



# Sunset Review Report 2011

---

## *Physical Therapy Board of California*

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

First Review: October 1997  
Second Review: September 2001  
Third Review: September 2005  
This Review: November 2011



Physical Therapy Board of California



*November 2011*

---



# The Physical Therapy Board of California

## Sunset Review Report

### 2011

---

#### BOARD MEMBERS

Sara Takii, PT, DPT – President

Debra J. Alviso, PT, DPT – Vice-President

Martha J. Jewell, PT, PhD.

Donald A. Chu, PT, Ph.D., ATC, CSCS

James E. Turner, M.P.A.

Carol A. Wallisch, M.A., M.P.H.

#### EXECUTIVE OFFICER

Rebecca Marco

#### **PHYSICAL THERAPY BOARD OF CALIFORNIA**

2005 Evergreen Street, Suite 1350

Sacramento, CA 95815

Phone: 916.561-8200 Fax: 916.263.2560

Internet: [www.ptbc.ca.gov](http://www.ptbc.ca.gov)



# The Physical Therapy Board of California

## Sunset Review Report

2011

---

### TABLE OF CONTENTS

Section 1 – Background and Description of the Board and Regulated Profession	4
Section 2 – Performance Measures and Customer Satisfaction Surveys	25
Section 3 – Fiscal and Staff	36
Section 4 – Licensing Program	47
Section 5 – Enforcement Program	63
Section 6 – Public Information Policies	93
Section 7 – Online Practice Issues	98
Section 8 – Workforce Development and Job Creation	99
Section 9 – Current Issues	102
Section 10 – Board Action and Response to Prior Sunset Issues	106
Section 11 – New Issues	109
Section 12 – Attachments	115

## Section 1 – Background and Description of the Board and Regulated Profession

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

### **History of the Physical Therapy Board of California**

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

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

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

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

were also granted authority to utilize the services of a physical therapy aide, an unlicensed person who performs patient related tasks under the direct and immediate supervision of a physical therapist.

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

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

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

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

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

### **Function of the Physical Therapy Board of California**

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

#### **MISSION OF THE PHYSICAL THERAPY BOARD OF CALIFORNIA**

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

To meet this mission, the PTBC does the following:

- Promotes legal and ethical standards of professional conduct;
- Conducts background checks for all applicants;
- Promotes a national examination reflective of the current practice of physical therapy, in addition to a jurisprudence examination focused specifically on the laws and regulations of the State;

- Licenses physical therapists, and physical therapist assistants, and provides certification to qualified licensees to perform electromyography;
- Investigates complaints on physical therapists, physical therapist assistants, and unlicensed physical therapy practice;
- Takes disciplinary action and issues citations when appropriate;
- Conducts various outreach activities to provide the public, licensees, and potential licensees the most comprehensive and current information;
- Routinely develops a Strategic Plan to establish goals and objectives for the PTBC.

## **Profession of Physical Therapy**

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

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

Physical therapists are qualified and professionally required to:

- undertake a comprehensive examination/assessment of the patient/client or needs of a client group
- evaluate the findings from the examination/assessment to make clinical judgments regarding patients/clients
- formulate a prognosis and treatment plan
- provide consultation within their expertise and determine when patients/clients need to be referred to another healthcare professional
- implement a physical therapist intervention/treatment program
- determine the outcomes of any interventions/treatments
- make recommendations for self-management

The physical therapists' extensive knowledge of the body and its movement needs and potential is central to determining strategies for intervention. The practice settings will



Table 1b. Board Member Roster

NAME	DATE FIRST APPOINTED	DATE RE-APPOINTED	DATE TERM EXPIRES	APPOINTING AUTHORITY	TYPE (public or professional)
Debra J. Alviso	October-06	May-10	June-13	GOVERNOR	PROFESSIONAL
Donald A. Chu*	October-10	N/A	June-12	GOVERNOR	PROFESSIONAL
Martha J. Jewell	October-06	December-10	June-14	GOVERNOR	PROFESSIONAL
Nancy Krueger	December-05	N/A	June-09	GOVERNOR	PROFESSIONAL
Adele Levine**	October-06	N/A	June-07	SENATE RULES	PUBLIC
Karen Pines**	June-10	N/A	March-11	SENATE RULES	PUBLIC
Sara Takii	October-06	December-10	June-14	GOVERNOR	PROFESSIONAL
James E. Turner*	June-07	N/A	June-15	ASSEMBLY SPEAKER	PUBLIC
Carol Wallisch	September-11	N/A	June-15	SENATE RULES	PUBLIC
VACANT				GOVERNOR	PUBLIC

\* Previously Served \*\*Resigned

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

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

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

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

Reorganization/Change in Leadership

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

The need for large numbers of temporary positions is primarily a result of the Board’s unsuccessful attempts in gaining budgetary authority for permanent positions. These

attempts failed for various reasons. However, in 2007, the PTBC was successful in obtaining a .5 position budget augmentation so that it could assume the responsibility for its cashiering program from the Medical Board of California.

In 2011, the Department of Consumer Affairs (DCA) developed a Consumer Protection Enforcement Initiative (CPEI) and funded it through a Budget Change Proposal (BCP). As a result of the BCP, the PTBC gained budget authority for a Staff Services Manager (SSM) to manage the PTBC's Consumer Protection Services (CPS) program. The new position allowed for the restructuring of the staff. CPS staff was placed under the management of the new CPEI SSM. In addition, the SSM position assigned to manage the Licensing and Administrative Services Program was no longer identified AEO. The PTBC also gained a .5 Special Investigator (non-sworn peace officer) position, the first investigator position authorized and dedicated specifically to the PTBC. In 2011, the PTBC's Executive Officer of 22 years retired. The PTBC subsequently appointed the Assistant Executive Officer to the position which resulted in a seamless transition for both the PTBC members and the staff.

### Relocation

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

### Strategic Planning

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

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

### Legislative Actions

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

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

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

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

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

accredited CSU physical therapist programs). This law creates an exception to the Master Plan for Higher Education by providing CSUs the authority to award the Doctor of Physical Therapy degree.

3. Bill Number: SB 1111- Consumer Protection Enforcement Initiative  
(Negrete McLeod)

Subject Matter: Enforcement Program Improvements

Sections Affected: B&P Code section 2669.2 & numerous General Provisions

Effective Date: *This bill failed to pass the Senate Business, Professions and Economic Development Committee on April 22, 2010.*

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

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

Subject Matter: Licensure Exemption

Sections Affected: B&P Code 900 & 901

Effective Date: January 1, 2011

Summary: This law mandates the PTBC, and other DCA health boards, to offer licensure exemption for licensed out-of-state health

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

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

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

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

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

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

Effective Date: January 1, 2009

Summary: In 2008, the Medical Board of California allowed its diversion program to sunset after receiving a great deal of criticism regarding its performance. This prompted the Senate Business, Professions and Economic Development Committee to hold an informational hearing on other boards' diversion programs. As a result, SB 1441 was introduced and chaptered into law mandating the DCA to establish a committee for developing substance-abuse standards for all boards by January 1, 2010.

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

Subject Matter: License Renewal

Sections Affected: B&P Code 2684

Effective Date: January 1, 2008

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

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

Subject Matter: Executive Officer Position

Sections Affected: B&P Code 2607.5

Effective Date: October 13, 2007

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

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

Subject Matter: Continuing Competency

Sections Affected: B&P 2676

Effective Date: January 1, 2007

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

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

Subject Matter: Use of Titles

Sections Affected: B&P Code 2633

Effective Date: January 1, 2007

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

12. Bill Number: SB 1476 (Figueroa) Chapter 658, Statutes of 2006

Subject Matter: Sunrise Legislation, Cause for Denial of Licensure, Diversion Program Cost Recovery

Sections Affected: B&P Code 2602, 2660.2 & 2668

Effective Date: January 1, 2007

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

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

### Regulatory Actions

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

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

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

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

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

3. Subject Matter: Credential Evaluation Tool for Foreign Educated Applicants  
Sections Affected: CCR 1398.26.1

Effective Date: *The proposed regulatory language was filed with the Secretary of State on September 29, 2011 and will be effective 30 days thereafter.*

Summary: The existing regulation requires credential evaluation services, approved pursuant to section CCR section 1398.25, utilize the Physical Therapy Board's Entry Level Education Equivalency Review forms (ELEER) for evaluating the credentials of all physical therapist applicants educated outside the United States (U.S.) to determine substantial equivalency to U.S. requirements. The PTBC proposes to amend the existing regulation by replacing the current requirement to use the PTBC's ELEER with the Federation of State Boards of Physical Therapy's (FSBPT) Course Work Tool (CWT) to be consistent with national standards. In addition, the FSBPT's CWT is the only tool that has been studied for validity and reliability.

4. Subject Matter: Model Guidelines for Issuing Citations and Imposing Discipline

Sections Affected: CCR 1399.15

Effective Date: *The proposed regulatory language is set for hearing at the November 2011 Board meeting.*

Summary: The PTBC was compelled to update the Model Guidelines for Issuing Citations and Imposing Discipline (Guidelines) due to the passage of SB 1441 (Chapter 548, Statutes of 2008), and the Consumer Protection Enforcement Initiative (CPEI) developed by the DCA. The Guidelines are recommended disciplinary actions for the Board to consider when taking action against an applicant or licensee, and are incorporated by reference in CCR section 1399.15.

5. Subject Matter: Required Actions Against Registered Sex Offenders

Sections Affected: CCR 1399.23

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

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

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

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

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

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

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

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

9. Subject Matter: Related Health Science  
Sections Affected: CCR 1398.12  
Effective Date: April 23, 2009

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

10. Subject Matter: Administrative Citations  
Sections Affected: CCR 1399.25 & 1399.26  
Effective Date: January 8, 2009

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

#### 4. Describe any major studies conducted by the Board

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

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

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

##### **Continuing Competency Task Force**

The PTBC was granted the authority to implement a Continuing Competency (CC) program pursuant to Section 2676 of the Business and Professions Code by the passage of AB 120 (Chapter 540, Statutes of 2006). Though the Board had the authority, the program required regulations to define the requirements of the program; therefore, the Continuing Competency Task Force (CCTF) was created.

The CCTF established the following tasks in consideration of public protection; maximum simplicity and flexibility for licensees, course providers and the PTBC; and, promotion of licensees' continuing competency:

- Establish continuing competency requirements for physical therapist and physical therapist assistants
- Define course versus non-course pathways to CC credit
- Establish a waiver process, or inactive status
- Determine if specific content merits additional credit and if a limitation should be applied to a certain content
- Establish domains
- Develop ideal licensee documentation/development plan/portfolio
- Conceptualize an audit process of licensees

The CCTF conducted research to compare and contrast existing continuing competency practices in other states and other professions in the state. This research resulted in the development of standards consistent with guiding principles, and then ultimately the

promulgation of regulations which became effective November 6, 2009. Details on the progress of this program are provided under question #20.

### **Assistive Personnel Task Force**

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

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

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

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

### **National Physical Therapy Examination Validity**

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

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

Therefore, the PTBC contracted with Norman Hertz, Ph.D., of Comira, an agency specializing in test development and administration, to conduct a psychometric

assessment. Due to confidentiality provisions signed by the PTBC in order to allow Dr. Hertz access to the FSBPT's information, the PTBC cannot release the results of the analysis; however, the PTBC received assurance that the FSBPT's actions were justified. The PTBC did not terminate its contract with the FSBPT based on this issue, and has accepted the FSBPT's action regarding the exam.

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

### **Disciplinary Guidelines**

In October 1996, the Board adopted the Model Guidelines for Issuing Citations and Imposing Discipline (Guidelines), a document which provides staff and Board members suggested disciplinary action relative to a specific violation for all possible violations of the Physical Therapy Practice Act or other statutes under the PTBC's jurisdiction. The proposed disciplinary actions outlined in the Guidelines are not mandatory. The Guidelines are incorporated by reference in California Code of Regulations section 1399.15. In the event of applicable statutory or regulatory change, the document is revised to accurately reflect the most current information. Recently, multiple enforcement program changes required the PTBC to conduct its most recent analysis of the Guidelines. These included the implementation of SB 1441 Uniform Standards Regarding Substance-Abusing Healing Arts Licensees (Standards), the development of the Consumer Protection Enforcement Initiative (CPEI) by the DCA, and the anticipated implementation of licensure exemption regulations for specified licensees.

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

In July 2009, Governor Schwarzenegger directed the State and Consumer Services Agency (SCSA) to conduct an internal review of all the DCA board's enforcement programs due to reports of unacceptable investigation and enforcement processing delays of the Board of Registered Nursing (BRN). The audit indicated healthcare

boards had significant investigation backlogs because of delays within the DCA Division of Investigation, the Attorney General's Office and the Office of Administrative Hearings.

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

In 2010 legislation was enacted permitting temporary practice in California by an out-of-state licensee if the out-of-state licensee is participating in a sponsored free health care event providing care to an underserved population. The DCA drafted generic regulatory language for health care boards to which this would apply, and then each board addressed certain elements of the regulation language making it specific to the board. Though this program does not relate specifically to enforcement, the PTBC needed to determine consequences for violating the program requirements.

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

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

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

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

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

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

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

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

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

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

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

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

## Section 2 – Performance Measures and Consumer Satisfaction Surveys

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

### Performance Measures Annual Report (2010 – 2011 Fiscal Year)

#### Intake

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

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



#### Intake & Investigation

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

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



#### Volume

Number of complaints and convictions received.

