

**May 24-25,
2017**
BOARD MEETING

Department of Consumer Affairs
2005 Evergreen Street, Hearing Room
Sacramento, CA 95815



Physical Therapy Board of California

BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY – GOVERNOR EDMUND G. BROWN JR.

THE PHYSICAL THERAPY BOARD OF CALIFORNIA

2005 Evergreen St. Suite 1350, Sacramento, California 95815

Phone: (916) 561-8200 Fax: (916) 263-2560

www.ptbc.ca.gov

PHYSICAL THERAPY BOARD OF CALIFORNIA NOTICE OF PUBLIC MEETING

May 24, 2017 9:00 a.m.

May 25, 2017 9:00 a.m.

Department of Consumer Affairs
2005 Evergreen Street, Hearing Room
Sacramento, CA 95815

Action may be taken on any agenda item.
Agenda items may be taken out of order.

Unless otherwise indicated, all agenda items
will be held in **OPEN SESSION. THE PUBLIC
IS ENCOURAGED TO ATTEND.** Please refer
to the informational notes at the end of
the agenda.

BOARD MEMBERS

Katarina Eleby, M.A., *President*

Alicia K. Rabena-Amen, PT, MPT, *Vice President*

Debra Alviso, PT, DPT, *Member*

Jesus Dominguez, PT, Ph.D., *Member*

Daniel Drummer, PT, DPT, *Member*

TJ Watkins, *Member*

Tonia McMillian, *Member*

BOARD STAFF

Jason Kaiser, *Executive Officer*

Liz Constancio, *Manager*

Elsa Ybarra, *Manager*

Sarah Conley, *Manager*

Brooke Arneson, *Associate Analyst*



Physical Therapy Board of California



STATE OF CALIFORNIA

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DEPARTMENT OF CONSUMER AFFAIRS

Agenda – Wednesday, May 24th

1. **Call to Order - 9:00 a.m.**
2. **Roll Call** and Establishment of Quorum
3. **Special Order of Business - 9:05 a.m.**
 - (A) Petition for Termination of Probation – Bonnie Yen, PT
 - (B) Petition for Termination of Probation – Vivian Eisenstadt, PT

After submission of the matters, the Board will convene in CLOSED SESSION to deliberate on the petitions pursuant to Government Code section 11126(c)(3).
4. **Closed Session**
 - (A) Pursuant to Government Code section 11126(c)(3), Deliberation on Disciplinary Actions and Decisions to be Reached in Administrative Procedure Act Proceedings
 - (B) Pursuant to Government Code section 11126(a)(1), Evaluation of Executive Officer
5. **Reconvene Open Session**
6. **Review and Approval of August 24 & 25, 2016, October 25, 2016, November 16 & 17, 2016, November 28, 2016 and February 8, 2017 Meeting Minutes – Brooke Arneson**
7. **President's Report – Alicia Rabena-Amen**
 - (A) [2017 Adopted Meeting Calendar](#)
 - (B) [2018 Proposed Meeting Calendar](#)
8. **Discussion and Possible Board Action for the Increase in Board Level and Exempt Status of the Executive Officer – Alicia Rabena-Amen**
9. **Executive Officer's Report – Jason Kaiser**
 - (A) Administrative Services
 - (B) Applications
 - (C) Licensing/Continuing Competency
 - (D) Consumer Protection Services
 - (E) Animal Rehabilitation
 - (F) DCA Internal Audit
 - (G) [Outreach](#)

10. Discussion and Possible Board Action Regarding Sunset Review Report Pursuant to Business and Professions Code Section 2602

– Jason Kaiser

(A) [30-Day Response to Committee Recommendations](#)

11. Board Member Training – Jason Kaiser

(A) Council on Licensure, Enforcement and Regulation (CLEAR) - Roles and Responsibilities of a Board Member

12. Recess

Agenda – Thursday, May 25th

13. Call to Order - 9:00 a.m.

14. [Roll Call](#) and Establishment of Quorum

15. Closed Session

(A) Pursuant to Government Code section 11126(a)(1),
Evaluation of Executive Officer

16. Reconvene Open Session

17. Consumer and Professional Associations and Intergovernmental Relations Reports

- (A) Federation of State Boards of Physical Therapy (FSBPT)
- (B) Department of Consumer Affairs (DCA) – Executive Office
- (C) California Physical Therapy Association (CPTA)

18. [Legislation Report](#) – Brooke Arneson

(A) [2017/18 Legislative Session Summary](#)

- i. [AB 12](#) (Cooley) State Government: Administrative Regulations: Review
- ii. [AB 77](#) (Fong) Regulations: Effective Dates and Legislative Review
- iii. [AB 149](#) (Jones-Sawyer) Criminal Procedure: Disclosure: Felony Conviction Consequences
- iv. [AB 208](#) (Eggman) Deferred Entry of Judgment: Pretrial Diversion
- v. [AB 349](#) (McCarty, Gonzalez Fletcher, Nazarian) Civil Service: Preference: Special Immigrant Visa Holder

- vi. [AB 387](#) (Thurmond) Minimum Wage: Health Professionals: Interns
- vii. [AB 505](#) (Caballero) Physicians and Surgeons: Probation
- viii. [AB 508](#) (Santiago) Health Care Practitioners: Student Loans
- ix. [AB 706](#) (Patterson) Medical Board of California: Licenses
- x. [AB 767](#) (Quirk-Silva) Master Business License Act
- xi. [AB 1005](#) (Calderon) Professions and Vocations: Fines: Relief
- xii. [AB 1278](#) (Low) Contractor Licensing: Judgment Debtor Prohibition: Final Judgment: Definition
- xiii. [AB 1510](#) (Dababneh) Athletic Trainers
- xiv. [AB 1706](#) (Committee on Business and Professions) Healing Arts: Chiropractic Practice: Occupational Therapy: Physical Therapy
- xv. [SB 27](#) (Morrell) Professions and Vocations: Licenses: Military Service
- xvi. [SB 572](#) (Stone) Healing Arts Licensees: Violations: Grace Period

19. [Rulemaking Report](#) – Brooke Arneson

- (A) [2017 Rulemaking Update](#)
 - i. Requirements for Graduates from Non-Accredited Programs: Test of English as a Foreign Language (TOEFL)
- (B) [Discussion of Issues and Possible Board Action Regarding Satisfactory Documentary Evidence of Equivalent Degree for Licensure as a Physical Therapist or Physical Therapist Assistant; Clinical Service Requirements for Foreign Educated Applicants; and Criteria for Approval of Physical Therapy Facilities to Supervise the Clinical Service of Foreign Educated Applicants; Proposal to Add Section 1398.26.6 and Amend Sections 1398.26.1, and 1398.26.5, of Article 2, and Section 1398.38 of Article 3 of Division 13.2, Title 16 of the California Code of Regulations](#)
- (C) [Discussion of Issues and Possible Board Action Regarding Uniform Licensing Examinations and California Law Examination Minimum Passing Scores; Proposal to Amend Section 1398.28 of Article 2, Division 13.2, Title 16 of the California Code of Regulations](#)

20. Administrative Services Report

(A) [Budget](#) – Carl Nelson

21. [Application Report](#) – Sarah Conley

22. [Licensing Services Report](#) – Sarah Conley

(A) Continuing Competency Report

(B) Discussion and Possible Board Action on Removal of Continuing Competency Approval Agency Recognition

i. [ABC Pilates](#)

ii. [Advanced Training Specialists](#)

iii. [Color Seven Education LLC](#)

iv. [Global Augmentative Communication Innovators](#)

23. [Consumer Protection Services Report](#) – Elsa Ybarra

24. [Probation Monitoring Report](#) – Monny Martin

25. Public Comment on Items Not on the Agenda

Please note that the Board may not discuss or take action on any matter raised during this public comment section that is not included on this agenda, except to decide whether to place the matter on the agenda of a future meeting. [Government Code sections 11125, 11125.7(a).]

26. Agenda Items for Future Meeting –

August 23 & 24, 2017

Department of Consumer Affairs

Hearing Room

2005 Evergreen Street

Sacramento, CA 95815

27. Adjournment

Informational Notes:

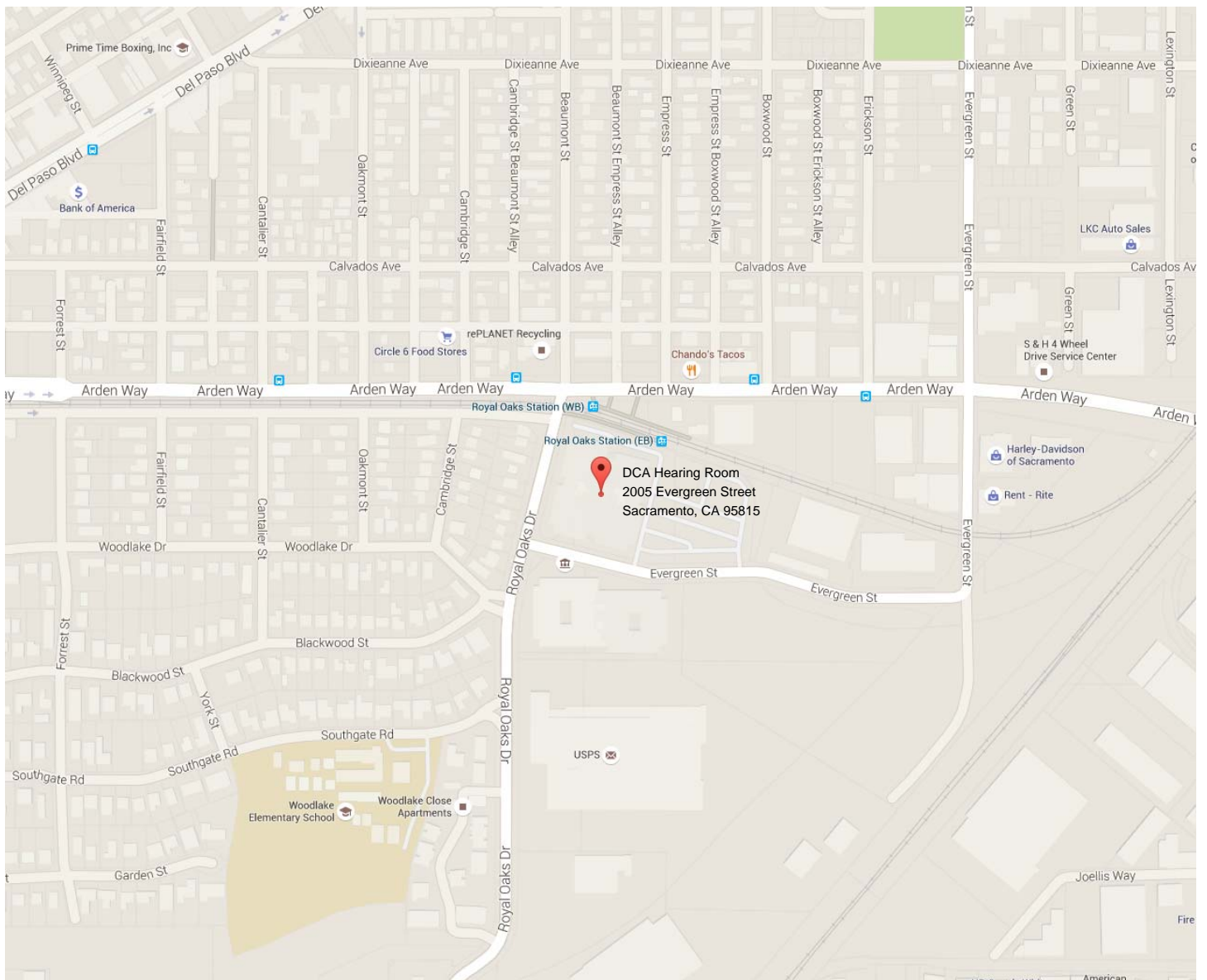
Times stated are approximate and subject to change. Agenda order is tentative and subject to change at the discretion of the Board; agenda items may be taken out of order. In accordance with the Bagley-Keene Open Meeting Act, all meetings of the Board are open to the public. Agenda discussions and report items are subject to action being taken on them during the meeting by the Board at its discretion. The Board provides the public the opportunity at the meetings to address each agenda item during the Board's discussion or consideration of

the item. Total time allocated for public comment on particular issues may be limited.

**Government Code section 11125.7 provides the opportunity for the public to address each agenda item during discussion or consideration by the Board prior to the Board taking any action on said item. Members of the public will be provided appropriate opportunities to comment on any issue before the Board, but the Board President may, at her discretion, apportion available time among those who wish to speak. Individuals may appear before the Board to discuss items not on the agenda; however, the Board can neither discuss nor take official action on any matter not included in this agenda, except to decide to place the matter on the agenda of a future meeting. (Government Code sections 11125, 11125.7(a)).*

The Board plans to webcast this meeting on its website at www.ptbc.ca.gov. Webcast availability cannot, however, be guaranteed due to limited resources. The meeting will not be cancelled if webcast is not available. If you wish to participate or to have a guaranteed opportunity to observe, please plan to attend at a physical location. Adjournment, if it is the only item that occurs after a closed session, may not be webcast.

The meeting is accessible to the physically disabled. A person who needs disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Brooke Arneson at (916) 561-8260, e-mail: brooke.arneson@dca.ca.gov, or send a written request to the Physical Therapy Board of California, 2005 Evergreen Street, Suite 1350, Sacramento, CA 95815. Providing your request at least five (5) business days before the meeting will help to ensure availability of the requested accommodations. TDD Line: (916) 322-1700.



Roll Call

DCA Hearing Room, Sacramento, CA

May 24, 2017

	Present	Absent
Katarina Eleby, President		
Alicia Rabena Amen, PT, MPT, Vice-President		
Debra J. Alviso, PT, DPT		
Jesus Dominguez, PT, Ph.D.		
Daniel Drummer, PT, DPT		
Tonia McMillian		
TJ Watkins		

May 25, 2017

	Present	Absent
Katarina Eleby, President		
Alicia Rabena-Amen, PT, MPT, Vice-President		
Debra J. Alviso, PT, DPT		
Jesus Dominguez, PT, Ph.D.		
Daniel Drummer, PT, DPT		
Tonia McMillian		
TJ Watkins		

Agenda Item 2 – Roll Call



Physical Therapy Board of California

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Board Members

President

Katarina Eleby

Vice-President

Alicia Rabena-Amen, PT, MPT

Members

Debra Alviso, PT, DPT

Jesus Dominguez, PT, PhD

Daniel Drummer, PT, DPT

Tonia McMillian

TJ Watkins

Physical Therapy Board of California

DRAFT Meeting Minutes

August 24, 2016 9:00 a.m.

August 25, 2016 9:00 a.m.

Department of Consumer Affairs

**2005 Evergreen Street,
Lake Tahoe Conference Room
Sacramento, CA 95815**

Board Staff

Jason Kaiser, Executive Officer

Liz Constancio, Manager

Elsa Ybarra, Manager

Sarah Conley, Manager

Brooke Arneson, Associate

Analyst

For the sake of clarity, agenda items discussed during the meeting follow their original order on the agenda in these minutes; however, some agenda items may have been taken out of order during the meeting.

1. Call to Order

The Physical Therapy Board of California (Board) meeting was called to order by President Eleby at 9:00 a.m. on August 24, 2016.

2. Roll Call and Establishment of a Quorum

All members were present and a quorum was established. Also present at the meeting were Tara Welch and Angelique Scott, Legal Counsels; Jason Kaiser, Executive Officer; and Sarah Conley, Elsa Ybarra and Brooke Arneson, Board staff.

3. Special Order of Business – August 24, 2016 9:00 a.m.

(A) Petition for Modification of Probation/Termination of Probation – Jeffrey Grzchowiak, PTA

(B) Petition for Reinstatement of License – James Dale Walker

After submission of the matter(s), the Board convened in CLOSED SESSION to deliberate per Government Code section 11126(c)(3).

Once issued, disciplinary decisions can be found on the Board's website at www.ptbc.ca.gov.

