increase and the percentage of the fee increase to be used for
18 enforcement purposes. **2688.5**

19
20 **9.6. Electromyographical testing; fees**

21 (a) The board may establish by regulation suitable application and renewal fees of not
22 more than two hundred dollars (\$200), for persons certified to perform
23 electromyographical testing pursuant to Section **2620.5**, based upon the cost of
24 operating the certification program. The application fee shall be paid by the applicant at
25 the time the application is filed and the renewal fee shall be paid as provided in Section
26 **2683**.

27
28 (b) The board shall charge an examination and reexamination fee of five hundred
29 dollars (\$500) to applicants who are examined and who have been found to otherwise
30 meet the board's standards for certification. **2689**

31
32 **Article 10. Offenses Against This Chapter**

33
34 **[2670] 10.1. Violation as misdemeanor**

35 Any person who violates any of the provisions of this chapter shall be guilty of a
36 misdemeanor, punishable by a fine not exceeding one thousand dollars (\$1,000) or
37 imprisonment in a county jail not exceeding six months, or by both.

38
39 **[2672] 10.2. Injunction against violation**

40 Whenever any person has engaged or is about to engage in any acts or practices which
41 constitute or will constitute an offense against this chapter, the superior court of any
42 county, on application of the Medical Board of California, the board, or 10 or more
43 persons holding physical therapist licenses issued under this chapter, may issue an
44 injunction or other appropriate order restraining the conduct. Proceedings under this
45 section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part
46 2 of the Code of Civil Procedure.

**THE FEDERATION OF STATE BOARDS OF
PHYSICAL THERAPY**

STANDARDS OF COMPETENCE

Approved by the Board of Directors August 2000

INTRODUCTION

WHY IS THE FEDERATION DEVELOPING STANDARDS OF COMPETENCE?

The Federation is committed to the development of a national framework that state licensing boards may use to assess continuing competence of physical therapy practitioners. As part of that commitment, it is important to develop “standards” that articulate a measurable degree of required performance. The standards chosen will be used to determine the level of performance to which licensees will be held accountable for ongoing practice.

While “standards” are not new and currently exist for students and entry to practice, standards for continuing competence have not been articulated for physical therapy.

The Federation recognizes that the standards must be dynamic and reflect the evolving nature of physical therapy practice. Therefore, this document should be considered as a work in progress and will be updated and refined over time.

The Federation will be developing a model(s) for measuring and demonstrating ongoing competence based on these standards. It will be up to each state to determine if they will require licensees to demonstrate their continued competence based on the model(s).

WHAT ARE THE ASSUMPTIONS BEHIND THE STANDARDS?

Assumptions underlying these standards include:

- Physical therapists are bound by a code of ethics.
- Physical therapists are self-regulating
- Physical therapists maintain currency by participating in life-long-learning. Life-long learning includes development of knowledge, skills and abilities in order to meet current standards of practice.
- Physical therapists are committed to delivering quality patient care services.
- Physical therapists are an integral part of the health care delivery team.
- Physical therapists are responsible for all aspects of physical therapy services including those provided by assistive personnel under the direction of the physical therapist.

WHY HAVE STANDARDS NOT BEEN DEVELOPED FOR THE PHYSICAL THERAPIST ASSISTANT?

While many states regulate physical therapist assistants, standards have not been developed for the physical therapist assistant. Since all jurisdictions require the PTA to work under the supervision of the physical therapist, it is recognized that the supervising physical therapist has the responsibility and obligation to determine a PTA’s competence. It is also the responsibility of the physical therapist to direct the physical therapist assistant towards appropriate training and skill development to maintain and improve the knowledge and skills of the physical therapist assistant. This responsibility of the supervising physical therapist is included within these standards of competence.

Exhibit D – PTBC Sunset Review Report – September 1, 2005

Requirements for re-certification or re-licensure for PTA's may also be an over burdensome form of regulation.

CONTINUING COMPETENCE

It is the position of the Federation of State Boards of Physical Therapy that it is a regulatory board's responsibility, in meeting its mission of protecting the public, to develop standards and measures for assuring entry level and continuing competence to practice physical therapy, and to also require remediation for those who do not meet the established standards.

HOW WERE THESE STANDARDS DEVELOPED?

The standards in this document were developed following a review by a committee of the literature and accepted professional documents (see appendix A). These standards went through an extensive review process first by the licensing jurisdictions and then clinicians from a wide variety of regions and practice settings. Finally the Federation of State Boards of Physical Therapy called for a final 60-day comment period.