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



## Performance Measures Annual Report (2010 – 2011 Fiscal Year)

### Probation Intake

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

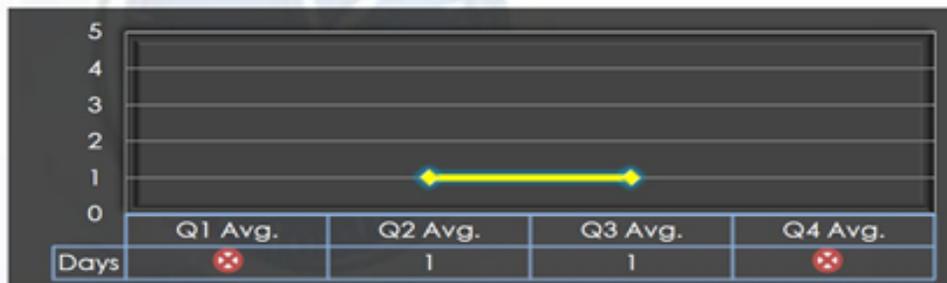
The Board has set a target of 5 days for this measure.



### Probation Violation Response

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

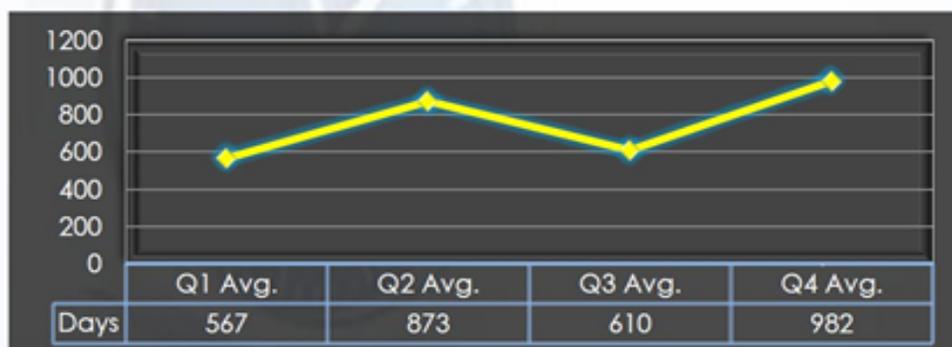
The Board has set a target of 7 days for this measure.



### Formal Discipline

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

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



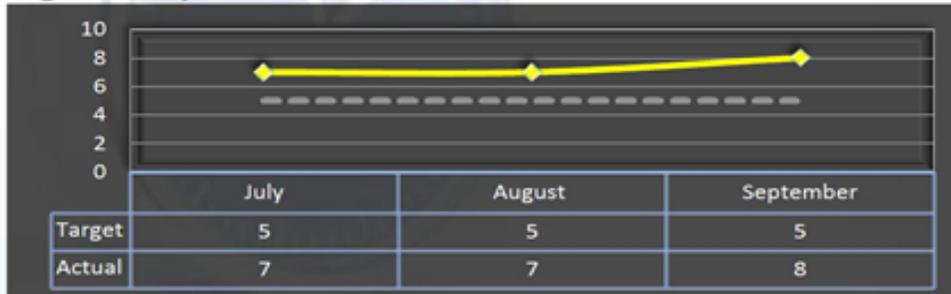
## Performance Measures First Quarter Report (July – Sept 2010)

### Intake

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

**Target: 5 Days**

**Q1 Average: 7 Days**

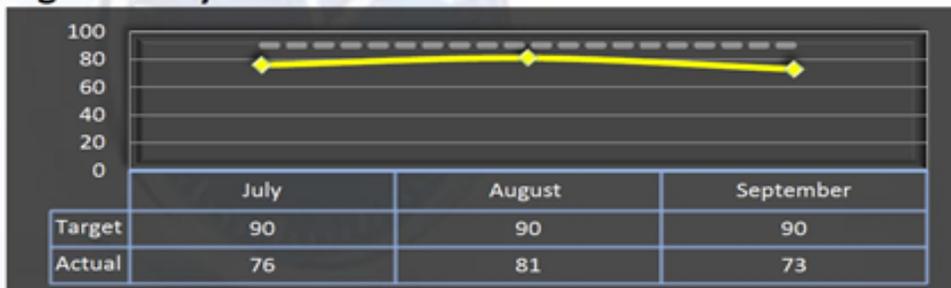


### Intake & Investigation

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

**Target: 90 Days**

**Q1 Average: 78 Days**

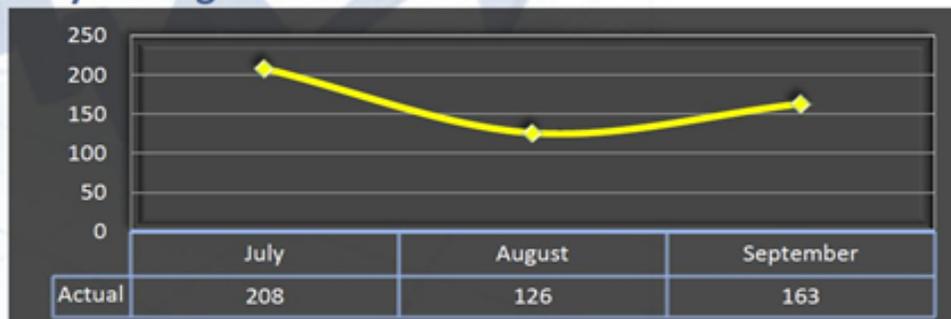


### Volume

Number of complaints received.\*

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

**Q1 Monthly Average: 166**



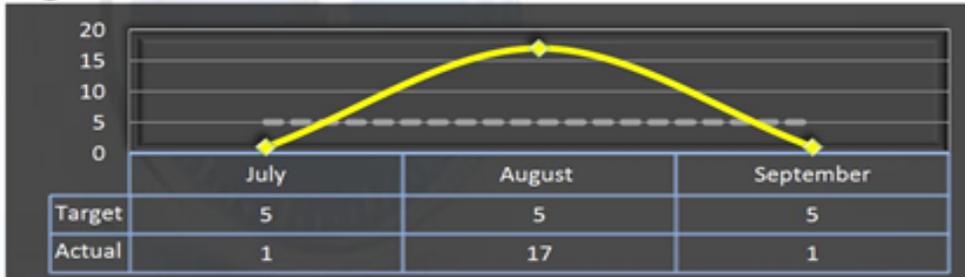
**Performance Measures First Quarter Report (July – Sept 2010)**

**Probation Intake**

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

**Target: 5 Days**

**Q1 Average: 9**

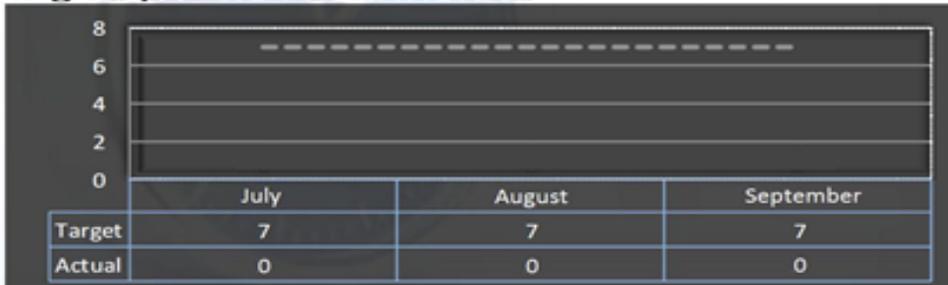


**Probation Violation Response**

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

**Target: 7 Days**

**Q1 Average: N/A - NO PROBATION VIOLATIONS REPORTED**

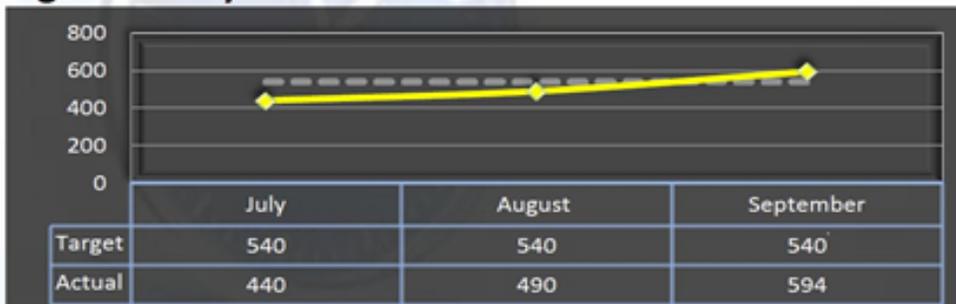


**Formal Discipline**

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

**Target: 540 Days**

**Q1 Average: 567 Days**



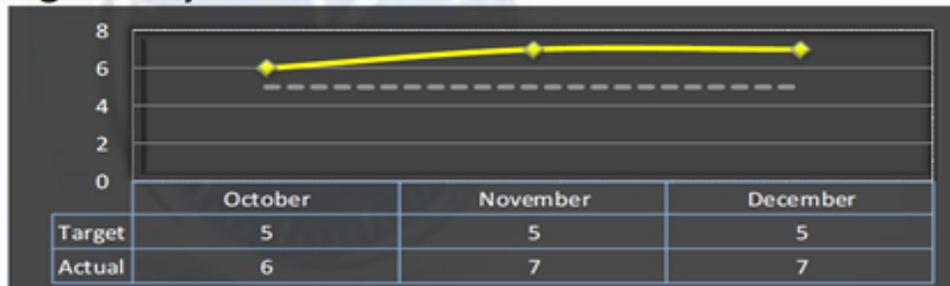
## Performance Measures Second Quarter Report (October – December 2010)

### Intake

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

**Target: 5 Days**

**Q2 Average: 6 Days**

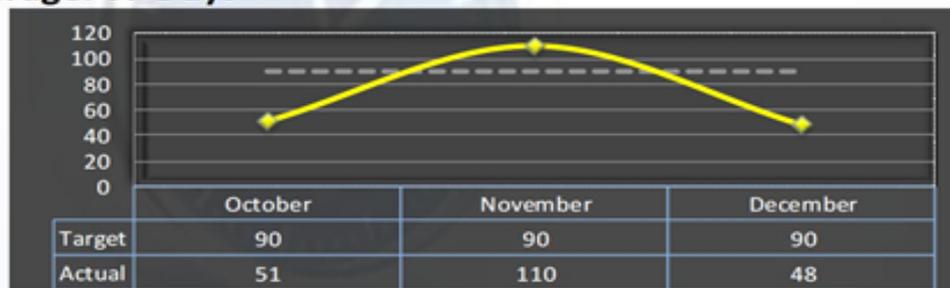


### Intake & Investigation

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

**Target: 90 Days**

**Q2 Average: 67 Days**



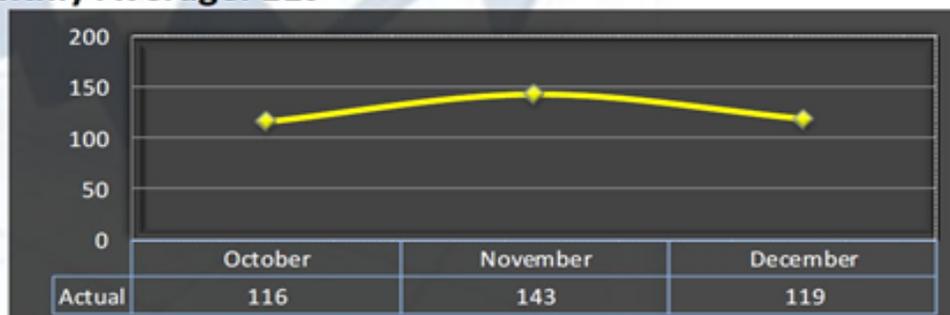
### Volume

Number of complaints and convictions received.

**Q2 Total: 378**

*Complaints: 334 Convictions: 58*

**Q2 Monthly Average: 119**



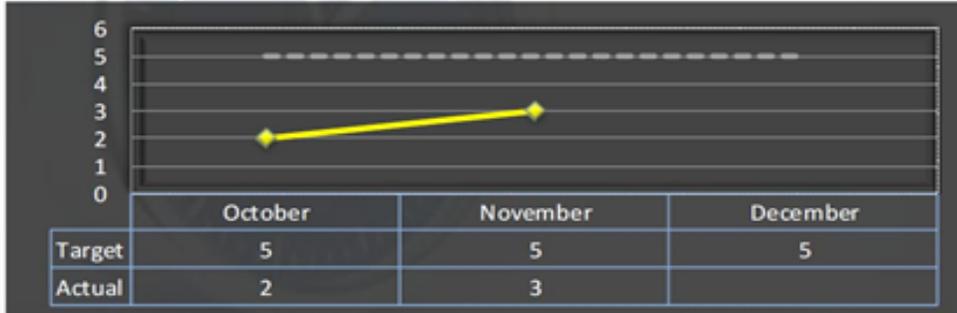
**Performance Measures Second Quarter Report (October – December 2010)**

**Probation Intake**

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

**Target: 5 Days**

**Q2 Average: 3 Days**

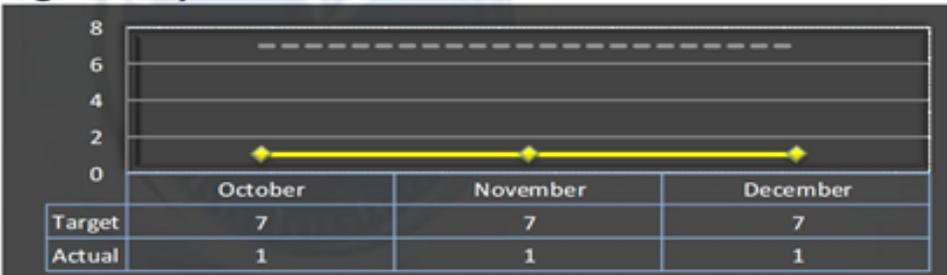


**Probation Violation Response**

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

**Target: 7 Days**

**Q2 Average: 1 Day**



**Formal Discipline**

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

**Target: 540 Days**

**Q2 Average: 873 Days**



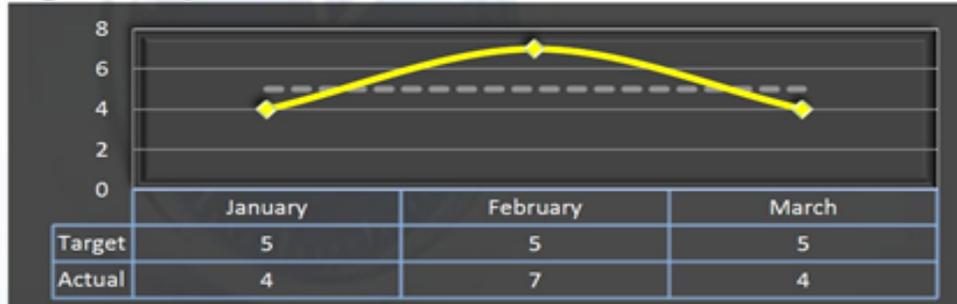
## Performance Measures Third Quarter Report (January – March 2011)