32
33 **4. Closed Session**

34
35 **(A) Pursuant to Government Code section 11126(c)(3)**
36 **Deliberation on Disciplinary Actions**

37
38 Once issued, disciplinary decisions can be found on the Board's website at
39 www.ptbc.ca.gov.

40
41 **(B) Pursuant to Government Code section 11126(a)(1)**
42 **Evaluation of Executive Officer**

43
44 **5. Reconvene Open Session – 2:05 p.m.**

45
46 **6. Presentation of Certificates of Appreciation – *Katarina Eleby***

47
48 **(A) James Turner**
49 **(B) Carol Wallisch**

50
51 President Eleby and Vice President Rabena-Amen expressed gratitude for Mr. Turner
52 and Ms. Wallisch's service to the Board and presented them each with a Certificate of
53 Appreciation.

54
55 **7. Discussion and Possible Board Action Regarding Increase of Exempt Level of the**
56 **Executive Officer – *Ricardo DeLaCruz, DCA Personnel Officer***

57
58 Mr. DeLaCruz advised the Board their draft proposal to increase the exempt level of the
59 Board's Executive Officer was reviewed by DCA and most of their proposed edits are
60 cosmetic with the exception of highlighting the Board's potential for future growth. Dr.
61 Drummer commented it has been sixteen years since the Board's Executive Officer's
62 exempt level was increased and knowing that is too long asked, "when is it appropriate to
63 conduct such a review?" Mr. DeLaCruz responded that it is appropriate to review the
64 exempt level of the Board's Executive Officer when the Board experiences any significant
65 change, i.e. via legislation, growth, etc.

66
67 **MOTION:** To support the DCA Office of Human Resources and to work with the
68 appropriate agencies in obtaining an exempt level increase for the Board's Executive
69 Officer position.

70
71 **M/S:** Eleby/Alviso

72
73 **VOTE:** 7-0 Motion carried.

74
75 Mr. DeLaCruz asked the Board whether they had decided on the level of which to
76 increase the Executive Officer's position. President Eleby asked the Board if level "L" is

77 what they deemed appropriate and the Board concurred.

78
79 **MOTION:** To increase the level of the Executive Officer position to exempt level "L."

80
81 **M/S:** Eleby/Rabena-Amen

82
83 **VOTE:** 7-0 Motion carried.

84
85 **8. Review and Approval of May 18th & 19th Meeting Minutes – Brooke Arneson**

86
87 Ms. Arneson advised the Board of a couple corrections brought to her attention. The first
88 edit was on line 17 – Mr. Watkins was appointed by the Speaker of the Assembly, not the
89 Governor. The second edit is on line 22, to change "enumerable" to "innumerable." Dr.
90 Alviso suggested adding "PTBC" in front of Facebook on line 133, and Ms. Eleby
91 indicated there was a typo on line 224 that should be corrected to "too inebriated".

92
93 **MOTION:** To adopt the draft May 18 & 19, 2016 meeting minutes as revised.

94
95 **M/S:** Alviso/Eleby

96
97 **VOTE:** 7-0 Motion carried.

98
99 **9. President's Report – Katarina Eleby**

100
101 **(A) 2016 Adopted Meeting Calendar**

102
103 Mr. Kaiser asked the Board to move the November 9 and 10, 2016 meeting to the
104 following week as it would afford staff more time to dedicate to Sunset.

105
106 **MOTION:** To move the November meeting to the 16th and 17th.

107
108 **M/S:** Rabena-Amen/McMillian

109
110 **VOTE:** 7-0 Motion carried.

111
112 **(B) 2017 Proposed Meeting Calendar**

113
114 After discussion regarding anticipated date conflicts and to draw a larger student
115 audience, the Board decided to move the May 17 and 18, 2017 meeting to May 24 and
116 25; and, to change the location of the February meeting to southern California and the
117 May meeting to Sacramento.

118
119 **MOTION:** To move the February meeting to Southern California and the May 17 and
120 18, 2017 meeting to May 24 and 25, 2017.

122 **M/S:** Alviso/Eleby
123 **VOTE:** 7-0 Motion carried
124

125 **10. Executive Officer's Report – Jason Kaiser**

126 Mr. Kaiser referred the members to his report included in the agenda materials. He
127 highlighted the appointment of Sarah Conley to an out-of-class Staff Services Manager
128 position and expressed appreciation of her expertise. Additionally, Mr. Kaiser explained
129 the Internal Audit of the Board by DCA is not random and is on a rotating schedule.
130

131 **11. Discussion and Possible Board Action Regarding Termination of Network**
132 **Participation of Licensees as a Result of Discipline – Jason Kaiser**
133

134 **(A) Example Letters of Termination of Network Participation**
135

136 Dr. Drummer commented that the Board has heard during testimony in previous
137 hearings from probationers, that the employer of an employee on probation has
138 received notice by the employer's insurance company that an individual cannot be on
139 probation or the clinic would not be able to be insured by the insurance company. Mr.
140 Kaiser responded that it is a liability issue for the employer and insurance company.
141 Ms. Eleby expressed gratitude of the staff for doing the research and reporting on this
142 topic resulting in understanding the Board is not putting an unnecessary barrier on a
143 probationer and the decision to terminate a probationer is made by the insurer which is
144 not within the Board's jurisdiction.
145

146 **12. Discussion and Possible Board Action Regarding Sunset Review Report Pursuant**
147 **to Business and Professions Code Section 2602 – Jason Kaiser**
148

149 **(A) Sunset Process and Timelines**

150 **(B) Schedule Future Meeting(s) to Develop Sunset Review Report**

151 **(C) Discussion of Issues to Include in the Board's Sunset Review Report**

152 **(D) Potential Appointment of Sunset Review Subcommittee**
153

154 Mr. Kaiser explained the Board received the Sunset questions later than expected
155 resulting in an accelerated timeline for completing the draft report. He asked the Board
156 to add meetings to allow for review of the draft report and to appoint a subcommittee to
157 assist staff with compiling it. Additionally, the Board discussed the staff's
158 recommendations for "new issues" to include in the Sunset Report.
159

160 President Eleby appointed herself and Ms. Rabena-Amen to the Sunset Review
161 Subcommittee and the Board scheduled September 22nd and October 25th as additional
162 dates for Sunset Report review.
163

164 **13. Recess – 4:02 p.m.**
165
166

Agenda – Thursday, August 25th

14. Call to Order – 9:00 a.m.

15. Roll Call and Establishment of Quorum

All members were present and a quorum was established.

16. Presentation of Services Provided by Division of Investigation (DOI) Rex Cowart – Regional Commander, Stephanie Whitle – Senior Investigator

Mr. Cowart and Ms. Whitley gave a thorough presentation and comprehensive review of the process of complaint investigation services provided by the Division of Investigation. Ms. Eleby expressed appreciation for the presentation and the participation of DOI in the Board's expert consultant training. Ms. Rabena-Amen thanked the Board staff for their hard work and efficiency as expressed by Mr. Cowart in the presentation. She also asked to see the data on the workload performed by Board staff itself resulting in DOI's caseload.

17. Consumer and Professional Associations and Intergovernmental Relations Reports

(A) Federation of State Boards of Physical Therapy (FSBPT)

No representative was present.

(B) Department of Consumer Affairs (DCA) – Executive Office

Shelly Jones, Manager with the Division of Board and Bureau Relations, advised the Board of: staffing changes within DCA; the status of SB 1194; indicated they conducted Sunset Review Briefing Meeting with Boards entering into sunset review; the upcoming Board member orientation trainings are scheduled for September 22nd and November 16th; and in the last week of September there will be focus on future leadership development for new Executive Officers.

(C) California Physical Therapy Association (CPTA)

Stacy DeFoe, Executive Director of CPTA, reminded the Board of their upcoming annual conference scheduled for October 8th and 9th and invited the Board to participate. Ms. Rabena-Amen solicited feedback from the CPTA members regarding BreEZe. Ms. DeFoe indicated there hadn't been much feedback other than the nonexistent listing of disciplinary actions in the format prior to BreEZe.

212 **18. Legislation Report – Brooke Arneson**

213
214 **(A) 2015/16 Legislative Session Summary; Possible Board Action**

- 215
216 i. **AB 12 (Cooley) State Government: Administrative Regulations: Review**
217 ii. **AB 507 (Olsen) Department of Consumer Affairs: BreEZe System:**
218 **Annual Report**
219 iii. **AB 2744 (Gordon) Healing Arts: Referrals**
220 iv. **AB 2859 (Low) Professions and Vocations: Retired Category: Licenses**
221 v. **SB 1155 (Morrell) Professions and Vocations: Licenses: Military**
222 **Service**
223 vi. **SB 1195 (Hill) Professions and Vocations: Board Actions (This bill**
224 **authorizes the Director of the DCA to review, veto, or modify actions**
225 **and decisions of DCA boards to ensure such actions or decisions**
226 **conform with public policy. This bill number is subject to change.)**
227 vii. **SB 1348 (Cannella) Licensure Applications: Military Experience**
228

229 Ms. Arneson provided a brief update on the status of the bills included in the legislative
230 summary and noted that AB 2859 would be further discussed under agenda item #19.
231

232 **19. Rulemaking Report – Brooke Arneson**

233
234 **(A) 2016 Rulemaking Update**

- 235
236 i. **License Renewal Exemptions: Retired Status**
237 ii. **Requirements for Graduates from Non-Accredited Programs: Test of**
238 **English as a Foreign Language (TOEFL)**
239

240 Ms. Arneson referred the members to the rulemaking matrix reflecting the current status
241 of rulemaking in progress. Mr. Kaiser solicited feedback on the significant change in the
242 way the data is being reported and Dr. Alviso thought the steps ahead were lost in the
243 new reporting format. Mr. Kaiser assured the steps in the overall process would be
244 incorporated in the next presentation.
245

246 **(B) Discussion of Issues Regarding License Renewal Exemptions for Retired**
247 **Status Statutory and Regulatory Language and Possible Board Action**
248

249 AB 2859 and this agenda item were discussed as a potential new issue for the Sunset
250 Report.
251

252 **(C) Discussion of Issues Regarding TOEFL Regulatory Language and Possible**
253 **Action Regarding Modified Text on English Proficiency Requirements;**
254 **Proposed Language to Amend Section 1398.25 and Add Section 1398.26.3 to**
255 **Article 2, Division 13.2, Title 16 of the California Code of Regulations**
256

257 The Board was presented with a Briefing Paper identifying the need to ratify the first
258 modified text.

259
260 **MOTION:** To ratify the first proposed modified text dated November 15, 2015.

261
262 **M/S:** Drummer/Eleby

263
264 **VOTE:** 7-0 Motion carried.

265
266 The Board reviewed the proposed second modified text for compliance with the
267 Decision of Disapproval issued on August 4, 2016 by the Office of Administrative Law
268 and made amendments to the proposed language known as the second modified text.

269
270 **MOTION:** Approve the proposed modified text for a 15-day public comment period
271 and delegate to the Executive Officer the authority to adopt the proposed regulatory
272 changes as modified, if there are no adverse comments received during the public
273 comment period; and, also delegate to the Executive Officer the authority to make any
274 technical or non-substantive changes required in completing the rulemaking file.

275
276 **M/S:** Rabena-Amen/Alviso

277
278 **VOTE:** 6-0 [Ms. McMillian was not present for the vote]
279

280 **20. Administrative Services Report – Liz Constancio**

281
282 **(A) Budget**

283
284 Ms. Constancio and Mr. Nelson, Board staff; and Mr. DeLosReyes, DCA Budget
285 Manager, reported on the status of the Board's budget at year end of FY 15/16. Ms.
286 Constancio noted the fee increase was implemented on May 6, 2016 close to year end;
287 therefore, it's too soon to realize the benefit. Discussion pursued regarding a
288 comfortable year end fund reserve and what prompts an increase in fees to ensure
289 solvency. Mr. Kaiser advised the Board's budget and fund condition are consistently
290 under watchful eye of both the DCA budget office and Board staff.

291
292 **21. Application Report – Sarah Conley**

293
294 Ms. Conley summarized her written report included in the agenda materials and advised
295 the Board she had conducted a survey of all the PT and PTA programs soliciting
296 feedback for service improvement. She relayed there were valuable comments received

indicating the programs found the Board's website to be user friendly and a valuable source for information and they appreciated the attempt to provide quality customer service given the hindrance of limited resources, but improvements could be made in accessibility to staff, process clarity and timelines.

Dr. Dominquez inquired whether it was helpful for programs to field questions and contact the Board on the applicants' behalf, and Ms. Conley responded she was open to contact either way. Mr. Kaiser stated it could be beneficial for the programs to intercept the question and seek the answer in order to assist with the same or similar question in the future.

(A) Presentation of FSBPT's Alternate Pathway to Examination Option

Ms. Conley provided an overview of the upcoming Alternate Pathway to Examination Option which is anticipated to be implemented by FSBPT in late October. She advised the impact is yet to be seen but in concept it should be advantageous for the applicants who are CAPTE approved. Dr. Alviso questioned whether the Board would receive notification if FSBPT were to deem a California applicant ineligible. Mr. Kaiser replied yes, and the Board would then have the opportunity to determine eligibility through the appeal process.

22. Licensing Services Report – Sarah Conley

Ms. Conley reported the Licensing Maintenance Program Report has a new name and a new format for ease of reporting statistical data and advised there was a correction to the PT Year to Date for Inactive Licensees data, it should read 1299 and not 1399 with a 17% decrease rather than 11%. She further reported the vacancies in the Continuing Competency program are in the process of being filled and once they are audits will resume.

23. Consumer Protection Services Report – Elsa Ybarra

Ms. Ybarra referred the members to the report included in the agenda materials and made note that the implementation of BreEZe is resulting in data enhancement. She also commented that over half of complaints received are convictions and how any one particular case can skew processing timelines. Finally, Ms. Ybarra advised the members of Ms. Karin Thompson's retirement and her expertise in Board operations will be missed.

24. Probation Monitoring Report – Monny Martin

Mr. Martin reported there were 104 probationers, 12 are tolled and 23 are in the Board's Drug and Alcohol Recovery Program. He explained he monitors the probationers via a comprehensive initial interview with quarterly follow up and communication with the probationer's supervisor. Concerns about compliance will elicit a personal interview.

342 **25. Public Comment on Items Not on the Agenda**

343

344 **26. Agenda Items for Future Meetings**

345

346 Dr. Drummer requested looking into the quality of continuing education courses and the
347 way the courses are taken and approved.

348

349 **27. Closed Session**

350

351 **(A) Pursuant to Government Code section 11126(a)(1)**
352 **Evaluation of Executive Officer**

353

354 **28. Adjournment**

355

356 The Board adjourned at 2:56 p.m. after concluding closed session discussion on agenda
357 item 4(B).



Physical Therapy Board of California

BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY - GOVERNOR EDMUND G. BROWN JR.

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1

Board Members

President

Katarina Eleby

Vice-President

Alicia Rabena-Amen, PT, MPT

Members

Debra Alviso, PT, DPT

Jesus Dominguez, PT, PhD

Daniel Drummer, PT, DPT

Tonia McMillian

TJ Watkins

Physical Therapy Board of California

DRAFT Meeting Minutes

October 25, 2016 9:00 a.m.

Department of Consumer Affairs

2005 Evergreen Street,

Lake Tahoe Conference Room

Sacramento, CA 95815

Board Staff

Jason Kaiser, Executive Officer

Liz Constancio, Manager

Elsa Ybarra, Manager

Sarah Conley, Manager

Brooke Arneson, Associate

Analyst

2 For the sake of clarity, agenda items discussed during the meeting follow their original order on
3 the agenda in these minutes; however, some agenda items may have been taken out of order
4 during the meeting.

1. Call to Order

8 The Physical Therapy Board of California (Board) meeting was called to order by Katarina
9 Eleby at 9:10 a.m. on October 25, 2016.