HOW ARE THE STANDARDS PRESENTED?

The standards are divided into 2 domains including:

- Professional Practice
- Patient/Client Management
-

These domains should be familiar to physical therapists as they follow the educational model used in the United States. Each is considered equally important due to the rapidly changing health care environment in which physical therapists practice, the overall impact of attributes and behaviors beyond clinical performance and the importance of practice setting management on overall physical therapy practice.

HOW DO THE STANDARDS APPLY TO PHYSICAL THERAPISTS WORKING IN NONTRADITIONAL ROLES OR IN NON-CLINICAL PRACTICE?

Physical therapists in the United States practice in diverse settings and areas of practice. The Standards of Competence are intended to apply to the performance of all physical therapists regardless of practice setting. Some of the performance requirements will fit some areas of practice better than others. Although physical therapists are licensed to practice across the broad spectrum of physical therapy, they are expected to demonstrate competence only within the context of their practice environment and role description. Some of the standards may not be applicable to some practice settings such as education, administration or research. Licensing Boards will need to make accommodations and potentially modify the standards for these practice settings.

STANDARDS OF COMPETENCE

DOMAIN 1-PROFESSIONAL PRACTICE

SAFETY

The physical therapist:

- Practices in a safe manner that minimizes risk to patients, self and others.
- Supervises assistive personnel and students in a manner that assures safe and efficient care.

COMMUNICATION

The physical therapist:

- Communicates effectively with clients, caregivers and professional colleagues.

PROFESSIONAL BEHAVIOUR

The physical therapist:

- Demonstrates knowledge, skills and abilities and by limiting practice and making accommodations as necessary.
- Demonstrates an understanding of and compliance with all laws and regulations governing the practice of physical therapy in his/her jurisdiction.
- Forms a professional relationship with patients/clients, colleagues and other members of the health care team in an effort to maximize patient/client outcomes.
- Demonstrates sensitivity to individual and cultural differences when engaged in physical therapy practice.

PROFESSIONAL DEVELOPMENT

The physical therapist:

- Demonstrates lifelong learning to identify, acquire and apply knowledge, skills and abilities required for current physical therapy practice.

DOCUMENTATION

The physical therapist:

- Completes documentation related to physical therapy practice in an appropriate, legible, and timely manner that is consistent with all applicable laws and regulatory requirements.

DOMAIN 2-PATIENT/CLIENT MANAGEMENT

EXAMINATION, EVALUATION AND DIAGNOSIS

The physical therapist:

Exhibit D – PTBC Sunset Review Report – September 1, 2005

- Safely examines and re-examines a patient/client using standardized measures whenever available.
- Establishes a diagnosis for physical therapy, identifies risks of care, and makes appropriate clinical decisions based upon the examination, evaluation and current available evidence.
- Identifies and considers patient/client goals and expected outcomes.
- Discusses findings with and obtains consent from the patient/client prior to commencing any physical therapy intervention.
- When appropriate, refers the patient/client to colleagues or other members of the health care team.

PLAN OF CARE

The physical therapist:

- Establishes and monitors a plan of care in consultation with the patient/client and other involved health care team members.
- Evaluates and updates the plan of care as indicated based on the patient/client status and applicable laws and regulations.
- Considers the resources (environmental, equipment, care-giver support and financial) when establishing a plan of care.

IMPLEMENTATION

The physical therapist:

- Delivers, evaluates and adjusts the physical therapy intervention.
- Takes appropriate action in any emergency situation.
- Utilizes assistive personnel in accordance with legal requirements.

EDUCATION

The physical therapist:

- Educates patients/clients, family, and caregivers, using relevant and effective teaching methods to assure optimal patient care outcomes.

DISCHARGE

The physical therapist:

- Plans for discharge in consultation with the patient/client and care givers.
- Discharges the patient/client after expected outcomes have been achieved or documents rationale for discharge when outcomes have not been achieved.
- Assists in the coordination of ongoing care if required.