### Intake

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

**Target: 5 Days**

**Q3 Average: 5 Days**

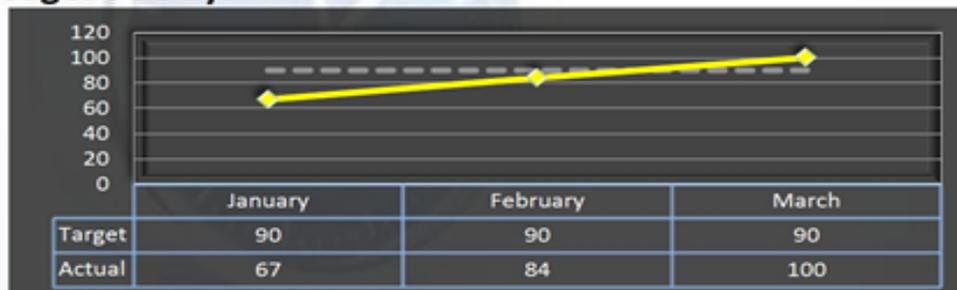


### Intake & Investigation

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

**Target: 90 Days**

**Q3 Average: 84 Days**



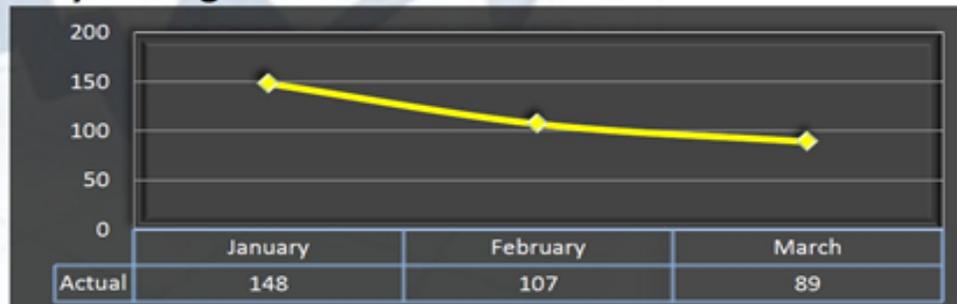
### Volume

Number of complaints and convictions received.

**Q3 Total: 344**

*Complaints: 294 Convictions: 50*

**Q3 Monthly Average: 115**



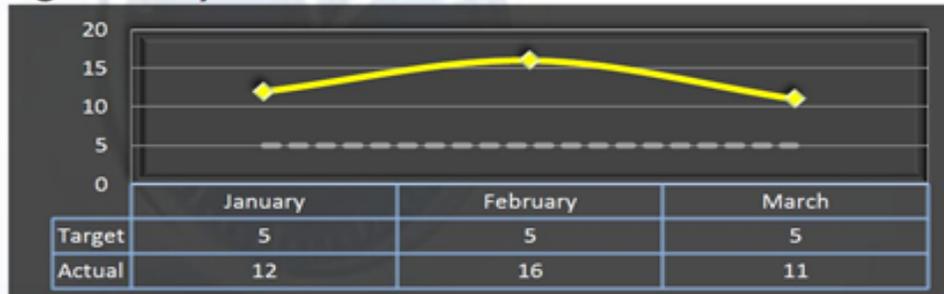
## Performance Measures Third Quarter Report (January – March 2011)

### Probation Intake

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

**Target: 5 Days**

**Q3 Average: 14 Days**

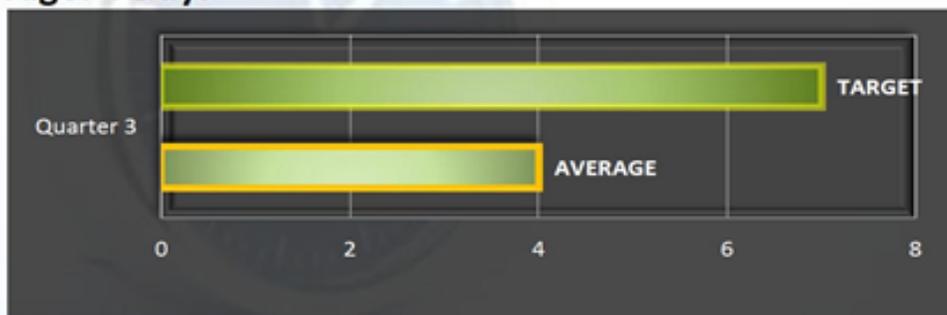


### Probation Violation Response

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

**Target: 7 Days**

**Q3 Average: 4 Days**

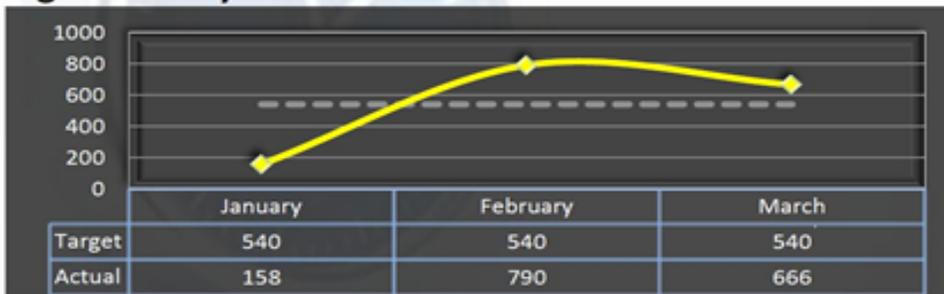


### Formal Discipline

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

**Target: 540 Days**

**Q3 Average: 610 Days**



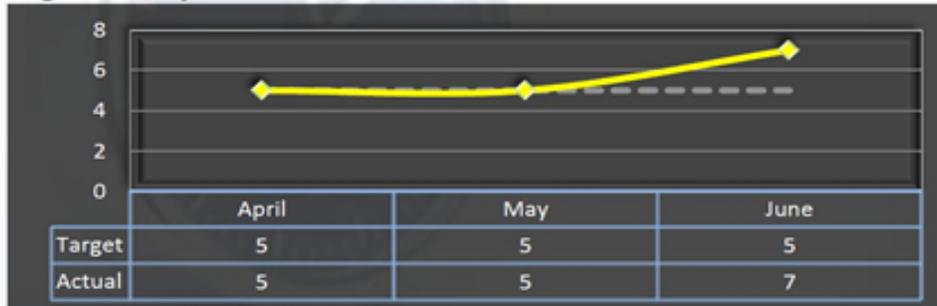
## Performance Measures Fourth Quarter Report (April – June 2011)

### Intake

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

**Target: 5 Days**

**Q4 Average: 6 Days**

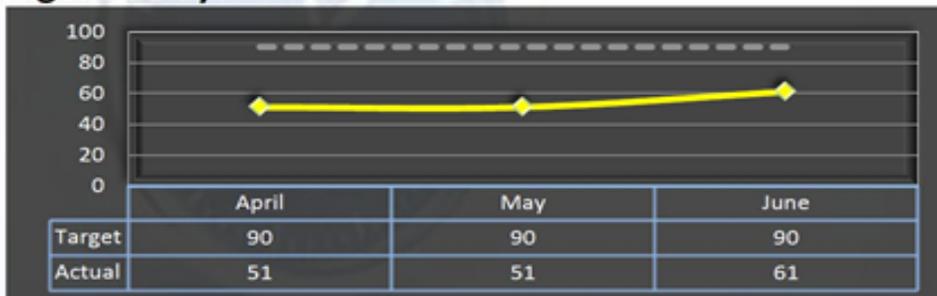


### Intake & Investigation

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

**Target: 90 Days**

**Q4 Average: 54 Days**



### Volume

Number of complaints and convictions received.

**Q4 Total: 580**

*Complaints: 523 Convictions: 57*

**Q4 Monthly Average: 193**



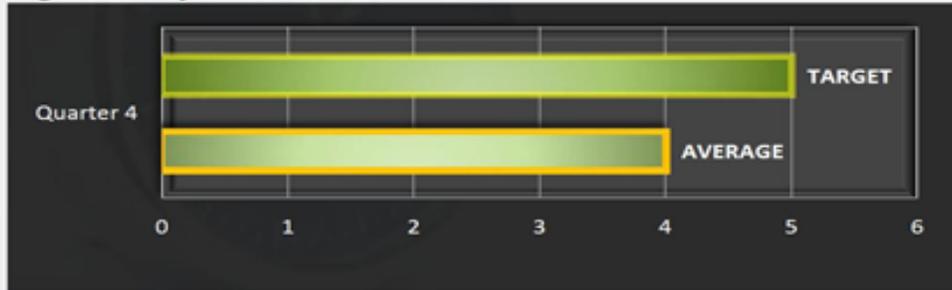
**Performance Measures Fourth Quarter Report (April – June 2011)**

**Probation Intake**

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

**Target: 5 Days**

**Q4 Average: 4 Days**



**Probation Violation Response**

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

**Target: 7 Days**

**Q4 Average: 1 Day**

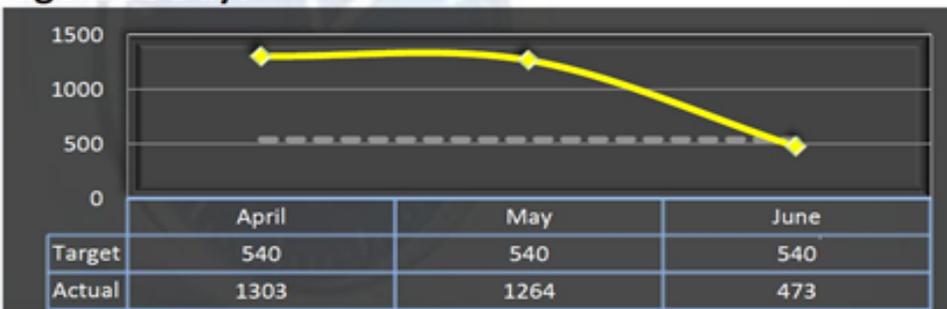


**Formal Discipline**

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

**Target: 540 Days**

**Q4 Average: 982 Days**



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

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

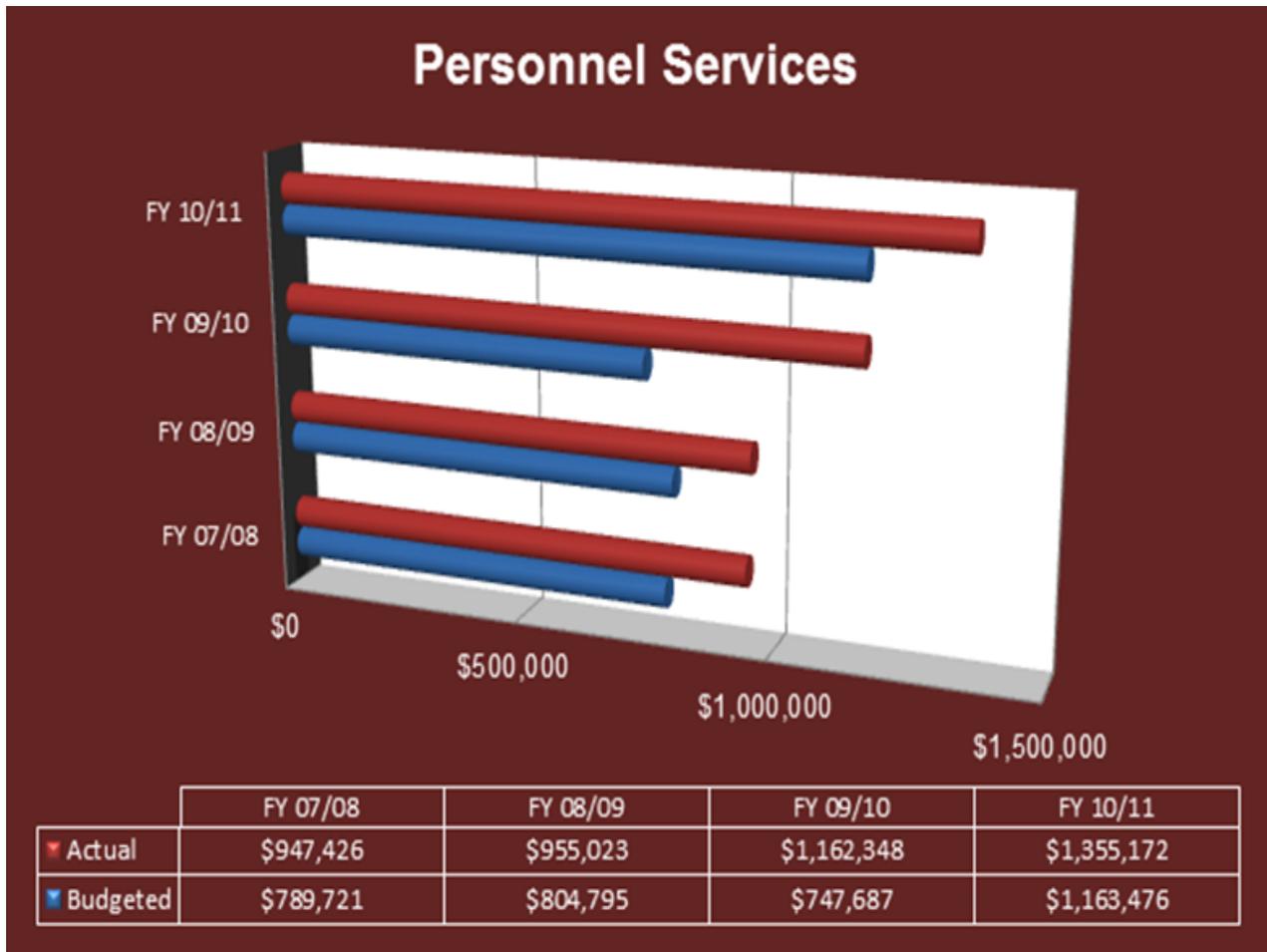
Fiscal Year	Quest. 1	Quest. 2	Quest. 3	Quest. 4	Quest. 5	Quest. 6	Quest. 7
2008/2009	2.0	2.0	2.67	2.67	2.67	2.67	2.67
%4.5							
2009/2010	2.0	2.0	2.67	2.67	2.67	2.67	2.67
%7							
2010/2011	3.09	2.86	2.73	2.27	2.0	1.6	2.18
%3.5							
Average Score: 4= strongly agree; 3 = agree; 2 = disagree; 1= strongly disagree							
<p><u>Questions:</u></p> <ol style="list-style-type: none"> <li>1. I was able to access the Physical Therapy Board online Web site and understood how to file a complaint.</li> <li>2. I contacted the Physical Therapy Board by telephone, and was given prompt and courteous assistance by the staff.</li> <li>3. I received adequate information about the processing of complaints.</li> <li>4. I received periodic updates about the status of my complaint.</li> <li>5. The amount of time to process, investigate and settle my complaint was reasonable.</li> <li>6. The action taken by the board will ensure consumer safety in the future.</li> <li>7. I am satisfied with the overall level of service provided by the Board.</li> </ol>							