2. Roll Call and Establishment of a Quorum

13 All members were present and a quorum was established. Also present at the meeting
14 were Tara Welch, Legal Counsel; Jason Kaiser, Executive Officer; and Elsa Ybarra,
15 Sarah Conley, Liz Constancio and Brooke Arneson, Board staff.

3. Review and Approval of September 22, 2016 Meeting Minutes

19 Ms. Arneson presented the September 22, 2016 meeting minutes for the Board's
20 consideration.

22 **MOTION: To adopt the draft September 22, 2016 meeting minutes as revised.**

24 **M/S: Alviso/Eleby**

26 **VOTE: 7-0 Motion carried**

28 **4. Discussion of Issues Regarding Test of English as a Foreign Language (TOEFL)**
29 **Regulatory Language and Possible Board Action Regarding Modified Text on**
30 **English Proficiency Requirements; Proposed Language to Amend Section 1398.25**
31 **and Add Section 1398.26.3 to Article 2, Division 13.2, Title 16 of the California Code**

32 **of Regulations**

33
34 After discussion, the Board made modifications to the proposed regulatory language and
35 directed staff to continue the rulemaking process.

36
37 **MOTION:** To approve the proposed modified text for a 15-day public comment
38 period and delegate to the Executive Officer the authority to adopt
39 the proposed regulatory changes as modified if there are no adverse
40 comments received during the public comment period and also
41 delegate to the Executive Officer the authority to make technical or
42 non-substantive changes that may be required in completing the
43 rulemaking file.

44
45 **M/S:** Rabena-Amen/Eleby

46
47 **VOTE:** 7-0 Motion carried

48
49 **5. Discussion and Possible Board Action Regarding Sunset Review Subcommittee's**
50 **Recommendation on Issues to be Identified on the Sunset Review Report Pursuant**
51 **to Business and Professions Code (BPC) Section 2602**

52
53 **(A) BPC Section 2653, English proficiency exemption**

54
55 Mr. Kaiser presented the Sunset Review Subcommittee's recommendation to address
56 this issue during the Board's Sunset Review Process. The Board reviewed and
57 modified the Subcommittee's proposed revision to BPC Section 2653.

58
59 **MOTION:** To approve the proposed statutory revision and submit it to the
60 Legislature with the Sunset Review Report.

61
62 **M/S:** Eleby/Dominguez

63
64 **VOTE:** 7-0 Motion carried

65
66 **6. Review, Discussion and Possible Board Action on Sunset Review Report Pursuant**
67 **to BPC Section 2602**

68
69 Mr. Kaiser and Board staff presented the Sunset Review Report draft to the Board for
70 review. The Board identified edits and provided feedback throughout the report. The
71 Sunset Review Subcommittee recommended addressing the retired license status issue
72 during the Board's Sunset Review process and presented proposed hybrid statutory
73 language. The Board discussed including the retired license issue in the Sunset
74 Review Report and requested additional drafts of proposed revisions to the retired
75 license statute.

MOTION: To include a request to revise the retired license statute in the Sunset Review Report.

M/S: Drummer/Eleby

VOTE: 6-0 (1 absent) Motion carried

At 4:00 p.m., Alicia Rabena-Amen excused herself for the remainder of the meeting. A quorum was still in place.

7. Public Comment on Items Not on the Agenda

Stacy DeFoe, California Physical Therapy Association (CPTA) Executive Director, asked the Board to consider addressing the issue of the difficulty of students under the Individuals with Disabilities Education Act (IDEA) having a diagnosis for further discussion at the November 16 & 17, 2016 meeting. Ms. DeFoe informed the Board that eligibility for IDEA is based on informed clinical opinion and not necessarily a diagnosed disability. She stated that this makes it challenging for physical therapists to try and obtain a medical diagnosis from the physician in order to treat the patient without restriction, and the 45 day/12 visit restriction with a required visit to the physician is not feasible when dealing with children under IDEA.

8. Agenda Items for Next Meeting – November 16 & 17, 2016

The Board indicated it did not have any specific items at this time for the November 16 & 17, 2016 meeting.

9. Adjournment

The Board concluded the meeting on Tuesday, October 25, 2016 and adjourned at approximately 5:47 p.m.

Proposed Revisions to Business and Professions Code Section 2653

2653.

An applicant for a license as a physical therapist who has graduated from a physical therapist education program that is not approved by the board and is not located in the United States shall do all of the following:

(a) Furnish documentary evidence satisfactory to the board, that he or she has completed a professional degree in a physical therapist educational program substantially equivalent at the time of his or her graduation to that issued by a board approved physical therapist education program. The professional degree must entitle the applicant to practice as a physical therapist in the country where the diploma was issued. The applicant shall meet the educational requirements set forth in paragraph (2) of subdivision (a) 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.

(b) (1) Demonstrate proficiency in English by achieving a score specified by the board on the Test of English as a Foreign Language administered by the Educational Testing Services or such other ~~examination~~ examination as may be specified by the board by regulation.

(2) An applicant is exempt from the requirements under paragraph (1) if the applicant has been awarded a bachelor's degree or higher in a physical therapist educational program from a college, university or professional training school in Australia, Canada (except Quebec), Ireland, New Zealand, the United Kingdom, or the United States.

(c) Complete nine months of clinical service in a location approved by the board under the supervision of a physical therapist licensed by a United States jurisdiction, in a manner satisfactory to the board. The applicant shall have passed the written examination required in Section 2636 prior to commencing the period of clinical service. The board shall require the supervising physical therapist to evaluate the applicant and report his or her findings to the board. The board may in its discretion waive all or part of the required clinical service pursuant to guidelines set forth in its regulations. During the period of clinical service, the applicant shall be identified as a physical therapist license applicant. If an applicant fails to complete the required period of clinical service, the board may, for good cause shown, allow the applicant to complete another period of clinical service.

Proposed Revisions to Business and Professions Code section 2648.7

2648.7

- (a) The board may establish a retired license under which Aa licensee is exempt from the payment of the renewal fee and from meeting the requirements set forth in ~~Section 2649~~Article 4 if he or she ~~has applied to the board for retired license status~~meets the following criteria: -
- (1) Holds an active or inactive license that is not suspended, revoked, or restricted by the board or the subject of disciplinary action.
- (2) Submits an application to the board for retired license status.
- (3) Discloses under penalty of perjury whether the licensee has any misdemeanor or other criminal offense for which he or she has been found guilty or to which he or she has pleaded guilty or no contest.
- (4) Pays the retired license application fee pursuant to section 2688.
- (b) A license shall be considered retired upon approval of the request.
- (c) The holder of a license in retired status shall comply with the Physical Therapy Practice Act.
- (d) The board may upon its own determination, and shall upon receipt of a complaint from any person, investigate the actions of any licensee, including a person with a license that either restricts or prohibits the practice of physical therapy by that person, including, but not limited to, a license that is retired, inactive, canceled, revoked, or suspended.
- (e) A holder of a license in retired status pursuant to this section shall not engage in the practice of, or assist in the provision of, physical therapy~~unless the licensee applies for renewal and meets all of the requirements as set forth in Section 2644.~~
- (f) In order to request restoration of a license from retired status to active status, the licensee shall:
- (1) Submit to the board a written request to restore the license to active status.
- (2) Pay the license renewal fee pursuant to section 2688.
- (3) Certify, in a manner satisfactory to the board, that he or she has not committed an act or crime constituting grounds for denial of licensure.
- (4) Comply with fingerprint submission requirements pursuant to section 144.
- (5) Satisfy continuing competency requirements pursuant to section 2649.
- (6) Complete any other requirements as specified by the board by regulation.
- (g) Failure to comply with this section constitutes unprofessional conduct.



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Board Members

President

Katarina Eleby

Vice-President

Alicia Rabena-Amen, PT, MPT

Members

Debra Alviso, PT, DPT

Jesus Dominguez, PT, PhD

Daniel Drummer, PT, DPT

Tonia McMillian

T J Watkins

Physical Therapy Board of California

DRAFT Meeting Minutes

November 16, 2016 8:00 a.m.

November 17, 2016 8:00 a.m.

The California Endowment
1000 N Alameda Street, Cabrillo Room
Los Angeles, CA 90012

Board Staff

Jason Kaiser, Executive Officer

Sarah Conley, Manager

Liz Constancio, Manager

Elsa Ybarra, Manager

Brooke Arneson, Associate

Analyst

2 For the sake of clarity, agenda items discussed during the meeting follow their original order on
3 the agenda in these minutes; however, some agenda items may have been taken out of order
4 during the meeting.

6 **1. Call to Order**

7 The Physical Therapy Board of California (Board) meeting was called to order by
8 President Eleby at 8:22 a.m. on November 16, 2016.

10 **2. Roll Call and Establishment of a Quorum**

11 Ms. Rabena-Amen, Ms. McMillian and Mr. Watkins were detained in traffic and not
12 present for roll call. All remaining members were present and a quorum was established.
13 Also present at the meeting were Tara Welch, Legal Counsel; Jason Kaiser, Executive
14 Officer; Liz Constancio, Sarah Conley, Elsa Ybarra and Brooke Arneson, Board staff.

16 **3. Review and Approval of October 25, 2016 Meeting Minutes – Brooke Arneson**

18 Ms. Arneson directed the Board to the draft included in the agenda materials. Dr. Alviso
19 requested comments made by the California Physical Therapy Association be included
20 under agenda item #4, "Public Comment on Items Not on the Agenda." The October 25,
21 2016 minutes will be reviewed at the next meeting after the comments have been added.

23 **4. President's Report – Katarina Eleby**

25 **(A) 2017 Proposed Meeting Calendar**

27 The Board discussed the dates proposed for November were problematic due to the
28 dates of the FSBPT Annual Conference and agreed to move the proposed dates to
29 November 15 and 16, 2017.

31 **MOTION:** To adopt the calendar as amended.

33 **M/S:** Rabena-Amen/Watkins

VOTE: 7-0 Motion carried

5. Administrative Services Report – Liz Constancio

(A) Budget

Ms. Constancio reported on the status of the Board's first quarter of budget year 2016/17 and reported there are no significant increases in expenditures but a 46% increase in revenue. She also reported there are no concerns regarding the Board's ability to stay on budget thus far.

The Board recessed at 8:35 until 9:06 a.m.

6. Special Order of Business – 9:06 a.m.

(A) Petition for Modification of Probation/Termination of Probation – Nolan John Arieta, PT

(B) Petition for Modification of Probation/Termination of Probation – Daniel Leroy James, PT

(C) Petition for Modification of Probation/Termination of Probation – Courtney Jump, PT

After submission of the matter(s), the Board convened in CLOSED SESSION to deliberate on the petitions per Government Code section 11126(c)(3).

Once issued, disciplinary decisions can be found on the Board's website at www.ptbc.ca.gov.

7. Closed Session

**(A) Pursuant to Government Code section 11126(c)(3)
Deliberation on Disciplinary Actions**

Once issued, disciplinary decisions can be found on the Board's website at www.ptbc.ca.gov.

**(B) Pursuant to Government Code section 11126(a)(1)
Evaluation of Executive Officer**

8. Reconvene Open Session – 3:55 p.m.

9. Discussion and Possible Board Action Regarding Sunset Review Subcommittee's Recommendation on Issues to be Identified on the Sunset Review Report

Pursuant to Business and Professions Code Section 2602 – Jason Kaiser

(A) BPC Section 2648.7, clarifying revisions to retired license status

The Board considered three options drafted by legal counsel to resolve statutory discrepancies associated with entering into retired license status. The three options discussed are as follows: option 1- repeal BPC §2648.7; option 2 - amend BPC §2648.7 incorporating language from AB 2859 (2016); and option 3 – continue using the authority in BPC §2648.7. Mr. Kaiser advised he and Ms. Arneson had met with Vincent Chee, Consultant to the Assembly Business and Professions Committee. Mr. Kaiser relayed Mr. Chee was sympathetic to the dilemma the Board faced with the conflict between its existing statute and the amendments to BPC 464 and seemed supportive whichever path the Board chose to resolve the conflicts.

MOTION: Include the issue in the Sunset Review Report recommending option #1 as drafted by legal counsel.

M/S: Eleby/Watkins

VOTE: 7-0

(B) BPC Section 2620.1, adding exemptions to 45-day/12 visit treatment plan of care required

Mr. Kaiser explained the Sunset Review Report Subcommittee considered including amendments to BPC section 2620.1 as an issue for the Sunset Review Report (report) and determined the issue was more appropriately addressed in another vehicle due to inadequate time to thoroughly address the issue.

Stacy DeFoe, Executive Director of the California Physical Therapy Association and Dawn James, PT of the Los Angeles Unified School District, appealed to the Board to reconsider their decision. Ms. DeFoe and Ms. James delivered a compelling presentation to the Board regarding the issue and its impact on the children. The Board asked Ms. DeFoe to submit a briefing paper including statistics on the number of children affected by the issue for consideration at their meeting on November 28, 2016.

10. Review, Discussion and Possible Board Action on Sunset Review Report Pursuant to Business and Professions Code (BPC) Section 2602 – Jason Kaiser

11. Public Comment on Items Not on the Agenda

There was no public comment on items not on the agenda.

12. Recess

The Board recessed at 5:10 p.m.

Agenda – Thursday, November 17th

13. Call to Order – 8:02 a.m.

14. Roll Call and Establishment of Quorum

Ms. McMillian was detained. All remaining members were present and a quorum was established.

15. Review, Discussion and Possible Board Action on Sunset Review Report Pursuant to Business and Professions Code (BPC) Section 2602 – Jason Kaiser

16. Board Member Elections

(A) President – Ms. Eleby was elected President.

Ms. Rabena-Amen nominated Ms. Eleby. Ms. Eleby nominated Ms. Rabena-Amen and she declined the nomination. Ms. Eleby expressed concern with her scheduling conflicts for the next year. Ms. Rabena-Amen then nominated Dr. Drummer and he declined the nomination. Ms. Eleby accepted the nomination.

MOTION: Ms. Eleby nominated for President.

M/S: Rabena-Amen/Watkins

VOTE: 7-0 Motion Carried.

(B) Vice President – Ms. Rabena-Amen was elected Vice President.

Ms. Rabena-Amen nominated Mr. Watkins. Mr. Watkins nominated Ms. Rabena-Amen. Ms. Eleby nominated Dr. Dominguez and he declined the nomination.

MOTION: Mr. Watkins nominated for Vice President.

M/S: Rabena-Amen/Eleby

VOTE: 3-4 Motion Failed

[Ms. Millian – Y; Dr. Alviso – N; Mr. Watkins – N; Ms. Rabena-Amen – Y;
Ms. Eleby – Y; Dr. Dominguez – N; Dr. Drummer – N]

MOTION: Ms. Alicia-Ramen nominated for Vice President.

M/S: Watkins/Alviso

VOTE: 7-0 Motion Carried

(C) FSBPT Delegate – Ms. Rabena-Amen was elected FSBPT Delegate.

MOTION: Ms. Rabena-Amen nominated for FSBPT Delegate.

M/S: Eleby/Watkins

VOTE: 4-2/1 Abstention Motion Carried

[Ms. Millian – Y; Dr. Alviso – N; Mr. Watkins – Y; Ms. Rabena-Amen – A;

Ms. Eleby – Y; Dr. Dominguez – N; Dr. Drummer – Y]

MOTION: Mr. Watkins nominated for FSBPT Delegate.

M/S: Alviso/Rabena-Amen

VOTE: Motion Failed

(D) FSBPT Alternate Delegate – Mr. Watkins was elected FSBPT Alternate Delegate.

Mr. Watkins nominated Dr. Drummer and he declined the nomination.

MOTION: Mr. Watkins nominated for FSBPT Alternate Delegate.

M/S: McMillian/Alviso

VOTE: 7-0 Motion Carried

(E) FSBPT Back-up Alternate Delegate – Dr. Drummer was elected FSBPT Back-up Alternate Delegate.