GLOSSARY OF TERMS

Competence	The application of professional knowledge, skill and abilities, which relate to performance objectives of an individual's (PT) role within the context of public health, welfare and safety (adapted form Parry, 1996).
Continuing Competence	Ongoing application of professional knowledge, skills and abilities which relate to occupational performance objectives in the range of possible encounters that is defined by that individual's scope of practice and practice setting.
Diagnosis	Diagnosis is a label encompassing a cluster of signs and symptoms, syndromes, or categories. It is the decision reached as a result of the diagnostic process, which includes evaluating the information obtained during the examination; organizing it into clusters, syndromes, or categories; and interpreting it. ¹
Evaluation	A dynamic process in which the physical therapist makes clinical judgments based on data gathered during the examination. ¹
Examination	The process of obtaining a history, performing relevant systems reviews and selecting and administering specific tests and measures. ¹
Intervention	The purposeful and skilled interaction of the physical therapist with the patient/client and when appropriate, with other individuals involved in care, using various methods and techniques to produce changes in the condition. ¹
Outcome	Are the results of patient/client management. They relate to redemption of functional limitation and disability, primary or secondary prevention, and optimization of patient/client satisfaction. ¹
Outcome analysis	Systematic examination of patient/client outcomes in relation to selected patient/client variables (eg, age, sex, diagnosis, interventions performed); outcomes analysis of practice, and other processes. ¹
Reflective Practice	Reflective practice is the process of looking back at an experience or situation to analyze what was learned. ⁷
Standards of Competence	A desired, achievable and documented level of performance against which actual performance and outcomes can be compared and are essential for the practice of physical therapy.

Exhibit D – PTBC Sunset Review Report – September 1, 2005

Reference Documents

1. Guide to Physical Therapist Practice, American Physical Therapy Association 1999
2. Normative Model of Physical Therapy Education, American Physical Therapy Association 1997
3. Physical Therapist Clinical performance Instrument, American Physical Therapy Association 1997
4. Model Practice Act for Physical Therapy: A Tool for Public Protection and Legislative Changes, Federation of State Boards of Physical Therapy 1999
5. Professional Development Portfolio Guide, Commission on Dietetic Registration 1998
6. Introduction to C.A.R.E. Continuing Assessment, Reflection and Enhancement, College of Pharmacists of British Columbia 1997
7. Continued Competency Accountability Profile, National Council of State Boards of Nursing 1998
8. Guidelines for Physical Therapy Documentation, American Physical Therapy Association 1997
9. Standards of Practice for Physical Therapy and the Accompanying Criteria, 1995
10. Australian Physiotherapy Competency Standards, Australian Council of Physiotherapy Regulating Authorities 1994
11. Definition of Competence and Standards for Competence, National Council of State Boards of Nursing 1996
12. Standards of Practice for Physiotherapists, College of Physiotherapists of Ontario 1996
13. Competency Profile for the Entry-Level Physiotherapist in Canada, Alliance of Physiotherapy Regulatory Boards, Canadian Physiotherapy Association, Canadian University Physical Therapy Academic Council 1997

State of California
Physical Therapy Board
Department of Consumer Affairs

*“The mission of the Physical Therapy Board of California
is to promote and protect the interests of the people of California by administering and
enforcing the Physical Therapy Practice Act”*

Strategic Plan
2005



Arnold Schwarzenegger, Governor
State of California

Fred Aguiar, Secretary
State and Consumer Services Agency

Charlene Zettel, Director
Department of Consumer Affairs

Donald A. Chu, PhD, PT
President

Introduction

The Physical Therapy Board of California's Strategic Plan was adopted on May 12, 2005.

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 (PTBC), the charge to the PTBC by the legislature has been protecting the public from the incompetent, unprofessional or criminal practice of physical therapy since its inception. The goals and objectives contained in the Strategic Plan build on that charge. The PTBC is one of approximately thirty regulatory entities which exist under the organizational structure of the Department of Consumer Affairs (DCA). The PTBC has close and cooperative relationship with DCA.

The PTBC consists of seven members (four licensed physical therapists and three public members) who serve four-year terms (a maximum of two 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. Board members are required to complete a Form 700 – Conflict of Interest Statement, and they are required to submit this statement to the Fair Political Practices Commission each year. Additionally, the board members are required to complete ethics training every two years.

The PTBC 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 PTBC. The executive officer oversees the board's staff and ensures that all of its programs function efficiently and effectively.

The PTBC is funded through license and application fees. The board receives no General Fund monies from the State of California.

Licensed physical therapists may practice physical therapy independently. To become licensed, one must possess a post baccalaureate degree in physical therapy, pass the national physical therapy examination (NPTE), and pass the California Law Examination (CLE). Foreign educated physical therapists must also pass a period of clinical service after passing the NPTE.

Licensed physical therapist assistants assist a physical therapist in the practice of physical therapy. To become licensed, one must possess an associate's degree in physical therapy or qualify by meeting the equivalency requirements. A physical therapist assistant is under the supervision of a physical therapist.