In an effort to gather additional data, the PTBC is moving to an online survey system. By making the Consumer Satisfaction Survey more convenient the PTBC expects to gather a larger sampling of complainant feedback. The DCA, in conjunction with their ongoing performance measures, has developed an online survey tool using the SurveyMonkey Web site. Consumers are provided with a Web address at the bottom of their complaint closure letter and are encouraged to visit the site and provide feedback regarding the PTBC’s complaint process. The PTBC recently started using this online survey tool.

## Section 3 – Fiscal and Staff

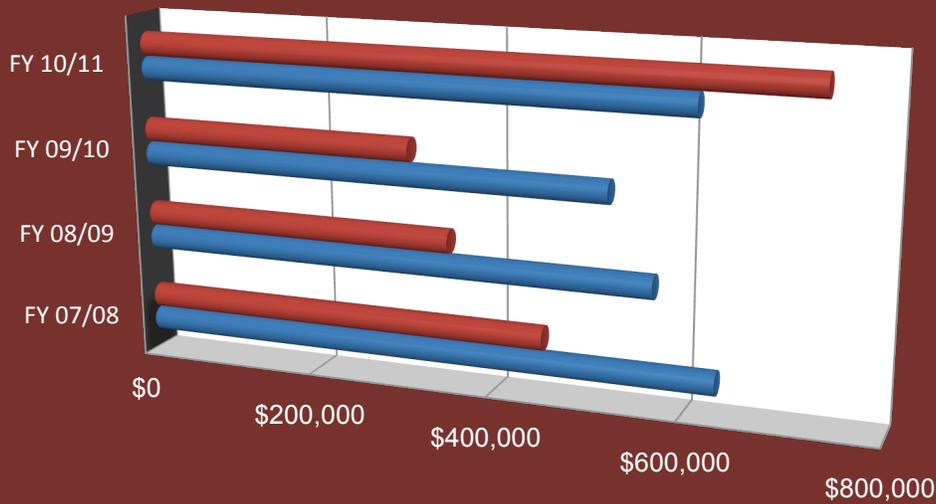
### 8. Describe the board’s current reserve level, spending, and if a statutory reserve level exists.

Currently, the Physical Therapy Board of California (PTBC) has a reserve<sup>1</sup> level of 9.0 months. Currently and historically, the PTBC has over expended its personnel services and enforcement costs. The PTBC has no statutory reserve level requirement.



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

## Enforcement Expenditures



	FY 07/08	FY 08/09	FY 09/10	FY 10/11
Actual	\$452,768	\$350,564	\$307,997	\$733,153
Budgeted	\$632,939	\$568,164	\$521,333	\$609,670

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

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

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

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

Table 2. Budget Change Proposals (BCPs) (dollars in thousands.)								
BCP ID #	Fiscal Year	Description of Purpose of BCP	Personnel Services				OE&E	
			# Staff Requested	# Staff Approved	\$Requested	\$Approved	\$Requested	\$ Approved
1110-20	07/08	Transfer 0.4 position authority and funding for its cashiering function from the Medical Board of California (MBC) to PTBC, and an additional 0.1 position (Senior Account Clerk (SAC))	1 SAC (.1)	1 SAC (.1)	\$22	\$22	\$6	\$6
1110-37	10/11	Budget Augmentation to establish 1.0 Staff Services Analyst (SSA) and 1.0 Office Technician (OT) to manage additional workload of continuing competency (CC) program.	1 SSA and 1 OT	1 SSA and 1 OT	\$115	\$115	\$10	\$10

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



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

The PTBC projects a deficit in the fund condition in FY 2014/15. This deficit can be avoided with the reimbursement of the 1.5 million General Fund loan made in FY 2011/12.

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

The PTBC is a special fund Board, funded by revenues received. The PTBC derives all its revenue from its applicants and licensees through the collection of licensing, renewal, examination and cost recovery (i.e. administrative actions relevant to disciplinary cases).

The PTBC's main sources of revenue are from the following fee categories:

- Application
- Initial License
- Application/Initial License
- Biennial Renewal
- Endorsements
- Citations

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

Table 3. Fee Schedule and Revenue							
Fee	Current Fee Amount	Statutory Limit	FY 2007/08 Revenue	FY 2008/09 Revenue	FY 2009/10 Revenue	FY 2010/11 Revenue	% of Total Revenue
Duplicate License	\$50.00	\$100.00	\$3405	\$4940	\$8250	\$8,650	.26%
Endorsement	\$60.00	\$100.00	\$26455	\$15770	\$53840	\$50,940	1.6%
Electroneuromyographer Exam	\$500.00	\$500.00	\$500	\$0	0	\$0	0%
Kinesiological Electromyographer Exam	\$500.00	\$500.00	\$0	\$0	0	\$1,000	.03%
Application for Electroneuromyographer Certification	\$100.00	\$200.00	\$1000	\$0	0	\$500	.18%
Application for Kinesiological Electromyographer Certification	\$100.00	\$200.00	\$0	\$0	0	\$200	.006%
Application Fee Physical Therapist	\$125.00	\$300.00	\$63255	\$83900	\$124200	\$123,375	3.8%
Application and Initial Licensing Fee Physical Therapist Assistant	\$125.00	\$300.00	\$39875	\$20450	\$26550	\$35,375	1.1%
Foreign Application Fee Physical Therapist and Physical Therapist Assistant	\$200.00	\$300.00	\$73625	\$37000	\$92675	\$90,600	2.8%
Initial License Fee Physical Therapist	\$100.00	\$150.00	\$74290	\$29800	\$115225	\$115,750	3.6%
Electroneuromyographer Renewal Fee	\$50.00	\$200.00	\$700	\$600	\$550	\$550	.17%
Kinesiological Electromyographer Renewal Fee	\$50.00	\$200.00	\$1050	\$500	\$850	\$500	.18%
Biennial Renewal Physical Therapist	\$200.00	\$300.00	\$1490580	\$158991	\$2,035,02	\$2,049,10	63.8%
Biennial Renewal Physical Therapist Assistant	\$200.00	\$300.00	\$374955	\$394950	\$526,490	\$512,190	15.95%
Delinquency Physical Therapist	\$100.00	50% of renewal	\$12270	\$13125	\$12,970	\$9,500	.29%
Delinquency Physical Therapist Assistant	\$100.00	50% of renewal	\$5085	\$5125	\$5295	\$4,200	.16%
Over the past four fiscal years, revenues have continued to rise as a result of increases to the license fees and licensee population.							

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

<b>Table 4. Fund Condition (Dollars in Thousands)</b>						
Fiscal Years	2007/08	2008/09	2009/10	2010/11	*2011/12	**2012/13
Beginning Balance	375	575	989	1,996	2,411	920
Revenues and Transfers	2,220	2,411	3,081	3,110	*1,711	3,194
<b>Total Revenue</b>	<b>2,220</b>	<b>2,411</b>	<b>3,081</b>	<b>3,110</b>	<b>3,211</b>	<b>3,194</b>
Total Resources	2,595	3,039	4,071	5,106	4,122	4,114
Expenditures	2,020	1847	2075	2695	3,202	3,375
<b>Fund Balance</b>	<b>575</b>	<b>1192</b>	<b>1,996</b>	<b>2,411</b>	<b>920</b>	<b>739</b>
<b>Reserves</b>	<b>3.7</b>	<b>6.9</b>	<b>8.9</b>	<b>9.0</b>	<b>3.3</b>	<b>2.7</b>
<small>*The decrease in revenues and transfers is due to the PTBC's one-time cost encumbered for the 1.5 million dollars loan to the General Fund and \$188,000 cost to conduct an audit.  **FY 2012/13, ties to the Governor's Budget and reflects revenues/expenditures projected through fund analysis.</small>						

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

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

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

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

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

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

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

Table 5, reflects the amount and percentages of expenditures by program component.

<b>Table 5. Expenditures by Program Component</b>						
Fiscal Year	Personnel/OE&E	Administration	Enforcement	Examination	Licensing	Total Expenditures
<b>07/08 Budget: \$2,456,408</b>	Personnel Services	\$397,519	\$307,506	\$0	\$242,402	\$947,427
	OE&E	\$263,922	\$684,454	\$10,220	\$226,521	\$2,033,543
	Total	\$634,441	\$991,960	\$10,220	\$468,923	
	% of Total Budget	26%	40%	0.01%	19%	<b>85%</b>
<b>08/09 Budget: \$2,374,235</b>	Personnel Services	\$369,014	\$322,564	\$0	\$263,445	\$955,005
	OE&E	\$199,760	\$564,973	\$10,215	\$209,787	\$1,850,003
	Total	\$568,774	\$887,537	\$10,215	\$473,232	
	% of Total Budget	24%	37%	0.01%	20%	<b>81%</b>
<b>09/10 Budget: \$2,215,164</b>	Personnel Services	\$420,700	\$421,015	0	\$320,634	\$1,162,349
	OE&E	\$210,129	\$532,642	\$2,280	\$220,712	\$2,075,973
	Total	\$630,829	\$953,657	\$2,280	\$541,346	
	% of Total Budget	28%	43%	0.01%	24%	<b>95%</b>
<b>10/11 Budget: \$2,921,252</b>	Personnel Services	\$400,436	\$610,995	0	\$343,742	\$1,355,173
	OE&E	\$146,356	\$1,059,319	\$10,740	\$219,882	\$1,436,297
	Total	\$546,792	\$1,670,314	\$10,740	\$563,624	
	% of Total Budget	19%	57%	0.01%	19%	<b>95%</b>

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

Currently, the PTBC is authorized eighteen permanent positions (PY's), eight Permanent Intermittent (PI) and two Student Assistant positions. Of these positions, the PTBC has one Associate Governmental Program Analyst (AGPA) and one 0.5 Special Investigator vacancies. The PTBC anticipates filling these vacancies by the end of the calendar year. This information is not reflected in the chart on the next page.

The Table below reflects the PTBCs' staffing needs and reliance on Permanent Intermittent and temporary employees for the past four fiscal years.

		Enforcement	Licensing	Administrative	Vacancies	Total	
FY 07/08	Authorized PY's	3.8	3.7	3.5	0	11	
	Authorized Exempt				1	0	1
	Permanent Intermittent	1	4	3	0	8	
	Student/Seasonal	2			0	2	
	<b>Total</b>	<b>6.8</b>	<b>7.7</b>	<b>7.5</b>	<b>2</b>	<b>27</b>	
FY 08/09	Authorized PY's	3.8	3.7	3.5	0	11	
	Authorized Exempt				1	0	1
	Permanent Intermittent	1	4	3	0	8	
	Student/Seasonal	2			0	2	
	<b>Total</b>	<b>6.8</b>	<b>7.7</b>	<b>7.5</b>	<b>2</b>	<b>27</b>	
FY 09/10	Authorized PY's	3.8	3.7	3.5	0	11	
	Authorized Exempt				1	0	1
	Permanent Intermittent	2	4	3	0	9	
	Student/Seasonal	2			0	2	
	<b>Total</b>	<b>6.8</b>	<b>8.7</b>	<b>6.5</b>	<b>0</b>	<b>28</b>	
FY 10/11	Authorized PY's	3.8	6.2	2.5	5.5	18.0	
	Authorized Exempt				1	0	1
	Permanent Intermittent	5.0	3.0	1	0	6	
	Student/Seasonal	0	2.0	0	0	2	
	<b>Total</b>	<b>8.8</b>	<b>11.2</b>	<b>4.5</b>	<b>5.5</b>	<b>27</b>	

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

In FY 07/08, the PTBC was authorized eleven permanent positions, eight Permanent Intermittent positions and two Student Assistant positions. There were no vacancies during this period. In 2007, the PTBC staff was tasked with the following additional workload: Section 2676 of the Business and Professions code, required the PTBC to administer regulations establishing a Continuing Competency (CC) program; thereby creating a task force supported by the PTBC staff; assumed its cashiering function from the Medical Board of California; addressed its backlog of returned mail; and, was

required to return fingerprint cards of those licensees who were either cancelled, deceased, or revoked to the Department of Justice (DOJ) (reference #20). As result of the workload increase, and in an effort to manage workload, the PTBC redirected licensing and enforcement staff thus creating a backlog in those programs.