MOTION: Dr. Drummer nominated for FSBPT Back-up Alternate Delegate

M/S: McMillian/Rabena-Amen

VOTE: 7-0 Motion Carried

MOTION: Members Dr. Alviso, Dr. Dominguez, Ms. Eleby and Ms. McMillian to serve as FSBPT Back-ups to the Delegate, Alternate and Back-up Alternate Delegate

M/S: Eleby/Drummer

VOTE: 7-0 Motion Carried

17. Public Comment on Items Not on the Agenda

There was no public comment on items not on the agenda.

18. Agenda Items for Future Meeting – November 28, 2016

The Board indicated it did not have any specific items at this time for the November 28, 2017 meeting.

Ms. Rabena-Amen expressed her appreciation of staff and their dedication to the quality of work performed on the Sunset Review Report.

19. Adjournment

The Board adjourned at 3:29 p.m.



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Debra Alviso, PT, DPT

Jesus Dominguez, PT, PhD

Daniel Drummer, PT, DPT

Tonia McMillian

TJ Watkins

Physical Therapy Board of California

DRAFT Meeting Minutes

November 28, 2016 8:00 a.m.

Department of Consumer Affairs

2005 Evergreen Street,

Lake Tahoe Conference Room

Sacramento, CA 95815

Board Staff

Jason Kaiser, Executive Officer

Liz Constancio, Manager

Elsa Ybarra, Manager

Sarah Conley, Manager

Brooke Arneson, Associate

Analyst

2 For the sake of clarity, agenda items discussed during the meeting follow their original order on
3 the agenda in these minutes; however, some agenda items may have been taken out of order
4 during the meeting.

5 6 **1. Call to Order**

7
8 The Physical Therapy Board of California (Board) meeting was called to order by Katarina
9 Eleby at 8:11 a.m. on November 28, 2016.

10 11 **2. Roll Call and Establishment of a Quorum**

12
13 All members were present and a quorum was established. Also present at the meeting
14 were Tara Welch, Legal Counsel; Elsa Ybarra, Sarah Conley, Liz Constancio and Brooke
15 Arneson, Board staff.

16 17 **3. Review and Approval of October 25, 2016, November 16, 2016 Meeting Minutes**

18
19 Ms. Arneson presented the October 25, 2016 minutes for the Board's consideration.
20 During review of the October 25, 2016 meeting minutes at the November 16th meeting,
21 the Board requested PTBC staff add California Physical Therapy Association's (CPTA's)
22 comments regarding possible revisions to BPC Section 2620.1, adding exemptions to 45-
23 day/12 visit treatment plan of care requirement to Agenda Item 9; Public comments on
24 Items Not on the Agenda. In addition, the Board requested that additional explanation
25 and clarification be made to Agenda Item 6, regarding retired license status identified as
26 an issue to be addressed in the Sunset Report as there was concern that the motion was
27 not representative of what occurred at the October meeting.

Ms. Arneson pointed out that the November 16 & 17, 2016 meeting minutes were not included in the agenda materials for this meeting and would be presented for Board consideration at the February 8, 2017 meeting.

4. Discussion and Possible Board Action Regarding 2017 Rulemaking Calendar

Ms. Arneson presented the proposed 2017 Rulemaking Calendar for Board consideration. Tara Welch, Legal Counsel suggested the Board make a revision to the proposed calendar to include the current status of the English Proficiency (TOEFL) regulation and also include a proposed regulation to implement retired license status.

MOTION: To approve the proposed regulatory calendar with revisions to add the current status of the TOEFL regulation package and to include a proposed regulation to implement retired license status pursuant to legislative Sunset Review revisions to statute in 2017.

M/S: Eleby/Drummer

VOTE: 7-0 Motion carried

5. Closed Session

(A) Pursuant to Government Code section 11126(c)(3) Deliberation on Disciplinary Actions

Once issued, disciplinary decisions can be found on the Board's website at www.ptbc.ca.gov.

(B) Pursuant to Government Code section 11126(a)(1) Evaluation of Executive Officer

6. Reconvene Open Session

7. Discussion and Possible Board Action Regarding Revisions to Business and Professions Code (BPC) Section 2620.1, Adding Exemptions to 45-day/12-visit Treatment Plan of Care Requirement

Stacy DeFoe, Executive Director of the California Physical Therapy Association (CPTA), presented additional statistics on the number of children affected by this issue which was requested by the Board at the November 16-17 2016 meeting regarding adding exemptions to the 45-day/12 visit treatment plan of care requirement in BPC 2620.1.

MOTION: To include in the Board's Sunset Review Report a summary of

the concerns brought to the Board by CPTA regarding adding an exemption to the 45-day/12 visit treatment plan of care required for children covered under the Individuals with Disabilities Education Act (IDEA) without statutory recommendation from the Board.

M/S: Rabena-Amen/Dominguez

VOTE: 5-0 (2 absent) Motion carried
Katarina Eleby and Tonia McMillian were not present at the time of this motion. A quorum was still in place.

8. Review, Discussion and Possible Board Action on Sunset Review Report Pursuant to BPC Section 2602

PTBC staff presented the draft Sunset Review Report to the Board for review. The Board provided edits and feedback throughout the report which were made during the meeting.

MOTION: To adopt the 2016 Sunset Review Report as revised, delegate to Board staff the authority to make non-substantive changes, and delegate to the Board President the authority to review and proof the revised version, and submit the report to the Legislature.

M/S: Rabena-Amen/Watkins

VOTE: 4-0 (3 absent) Motion carried
Katarina Eleby, Tonia McMillian and Jesus Dominguez were not present at the time of this motion. A quorum was still in place.

9. Public Comment on Items Not on the Agenda

There were no public comments on items not on the agenda.

10. Agenda Items for Future Meeting

The Board indicated it did not have any specific items at this time for the February 2017 meeting.

11. Adjournment

The Board concluded the meeting on Monday, November 28, 2016 and adjourned at approximately 6:42 p.m.



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Alicia Rabena-Amen, PT, MPT

Members

Debra Alviso, PT, DPT

Jesus Dominguez, PT, PhD

Daniel Drummer, PT, DPT

Tonia McMillian

TJ Watkins

Physical Therapy Board of California

DRAFT Meeting Minutes

February 8, 2017 9:00 a.m.

University of Southern California

Sullivan Center, CHP 157

1540 E. Alcazar Street

Los Angeles, CA 90033

Board Staff

Jason Kaiser, Executive Officer

Liz Constancio, Manager

Elsa Ybarra, Manager

Sarah Conley, Manager

Brooke Arneson, Associate

Analyst

2 For the sake of clarity, agenda items discussed during the meeting follow their original order on
3 the agenda in these minutes; however, some agenda items may have been taken out of order
4 during the meeting.

1. Call to Order

8 The Physical Therapy Board of California (Board) meeting was called to order by Katarina
9 Eleby at 9:14 a.m. on February 8, 2017.

2. Roll Call and Establishment of a Quorum

13 All members were present and a quorum was established. Also present at the meeting
14 were Tara Welch, Legal Counsel; Jason Kaiser, Executive Officer; and Elsa Ybarra,
15 Sarah Conley, Liz Constancio and Brooke Arneson, Board staff.

3. Special Order of Business – February 8, 2017

(A) Hearing on Petition for Termination of Probation – Sherman Arnest, PT

21 After submission of the matter(s), the Board convened in closed session to
22 deliberate per Government Code section 11126(c)(3).

24 Once issued, disciplinary decisions can be found on the Board's website at
25 www.ptbc.ca.gov.

4. Closed Session

(A) Pursuant to Government Code section 11126(c)(3) Deliberation on Disciplinary Actions

31

Once issued, disciplinary decisions can be found on the Board's website at www.ptbc.ca.gov.

**(B) Pursuant to Government Code section 11126(a)(1),
Evaluation of Executive Officer**

(C) Adjourn Closed Session

5. Reconvene Open Session

6. Review and Approval of August 24 & 25, 2016 and October 25, 2016 Meeting Minutes

Due to revisions the Board's legal counsel suggested, the Board deferred the review and approval of the August 24 & 25, 2016 and October 25, 2016 meeting minutes to the May 24 & 25, 2017 meeting.

7. President's Report

(A) 2017 Adopted Meeting Calendar

Dates and locations were discussed and remain as reflected on the calendar.

8. Consumer and Professional Associations and Intergovernmental Relations Report

(A) Federation of State Boards of Physical Therapy (FSBPT)

No representatives were present.

(B) Department of Consumer Affairs (DCA)

Ms. Arneson presented the DCA report on behalf of Christine Lally, Deputy Director of Board and Bureau Relations. On January 13, 2017, Governor Brown appointed Jolie Onodera as the Deputy Secretary of Legislation at the Business, Consumer Services and Housing Agency. Board members were reminded of required annual trainings and that DCA's Annual Report is now available on their website.

(C) California Physical Therapy Association (CPTA)

No representatives were present.

9. Overview of the Attorney General's Legal Process for Disciplinary Actions

Lori Forcucci, Deputy Attorney General, presented an overview of the legal process for disciplinary actions for the Board.

77 **10. Executive Officer's Report**

78
79 Mr. Kaiser referred members to his report included in the agenda materials. He added
80 that the Board's Sunset Review Hearing before the Legislature would be held on
81 February 27, 2017 and informed the Board members that the hearing would be available
82 online for all members to view. In addition, Mr. Kaiser informed the Board that the third
83 and final Animal Rehabilitation Task Force meeting occurred on February 2, 2017.
84

85 **11. Legislation Report**

86
87 **(A) 2015/16 Legislative Session Summary**
88

89 Ms. Arneson referred the members to the legislative summary on the bills included in the
90 agenda materials. Ms. Arneson highlighted that AB 2859, authorizing a retired category
91 of license was chaptered. Ms. Arneson also provided an update that SB 1348, which
92 required boards to post information the Board's Internet Website about the ability of
93 veterans to apply military experience and training towards licensure requirements, was
94 also chaptered.
95

96 **12. Rulemaking Report**

97
98 **(A) 2016 Rulemaking Update**
99

100 **i. Requirements for Graduates from Non-Accredited Programs: Test of English**
101 **as a Foreign Language (TOEFL)**
102

103 Ms. Arneson referred the Board to the rulemaking tracking form included in the agenda
104 materials and advised on the status. In addition, Ms. Arneson informed the Board that
105 staff are working on additional Section 100 changes (changes without regulatory effect)
106 that would be submitted to OAL in the upcoming months. Ms. Arneson advised the
107 Board that Alexandria Smith-Davis, a new legislation and regulation analyst from DCA,
108 has been assigned to the Board and staff would be meeting with her once a month.
109

110 **13. Administrative Services Report**

111
112 **(A) Budget**
113

114 Ms. Constancio summarized the budget report included in the agenda materials and
115 advised the Board that a new budget analyst from DCA, Carl Beermann has been
116 assigned to the Board. In addition, Ms. Constancio presented that the Board collected
117 \$1,549,876 in revenues during Quarter 2, in comparison to \$1,137,928 in Quarter 2 from
118 the previous fiscal year which was a 40% increase in revenue. Ms. Constancio reported
119 that the increase in revenue was due to new licensing fees. Board members asked Ms.
120 Constancio to add an additional column to the budget report to include the percentage of
121 budget expended.

122
123 **(B) Outreach**
124

125 Ms. Constancio referred the members to her report included in the materials.
126

127 **14. Application Report**
128

129 Ms. Conley provided a handout in supplement to her report included in the materials. She
130 advised the Board that the comparison for Quarter 2 is still using data from two different
131 systems, ATS and Breeze. Ms. Conley relayed that since the last report at the August
132 2016 meeting, staff resources have increased which has allowed for a realignment of
133 resources to appropriate program designations, Applications or License Maintenance.
134 Ms. Conley also reported that the latest Breeze system updates have been focused on
135 military application processing and data collection as a result of legislation (SB 1348),
136 which included a requirement for boards to ask specific questions relating to military
137 service. She advised the Board that both the online and paper applications have been
138 updated to include these questions.
139

140 **15. Licensing Services Report**
141

142 Ms. Conley provided a handout to supplement her report included in the materials. She
143 also reported that staff have initiated continuing competency audit activities and will soon
144 commence conducting the actual audits. Ms. Conley added that staff will be manually
145 processing and tracking audits because the current Breeze functionality does not support
146 the Board's needs; however staff have been working with DCA on a blueprint for
147 automated continuing competency audits.
148

149 **16. Consumer Protection Services Report**
150

151 Ms. Ybarra referred the members to the report included in the agenda materials and
152 made note that DCA has been working with all Boards/Bureaus/Committees on revisions
153 to the performance measures in order to enhance the visibility and context of the
154 enforcement process. She reported that in an effort to provide improved transparency,
155 the report has been revised to include additional cycle times involved throughout the
156 enforcement process by breaking down the Performance Measures into sub-Performance
157 Measures.
158

159 **17. Probation Monitoring Report**
160

161 Mr. Martin reported that there are currently 97 licensees on probation for various causes
162 from driving under the influence to sexual misconduct and of those 97 licensees on
163 probation, 16 probationers are tolling and not receiving credit toward the completion of
164 probation. Mr. Martin explained that the tolling of probation is due to the probationer
165 residing out of state or if they do reside in California, they are not currently working in the
166 profession. Mr. Martin reported that of the 81 licensees that are not currently tolling, 19

are currently enrolled and participating in the Board's Drug and Alcohol Recovery Monitoring Program.

18. Board Member Training

(A) How to Complete the Form 700

Ms. Constancio referred the Board to the agenda materials. She provided members with a brief training on how to use the electronic filing system, Netfile, for e-filing Form 700's. She instructed members to please use their DCA email addresses for filing the Form 700 and emphasized that members should use their business information on the Form 700 as the information provided on the form is public. Ms. Constancio informed the Board that should they have any questions regarding filing instructions or training requirements to contact the Board's training coordinator, Araceli Strawmier.

19. Public Comment on Items Not on the Agenda

Mitch Kaye extended an invitation from the California Physical Therapy Association (CPTA) for members to attend the CPTA's Annual Conference in San Diego on September 16-17, 2017.

20. Agenda Items for Future Meeting

The Board discussed adding a possible teleconference meeting to vote on an Interim President and Vice President. The Board indicated it did not have any specific items at this time for the May 24 & 25, 2017 meeting.

21. Adjournment

The Board concluded the meeting on Tuesday, February 8, 2017, and adjourned at approximately 4:54 p.m.

Physical Therapy Board of California

Adopted 2017 Meeting Calendar

January							February							March							April						
Su	M	T	W	Th	F	S	Su	M	T	W	Th	F	S	Su	M	T	W	Th	F	S	Su	M	T	W	Th	F	S
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8	9	10	11	12	13	14	5	6	7	8	9	10	11	5	6	7	8	9	10	11	2	3	4	5	6	7	8
15	16	17	18	19	20	21	12	13	14	15	16	17	18	12	13	14	15	16	17	18	9	10	11	12	13	14	15
22	23	24	25	26	27	28	19	20	21	22	23	24	25	19	20	21	22	23	24	25	16	17	18	19	20	21	22
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May							June							July							August						
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7	8	9	10	11	12	13	4	5	6	7	8	9	10	2	3	4	5	6	7	8	6	7	8	9	10	11	12
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January							February							March							April						
1	New Year's Day						8	PTBC Meeting						31	César Chávez Day						5	PTA NPTE					
12	PTA NPTE							USC, Los Angeles, CA													16	Easter					
16	Martin Luther King Jr						15-18	APTA Combined													26	PT NPTE					
26	PT NPTE							Sections Meeting																			
							20	President's Day																			

May							June							July							August						
14	Mother's Day						9-11	FSBPT Regulatory						4	Independence Day						23-24	PTBC Meeting					
24-25	PTBC Meeting							Training						6	PTA NPTE							Sacramento, CA					
	Sacramento, CA							Alexandria, VA						18-19	PT NPTE												
29	Memorial Day						18	Father's Day						29-30	FSBPT Leadership												
							21-24	APTA Conference							Issues Forum												
								Boston, MA							Alexandria, VA												

September							October							November							December						
4	Labor Day						3	PTA NPTE						3-5	FSBPT Annual						25	Christmas					
							25	PT NPTE							& Delegate Assembly												
							31	Halloween							Santa Ana Pueblo,												
														11	Veteran's Day												
														15-16	PTBC Meeting												
															Bay Area, CA												
														23	Thanksgiving												

Physical Therapy Board of California

Proposed 2018 Meeting Calendar

January							February							March							April						
Su	M	T	W	Th	F	S	Su	M	T	W	Th	F	S	Su	M	T	W	Th	F	S	Su	M	T	W	Th	F	S
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23	24	25	26	27	28	29	28	29	30	31				25	26	27	28	29	30		23	24	25	26	27	28	29
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January							February							March							April						
1	New Year's Day						8	PTBC Meeting TBD, Southern CA						31	César Chávez Day						1	Easter					
10	PTA NPTE																				4	PTA NPTE					
15	Martin Luther King Jr						19	President's Day													25	PT NPTE					
24	PT NPTE																										

May							June							July							August						
13	Mother's Day						17	Father's Day						4	Independence Day						23-24	PTBC Meeting Sacramento, CA					
24-25	PTBC Meeting Sacramento, CA													10	PTA NPTE												
28	Memorial Day													24-25	PT NPTE												

September							October							November							December						
3	Labor Day						3	PTA NPTE						11	Veteran's Day						25	Christmas					
							24	PT NPTE						15-16	PTBC Meeting TBD, Bay Area, CA												
							31	Halloween						22	Thanksgiving												



Physical Therapy Board of California

BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY - GOVERNOR EDMUND G. BROWN JR.