Physical therapy aide is an unlicensed person who performs designated routine physical therapy tasks under the direct and immediate supervision of a licensed physical therapist.

Mission

The mission of the Physical Therapy Board of California is to promote and protect the interests of the people of California by administering and enforcing the Physical Therapy Practice Act.

Vision

The Physical Therapy Board of California will provide effective and consistent regulation of the practice of physical therapy to ensure protection of the consumer. California's physical therapy consumers and practitioners will enjoy a safe, fair and competitive marketplace by virtue of the efforts of the Board.

Description of the Board's Functions

The function of the Physical Therapy Board of California is to:

- Promote legal and ethical standards of professional conduct
- Promote the competent and professional practice of physical therapy
- Maintain and enforce relevant regulations and statutes
- Investigate the background of applicants
- Administer licensing examinations
- Promote a national examination program that is reflective of the current practice of physical therapy
- License physical therapists and physical therapist assistants
- Provide for licensure of foreign educated physical therapists who have education which is substantially equivalent to California requirements
- Certify physical therapists to perform electromyography
- Investigate complaints from consumers
- Take disciplinary actions against licensees
- Educate consumers about patient's rights and quality of service
- Monitor marketplace trends in health care so that the Board's programs and policies are contemporary, relevant and responsive
- Partner with consumer and regulatory groups in California and the nation

Strategic Goals

The PTBC has established six goals which provide the framework for furthering its mission.

Goal 1 – Enforcement Program

- Investigate complaints and resolve them in the most impartial, accurate, expeditious and cost effective manner.

Goal 2 – Examination Program

- Ensure the examination for licensure in the physical therapy professions are valid, reliable, legally defensible and accessible.

Goal 3 – Licensing Program

- Provide an efficient and responsive process that ensures qualified individuals are licensed in the physical therapy profession in California.

Goal 4 – Education and Outreach Program

- Provide information to consumers which enables them to make informed choices in the selection of physical therapy care providers and provide physical therapy practitioners the information they need to practice within the legal requirements of California.

Goal 5 – Diversion Program

- Provide physical therapy professionals a means to retain their license and practice physical therapy in a safe and effective manner.

Goal 6 – Administration Program

- Enhance the delivery of its products and services to the people of California in the most innovative way.

Enforcement Program

Goal 1 – Enforcement

Investigate complaints and resolve them in the most impartial, accurate, expeditious and cost effective manner.

Strategic Objectives

- 1A Complete the revision of the Board's Disciplinary Guidelines. (Target Date: 12/31/06)
- 1B Develop and implement orders of abatement compliance program. (Target Date: 12/31/08)
- 1C Reduce the average time to resolve consumer complaints to 18 months. (Target Date: 12/31/07)
- 1D Increase the number of probationers who successfully complete probation. (Target Date: 09/30/08)
- 1E Develop a plan to increase the Board's role in regulating physical therapy practice by unlicensed individuals. (Target Date: 03/31/07)
- 1F Staff will develop and implement a database to track all enforcement. (Target Date: 12/31/10)

Performance Measures

- *Has staff completed the revision of the Board's Disciplinary Guidelines?*
- *Has the Board implemented orders of abatement compliance program?*
- *Has staff reduced the average time to resolve consumer complaints to fewer than 18 months?*
- *Has the number of probationers who have successfully completed probation increased?*
- *Has staff developed a plan to increase the Board's role in regulating physical therapy practice by unlicensed individuals?*
- *Has the Board implemented a database to track all enforcement?*

Examination Program

Goal 2 – Examination

Ensure the examinations for licensure in the physical therapy professions are valid, reliable, legally defensible and accessible.

Strategic Objectives

- 2A Update the California Law Examination. (Target Date: 03/31/06)
- 2B Obtain Federation approval to permit California direct examination prior to application to the Board. (Target Date: 12/31/08)
- 2C Explore methods to ensure the candidate's knowledge of the California laws and regulations governing the practice of physical therapy. (Target Date: 03/31/10)

Performance Measures

- *Have the California Law Examination been updated?*
- *Has the Board advocated the Federation provide direct examination?*
- *Has the Board advocated the Federation provided examination results immediately upon completion of the examination?*
- *Are there new methods to accessing the California Law Examination?*

Licensing Program

Goal 3 – Licensing

Provide an efficient and responsive process that ensures qualified individuals are licensed in the physical therapy profession in California.