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

In FY 2009/10, the PTBC was authorized eleven permanent positions, eight Permanent Intermittent positions, and two Student Assistant positions. There were no vacancies during this period. On November 6, 2009, the PTBC began the implementation of the Continuing Competency (CC) program. With the constraints of the hiring freeze, the lack of staffing from the termination of all temporary and Permanent Intermittent positions and the additional workload of the CC program, again, the PTBC Licensing and Enforcement programs suffered major backlogs .

In January 2010, Governor Schwarzenegger implemented the job creation initiative (reference #17). This authorized the PTBC to obtain additional staffing to eliminate and/or decrease licensing backlogs by 50% no later than June 31, 2010. As a result, the PTBC obtained additional Permanent Intermittent employees to address the licensing backlog. Meanwhile, the Department of Consumer Affairs (DCA) began the implementation of the Consumer Protection Enforcement Initiative (CPEI). The CPEI provided that all boards/bureaus shall decrease its enforcement processing timeframes from 38 months to 12 – 18 months. The DCA implemented the initiative effective FY 2010/11.

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

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

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

In addition, Governor Schwarzenegger's Executive Order (S-01-08), mandated the PTBC to decrease and/or eliminate non-essential expenditures, which included travel and training. As a result, the PTBC established and implemented internal training for staff. The PTBC began cross-training and utilized training services provided by the DCA, Strategic Organization, Leadership and Individual Development (SOLID) Training Solutions (i.e. Microsoft Outlook and Excel, Budget, Contracts, Effective Writing, etc.). Another means of training at minimal cost has been providing opportunities for staff to polish existing skills or fostering development of new skills in areas not within their usual assigned duties. Examples of this are: writing briefing and issue papers, presenting subject matter at expert consultant trainings, board meetings, and staff meetings. The PTBC management staff has also added a training component to the agenda of monthly staff meetings. This training component is either delivered by management or another staff member. These training options have enhanced staff capabilities in accomplishing

their established goals and objectives within the Individual Development Plan (IDP) process and overall have increased staff development. Management has modeled their own career development to maintain a high level of professional expertise; and in turn, mentors others to gain experience necessary to meet their own career goals and objectives. When budget allows, staff are encouraged to register for training through CPS HR Training Solutions, which assumed the role of training state employees from the State Training Center.

As illustrated in the table below, “Training Development” expenditures average \$4,400 per fiscal year.



## Section 4 – Licensing Program

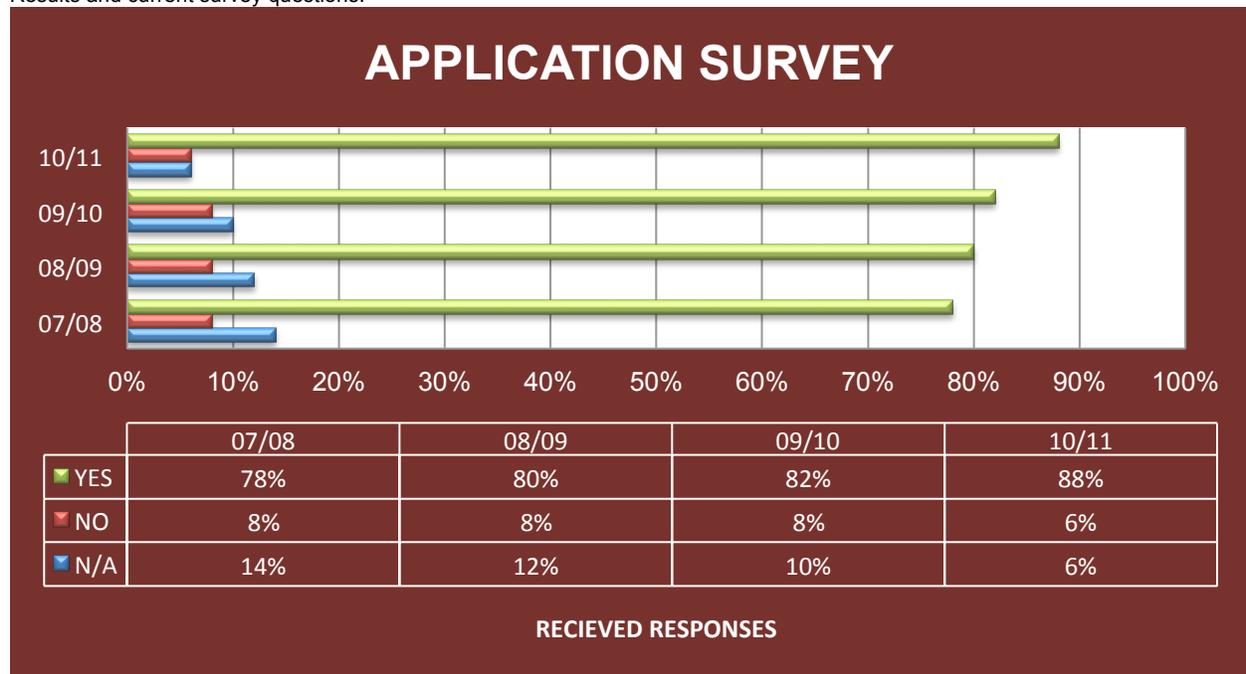
### 16. What are the PTBC’s performance targets/expectations for its licensing program? Is the PTBC meeting those expectations? If not, what is the PTBC doing to improve performance?

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

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

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

Results and current survey questions:



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

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

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

**OBJECTIVE: Review and update the PTBC California Law Examination and the Electromyography<sup>2</sup> certification examination.**

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

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

The PTBC supported the DCAs' successful implementation of direct import of the Criminal Offense Record Information into the DCA Applicant Tracking System (ATS) by the Department of Justice (DOJ). Additionally, the PTBC is working with the DCA and the Federation of State Boards of Physical Therapy (FSBPT) to automate direct score transfers into the ATS and anticipates implementation by the end of the 2012 calendar year.

Improvements to the ATS facilitated meeting the performance expectations of the PTBC for an effective and efficient licensing program. However, ATS is an antiquated system; therefore, the PTBC staff is actively participating in the development of the DCA BreEZe system. The PTBC is scheduled to be included in BreEZe in spring 2013. In April 2010, the PTBC became the pilot for online renewal with the Official Payments Corporation (OPC), facilitating immediate renewal for licensees and eliminating delays. This feature will be integrated into BreEZe.

---

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

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

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

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

The discrepancy in this data is caused by a 30 day grace period authorized by B&P Code section 2683. Though a license may enter delinquent status, the delinquent fee is not applied until 30 calendar days after the expiration date, thus not reflecting accurate delinquent information on the CalStars report.

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

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

## Processing Time

### **Graduates of an Accredited Physical Therapy Program**

The average application processing time from receipt of application to issuance of license for the last four fiscal years is 70 days for physical therapists and 110 days for physical therapist assistants. Factors outside the PTBC's control influencing the processing times are:

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

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

The total average application processing time for foreign graduates for the past four fiscal years is 501 days. Factors outside the PTBC's control influencing the processing times are consistent with those identified above; however, foreign graduates are further delayed due to the clinical service requirement. Business and Professions Code section 2653 and California Code of Regulations section 1398.26.5(e) require completion of up to a nine month clinical service before obtaining licensure. The nine months may be reduced to six months, provided the applicant completes an Ethics course.

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

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

**Table 7a. Licensing Data by Type**

Application Type		Received	Approved	Closed	Issued	Pending Applications			Cycle Times			
						Total (Close of FY)	Outside PTBC control*	Within PTBC control*	Complete Apps (Days)	Incomplete Apps**	Combined, IF unable to separate out (days) <sup>3</sup>	
											U.S.	Foreign
FY 2007/08	PT	1432	*	91	975	1198	*	*	482	**	81	401
	PTA	242	*	12	301	338	*	*	368	**	148	220
	EK	0	*	0	0	0	*	*	0	**	0	0
	EN	10	*	0	1	0	*	*	180	**	180	0
FY 2008/09	PT	1381	*	148	1003	1302	*	*	638	**	96	542
	PTA	463	*	35	262	166	*	*	467	**	142	325
	EK	0	*	00	0	0	*	*	0	**	0	0
	EN	0	*	00	0	0	*	*	0	**	0	0
FY 2009/10	PT	1457	*	206	1076	1224	*	*	674	**	91	583
	PTA	212	*	52	234	49	*	*	501	**	105	396
	EK	0	*	0	0	0	*	*	0	**	0	0
	EN	0	*	0	0	0	*	*	0	**	0	0
FY 2010/11	PT	1440	*	253	1141	1063	*	*	559	**	80	479
	PTA	283	*	110	267	16	*	*	563	**	150	413
	EK	2	*	0	0	0	*	*	0	**	0	0
	EN	5	*	0	0	0	*	*	0	**	0	0

\* Not applicable to the PTBC.  
 \*\* The PTBC does not accept incomplete applications.

<sup>3</sup> Data collected from Agency Statistical Profile (ASP)

**Table 7b. Total Licensing Data**

Fiscal Year	2008/09	2009/10	2010/11
<b>Initial Licensing Data:</b>			
Initial License/Initial Exam Applications Received	1,780	1,565	1730
Initial License/Initial Exam Applications Approved	N/A	N/A	N/A
Initial License/Initial Exam Applications Closed	89	188	229
License Issued	1,267	1,310	1,408
<b>Initial License/Initial Exam Pending Application Data:</b>			
Pending Applications (total at close of FY)	513	255	1444
Pending Applications (outside of PTBC control)*	0	0	0
Pending Applications (within the PTBC control)	513	255	1444
<b>Initial License/Initial Exam Cycle Time Data (WEIGHTED AVERAGE)</b>			
Average Days to Application Approval (All - Complete/Incomplete)	<b>123.61</b>	<b>170.33</b>	<b>178.88</b>
Average Days to Application Approval (incomplete applications)	89	188	229
Average Days to Application Approval (complete applications)	158.23	152.67	128.76
FY 09/10, the average processing time increased due to receiving more applications as a result of the increased approval of new accredited physical therapy schools. *Not Tracked			

### Performance barriers and improvement plans for Growth in Licensee Population

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

enforcement needs with the CPEI and the authorization for a number of staffing positions. The PTBC received some of these positions, which further assisted with reducing significant enforcement backlogs. The PTBC expended staffing resources and attempted to take advantage of all possible opportunities in order to meet its mandates while managing imposed staffing restrictions. The PTBC will continue to address workload demands by requesting authorization for permanent staffing through the Budget Change Proposal (BCP) process.

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

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

**B. Does the PTBC fingerprint all applicants?**

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

The PTBC verifies criminal history, disciplinary actions, or other unlawful acts through the application for licensure.

All applicants are required to submit to fingerprinting by the Department of Justice (DOJ) and Federal Bureau of Investigations (FBI) to check for prior criminal history or unlawful acts. In addition, applicants must answer a series of questions on the application that pertain to prior criminal history, disciplinary actions, disciplinary actions filed by a healing arts board in another state, or other unlawful acts and signed under penalty of perjury.

The PTBC is authorized to receive subsequent arrest notifications from the DOJ on all applicants and licensees. Any applicant or licensee with a criminal conviction must submit copies of arrest reports and court reports to the Consumer Protection Service program for further investigation prior to licensure or renewal.

Additionally, pursuant to B&P Code section 2660.5, as a proactive measure, the PTBC checks the Megan's Law Web site to verify an applicant is not a registered sex offender pursuant to Penal Code section 314.

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

#### **D. Does the PTBC check a national databank?**

The PTBC reports all adverse actions to the Federation of State Boards of Physical Therapy who then reports the information to the National Practitioner Data Bank. The FSBPT reports to the PTBC adverse actions on score reports at the time of initial application, and electronically thereafter, for the life of the license.

#### **E. Does the PTBC require primary source documentation?**

Primary source documentation received:

- Certificate of Completion (P1E) from the school of graduation
- Score reports from FSBPT
- Licensure endorsement verification
- Clinical Performance Instrument (CPI)
- Credential evaluation
- Fingerprints reports
- Verification of work experience
- Transcripts

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

##### Out-of-State Applicants

B&P Code section 2636.5 states, in part:

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

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

- Be a graduate of a physical therapy program approved by the PTBC
- Have a valid Social Security Number (B&P Code section 30)
- Be a person over the age of 18 years of age
- Not be addicted to alcohol or controlled substance

- Not have committed acts or crimes constituting grounds for denial of licensure under Section 480 of Business and Professions Code
- Submit a complete application
  - Certificate of Completion (P1E)
  - All required fees
  - Submission or transfer NPTE passing score report from FSBPT
  - Completed LiveScan or fingerprint card
  - Resume of work experience
  - Verification of all valid or expired licenses from other states if applicable
- Pass California Law Examination (CLE)

### Out-of-Country Applicants

B&P Code section 2653 states, in part:

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

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

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

- Have a valid Social Security Number (B&P Code section 30)
- Be a person over the age of 18 years of age
- Not be addicted to alcohol or controlled substance
- Not have committed acts or crimes constituting grounds for denial of licensure under Section 480 of Business and Professions Code
- Submit a complete application, which includes:

- Certificate of Professional Degree Equivalency (P1F)
- All required fees
- Completed LiveScan or fingerprint card
- Pass California Law Examination (CLE)
- Pass National Physical Therapy Examination (NPTE)
- Submission of Clinical Performance Instrument (CPI)
- If licensed in another state:
  - Verification of all valid or expired licenses
  - Resume of work experience
  - Work Verification form

## 20. Continuing Competency Requirements

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

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

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

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

### How does the PTBC verify continuing competency requirements?

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

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

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

**What are consequences for failing a CC audit?**

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

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

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

**What is the PTBC's course approval policy?**

The PTBC does not approve continuing education courses.