Physical Therapy Board of California

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DATE: May 10, 2017

TO: Physical Therapy Board of California (Board)

SUBJECT: Executive Officer's Report

This report is to update you on the current status of the Board's operations.

ADMINISTRATIVE SERVICES – The Administrative Services Program has completed the recruitment process for the Associate Governmental Program Analyst (AGPA) position within the Consumer Protection Services (CPS) Unit; we would like to welcome our newest enforcement analyst, Marney Kincaid. Ms. Kincaid will provide analytical support related to all conviction related complaints under the direction of the CPS Manager. Ms. Kincaid comes to us from the Board of Accountancy where she served as an enforcement analyst. Prior to that, Ms. Kincaid was a Business Taxes Representative for the Board of Equalization. We are certain Ms. Kincaid's knowledge and experience will serve as an asset to the PTBC's mandate of consumer protection

The Administrative Services Program has also completed the recruitment process for the Limited Term Associate Governmental Program Analyst (AGPA) position within the CPS Program. We would like to congratulate PTBC's own, David Laxton. Mr. Laxton who has served the PTBC since 2006, in a number of different roles, will now serve as an enforcement analyst handling a variety of different types of cases.

Update – Due to vacancy, the PTBC is currently recruiting for (.8) Staff Services Analyst (SSA) in the Administrative Services Program and (1) Staff Services Analyst (SSA) position within the Application Services Unit.

Please refer to Agenda Item 20 for a detailed Budget report.

APPLICATIONS & LICENSING – Please refer to Agenda Item 21 and 22 for a detailed report.

CONSUMER PROTECTION SERVICES– Please refer to Agenda Item 23 for a more detailed report.

ANIMAL REHABILITATION– The Veterinary Medical Board's (VMB) Animal Rehabilitation Task Force met on February 2, 2017 and approved the following recommendation to present to the full VMB, "California licensed physical therapists with advanced certification in Animal Physical Rehabilitation (with such certification to be defined by the Veterinary Medical Board and Physical Therapy Board working cooperatively) may provide animal physical rehabilitation under direct supervision by the veterinarian who has established a veterinarian-client-patient relationship (VCPR), on a veterinary premises, or for large animal the appropriate degree of supervision shall be determined by a veterinarian who established the VCPR, in a range setting." The VMB adopted this recommendation at their April 19, 2017 board meeting and directed its staff and counsel to inform the legislature, explore the next steps of implementation and add it to the agenda for the next VMB meeting.

DCA INTERNAL AUDIT – As presented in previous reports, the PTBC was selected, and has been participating in an audit by the Department of Consumer Affairs Internal Audit Office. The audit began on July 1st, 2016 and staff continues to work with the Internal Audit Office. While the Internal Audit Office has no direct responsibility or authority over any of the activities or operations, they may provide the PTBC with assistance and recommendations concerning internal controls in the development or redesign of systems or operational activities. The scope of the audit will entail; evaluation and reporting of internal control systems, review of operations, policies, and procedures for effectiveness and efficiencies, recommendation of improvements to address audit findings, monitoring the status of audit findings and consultations at the request of management. The Internal Audit will be a draw on the PTBC's resources, but we look forward to the opportunity in identifying room to improve and working towards that improvement.

OUTREACH – PTBC staff presented at CPTA's 2017 Student Conclave at California State University, Fresno on April 29, 2017. The PTBC's Application Services Manager, Sarah Conley presented on the application and examination process and was the Keynote address to students from across California. It was a packed house and was well received. The Executive Officer gave a presentation about the PTBC and the Laws and Regulations that govern the practice of physical therapy. We are already looking forward to next year's Student Conclave.



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Briefing Paper

Date: May 5, 2017

Prepared for: PTBC Members

Prepared by: Ashley Haan

Subject: Outreach Report

Purpose:

To provide PTBC's Outreach activities and statistics for Jan – March (Q3), 2016 (CY 2016/17).

Attachments: 1. [Outreach Statistics](#)

Background:

The use of social media allows the applicants, licensees and public to discover, read, and share news, information and content. In addition, allows the PTBC provide current information.

The PTBC Outreach Report is a quarterly review of the activities and traffic for its Web-site and Facebook, including analysis for the current fiscal year. The data is collected from Google Analytics for web-site and directly from insight reports from Facebook, and generated by staff quarterly: Jul - Sep (Q1), Oct-Dec (Q2), Jan-Mar (Q3) and Apr- Jun (Q4).

In addition, due to staffing shortfalls, the PTBC was unable to report its Q1 outreach statistics. This workload has been redirected to Administrative Manager until additional resources are obtained.

Analysis:

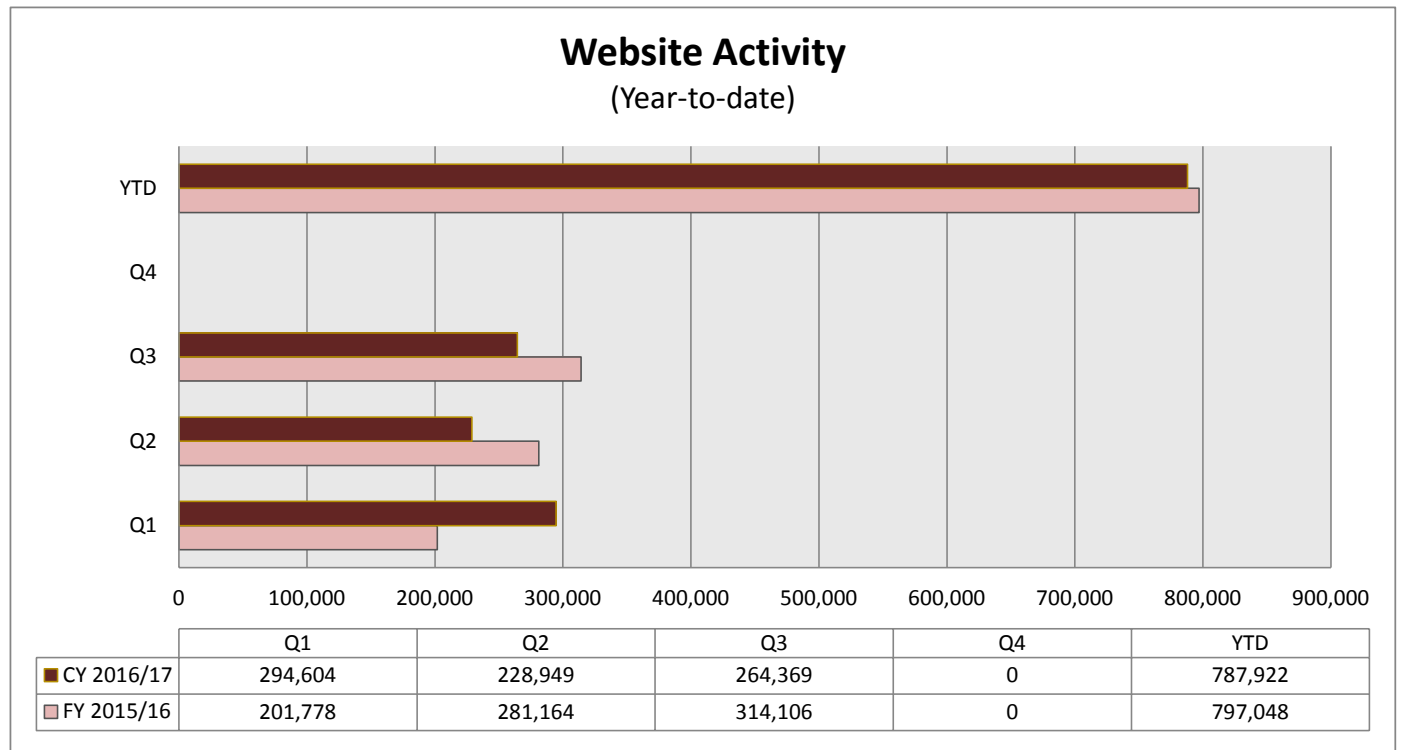
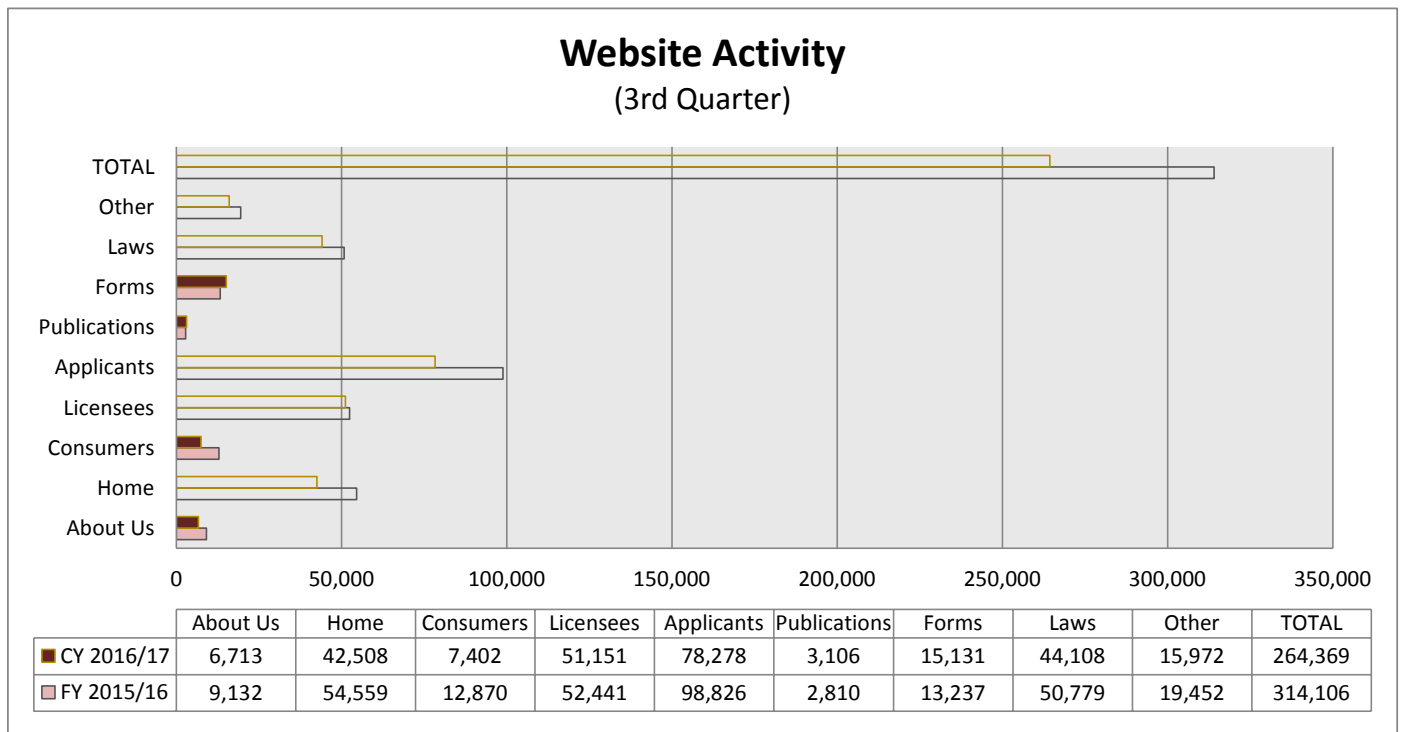
In reviewing the statistics, the PTBC staff identified the following:

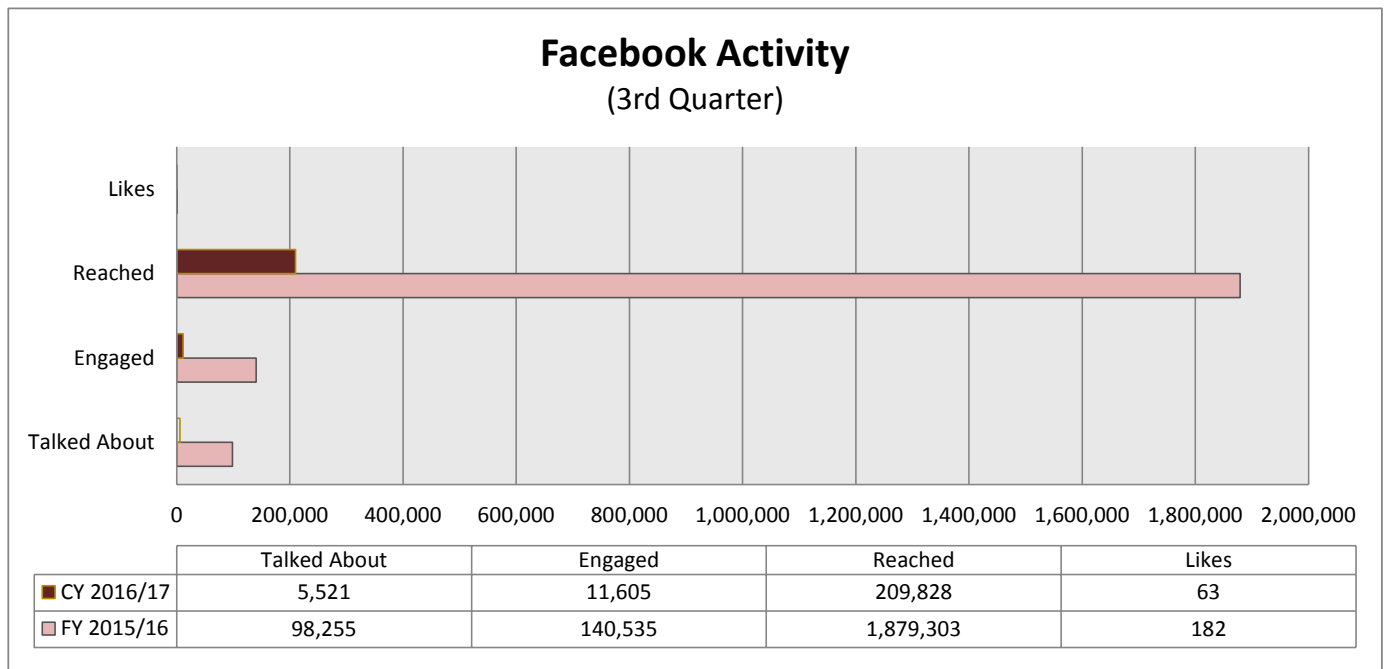
Website – The PTBC had 264,369 “Page Views”, a 15.8% decrease from last year – Q3 of 314,106 page views. There were 58, 525 “Users”, a 10.5% decrease. Traffic that finds our site through any of the default search engines such as Google is considered an ‘Organic Search’, of which we accumulated 47,683 vs. the ‘Direct Search’ – 9,706. The top three most popular tabs users have viewed are as follows: Applicants, Licensees, Laws. Q3 of last year were: Applicants, Home, and Licensees. The most popular viewed Page for Q3 2017 was Laws vs last year's with Accredited PT Programs. Overall as this year's page views and number of users experienced a decrease, all other stats i.e. tab and page views are lower.