Strategic Objectives

- 3A Complete the regulatory process to implement the Course Work Evaluation Tool for the evaluation of foreign physical therapy education. (Target Date: 03/31/06)
- 3B Begin issuing a non-paper license that includes a photograph of the licensee. (Target Date: 03/31/08)
- 3C Begin imaging all licensing and enforcement records to ensure they could be reproduced if a disaster (flood, fire, theft, etc) occurred. (Target Date: 12/31/08)
- 3D Remove barriers to foreign educated physical therapists to meet standards of licensure in California. (Target Date: 03/31/10)
- 3E Establish continuing competency requirements for license renewal. (Target Date: 01/31/08)
- 3F Eliminate the delinquent grace renewal fee. (Target Date: 03/31/06)
- 3G Repeal California Code of Regulation 1398.47(a)(2) and (b), Equivalency Requirements. (Target Date: 01/01/07)

Performance Measures

- *Has the Course Work Evaluation Tool been established in regulation?*
- *Has the Board implemented photo licenses?*
- *Has the Board completed imaging all licensing and enforcement records to ensure reproduction in the event of a disaster?*
- *Has the Board removed barriers to foreign educated physical therapists to meet standards of licensure in California?*
- *Has the Board established continuing competency requirements for license renewal?*
- *Did the Board eliminate the delinquent grace renewal fee?*
- *Has the Board eliminated physical therapist assistants applying under 1398.47, Equivalency?*

Education & Outreach Program

Goal 4 – Education & Outreach

Provide information to consumers which enables them to make informed choices in the selection of physical therapy care providers, and provide physical therapy practitioners the information they need to practice within the legal requirements of California.

Strategic Objectives

- 4A Develop and implement a consumer/student outreach program.
(Target Date: 03/31/08)
- 4B Publish a plain language version of the Board's laws and regulations.
(Target Date: 09/30/07)
- 4C Develop and implement distributing information inserts in all renewal mailings.
(Target Date: 12/31/06)
- 4D Staff will develop a plan for Board Members and staff to actively participate in the annual meetings, committees, and task forces of the Federation of State Boards of Physical Therapy, Citizens Advocacy Center, CLEAR, and FARB.
(Target Date: 06/30/08)
- 4E Each Board member will meet with their respective legislator.
(Target Date: 12/31/05)
- 4F Increase consumer awareness of the PTBC and its program and services.
(Target Date: 12/31/08)
- 4G Identify the need for additional licensed physical therapist practitioners within the state of California. (Target Date: 12/31/08)

Performance Measures

- *Has the Board implemented a consumer outreach program?*
- *Has the Board published a plain language version of the Board's laws and regulations?*
- *Has the Board distributed informational inserts in all renewal mailings?*
- *Has the staff developed a plan for Board Members and staff to actively participate in the annual meetings, committees, and task forces of the FSBPT, CAC, CLEAR, and FARB?*
- *Has each Board Member met with their respective legislature?*
- *Has the Board increased consumer awareness of the PTBC and its program and services?*
- *Has staff identified the need for additional licensed physical therapist practitioners within the State of California?*

Diversion Program

Goal 5 – Diversion Program

Provide physical therapy professionals a means to retain their license and practice physical therapy in a safe and effective manner.

Strategic Objective

5A Increase the awareness and participation in the diversion program among prospective and licensed physical therapy professionals in California. (Target Date: 12/31/08)

Performance Measures

- *Has the Board increased the awareness and participation in the diversion program among perspective and licensed physical therapy professionals in California?*

Administration Program

Goal 6 – Administration

Enhance the delivery of its products and services to the people of California in the most innovative way.

Strategic Objectives

- 6A Realign the operational budget to coincide with the strategic needs of the Board. (Target Date: 09/30/06)
- 6B Complete the 2006 Sunset Review Report. (Target Date: 12/31/06)
- 6C Promote the ability for staff to effectuate their Individual Development Plans to enhance their current position and careers. (Target Date: 12/31/08)
- 6D Begin accepting all forms via the Internet. (Target Date: 03/31/08)
- 6E Begin accepting fees electronically. (Target Date: 12/31/08)
- 6F Include representation of a physical therapist assistant on the Board and enhance a representative of the public. (Target Date: 06/30/07)

Performance Measures

- *Has the Board realigned the operation budget to coincide with the strategic needs of the Board?*
- *Is the 2006 Sunset Review completed?*
- *Has staff been able to enhance their knowledge in their current position and careers by effectuating their Individual Development Plan?*
- *Has the Board implemented filing of forms via the Internet?*
- *Has the Board implemented electronic payment for all licensee fees?*
- *Did the Board enhanced representation by a physical therapist assistant and an additional public member?*