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

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

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

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

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

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

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

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

**National Examinations**

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

*“The national licensure examinations measure the knowledge and skills required for safe and effective practice as an entry-level PT or PTA. The validity of the test results for indicating competence to provide safe and effective physical therapy services is contingent upon the degree to which (1) questions on each examination measure important knowledge and skills required for safe practice, and (2) the proportion of questions measuring various knowledge and skill areas is commensurate with the importance of these areas to physical therapy practice. A formal, systematic process referred to as an “analysis of practice” exists for determining the contents of a licensure examination (other names for this process include occupational analysis, task analysis, job analysis, and role delineation study). This process begins with the identification of work requirements for entry-level practitioners and ends with the development of a formal set of test specifications that delineates the knowledge and skills related to safe and effective entry-level practice.” (Excerpt taken from FSBPT’s Web site October 19, 2011 <https://www.fsbpt.org/ForCandidatesAndLicensees/NPTE/FAQs/index.asp>)*

**California Law Examination**

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

**22. What are pass rates for first time vs. retakes in the past 4 fiscal years? (Refer to Table 8: Exam Data)**

Table 8 reflects first time candidate examination pass rates versus retake candidate pass rates.

<b>Table 8. Examination Data For California Applicants</b>						
<b>California Law Examination:</b>		<b>1<sup>st</sup> Time Candidates</b>		<b>Repeat Candidates</b>		
	License Type	PT/PTA		License Type	PT/PTA	
	Exam Title	CLE		Exam Title	CLE	
FY 2007/08	# of 1 <sup>st</sup> Time Candidates	1196		# of Retakes	80	
	Pass %	94.10%		Pass %	73.39%	
FY 2008/09	# of 1 <sup>st</sup> Time Candidates	1196		# of Retakes	108	
	Pass %	93.88%		Pass %	90.76%	
FY 2009/10	# of 1 <sup>st</sup> Time Candidates	1219		# of Retakes	167	
	Pass %	95.23%		Pass %	83.08%	
FY 2010/11	# of 1 <sup>st</sup> time Candidates	1371		# of Retakes	149	
	Pass %	95.67%		Pass %	85.63%	
Date of Last Occupational Analysis (OA)		10/12/11				
Name of OA Developer		DCA's Office of Professional Examination Services				
Target OA Date		Summer 2012				
<b>National Physical Therapy Examination:</b>		<b>1<sup>st</sup> Time Candidates</b>		<b>Repeat Candidates</b>		
	License Type	PT	PTA	License Type	PT	PTA
	Exam Title	NPTE	NPTE	Exam Title	NPTE	NPTE
FY 2007/08	# of 1 <sup>st</sup> Time Candidates	5617	2953	# of Retakes	1111	534
	Pass %	74.05%	77.98%	Pass %	27.54%	38.75%
FY 2008/09	# of 1 <sup>st</sup> Time Candidates	5699	3199	# of Retakes	1576	582
	Pass %	74.98%	79.14%	Pass %	36.43%	41.04%
FY 2009/10	# of 1 <sup>st</sup> Time Candidates	6606	3587	# of Retakes	1453	593
	Pass %	77.67%	80.75%	Pass %	33.30%	39.38%
FY 2010/11	# of 1 <sup>st</sup> time Candidates	8913	4363	# of Retakes	1036	629
	Pass %	79.46%	82.23%	Pass %	28.41%	41.08%
Date of Last OA		March 1, 2008				
Name of OA Developer		F.S.B.P.T				
Target OA Date		2013				

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

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

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

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

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

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

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

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

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

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

Currently, there are 213 physical therapist and 276 physical therapist assistant CAPTE accredited programs nationwide. Of the nationwide total, there are fourteen physical therapist and six physical therapist assistant CAPTE accredited programs within California.

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

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

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

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

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

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

## Section 5 – Enforcement Program

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

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

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

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

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

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

Target: Target for Intake is 5 days.

Performance: This goal was not met by the PTBC in fiscal year 2010/2011.

The breakdown by quarter is included and follows on the next page.

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

Comment: The target was not met with the exception of Q3. Note that the target is 5 calendar days, not 5 working days. A three day weekend or mandatory furlough days affects the staff's ability to meet the target.

Complaints at intake are processed by one Permanent Intermittent employee who also has a variety of other duties. The PI works a maximum of 1500 hours in a calendar year compared to a full time employee who works 2080 hours. On an average, initiation of a complaint takes 50 minutes from complaint receipt to assignment to an analyst. In fiscal year 2010/2011, 1812 complaints were processed which equates to 906 hours for the intake process alone.

- 2) **Intake and Investigation:** This is the average time from complaint receipt to closure of the investigation process. The investigative process includes desk investigations conducted by the analyst, and/or sending the complaint information to the Division of Investigation (DOI) for a formal investigation. Cases sent to the Attorney General (AG) for formal discipline are not included in this measure.

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

Performance: This goal was met by the PTBC in fiscal year 2010/2011.

Intake and Investigation Target Performance			
FY 2010/2011	Average Days	Target # of Days	Target Met
1 <sup>st</sup> Quarter	78	90	Yes
2 <sup>nd</sup> Quarter	67	90	Yes
3 <sup>rd</sup> Quarter	84	90	Yes
4 <sup>th</sup> Quarter	54	90	Yes

Comment: Analysts constantly monitor their cases by sending status request to the appropriate person at every level of the process. This may include an expert

consultant, DOI investigator. Recognizing its need to improve this process, the PTBC hired intermittent staff to reduce the number of cases assigned to each analyst. This provided each analyst the opportunity to more efficiently manage each case.

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

Target: Target for Formal Discipline is 540 days (including the 90 day target for intake and investigation which is being met)

Performance: This goal was not met for fiscal year 2010-2011.

Formal Discipline Target Performance			
FY 2010/2011	Average Days	Target # of Days	Target Met
1 <sup>st</sup> Quarter	567	540	No
2 <sup>nd</sup> Quarter	873	540	No
3 <sup>rd</sup> Quarter	610	540	No
4 <sup>th</sup> Quarter	982	540	No
Note: Part of the fluctuation in average days to complete formal discipline is influenced by the presence of aged cases. There were 81 cases pending at the end of FY 2009/2010. Out of those 81 cases, 40 were closed, 4 were 1 year old, 18 were 1-2 years old, 10 were 2-3 years old and 8 were 3-4 years old. The remaining 41 cases were carried over to the following FY and will have an influence on future FY performance targets.			

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

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

meetings have proven to be effective in communicating immediate areas of concern about cases.

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

- 4) **Probation Intake:** This is the average number of days from probation monitor assignment to the date the probation monitor makes first contact with the probationer by phone or letter.

Target: Target for Probation Intake is 5 days.

Performance: This goal was not met by the PTBC over the fiscal year **2010/2011**.

Probation Intake Target Performance			
FY 2010/2011	Average Days	Target # of Days	Target Met
1 <sup>st</sup> Quarter	9	5	No
2 <sup>nd</sup> Quarter	3	5	Yes
3 <sup>rd</sup> Quarter	14	5	No
4 <sup>th</sup> Quarter	4	5	Yes

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

currently contacting new probationers by telephone prior to the five day target to meet this performance measure.

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

Target: Target for probation violation response is seven days

Performance: This goal has been met by the PTBC over fiscal year 2010/2011

Probation Violation Response Target Performance			
FY 2010/2011	Average Days	Target # of Days	Target Met
1 <sup>st</sup> Quarter	0 Violations	7	Yes
2 <sup>nd</sup> Quarter	1	7	Yes
3 <sup>rd</sup> Quarter	1	7	Yes
4 <sup>th</sup> Quarter	0	7	Yes

Comment: The PTBC met its target for probation violation responses during fiscal year 2010-2011. The PTBC appreciates the gravity of the violation and will continue to respond appropriately.

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

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

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

Since the evidentiary standard for a citation is *preponderance of evidence*, as opposed to evidentiary standard for discipline which is *clear and convincing evidence*, these cases are handled primarily by desk investigations. While the issuance of citations and

finer requires a substantial amount of staff time, there are usually no investigative or prosecutorial expenditures. Therefore, citations and fines can be a cost effective means to address minor violations.

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

In the past, citations were issued primarily for minor first-offense supervision issues, minor documentation violations or disciplinary actions taken by other State Boards. However, in fiscal year 2008/2009, the PTBC also began issuing citations for some first offense criminal convictions and for failure to comply with the address reporting requirement. On a first offense conviction, individual factors are taken into consideration on a case by case basis to determine whether a citation should be issued.

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

<b>Citations Issued</b>				
<b>Fiscal Year</b>	<b>2007/2008</b>	<b>2008/2009</b>	<b>2009/2010</b>	<b>2010/2011</b>
Citations Issued	312	540	593	649
Fines Assessed	\$31,300	\$69,650	\$100,150	\$113,550
Fines Collected	\$29,350	\$44,650	\$69,525	\$88,225
Avg days to Complete	64	92	88	51

**(B)What are the performance barriers?**

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

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

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

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

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

A shortage of permanent enforcement full time staff continues to be a barrier to the PTBC's efforts to meet performance measures. The CPS program is staffed with five PIs (1500 hours a calendar year per PI) and only three permanent full time employees (2080 hours a calendar year per employee) to monitor and process approximately 1,812 complaints and 69 cases with the Office of Attorney General. The CPEI authorized a total of 3.5 Limited Term Positions (LT), full time and 24 month limited term with an expiration date of November 30, 2012 for FY 2010/2011 & FY 2011/2012. The PTBC has filled 2.5, of these positions with the PI staff; however, due to the current hiring freeze, their time base of 1500 hours a year, cannot be increased to the full time base.

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

In July 2009, various media articles reported that most of the DCA health care boards were taking over three years to complete investigations and take appropriate disciplinary actions against licensees. As a result, Governor Schwarzenegger directed the State and Consumer Services Agency (SCSA) to conduct an internal review of all the health care board's enforcement programs and the DCA Division of Investigation (DOI). The SCSA found that most of the health care boards face significant complaint investigation backlogs and processing delays. Governor Schwarzenegger charged the DCA Director, Brian Stiger, with reforming the current enforcement process for the health care boards.

The DCA reviewed the existing enforcement process and found systemic problems that limit the boards' abilities to investigate and act on cases in a timely manner. These

problems range from legal and procedural challenges to inadequate resources. In response, the DCA launched the Consumer Protection Enforcement Initiative (CPEI) to overhaul the enforcement process at the healing arts boards. The CPEI is a systematic approach designed to address three specific areas: Legislative Changes; Staffing and Information Technology (IT) Resources; and Administrative Improvements. Once fully implemented, the DCA expects the healing arts boards should reduce the average enforcement completion timeline to between 12-18 months.

To implement and monitor CPEI, the following improvements are currently underway:

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

Senate Bill (SB) 1111 (Negrete-McLeod) - On February 17, 2010, SB 1111 was introduced by Senator Negrete-McLeod and sponsored by the DCA. The proposed legislation was introduced to establish the Consumer Health Protection Enforcement Act and make enforcement processes more efficient. On April 22,

2010, SB 1111 failed to make it out of the Senate Business, Professions & Economic Development Committee. A review of SB 1111 was performed by the DCA. On April 30, 2010, Paul Riches, DCA Deputy Director, Enforcement & Compliance, reported that some of the provisions could be implemented through regulations.

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

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

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

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

5. Improvements within the Consumer Protection Services Program

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

- Initiated monthly CPS meetings with its staff to provide better direction and establish goals
- Initiated regular meetings with the DCA's Legal Counsel, the PTBC's Deputy Attorney General's liaison and the Senior Supervising DAG.
- Increased enforcement staff
- Restructured the CPS program with recently hired enforcement manager
- Participated in the BreEze program. BreEze is scheduled to be completed and released in the spring 2013.
- Improved outreach to consumers by posting information on the recently implemented Facebook and Twitter
- Participated in the DCA's Enforcement users group and the DCA's Enforcement Managers round table meetings, increasing opportunities for networking and communication of information and procedures.

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

<b>Table 9a. Enforcement Statistics</b>			
	FY 2008-09	FY 2009-10	FY 2010-11
<b>COMPLAINT</b>			
Complaint Intake <sup>1</sup>			
Received	1075	1455	1812
Closed	97	42	14
Referred to INV <sup>2</sup>	979	1417	1791
Average Time to Close (days)	16	4	6
Pending (at close of FY)	14	10	17
<b>Source of Complaint</b>			
Public	131	200	336
Licensee/Professional Groups	9	5	12
Governmental Agencies	919	1248	1463
Other	16	2	1
<b>Conviction / Arrest <sup>3</sup></b>			
CONV Received	191	269	227
CONV Closed	191	268	224
Average Time to Close (days)	6	4	4
CONV Pending (at close of FY)	0	1	4
<b>LICENSE DENIAL</b>			
License Applications Denied <sup>4</sup>	3	1	8
Statement of Issues (SOI) Filed	2	3	3
SOIs Withdrawn	0	3	0
SOIs Dismissed	0	0	0
SOIs Declined	0	0	0
<b>Avg. Days SOI withdrawn/dismisssed or declined</b>			
	0	219	0
<b>ACCUSATION</b>			
Accusations Filed	10	35	37
Accusations Withdrawn	3	2	4
Accusations Dismissed	1	0	0
Accusations Declined	11	23	8
Average Days Accusations	825	963	439
Pending (close of FY)	51	80	69

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

<sup>2</sup> Referred to Investigation - Complaints received by the PTBC that are within its jurisdiction are sometimes referred for investigation. The majority of the complaints are investigated by in-house staff analysts who conduct “desk” investigations by gathering data and documents via written communication. Desk investigations do not include field work or interviews. Any investigation that requires field work, interviews, service of subpoenas or a sworn peace officer involved due to safety concerns or criminal activity, is referred

to the DCA's Division of Investigation (DOI). The PTBC has increased desk investigations using in-house staff analysts in an attempt to mitigate DOI's backlog and reduce case aging.