Facebook – The PTBC had 63 “likes” in Q3 compared to 182 “likes” in last year's Q3, a 65.4% decrease. The number of “Engaged Users” (the number of unique users who made any clicks or created a story) amounted to 11,605. The total number of unique users reached who have seen any content associated with our Page amounted to 209,828. During the same period last fiscal year, the

PTBC had 1,879,303 total reached. The total number of impressions that came from any content associated with our Page was 487,351. The total number of impressions that came from all our Posts was 387,328. The number of unique users who saw any of our Page posts amounted to 150,421. The number of unique users sharing stories about our page, liking our page, posting to our page's timeline, commenting or sharing one of our page posts, answering a question we posted, responding to one of our events, mentioning or tagging our page in a photo amounts to 5,521. The PTBC had a significant decrease in Facebook activities highly in part to there being only 7 posts during Q3, while last year had 38 posts.

Action: No action being requested at this time.

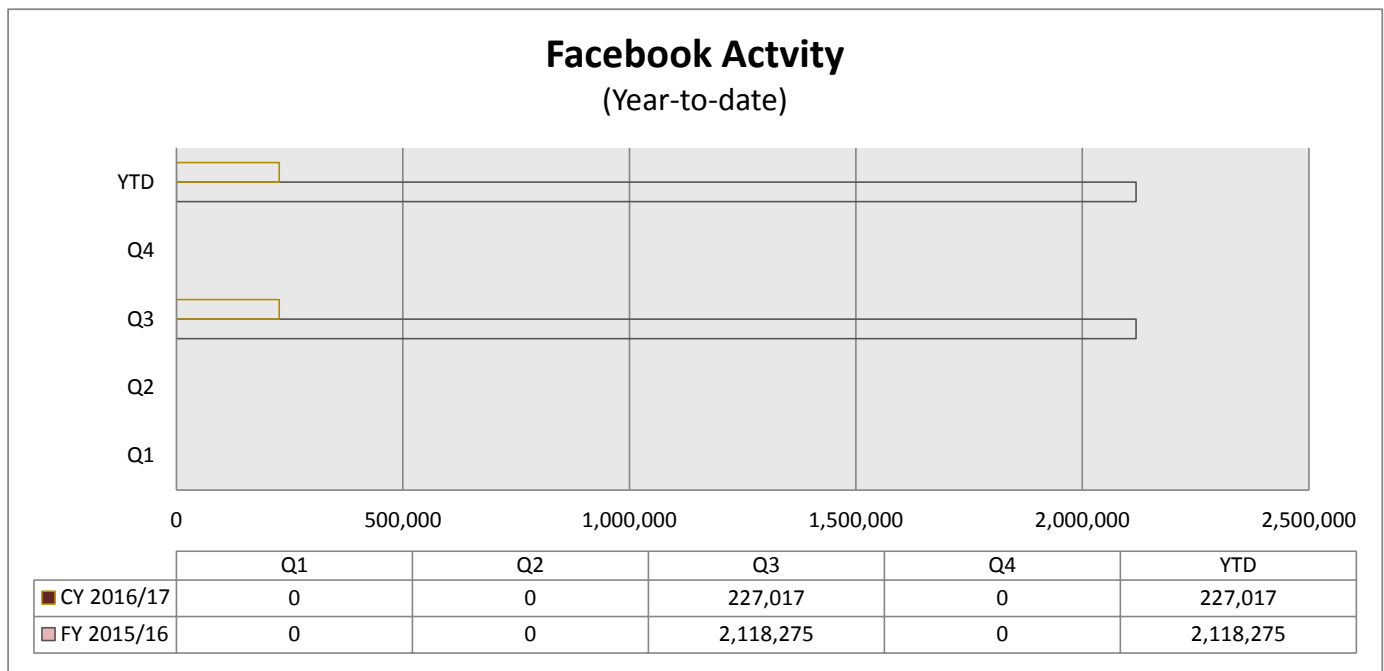




Talked About: Is the # of unique users sharing stories about our page, liking, posting to our timeline, commenting or sharing one of our posts, answering a question we posted, responding to one of our events, mentioning or tagging our page in a photo.

Engaged: Number of unique users who made any clicks or created a story.

Reached: Is the total number of unique users who have seen any content associated with our page.



PHYSICAL THERAPY BOARD OF CALIFORNIA’S RESPONSE TO SUNSET REVIEW RECOMMENDATIONS

ISSUE #1: Should the PTBC’s statutory fee caps under the Practice Act increase?

Staff Recommendation: *The PTBC should discuss with the Committees its fund projections, fee audits, and fee structure that went into effect. Further, the PTBC should complete the Committees’ “Fee Bill Worksheet” for the statutory fee increases.*

Board’s Response:

The Board appreciates the Committees consideration of this issue. The Board would like to make it clear that this is not a request to increase fees. As a result of the Boards most recent fee increase in 4th quarter of FY 2015/2016, the Boards projects it’s fund to increase in health over the next two fiscal years. The Board asks that the committee consider raising the statutory fee caps as a proactive measure. In the event that the Board is presented with unanticipated costs (e.g.; litigation, enforcement costs, contract issues) the Board may be limited in its ability to act, and may need to seek emergency legislation as a remedy. The Board believes raising the statutory fee caps as part of its Sunrise Legislation is the most fiscally prudent alternative. As the Board is not seeking a fee increase at this time, the Board will not be completing the Committees “Fee Bill Worksheet”.

Issue #2: Should the requirement that the PTBC submit a report to the Legislature whenever the PTBC increases a fee be deleted?

Staff Recommendation: *The PTBC should discuss the history of this requirement and whether the PTBC treats the report differently than the Initial Statement of Reasons published when promulgating regulations. If the report is duplicative, the Committees may wish to remove the requirement.*

Board’s Response:

As a matter of custom and culture, similar to other boards, the Board has always viewed its compliance with the regulatory process as a means of satisfying the requirement of submitting a report to the Legislature whenever the PTBC increases a fee. The Board would like to acknowledge the importance of the spirit of the requirement as a necessary check and balance. Should the Board be instructed by the committee to comply with the literal meaning of the requirement, it would be happy to do so.

ISSUE #3: Should the PTBC’s Practice Act be amended to remove the requirement that the PTBC may only charge fees sufficient to cover the costs of the specific service provided?

Staff Recommendation: *The PTBC should explain whether this requirement has constrained in the past and discuss whether the requirement should be removed.*

Board's Response:

The Board believes the statutory language requiring that the PTBC may only charge fees sufficient to cover the costs of the specific service provided to be purposeful and necessary. As an example; the Board is able to provide a breakdown of costs for certain services, such as the application fee and initial licensing fee. However, the Board agrees with the Committee's Analyst that the requirement can be difficult to comply with, citing a specific example, that of the renewal fees. Business and Professions code 2688(d)(3) states, "the board may decrease or increase the amount of the renewal fee under this subdivision to an amount that does not exceed the cost of the renewal process, but in no event shall the renewal fee amount exceed three hundred dollars (\$300)." Renewal fees are the Boards largest means of revenue and are intended to fund the administration of the Board and its programs including; outreach, enforcement, license maintenance, personnel, etc... For this reason the Board requests that the Committee consider modifying the language for the renewal fees only.

ISSUE # 4: Should the PTBC establish committees to address any ongoing issues?

Staff Recommendation: *The PTBC should discuss whether it has considered establishing a committee to explore ongoing issues and whether it uses any other methods to improve board processes and promote the flow of information to and from the board members.*

Board's Response:

The Board has used standing committees in the past and appreciates the use of committees as a tool to help in the process of certain tasks. With the Boards current composition and size, the Board and staff believe it better to have business come before the whole Board, and as the Committee Analyst stated in his report, a committee could be a hindrance to a board that could otherwise deal with topic as a full board. The Board is not opposed to forming committees in the future given the appropriate circumstances.

ISSUE # 5: Treatment plan of care for children covered under the Individuals with Disabilities Education Act (IDEA)

Staff Recommendation: *The PTBC should continue to work with the Committee and stakeholders to clarify this issue going forward.*

Board's Response:

The Board agrees with Staff's recommendation and will continue to work the Committee and stakeholders (including the Medical Board of California, the California Physical Therapy Association, school physicians, IDEA administrators, and PT's) to clarify this issue and any remedy moving forward.

ISSUE # 6: Does the PTBC need statutory authority to collect workforce and demographic data?

Staff Recommendation: *The PTBC should discuss statutory and regulatory barriers regarding the collection of voluntary workforce and demographic data.*

Board's Response:

While the Board does not have specific authority to collect demographic data, it has considered doing so on a voluntary basis. Should a need arise to collect demographic data, under the purview of consumer protection, the Board would certainly be amenable and do so.

ISSUE # 7: Should the Practice Act be amended to exempt applicants from other countries that speak English from the TOEFL requirement?

Staff Recommendation: *The Committees may wish to exempt the identified applicants and authorize the PTBC to waive the condition to account for other circumstances on a case-by case basis.*

Board's Response:

The Board appreciates the Committee's assistance in this matter and agrees with the staff recommendation. The Board believes that the absence of an authority to provide an exemption to this requirement was an oversight in its creation and that an exemption authority is within the spirit and intent of the statute.

ISSUE # 8: Does the PTBC need the authority to order restitution for harmed consumers?

Staff Recommendation: *The PTBC should explain whether it has had the opportunity to utilize § 125.5 and whether it needs additional statutory authority to do so. The Committees may wish to recommend that the PTBC order restitution for harmed consumers when equitable and appropriate.*

Board's Response:

The Board is aware of the opportunity to utilize § 125.5, However, the Board has not had circumstances that deemed its use appropriate. The Board is open to the staff recommendation and would use the authority for harmed consumers when equitable and appropriate.

ISSUE # 9: What can be done to improve compliance with mandatory reporting requirements?

Staff Recommendation: *The PTBC should update the Committees on this issue and discuss any solutions the PTBC has explored.*

Board's Response:

The Board appreciates the Committees consideration of this issue. The Board and its staff often have difficulty obtaining certified copies of arrest reports and court documents from counties and municipalities. Some jurisdictions will not release these certified copies to the Board, leaving the Board dependent on the respondent to retrieve them. Also, there are jurisdictions that will not release the certified copies to the Board or the respondent. To further complicate the matter, there are jurisdictions that will only provide certified copies to the Board at a cost, which adds to the cost of the investigation. All of this can create a delay in the investigatory process. The Board has created correspondence to provide to the jurisdictions the Boards authority to require certified copies, but has at times, had to utilize the Division of Investigation and even the subpoena process to obtain copies.

ISSUE # 10: Is the PTBC concerned about ongoing costs and staff redirection for BReZe implementation?

Staff Recommendation: *The PTBC should discuss the benefits of utilizing staff dedicated to BreZe, whether it could be helpful going forward, and any other potential issues related to the ongoing implementation of BreZe.*

Board's Response:

The Board has not been able to dedicate staff solely to BReZe. However, it has used existing staff to act as Subject Matter Experts (SME), as well as Single Point of Contact (SPOC) to act as a coordinator for the Board. While utilizing existing staff allows the Board to focus on its business processes, those staff members are taken away from their assigned duties, which can be a burden to resources and create backlogs in day to day operations. Moving forward, the Board believes that it would benefit from having a designated position to handle BreZe and its other IT needs. This would allow for better coordination of existing resources and ensure that maintenance of the system is handled in a timely manner.

ISSUE # 11: Is there a way to disaggregate enforcement data to make it more useful?

Staff Recommendation: *The PTBC should discuss whether it is currently possible to disaggregate enforcement data and, if not, whether the PTBC can work with the DCA to develop methods to do so.*

Board's Response:

With the implementation of BreZe, and subsequent to that, the Department of Consumer Affairs's Quality Business Interactive Reporting Tool (QBIRT), the Boards access and ability to

disaggregate enforcement data has improved. The Board will continue to work with the DCA to improve its methods of collecting enforcement data.

ISSUE # 12: Should the PTBC use other technologies the DCA might have to improve submission compliance and processing times for primary source documentation?

Staff Recommendation: *The PTBC should discuss whether it has considered using the DCA's cloud or other technology tools for primary source document submissions.*

Board's Response:

The Board has, and will continue to look at technological innovations as a means to improve its day to day operations. However, the Board's difficulties in obtaining primary source documents from jurisdictions are not rooted in access or expediency but in its authority. As discussed in Issue #9, the Board has had difficulty in obtaining documents from jurisdictions that refuse to provide those documents due to privacy concerns. The Board is open to exploring options and leveraging technology tool to improve its services.

ISSUE # 13: Should the PTBC utilize additional survey types to improve its survey responses?

Staff Recommendation: *The PTBC should discuss any contemplated solutions to the low consumer satisfaction survey response rates.*

Board's Response:

The Board appreciates the staff recommendation and agrees that the Board would benefit from additional types of surveys to include other stakeholders such as applicants, licensees and educational programs. The Board plans on rolling out new survey types via its website in 2017.

ISSUE # 14: What impediments, if any, impact the PTBC's ability to webcast its meetings?

Staff Recommendation: *The PTBC should advise the Committees on any difficulties it has had webcasting its meetings, whether due to DCA's limited resources, poor connectivity, or otherwise.*

Board's Response:

The Board has been regularly webcasting its meetings since 2011. The Board has experienced technical difficulties in the past, but has seen improvement in the webcast services provided by the DCA. Since the Board's last Sunset Review, the Board was unable to webcast its meeting on three occasions due to scheduling conflicts with the DCA.

ISSUE # 15: Should the Practice Act be amended to change the PTBC's ratio of public members to professional members?

Staff Recommendation: *The PTBC should discuss the pros and cons of rebalancing the ratio of board members and discuss any other potential areas that might need to be addressed, such as recruitment and appointments.*

Board's Response:

Given recent events, the Board understands why the legislature might be considering such a change to the Practice Act. This board, however, does not feel that this change is necessary. This Board clearly understands its mandate of consumer protection. While the Board has other functions, such as testing and licensing, it is our mandate to protect consumers that is always at the forefront of the minds of our Board members. Each professional member considers themselves members of the public first and of the profession second. It is for these reasons that this board has no concerns with changing the board composition. We do, however, think that perhaps all boards should be looked at individually in order to determine each board's history and liability on a board by board basis.

ISSUE # 16: Are there technical changes to the Practice Act that may improve the PTBC's operations?

Staff Recommendation: *The PTBC should continue to work with the Committees on the submitted proposals.*

Board's Response:

The Board looks forward to working with the Committee and Staff in an effort to improve the Boards operations by making technical changes to the Practice Act.

ISSUE # 17: Should the State continue to license and regulate PTs and PTAs? If so, should the Legislature continue to delegate this authority to the PTBC and its current membership?

Staff Recommendation: *The PTBC should continue to regulate PTs and PTAs in order to protect the interests of the public for another four years and should update the Committees on its progress at that time.*

Board's Response:

The Board is in accordance with Committee staff's recommendation. The Board would like to thank the Committee for its recognition of the Board's work, as well as its acknowledgement of the Board's challenges. The Committee's willingness to assist the Board in finding resolutions is much appreciated.



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Briefing Paper

Date: April 25, 2017
Prepared for: PTBC Members
Prepared by: Brooke Arneson
Subject: Legislation Report

Purpose:

To provide an update on the 2017/18 Legislative session.

Attachments:

1. [2017 Legislative Calendar](#)
2. [Definition of the Board's Legislative Positions](#)
3. [2017/18 Legislative Summary](#)

Background and Update:

The 2017 Legislative calendar is included in the meeting materials for your reference, along with a copy of the Board's Legislative positions taken from the PTBC's Board member Administrative Manual.