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

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

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

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

<b>Table 9b. Enforcement Statistics (continued)</b>			
Fiscal Year	FY 2008-09	FY 2009-10	FY 2010-11
<b>DISCIPLINE</b>			
Disciplinary Actions <sup>1</sup>			
Proposed/Default Decisions	5	7	11
Stipulations <sup>2</sup>	6	8	29
Average Days to Complete	799	606	812
AG Cases Initiated <sup>3</sup>	49	90	65
AG Cases Pending at close of FY	55	81	69
Disciplinary Outcomes			
Revocation	5	7	8
Voluntary Surrender	1	2	4
Suspension	0	0	0
Probation with Suspension	1	0	5
Probation <sup>4</sup>	6	4	19
Probationary License Issued	2	6	2
Other	0	0	0
<b>PROBATION</b>			
New Probationers	9	9	21
Probations Successfully Completed	7	20	16
Probationers (at close of FY)	62	49	53
Petitions to Revoke Probation	2	2	4
Probations Revoked	1	2	1
Probations Modified	3	0	2
Probations Extended	0	0	0
Probationers Subject to Drug Testing	17	22	28
Drug Tests Ordered <sup>5</sup>	49	547	1216
Positive Drug Tests	0	5	10
Petition for Reinstatement Granted	0	1	0
<b>Drug &amp; Alcohol Recovery Monitoring Program<sup>6</sup></b>			
New Participants	2	15	9
Successful Completions	4	1	1
Participants (at close of FY)	8	15	15
Terminations	0	1	3
Terminations for Public Threat	0	1	2
Drug Tests Ordered <sup>5</sup>	49	547	1057
Positive Drug Tests	0	5	8

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

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

<sup>3</sup> The number of cases the PTBC transmits to the Attorney General’s Office (AG) for the preparation and filing of an accusation fluctuates each year. During the past three fiscal years, the PTBC received 4,342 complaints and 204 of those complaints were sent to the AG’s office. These account for approximately 5% of the total complaints received that were transmitted to the AG’s office. The PTBC filed for disciplinary action on approximately 41% of the cases transmitted to the AG’s office. Within the past three years, the number of disciplinary actions against licensees has increased from 24% in FY 2008/2009 to 62% in FY 2010/2011.

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

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

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

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

<b>Table 9c. Enforcement Statistics (continued)</b>			
	FY 2008-09	FY 2009-10	FY 2010-11
<b>INVESTIGATION</b>			
All Investigations	1075	1455	1812
First Assigned	979	1417	1791
Closed	940	1427	1632
Average days to close	128	135	82
Pending close of FY	372	362	521
<b>Desk Investigations <sup>1</sup></b>			
Closed	917	1359	1547
Average days to close	115	100	59
Pending close of FY	309	302	469
<b>Non-Sworn Investigation <sup>2</sup></b>			
Closed	N/A	N/A	N/A
Average days to close	-	-	-
Pending (close of FY)	-	-	-
<b>Sworn Investigation (DCA, Division of Investigation)</b>			
Closed	23	68	85
Average days to close <sup>3</sup>	646	845	507
Pending close of FY	63	60	52
<b>COMPLIANCE ACTION</b>			
Interim Suspension Order & Temp. Restraining Order Issued	0	3	1
PC 23 Orders Requested (Restraining Order –Ordered by the court)	1	0	0
Other Suspension Orders	0	0	0
Public Letter of Reprimand	3	6	16
Cease & Desist/Warning	137	102	349
Referred for Diversion	2	15	9
Compel Examination	1	0	0
<b>CITATION AND FINE <sup>4</sup></b>			
Citations Issued	540	593	649
Average Days to Complete	92	88	51
Amount of Fines Assessed	69,650	100,150	113,550
Reduced, Withdrawn, Dismissed	0	0	0
Amount Collected	44,650	69,525	88,225
<b>CRIMINAL ACTION</b>			
Referred for Criminal Prosecution	0	4	0

<sup>1</sup> All complaints received by the PTBC that are within its jurisdiction are referred for investigation. The majority of the complaints are investigated by in-house staff analysts who conduct “desk” investigations by gathering data and documents via written communication. Desk investigations do not include field work or interviews. Any investigation that requires field work, interviews,

service of subpoenas or a sworn peace officer involved due to safety concerns or criminal activity, is referred to the DCA Division of Investigation (DOI).

<sup>2</sup> The PTBC received approval for .5 staff position for a non-sworn investigator. August 31, 2010, Governor Schwarzenegger implemented a State Hiring Freeze which has prevented the PTBC from hiring for this position. The PTBC is currently working with the DCA, Human Resources to fill this position.

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

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

**Table 10 - Case Aging - Provides four fiscal years of data as it relates to Enforcement Case Aging.**

<b>Table 10. Enforcement Case Aging</b>						
<b>FISCAL YEARS</b>	<b>2007/08</b>	<b>2008/09</b>	<b>2009/10</b>	<b>2010/11</b>	<b>Cases Closed</b>	<b>Average %</b>
<b>Attorney General Cases (Average %)</b>						
Closed Within:						
1 Year	3	1	3	4	11	13.5%
2 Years	4	1	8	18	31	38.2%
3 Years	4	5	1	10	20	24.7%
4 Years	0	0	0	0	0	0%
Over 4 Years	5	1	2	8	16	19.8%
Total Cases Closed	16	8	14	40	81	
<b>Investigations (Average %)</b>						
Closed Within:						
90 Days	832	573	1066	1364	3835	76.2%
180 Days	106	193	108	105	512	10.2%
1 Year	44	108	100	65	317	6.3%
2 Years	22	49	69	60	200	4%
3 Years	21	13	59	33	55	1.1%
Over 3 Years	8	4	25	5	42	.08%
Total Cases Closed	1033	940	1427	1632	5032	

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

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

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

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

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

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

During fiscal year 2008/2009, fewer disciplinary actions were taken by the PTBC in comparison to the previous Sunset Review report. This was primarily due to staff shortages in the PTBC office, DOI, and at the Attorney General's office. The 2008/2009

fiscal year produced ten accusations, nine disciplinary actions, six proposed/default decisions, and three stipulations.

Disciplinary action increased during 2009/2010 and 2010/2011 fiscal years. The increase in disciplinary action is mainly a result of the implementation of the new CPEI standards and the hiring of Permanent Intermittent staff to better manage the caseload. The increase in discipline may also be attributed to the increase of conviction cases. This trend continued in fiscal year 2010/2011.

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

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

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

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

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

The chart below lists the priority level of complaints received.

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

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

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

One of the mandatory reporting requirements includes the Department of Justice (DOJ) and Federal Bureau of Investigations (FBI) criminal history background check. Before the PTBC issues a license to practice, clearance must be received from the DOJ and

FBI through the LiveScan requirement. As part of the fingerprint requirement, all applicants are required to submit a LiveScan form which authorizes DOJ and FBI report criminal history to the PTBC. The LiveScan creates a link to the PTBC to receive subsequent reports from DOJ on the individual. The report from FBI is a one-time reporting and does not trigger subsequent reports.

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

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

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

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

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

Arrest Reports and Subsequent Conviction Reports from DOJ which provide important information.

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

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

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

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

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

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

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

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

Intent of Cite and Fine Authority

The PTBC may issue an administrative citation and fine pursuant to B&P Code, section 125.9; and CCR, Title 16, Division 13.2, section 1399.25 which authorizes the PTBC to issue citations and fines to physical therapists and physical therapist assistants. The PTBC exercises this authority on a case-by-case basis when violations are not necessarily cause for discipline and a lesser form of action is warranted. Pursuant to Section 1399.25 of the California Code of Regulations, citation fines range from \$100 to \$5,000, and the specific fine per violation is determined by the PTBC based on the following factors as stated in the Model Guidelines for Issuing Citations and Imposing Citations: 1) the good or bad faith of the cited person 2) the nature and severity of the violation 3) evidence that the violation was willful 4) history of violations of the same or similar nature 5) the extent to which the cited person has cooperated with the PTBC, and 6) the extent to which the cited person has mitigated or attempted to mitigate any damage or injury caused by his or her violation.

Changes since last Sunset Review

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

Since the previous Sunset Review, the PTBC has begun issuing citations to licensees who fail to comply with address change reporting requirements and with the new continuing competency requirements. Additionally, the PTBC revised the regulation requiring record retention from seven years to five years, based on the negative impact of the seven year requirement on the licensees since these citations are maintained as public record on the PTBC Web site. In many cases, potential employers and licensees

interpreted the citations as disciplinary action and punitive. The cite and fine process is not intended to be punitive.

#### Increase of Citation Fine to \$5,000

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

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

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

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

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

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

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

The PTBC does not have a Disciplinary Review Committee.

In the last four fiscal years, the PTBC held 492 informal conferences, and 5 administrative procedure act appeal hearings. The following table breaks this down by fiscal year.

<b>Administrative Citation Informal Conference and Administrative Hearings</b>				
<b>Fiscal Year</b>	<b>2007/2008</b>	<b>2008/2009</b>	<b>2009/2010</b>	<b>2010/2011</b>
<b>Informal Conferences Held</b>	53	118	170	151
<b>Administrative Hearings Held</b>	1	0	1	3

Although the table above indicates only five administrative hearings were held in the last four fiscal years, the PTBC received a total of 65 administrative hearing requests. Of those 65 hearing requests, 60 of those cases withdrew their administrative hearing request and instead paid the associated fine.

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

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

1. Criminal Convictions - First offense conviction of a crime that is substantially related to the practice of physical therapy that may not have a direct effect on public protection or patient care
2. Practice Issues - Related violations such as a single violation of documentation, regulations, supervision violations, and aiding & abetting of unlicensed activity or violations of the Practice Act
3. Continuing Competency (CC) Violations - Failure to accumulate the required CC hours, failure to take the approved courses, false statement on renewal form signed under penalty of perjury that the completed CC requirements were met

4. Discipline by Another State Board – Discipline taken in another State and the violation offense is a citable violation in California
5. Address Change Reporting Requirement – Failure to report a change of mailing address within 30 days after the change

**38. What is average fine pre and post appeal?**

The average citation fine pre-appeal is \$146.00. Citations issued in the last four fiscal years have been issued with a fine ranging between \$100 and \$500. The final citation fine amount post-appeal averaged \$134 over the last four fiscal years.

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

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

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

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

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

<b>COSTS FOR DISCIPLINARY CASES</b>				
<b>Per Case Investigated</b>	<b>2007/2008</b>	<b>2008/2009</b>	<b>2009/2010</b>	<b>2010/2011</b>
<b>Investigations &amp; Witnesses/Experts</b>	<b>\$108,636.00</b>	<b>\$81,408.00</b>	<b>\$54,470.00</b>	<b>\$44,536.00</b>
<b>Cases Investigated</b>	64	121	121	132
<b>Average Cost Per Case<sup>1</sup></b>	\$1,697	\$673	\$450	\$337
<b>Referred to AG</b>	<b>2007/2008</b>	<b>2008/2009</b>	<b>2009/2010</b>	<b>2010/2011</b>
<b>Prosecution &amp; Admin. Hearings</b>	\$216,475.00	\$160,113.00	\$154,620.00	\$471,595.00
<b>Cases Worked</b>	75	67	135	149
<b>Average Cost Per Case</b>	\$2,886	\$2390	\$1,145	\$3,165

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

Currently, the hourly rates for investigative and legal services are as follows:  
All this needs to be lined up-format issues

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

Furthermore, costs for prosecution and administrative hearings increase if:

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

- For a non-adopt Proposed Decision, the Board is required to order and pay for the hearing transcript and allow the respondent to comment on his/her case; and
- The Board’s final disciplinary decision is contested by the respondent and an appeal is filed with the Superior Courts.

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

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

<b>COST RECOVERY DATA</b>				
<b>Cost Recovery Data</b>	<b>2007/2008</b>	<b>2008/2009</b>	<b>2009/2010</b>	<b>2010/2011</b>
<b>Total Enforcement Expenditures <sup>1</sup></b>	\$404,439	\$294,796	\$223,886	\$621,442
<b># Potential Cases for Recovery <sup>2</sup></b>	25	46	89	65
<b>Amount of Cost Recovery Ordered</b>	\$33,726.00	\$52,058.00	\$21,219.29	\$56,002.00
<b>Amount Collected <sup>3</sup></b>	\$5,957.63	\$35,648.99.29	\$5,140.00	\$45,450.00

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

<sup>2</sup> The number of potential cases for recovery includes the number of cases referred to the AG’s Office.

<sup>3</sup> This data was derived from the Volume 13 CalStars Report.

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

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

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

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

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

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

## Section 6 – Public Information Policies

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

#### A. Use of the internet

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

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

- d. “Licensees” provides PTBC’s continuing competency requirements, information on license renewal, how to submit an address change, how to request a duplicate/replacement wall or wallet certificate, how to verify his/her license to another state, information regarding PTBC’s Diversion Program. The “Forms and Publications” contains all relevant forms. Information on how to become an Expert Consultant or Practice Monitor for PTBC is also on this page.
- e. “Law/Regulations” contains PTBC’s laws and regulations, rulemaking processes and addresses common physical therapy practice issues.
- f. “Forms/Publications” contains all relevant forms for PTBC’s applicants and licensees including forms for continuing competency, the inactive status and exemption application; consumer protection forms; petition for penalty relief, reinstatement, modification and/or termination of probation instructions, and application; newsletters from 2004 to 2011; PTBCs’ Strategic Plan and sunset reports; laws and regulations; consumer protection services publications and licensing publications.
- g. “About Us” provides PTBC’s history, vision and mission, meeting dates and materials, archived meeting materials, pictures and biographies of board members, board staff and how to contact PTBC.
- h. “Contact Us” contains information on how to reach PTBC.

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

Meeting Materials – PTBC provides meeting materials as outlined:

1. Agendas – Meeting agendas are posted online ten days prior the date of a board meeting.
2. Minutes - Finalized minutes are available to the public after being approved at the subsequent board meeting. The minutes are then archived on PTBC Web site. PTBC does not post draft minutes which are subject to review by board members and staff.
3. Webcasting Board Meetings – PTBC provides a webcast of its board meetings. Webcasts aired since October 11, 2010 are still available on PTBC Web site.
4. Board Meeting Dates – Dates of future board meetings are posted after being adopted at the fall board meeting. Any changes or additions to the meeting schedule are posted in accordance with the Bagley-Keene Open Meeting Act 2004.