As noted on the calendar, the Legislature reconvened from Spring Recess on April 17th. June 2nd is the last day to pass bills out of the house of origin and September 8th is the last day to amend on the Floor. October 15th is the last day for the Governor to sign or veto bills passed by the Legislature on or before September 15th and in the Governor's possession after September 15th. All statutes will take effect January 1st 2018.

In addition, a 2017/18 Legislative summary is included which notes all bills from the current Legislative session that could potentially impact Physical Therapy practice, regulation or the operation of the Physical Therapy Board. To aid in the consideration of the bills noted on the agenda, a bill analysis and text for bills of interest is included.

Action Requested:

No action is needed. This Legislative report is for informational purposes only.

2017 TENTATIVE LEGISLATIVE CALENDAR

COMPILED BY THE OFFICE OF THE ASSEMBLY CHIEF CLERK

Revised 11-16-16

DEADLINES

JANUARY							
	S	M	T	W	TH	F	S
Wk. 1	1	2	3	4	5	6	7
Wk. 2	8	9	10	11	12	13	14
Wk. 3	15	16	17	18	19	20	21
Wk. 4	22	23	24	25	26	27	28
Wk. 1	29	30	31				

FEBRUARY							
	S	M	T	W	TH	F	S
Wk. 1				1	2	3	4
Wk. 2	5	6	7	8	9	10	11
Wk. 3	12	13	14	15	16	17	18
Wk. 4	19	20	21	22	23	24	25
Wk. 1	26	27	28				

MARCH							
	S	M	T	W	TH	F	S
Wk. 1				1	2	3	4
Wk. 2	5	6	7	8	9	10	11
Wk. 3	12	13	14	15	16	17	18
Wk. 4	19	20	21	22	23	24	25
Wk. 1	26	27	28	29	30	31	

APRIL							
	S	M	T	W	TH	F	S
Wk. 1							1
Wk. 2	2	3	4	5	6	7	8
Spring Recess	9	10	11	12	13	14	15
Wk. 3	16	17	18	19	20	21	22
Wk. 4	23	24	25	26	27	28	29
Wk. 1	30						

MAY							
	S	M	T	W	TH	F	S
Wk. 1		1	2	3	4	5	6
Wk. 2	7	8	9	10	11	12	13
Wk. 3	14	15	16	17	18	19	20
Wk. 4	21	22	23	24	25	26	27
No Hrgs.	28	29	30	31			

- Jan. 1

Statutes take effect (Art. IV, Sec. 8(c)).
- Jan. 4

Legislature reconvenes (J.R. 51(a)(1)).
- Jan. 10

Budget Bill must be submitted by Governor (Art. IV, Sec. 12(a)).
- Jan. 16

Martin Luther King, Jr. Day.
- Jan. 20

Last day to submit **bill requests** to Office of Legislative Counsel.
- Feb. 17

Last day for bills to be **introduced** (J.R. 61(a)(1), J.R. 54(a)).
- Feb. 20

Presidents' Day.
- Mar. 31

Cesar Chavez Day.
- Apr. 6

Spring Recess begins upon adjournment (J.R. 51(a)(2)).
- Apr. 17

Legislature reconvenes from Spring Recess (J.R. 51(a)(2)).
- Apr. 28

Last day for **policy committees** to hear and report **fiscal bills** for referral to fiscal committees (J.R. 61(a)(2)).
- May 12

Last day for **policy committees** to hear and report to the floor **nonfiscal** bills (J.R. 61(a)(3)).
- May 19

Last day for **policy committees** to meet prior to June 5 (J.R. 61(a)(4)).
- May 26

Last day for **fiscal committees** to hear and report bills to the floor (J.R. 61 (a)(5)). Last day for **fiscal committees** to meet prior to June 5 (J.R. 61 (a)(6)).
- May 29

Memorial Day observed.
- May 30-June 2

Floor session only. No committee may meet for any purpose except for Rules Committee and Conference Committees (J.R. 61(a)(7)).

2017 TENTATIVE LEGISLATIVE CALENDAR
COMPILED BY THE OFFICE OF THE ASSEMBLY CHIEF CLERK
Revised 11-16-16

Table with 8 columns (S, M, T, W, TH, F, S) and 6 rows for the month of June, including week numbers and dates.

June 2 Last day to pass bills out of house of origin (J.R. 61(a)(8)). Committee meetings may resume (J.R. 61(a)(9)).

June 15 Budget Bill must be passed by midnight (Art. IV, Sec. 12(c)(3)).

Table with 8 columns (S, M, T, W, TH, F, S) and 7 rows for the month of July, including week numbers and dates.

July 4 Independence Day.

July 14 Last day for policy committees to hear and report fiscal bills for referral to fiscal committees (J.R. 61(a)(10)).

July 21 Last day for policy committees to hear and report bills (J.R. 61(a)(11)). Summer Recess begins upon adjournment, provided Budget Bill has been passed (J.R. 51 (a)(3)).

Table with 8 columns (S, M, T, W, TH, F, S) and 6 rows for the month of August, including week numbers and dates.

Aug. 21 Legislature reconvenes from Summer Recess (J.R. 51 (a)(3)).

Table with 8 columns (S, M, T, W, TH, F, S) and 7 rows for the month of September, including week numbers and dates.

Sept. 1 Last day for fiscal committees to meet and report bills to the Floor (J.R. 61(a)(12)).

Sept. 4 Labor Day.

Sept. 5– 15 Floor session only. No committee may meet for any purpose (J.R. 61(a)(13)).

Sept. 8 Last day to amend on the Floor (J.R. 61(a)(14)).

Sept. 15 Last day for any bill to be passed (J.R. 61(a)(15)). Interim Recess begins on adjournment (J.R. 51(a)(4)).

IMPORTANT DATES OCCURRING DURING INTERIM RECESS

2017
Oct. 15 Last day for Governor to sign or veto bills passed by the Legislature on or before Sept. 15 and in the Governor’s possession after Sept. 15 (Art. IV, Sec.10(b)(1)).

2018
Jan. 1 Statutes take effect (Art. IV, Sec. 8(c)).

Jan. 3 Legislature reconvenes (J.R. 51(a)(4)).

**Legislation - Definition of the
Positions Taken by the Physical
Therapy Board Regarding
Proposed Legislation**

(Board Policy)

The Board will adopt the following positions regarding pending or proposed legislation.

Oppose: The Board will actively oppose proposed legislation and demonstrate opposition through letters, testimony and other action necessary to communicate the oppose position taken by the Board.

Oppose, unless amended: The Board will take an opposed position and actively lobby the legislature to amend the proposed legislation.

Neutral: The Board neither supports nor opposes the addition/amendment/repeal of the statutory provision(s) set forth by the bill.

Watch: The watch position adopted by the Board will indicate interest regarding the proposed legislation. The Board staff and members will closely monitor the progress of the proposed legislation and amendments.

Support, if amended: The Board will take a supportive position and actively lobby the legislature to amend the proposed legislation.

Support: The Board will actively support proposed legislation and demonstrate support through letter, testimony and any other action necessary to communicate the support position taken by the Board.

2017/18 Legislative Summary

Bill	Author	Summary	Board's Position	Status	
<u>AB 12</u> (Introduced 12/5/16) Bill Analysis Bill Text	Cooley, (Coauthors: Calderon, Cunningham)	State Government: Administrative Regulations: Review This bill would require each state agency to, on or before January 1, 2020, review that agency's regulations, identify any regulations that are duplicative, overlapping, inconsistent, or out of date, to revise those identified regulations, as provided, and report to the Legislature and Governor, as specified. The bill would repeal these provisions on January 1, 2021.	No Position	4/5/17	Assembly Appropriations Committee. Suspense File.
<u>AB 77</u> (Amended 2/7/17) Bill Analysis Bill Text	Fong, (Coauthor: Gallagher)	Regulations: Effective Dates and Legislative Review This bill requires the Office of Administrative Law (OAL) to submit to each house of the Legislature for review, a copy of each major regulation submitted to the Secretary of State. This bill also states that the effective date of a regulation does not apply if the Legislature enacts a statute to override the regulation.	No Position	4/5/17	Assembly Appropriations Committee.
<u>AB 149</u> (Introduced 1/10/17) Bill Analysis Bill Text	Jones-Sawyer	Criminal Procedure: Disclosure: Felony Conviction Consequences This bill would require defense counsel, before a defendant pleads guilty or nolo contendere to an offense punishable as a felony, to inform the defendant that a felony conviction may result in various adverse consequences and that the plea may impact, among other things, the eligibility to obtain or maintain certain state professional licenses, to own or possess a firearm, and to enlist in the military. The bill would state that it is not the intent of the legislature that the failure of defense counsel to provide this information with respect to	No Position	3/23/17	In Senate. Read First Time. To Senate Rules Committee for Assignment.

2017/18 Legislative Summary

Bill	Author	Summary	Board's Position	Status	
		pleas accepted prior to January 1, 2018, require the vacation of judgment and withdrawal of a plea, constitutes grounds to find a conviction invalid, or provides grounds for appeal from the judgment or appealable order.			
AB 208 (Amended 3/8/17) Bill Analysis Bill Text	Eggman	<p>Deferred Entry of Judgment: Pretrial Diversion</p> <p>This bill would make the deferred entry of judgment program a pretrial diversion program. The bill would make a defendant qualified for the pretrial diversion program if there is no evidence of a contemporaneous violation relating to narcotics or restricted dangerous drugs other than a violation of the offense that qualifies him or her for diversion, the charged offense did not involve violence, there is no evidence within the past 5 years of a violation relating to narcotics or restricted dangerous drugs other than a violation that qualifies for the program, and the defendant has no prior conviction for a serious or violent felony within 5 years prior to the alleged commission of the charged offense. Under the pretrial diversion program created by this bill, a qualifying defendant would enter a plea of not guilty, and proceedings would be suspended in order for the defendant to enter a drug treatment program for 6 months to one year, or longer if requested by the defendant with good cause. The bill would require the court, if the defendant does not perform satisfactorily in the program or is convicted of specified crimes, to terminate the program and reinstate the</p>	No Position	4/5/17	Assembly Appropriations Committee. Suspense File.

2017/18 Legislative Summary

Bill	Author	Summary	Board's Position	Status	
		criminal proceedings. The bill would require the criminal charges to be dismissed if the defendant completes the program.			
AB 349 (Amended 4/19/17) Bill Analysis Bill Text	McCarty, Gonzalez Fletcher, and Nazarian	Civil Service: Preference: Special Immigrant Visa Holder Existing provisions of the State Civil Service Act require that, whenever any veteran, widow or widower of a veteran, or spouse of a 100% disabled veteran, achieves a passing score on an examination, he or she be ranked in the top rank of the resulting civil service eligibility list. This bill would authorize any person who assisted the United States military and was issued a specified special immigrant visa also to be ranked in the top of the resulting eligibility list if he or she achieves a passing score on an entrance examination.	No Position	4/27/17	Assembly Appropriations Committee.
AB 387 (Introduced 2/9/17) Bill Analysis Bill Text	Thurmond	Minimum Wage: Health Professionals: Interns This bill would expand the definition of "employer" for purposes of these provisions to include a person who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, hours, or working conditions of a person engaged in a period of supervised work experience to satisfy requirements for licensure, registration, or certification as an allied health professional, as defined. Because this bill would expand the definition of a crime, it would impose a state-mandated local program. The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by	No Position	3/30/17	Assembly Appropriations Committee. Suspense File.

2017/18 Legislative Summary

Bill	Author	Summary	Board's Position	Status	
		the state. Statutory provisions establish procedures for making that reimbursement. This bill would provide that no reimbursement is required by this act for a specified reason			
AB 505 (Amended 3/27/17) Bill Analysis Bill Text	Caballero	Physicians and Surgeons: Probation This bill specifies that the Medical Board of California may not enter into any stipulation for disciplinary action, if the stipulation places a licensee on probation, and the operative accusation includes any of the following: felony conviction involving harm to patient safety or health; drug or alcohol abuse directly resulting in harm to patient safety or health; or; sexual act or sexual exploitation.	No Position	5/3/17	Assembly Appropriations Committee. Suspense File.
AB 508 (Introduced 2/13/17) Bill Analysis Bill Text	Santiago	Health Care Practitioners: Student Loans This bill repeals the authority for a licensing board under the DCA, as defined, to cite and fine a licensed healthcare practitioner or deny an initial an initial license application or renewal for a healing arts license if the applicant or licensee is in default on a federal health education loan.	No Position	4/27/17	Assembly Consent Calendar.
AB 706 (Introduced 2/15/17)	Patterson	Medical Board of California: Licenses Requires that all physician and surgeon's certificates, certificates to practice podiatric medicine, registrations of spectacle lens dispensers and contact lens dispensers, and certificates to practice midwifery would expire on the last day at the end of the two-year period for which the license was issued rather than at the end of the licensee's birth month.	No Position	3/2/17	Failed Deadline Pursuant to Rule 61(a)(2). Last location was Assembly Committee on Business and Professions.

2017/18 Legislative Summary

Bill	Author	Summary	Board's Position	Status	
	Quirk-Silva		No Position	5/3/17	Assembly Appropriations Committee.
AB 1005 (Amended 4/17/17) Bill Analysis Bill Text	Calderon	Professions and Vocations: Fines: Relief This bill would authorize boards, bureaus, commissions, committees, and similarly constituted agencies that license and regulate professions and vocations, when granted the authority to issue a citation, to instead issue a fix-it-ticket in lieu of a fine. The bill would specify that any person who is issued a fix-it-ticket in lieu of a citation would have 30 days in which to correct the violation before being issued the fine.	No Position	5/2/17	Assembly Appropriations Committee
AB 1510 (Introduced 2/17/17) Bill Analysis Bill Text	Dababneh		No Position	4/28/17	Failed Deadline pursuant to Rule 61(a)(2). Last location was Assembly Committee on Business and Professions.
AB 1706 (Introduced 3/2/17) Bill Analysis Bill Text	Committee on Business and Professions	Healing Arts: Occupational Therapy: Physical Therapy This bill extends the operation of the California Board of Occupational Therapy (CBOT),	No Position	5/3/17	Assembly Appropriations Committee

2017/18 Legislative Summary

Bill	Author	Summary	Board's Position	Status	
		the operation of the Physical Therapy Board of California (PTBC) and the PTBC's authority to appoint an executive officer and other personnel until January 1, 2022.			
SB 27 (Introduced 2/15/17) Bill Analysis Bill Text	(Coauthors: Berryhill, Nguyen, Wilk and Assembly Cunningham, Lackey,	Licenses: Military Service This bill would require every	No Position	4/26/17	Senate Appropriations Committee.
SB 572 (Amended 3/27/17)	Stone	Healing Arts Licensees: Violations: Grace Period This bill would prohibit various boards, as defined, within the DCA from taking disciplinary action against, or otherwise penalizing, healing arts licensees who violate those provisions but correct the violations within 15 days and who are not currently on probation at the time of the violations, if the violations did not cause irreparable harm and will not result in irreparable harm if left uncorrected for 15 days.	No Position	4/19/17	Failed Deadline pursuant to Rule 61(a)(2). Last location was Senate Business, Professions and Economic Development Committee.



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Bill Analysis

Bill Number:	AB 12	Version:	Introduced 12/05/16
Author:	Cooley Coauthors: Calderon and Cunningham	Sponsor:	Author
Subject:	State Government: Administrative Regulations: Review	Status:	Assembly Appropriations Committee

Adopted Position:

None.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Enrolled	Vetoed	Chaptered	Effective Date	2 yr./ Dead
1 st House				2 nd House								

Red: Current/completed status Gray: Not applicable

Existing Law

- Existing law authorizes various state entities to adopt, amend, or repeal regulations for various specified purposes. The Administrative Procedure Act requires the Office of Administrative Law and a state agency proposing to adopt, amend, or repeal a regulation to review the proposed changes for, among other things, consistency with existing state regulations.