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

PTBC provides a webcast of its current and past meetings, beginning with the October 11, 2010 board meeting. Future board meeting dates are posted after they are accepted at the fall board meeting.

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

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

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

<b>COMPLAINT DISCLOSURE POLICY</b>		
<b>TYPE OF INFORMATION PROVIDED</b>	<b>YES</b>	<b>NO</b>
<b>Complaint Filed</b>		✓
<b>Citation</b>	✓	
<b>Fine</b>	✓	
<b>Letter of Reprimand</b>	✓	
<b>Pending Investigation (1)</b>		✓
<b>Investigation Completed (2)</b>		✓
<b>Arbitration Decision</b>	N/A	
<b>Referred to AG: Pre-Accusation</b>		✓
<b>Referred to AG: Post-Accusation</b>	✓	
<b>Settlement Decision</b>	✓	
<b>Disciplinary Action Taken</b>	✓	
<b>Civil Judgment</b>	N/A	
<b>Malpractice Decision</b>	N/A	
<b>Criminal Violation: Felony or Misdemeanor (2)</b>		✓
(1) Details of the complaint/investigation are not disclosed while the case is pending. (2) Information disclosed only if included in the disciplinary action decision.		

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

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

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

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

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

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

## Section 7 – Online Practice Issues

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

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

## Section 8 – Workforce Development and Job Creation

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

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

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

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

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

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

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

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

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

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

**55. Describe the PTBC's outreach to schools.**

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

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

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

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

**a. Workforce shortages and staffing needs**

The PTBC does not have data indicating a workforce shortage (see Section 11 Issue # 10).

**b. Successful training programs**

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

**c. Number of jobs created by its licensure program**

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

## Section 9 – Current Issues

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

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

In April 2010, the SACC developed a document, *Uniform Standards Regarding Substance-Abusing Healing Arts Licensees* (Uniform Standards), containing sixteen uniform standards addressing the requirements as described by SB 1441. The Physical Therapy Board of California (PTBC) has proceeded with the regulatory process and is functioning in accordance with the requirements. The PTBC is proposing to amend the Physical Therapy Board of California Disciplinary Guidelines with language revised August 3, 2011. The PTBC is scheduled to hold the regulatory hearing on November 3, 2011 to consider the proposed amendments of the Guidelines.

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

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

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

three sections, 1) added the “Delegation of Function” to existing CCR 1398.4, 2) added proposed language CCR 1399.23 “Required Actions against Registered Sex Offenders and 3) added proposed language CCR 1399.24 “Unprofessional Conduct”. The proposed language for CCR 1399.24 specifies additional acts that will constitute unprofessional conduct in addition to the unprofessional conduct defined in B&P section 2660 of the Physical Therapy Practice Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## Section 10 – Board Action and Response to Prior Sunset Issues

Include the following:

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

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

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

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

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

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

As a result of the 2005 Sunset Review, the Joint Committee and the DCA recommended retaining the current law allowing licensure of physical therapist assistants based on equivalency. PTBC continues to accept and process applications

for licensure as a physical therapist assistant based on equivalent education and experience and is not seeking or recommending any changes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## Section 11 – New Issues

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

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

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

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

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

The PTBC recommends the continued regulation of the physical therapy profession and the Physical Therapy Board of California. The growing number of citations issued and complaints received demonstrates the need for the PTBC's continued regulation. In FY 2008/09, 1,075 complaints were received compared to 1,812 complaints received in FY 2010/11 and, in FY 2008/09, 540 citations were issued compared to 649 citations issued in FY 2010/11.

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

In 2004, a committee was appointed by PTBC to conduct a complete review of the Physical Therapy Practice Act (Act). The committee made recommendations, which were incorporated into the language of the proposed Act. The proposed Act reorganizes the current Act to ensure a logical flow, updates antiquated language and reflects changes in current practice not present in the current Act. The proposed Act:

- Explicitly states the responsibilities of the PTBC
- Specifically defines terms directly relating to patient care, and redefines physical therapy
- Adds appropriate usage of authorized titles
- Adds who may qualify for licensure exemption and defines the requirements of each

- Requires licensees from other states to submit continuing competency as part of the California application process
- Requires foreign educated physical therapists and physical therapist assistants to demonstrate English proficiency
- Changes the delinquent to cancelled status grace period from five years to three years after the expiration date
- Adds the requirement for licensees to submit address/name changes within 30 days after change
- Adds that physical therapists may purchase and store topical medications
- Adds the requirement for licensees to post a notice to consumers
- Adds authority for the PTBC to determine appropriate rules of professional conduct
- Adds specific violations which constitute unprofessional conduct
- Adds that an unlicensed person shall not advertise physical therapy or bill for such services
- Adds the authority for the PTBC to impose a fine for a licensee's refusal to produce records requested by the PTBC
- Adds the PTBC to be within the jurisdiction of the Department of Justice Health Quality Enforcement Section
- Re-designates specific MBC authority relating to physical therapy to the PTBC

The PTBC has attempted to have the above proposed Act included in the Department of Consumer Affairs' omnibus bill and for various reasons was unsuccessful in doing so. The PTBC plans to work with the Legislature to develop a bill containing these revisions to the Physical Therapy Practice Act.

### **ISSUE #3: IMPLEMENTATION OF CORPORATION REGISTRATION**

The Moscone-Knox Professional Corporations Act, section 13401 of the Corporations Code, requires that a physical therapist obtain a certificate of registration from the PTBC prior to filing articles of corporation with the Secretary of State. Circa 1980, Moscone-Knox was amended to exempt examining committees under the jurisdiction of the Medical Board of California (MBC) from filing a certification of registration with the MBC; this included what was then the Physical Therapy Examining Committee. The PTBC, (previously the PTEC) functioned as an examining committee under the jurisdiction of the MBC when the statute no longer required a filing of a certificate of registration, the PTBC regulations 1399.33, 1399.34, 1399.36 and 1399.38, governing the requirements for filing were subsequently repealed in 1981. However, since the PTBC is no longer an examining committee under the MBC, the PTBC is mandated to require physical therapists forming professional corporations to file a certificate of registration with the PTBC.

There are approximately 2,000 physical therapy professional corporations filed with the Secretary of State. This does not include general corporations employing physical therapists. Because the requirement to file a certificate of registration exists, the PTBC must either seek legislation to amend Moscone-Knox exempting the PTBC from this requirement or promulgate regulations to require compliance from physical therapy professional corporations.

The PTBC seeks direction on this issue from the Senate Committee on Business, Professions & Economic Development.

#### **ISSUE #4: TELEHEALTH**

Telehealth is defined in the fifth edition of the Federation of State Boards of Physical Therapy's Model Practice Act as follows:

*“Telehealth” is the use of electronic communications to provide and deliver a host of health related information and healthcare services, including, but not limited to physical therapy related information and services, over large and small distances. Telehealth encompasses a variety of healthcare and health promotion activities, including, but not limited to, education, advice, reminders, interventions, and monitoring of interventions.*

Telehealth is a universal term referring to the use of telecommunication technology in providing care; however, more specific domains exist within telehealth, including telemedicine, telerehabilitation, telemental health and telenursing.

*“Telehealth includes the review or transfer of patient records or related information by means of electronic communications. This definition is tied to a specific exemption (see Exemptions from Licensure [or Certification], Article 3.04) that relates to the emergence of telehealth as a means of delivering professional services. The nature of physical therapy practice requires that the evaluative components of practice occur when at least one physical therapist is in the physical presence of the patient. The patient is protected as long as a physical therapist 1) is physically present, 2) provides the evaluative components of practice either solely or in combination with a consultant, and 3) remains solely responsible for the patient's care. If telehealth is added to the Physical Therapy scope of practice, these elements are currently in place to protect the public” (Taken October 21, 2011 [https://www.fsbpt.org/download/MPA\\_5thEdition2011.pdf](https://www.fsbpt.org/download/MPA_5thEdition2011.pdf)).*

Twenty-five states have enacted telehealth legislation. In California, Chapter 449, Statutes of 2005 (AB 354) broadened the definition of telemedicine to include “store and

forward” and including expanding Medi-Cal reimbursement. Telemedicine is covered in Business and Professions Code 2290.5. Chapter 547, Statutes of 2011 (AB 415) ratified the Telehealth Advancement Act of 2011 in addition to adding Section 10123.85 to the Insurance Code explicitly stating it is the intent of the Legislature to recognize the practice of telehealth as a legitimate means by which an individual may receive health care services.

As the country faces a potential shortage of health care professionals due to population growth, aging, and chronic disease, telehealth is becoming an increasingly popular method used to provide patient care. Telehealth may become a viable option to address possible future work force needs in California; however, the PTBC recognizes the need for public protection in this new healthcare arena and will explore regulatory changes.

To increase public access to physical therapy care for those who may not otherwise have the opportunity due to obstacles such as distance and cost, and to improve quality of care in outlying areas, the PTBC recommends adding the authority to practice via telemedicine to the scope of physical therapy practice.

#### **ISSUE #5: ALTERNATIVE LICENSURE STATUS**

Currently, the Physical Therapy Practice Act authorizes three renewable license statuses: valid, delinquent and in-active. A “valid” license means the licensee has paid all required fees prior to expiration, submitted a criminal conviction disclosure questionnaire and has met continuing competency requirements. A “delinquent” license means the licensee failed to pay renewal fees prior to expiration, failed to submit the criminal conviction disclosure questionnaire and/or failed to meet continuing competency requirements. An “In-active” license means the licensee paid all fees prior to expiration and submitted the criminal conviction disclosure questionnaire, but opted out of completing the continuing competency requirements; therefore, cannot practice physical therapy.

These three license status options do not appear adequate for certain licensee situations. These include licensees who wish to maintain a license in retirement, who are in active military service or who have a disabling condition. The PTBC recommends adding provisions to the Physical Therapy Practice Act authorizing three additional license statuses, which exempt licensees from renewal requirements if retired, in active military service, or have a disabling condition. Licensure exemption means that those

licensees are exempt from the payment of the renewal fee(s), submission of the criminal conviction disclosure questionnaire and the requirement for continuing competency. A licensee eligible for licensure exemption is prohibited from the practice of physical therapy.

#### **ISSUE #6: LICENSURE EXEMPTION**

Physical therapists traveling to California for the purpose of providing educational seminars are prohibited from demonstrating physical therapy techniques on patients since this is considered the unlicensed practice of physical therapy. Additionally, physical therapists and physical therapist assistants employed by athletic teams and performing arts companies are prohibited from providing care for the athletes or performers while engaged in events in California. The PTBC recommended the issuance of temporary permits to resolve this issue in the 2005 Sunset Review. Both the Joint Committee on Board, Bureaus, and Consumer Protection and the Department of Consumer Affairs (DCA) recommended granting PTBC authority to issue temporary permits to out-of-state licensees; however, for unknown reasons, this authority was not included in Chapter 658, Statutes of 2006 (SB 1476). After further research, the PTBC has determined licensure exemption to be a more suitable solution. Licensure exemption would allow the practice of physical therapy services by out of state licensees in California, for the purpose of athletic or performing events, but still regulate the profession by developing specific licensure exemption qualifications.

The PTBC recommends adding a provision to the Business and Professions Code to permit licensure exemption for the practice of physical therapy in these circumstances.

#### **ISSUE #7: ESTABLISH AUTHORITY TO CONDUCT A WORKFORCE STUDY**

In order to address the potential workforce needs of California in the provision of physical therapy services, the PTBC must have adequate data on the geographic distribution of work sites and physical therapy specialty practice. The PTBC needs the authority to collect information to provide a picture of the geographic distribution of work sites and specialties. This information includes individual licensee employment address, full versus part time work status and practice focus. The Medical Board of California (MBC) has the authority to collect information from its licensees at the time of renewal. The PTBC also needs data on job openings and not just unfilled positions since many health care facilities have positions but have frozen those positions due to financial constraints. The PTBC can acquire population data from several sources.

However, this data cannot precisely predict demand for services and/or determine the financial resources needed to pay for those services. The PTBC can acquire data regarding the annual number of graduates from California PT and PTA programs who stay in the state to practice. From this collection of information, the PTBC can determine potential workforce shortages and then plan how best to address any problems.

The PTBC will need the authority and the funds to collect and analyze the data to make recommendations for necessary changes.

#### **ISSUE #8: PROMOTE BreZE APPLICATION to AUTOMATE NOTIFICATION OF CHANGE IN LICENSE STATUS TO CONSUMERS**

This would enable consumers to receive automated notification via email in the event of license status change such as expiration or discipline.

The PTBC will need to investigate using this technology to implement an automated notification of change in license status to consumers.

#### **ISSUE #9: CONSIDER REVISING THE TERM “DIVERSION” TO “REHABILITATION” IN BUSINESS AND PROFESSIONS CODE SECTIONS 2662-2669/ OR APPEAL**

The PTBC does not divert licensees from discipline. Business and Professions Code section 2669 states, “Participation in a diversion program shall not be a defense to a disciplinary action which may be taken by the board.” The PTBC is seeking to offer the licensee an opportunity to undergo rehabilitation while under, and as a part of, discipline. Therefore the PTBC recommends changing the name in statute from “diversion program” to “rehabilitation program” as this more accurately reflects the purpose of the program and does not mislead the public into thinking that the licensee is being diverted from, and therefore avoiding, discipline.

## Section 12 – Attachments

Please provide the following attachments:

- A. Board's administrative manual
- B. Year-end organization charts for last four fiscal years. Each chart should include number of staff by classifications assigned to each major program area (licensing, enforcement, administration, etc.)
- C. Board's records retention schedule.
- D. Proposed Physical Therapy Practice Act for Sunset Report