This Bill

- This bill requires, by January 1, 2020, every state agency to review all provisions of the California Code of Regulations (CCR) it has adopted, and to adopt, amend or repeal any regulations identified as duplicative, overlapping, inconsistent, or out of date.
- This bill requires that an agency acting on this requirement must hold at least one noticed public hearing to accept public comment on proposed revisions, notify the appropriate policy and fiscal committees of the Legislature of the proposed revisions, and report to the Governor and the Legislature.
- The bill's provisions sunset on January 1, 2021.



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Purpose/Background

Purpose:

The author states, "...numerous economists and business leaders agree that one of the greatest obstacles to California job growth is the 'thicket' of government regulations that constrain business owners. Duplicative and inconsistent regulations leave business owners confused and often times out of compliance despite their best efforts. In addition, the burdensome regulatory scheme often discourages innovation and new business ventures."

Under current law, any state agency may review, adopt, amend or repeal any regulation within its statutory authority at any time. The OAL reports that as of December 31, 2016, the number of regulations adopted totaled 67,832. Of those, state agencies had repealed 14,146. With 53,686 regulations still active, the author believes more needs to be done. This bill requires state agencies to review their regulatory framework within a two-year timeframe.

Background:

The APA requires the OAL to ensure that state agency regulations are clear, necessary, legally valid, and available to the public. In seeking adoption of a proposed regulation, state agencies must comply with procedural requirements that include publishing the proposed regulation along with a supporting statement of reasons, mailing and publishing a notice of the proposed action 45 days before a hearing or before the close of the public comment period, and submitting a final statement to OAL that summarizes and responds to all objections, recommendations and proposed alternatives raised during the public comment period. The OAL is then required to approve or reject the proposed regulation within 30 days.

The OAL is responsible for reviewing administrative regulations proposed by over 200 state regulatory agencies for compliance with the standards set forth in the APA, for transmitting these regulations to the Secretary of State and for publishing regulations in the California Code of Regulations (CCR). On average, OAL reviews nearly 700 files that affect approximately 3,200 regulations packages per year. In 2016, 3,141 proposed regulations were submitted by state agencies for APA review.

Existing law requires OAL, at the request of any standing, select, or joint committee of the Legislature, to initiate a priority review of any regulation that committee believes does not meet the standards of necessity, authority, clarity, reference, and non-duplication. If OAL is made aware of an existing regulation for which statutory authority has been repealed or becomes ineffective, it must order the agency that adopted the regulation to show cause why it should not be repealed, and notify the Legislature of the order.



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The last comprehensive review of state agency regulations occurred when OAL was established in 1980. At that time there were over 125 state agencies and over 40,000 regulations printed in the CCR, and today there are over 200 agencies and nearly 54,000 regulations. In addition, OAL had a staff of 50 employees, including 17 attorneys, while they currently have a staff of 20, half of which are attorneys.

Little Hoover Commission Report:

In October of 2011, the Little Hoover Commission (LHC) published a report titled, Better Regulation: Improving California's Rulemaking Process. The LHC included recommendations for improving the state's rulemaking process, including the state establishing a look-back mechanism to determine if regulations are effective and still needed.

The author's approach to this "look-back mechanism" is to create a two-year window within which agencies, and the departments, boards and other units within, must review all regulations that pertain to the mission and programs under their statutory authority.

Related Legislation

AB 12 (Cooley) of 2015 was nearly identical to this bill. It was held on the Senate Appropriations Committee's Suspense File.

SB 981 (Huff,) of 2014 would have required state agencies to review regulations adopted in the past and report specified information on each regulation to the Legislature, including whether a regulation is duplicative, still relevant, or needs to be updated to be less burdensome or more effective. That bill was held in the Senate Governmental Organization Committee.

SB 366 (Calderon), which was referred to the Senate Governmental Organization Committee in 2011 but never heard, included provisions that were nearly identical to the introduced version of this bill.

Fiscal Impact:

1. Office of Administrative Law (OAL) costs of approximately \$928,000 (GF) in the 2018 calendar year and approximately \$885,000 in 2019 for seven PY of full-time, limited-term staff and associated costs to manage a significant increase in workload over two years.
2. Unknown, but significant aggregate state costs, likely in the millions annually for two years, for over 200 state agencies to review all current regulations, make necessary revisions to identified regulations through the Administrative



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Procedure Act (APA) process, coordinate with other agencies and departments, and report to the Governor and Legislature. (GF and various special funds).

Support and Opposition

Support:

- California Building Industry Association
- California Business Properties Association
- California Chamber of Commerce
- California Forestry Association
- California Grocers Association
- California League of Food Processors
- California Manufacturers and Technology Association
- California Professional Association of Specialty Contractors
- California Retailers Association
- Chemical Industry Council of California
- Industrial Environmental Association
- National Federation of Independent Business
- Associated Builder and Contractors of California
- Building Owners and Managers Association of California
- International Council of Shopping Centers
- Small Business California
- Flasher/ Barricade Association
- American Federation of State, County and Municipal Employees
- Western States Petroleum Association
- Consumer Specialty Products Association
- California Hotel & Lodging Association
- Acclamation Insurance Management Services

Opposition:

- California Labor Federation
- California Nurses Association
- National Nurses United

Comments

None.

Action Required

None.

ASSEMBLY BILL

No. 12

Introduced by Assembly Member Cooley
(Principal coauthors: Assembly Members Calderon and Cunningham)

December 5, 2016

An act to add and repeal Chapter 3.6 (commencing with Section 11366) of Part 1 of Division 3 of Title 2 of the Government Code, relating to state agency regulations.

LEGISLATIVE COUNSEL'S DIGEST

AB 12, as introduced, Cooley. State government: administrative regulations: review.

Existing law authorizes various state entities to adopt, amend, or repeal regulations for various specified purposes. The Administrative Procedure Act requires the Office of Administrative Law and a state agency proposing to adopt, amend, or repeal a regulation to review the proposed changes for, among other things, consistency with existing state regulations.

This bill would require each state agency to, on or before January 1, 2020, review that agency's regulations, identify any regulations that are duplicative, overlapping, inconsistent, or out of date, to revise those identified regulations, as provided, and report to the Legislature and Governor, as specified. The bill would repeal these provisions on January 1, 2021.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Chapter 3.6 (commencing with Section 11366) is added to Part 1 of Division 3 of Title 2 of the Government Code, to read:

CHAPTER 3.6. REGULATORY REFORM

Article 1. Findings and Declarations

11366. The Legislature finds and declares all of the following:

(a) The Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), Chapter 4.5 (commencing with Section 11400), and Chapter 5 (commencing with Section 11500)) requires agencies and the Office of Administrative Law to review regulations to ensure their consistency with law and to consider impacts on the state's economy and businesses, including small businesses.

(b) However, the act does not require agencies to individually review their regulations to identify overlapping, inconsistent, duplicative, or out-of-date regulations that may exist.

(c) At a time when the state's economy is slowly recovering, unemployment and underemployment continue to affect all Californians, especially older workers and younger workers who received college degrees in the last seven years but are still awaiting their first great job, and with state government improving but in need of continued fiscal discipline, it is important that state agencies systematically undertake to identify, publicly review, and eliminate overlapping, inconsistent, duplicative, or out-of-date regulations, both to ensure they more efficiently implement and enforce laws and to reduce unnecessary and outdated rules and regulations.

Article 2. Definitions

11366.1. For the purposes of this chapter, the following definitions shall apply:

(a) "State agency" means a state agency, as defined in Section 11000, except those state agencies or activities described in Section 11340.9.

1 (b) “Regulation” has the same meaning as provided in Section
2 11342.600.

3
4 Article 3. State Agency Duties
5

6 11366.2. On or before January 1, 2020, each state agency shall
7 do all of the following:

8 (a) Review all provisions of the California Code of Regulations
9 adopted by that state agency.

10 (b) Identify any regulations that are duplicative, overlapping,
11 inconsistent, or out of date.

12 (c) Adopt, amend, or repeal regulations to reconcile or eliminate
13 any duplication, overlap, inconsistencies, or out-of-date provisions,
14 and shall comply with the process specified in Article 5
15 (commencing with Section 11346) of Chapter 3.5, unless the
16 addition, revision, or deletion is without regulatory effect and may
17 be done pursuant to Section 100 of Title 1 of the California Code
18 of Regulations.

19 (d) Hold at least one noticed public hearing, which shall be
20 noticed on the Internet Web site of the state agency, for the
21 purposes of accepting public comment on proposed revisions to
22 its regulations.

23 (e) Notify the appropriate policy and fiscal committees of each
24 house of the Legislature of the revisions to regulations that the
25 state agency proposes to make at least 30 days prior to initiating
26 the process under Article 5 (commencing with Section 11346) of
27 Chapter 3.5 or Section 100 of Title 1 of the California Code of
28 Regulations.

29 (g) (1) Report to the Governor and the Legislature on the state
30 agency’s compliance with this chapter, including the number and
31 content of regulations the state agency identifies as duplicative,
32 overlapping, inconsistent, or out of date, and the state agency’s
33 actions to address those regulations.

34 (2) The report shall be submitted in compliance with Section
35 9795 of the Government Code.

36 11366.3. (a) On or before January 1, 2020, each agency listed
37 in Section 12800 shall notify a department, board, or other unit
38 within that agency of any existing regulations adopted by that
39 department, board, or other unit that the agency has determined
40 may be duplicative, overlapping, or inconsistent with a regulation

1 adopted by another department, board, or other unit within that
2 agency.

3 (b) A department, board, or other unit within an agency shall
4 notify that agency of revisions to regulations that it proposes to
5 make at least 90 days prior to a noticed public hearing pursuant to
6 subdivision (d) of Section 11366.2 and at least 90 days prior to
7 adoption, amendment, or repeal of the regulations pursuant to
8 subdivision (c) of Section 11366.2. The agency shall review the
9 proposed regulations and make recommendations to the
10 department, board, or other unit within 30 days of receiving the
11 notification regarding any duplicative, overlapping, or inconsistent
12 regulation of another department, board, or other unit within the
13 agency.

14 11366.4. An agency listed in Section 12800 shall notify a state
15 agency of any existing regulations adopted by that agency that
16 may duplicate, overlap, or be inconsistent with the state agency's
17 regulations.

18 11366.45. This chapter shall not be construed to weaken or
19 undermine in any manner any human health, public or worker
20 rights, public welfare, environmental, or other protection
21 established under statute. This chapter shall not be construed to
22 affect the authority or requirement for an agency to adopt
23 regulations as provided by statute. Rather, it is the intent of the
24 Legislature to ensure that state agencies focus more efficiently and
25 directly on their duties as prescribed by law so as to use scarce
26 public dollars more efficiently to implement the law, while
27 achieving equal or improved economic and public benefits.

28 29 Article 4. Chapter Repeal 30

31 11366.5. This chapter shall remain in effect only until January
32 1, 2021, and as of that date is repealed, unless a later enacted
33 statute, that is enacted before January 1, 2021, deletes or extends
34 that date.



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Bill Analysis

Bill Number: AB 77
Author: Fong
Principal Coauthor:
Gallagher
Version: Amended 2/07/17
Sponsor:
Subject: Regulations:
Effective Dates and
Legislative Review
Status: Assembly
Appropriations
Committee

Adopted Position:
None.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Enrolled	Vetoed	Chaptered	Effective Date	2 yr./ Dead
1 st House				2 nd House								

Red: Current/completed status Gray: Not applicable

Existing Law

1. The Administrative Procedure Act governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law. That act requires an agency, prior to submitting a proposal to adopt, amend, or repeal an administrative regulation, to determine the economic impact of that regulation, in accordance with certain procedures. The act defines a major regulation as a regulation that the agency determines has an expected economic impact on California business enterprises and individuals estimated to exceed \$50,000,000. The act requires the office to transmit a copy of a regulation to the Secretary of State for filing if the office approves the regulation or fails to act on it within 30 days. The act provides that a regulation or an order of repeal of a regulation becomes effective on a quarterly basis, as prescribed, except in specified instances, including if a regulation adopted by the Fish and Game Commission requires a different effective date to conform with federal law.

This Bill

1. This bill requires the Office of Administrative Law (OAL) to submit to each house of the Legislature for review, a copy of each major regulation submitted to the Secretary of State (SOS).
2. This bill also states that the effective date of a regulation does not apply if the Legislature enacts a statute to override the regulation.



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Purpose/Background

Purpose:

The intent of AB 77 is to increase transparency in the regulations process by requiring the Legislature to review all major regulations proposals. According to the author, this bill will "provide the process and mechanism needed for greater checks and balances to ensure elected representatives can more effectively referee state agency regulations that have significant cost implications for families and businesses in their districts."

Under current law, any state agency may review, adopt, amend or repeal any regulation within its statutory authority at any time. The OAL reports that as of December 31, 2016, the number of regulations adopted totaled 67,832. Of those, state agencies had repealed 14,146. With 53,686 regulations still active, the author believes more needs to be done. This bill requires state agencies to review their regulatory framework within a two-year timeframe.

Background:

The Administrative Procedures Act (APA) governs the adoption of regulations by state agencies for purposes of ensuring that they are clear, necessary, legally valid, and available to the public. In seeking adoption of a proposed regulation, state agencies must comply with procedural requirements that include publishing the proposed regulation along with supporting statement of reasons; mailing and publishing a notice of the proposed action 45 days before a hearing or before the close of the public comment period; and, submitting a final statement to OAL that summarizes and responds to all objections, recommendations and proposed alternatives that were raised during the public comment period. The OAL is then required to approve or reject the proposed regulation within 30 days.

OAL is responsible for reviewing administrative regulations proposed by more than 200 state agencies. Each file submitted to OAL for review affects from 1 to 100+ individual regulation sections, meaning OAL reviews around 4,000 regulations each year. OAL is also responsible for transmitting these regulations to SOS and for publishing regulations in the California Code of Regulations. Existing law requires OAL to print a summary of all regulations filed with SOS in the previous week in the California Regulatory Notice Register.

The APA also requires an agency to determine the economic impact of that regulation, in accordance with certain procedures. The APA defines a major regulation as one with an expected economic impact on of \$50 million or more. The Department of Finance (DOF) maintains a list of major regulations and related documents on its website. Existing law allows any committee of the Legislature to request that OAL conduct a priority review of any regulation of concern to the committee.



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Related Legislation

AB 797 (Steinorth), of the 2015-16 Legislative Session, was substantially similar to this bill, but was subsequently amended in the Senate to address a different subject matter.

AB 1982 (Gorrell), of 2011-12 Legislative Session, would have extended the effective date of regulations from 30 to 90 days; required the OAL to submit a copy of all major regulations to each house of the Legislature for review; and, authorized the Legislature to enact a statute to override the regulation. That bill was held on this committee's Suspense File.

AB 2466 (Smyth), of 2009-10 Legislative Session would have extended the effective date of regulations from 30 days to 90 days, required OAL submit all regulations packages to the Legislature, and required that the appropriate legislative policy committees review those regulations. That bill was held on this committee's Suspense File.

Fiscal Impact:

1. Minor and absorbable costs to OAL to forward major regulations to the Legislature. OAL indicates that of the approximately 600-700 regulatory actions they receive each year, fewer than 15 would likely be impacted by this bill at the current economic impact threshold of \$50 million.
2. There are typically 3 to 12 major regulations packages per year and many regulations packages exceed several hundred pages. Should the Legislature choose to review the major regulations packages, it is likely that workload requirements for the policy committees would increase. In addition, it is likely that the workload for the Legislative Analyst's Office, Legislative Counsel, and the Chief Clerk's Office would also increase.

Support and Opposition

Support:

- California Apartment Association
- California Chamber of Commerce
- California Forestry Association
- California Manufacturers and Technology Association
- Howard Jarvis Taxpayers Association
- Industrial Environmental Association
- National Federation of Independent Business
- Western Growers Association



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- Southern California Contractors Association
- California Independent Petroleum Association
- Outdoor Sportsmen's Coalition of California
- California Sportsman's Lobby, Inc.
- National Shooting Sports Foundation, Inc.
- California Construction and Industrial Materials Association
- Fresno Chamber of Commerce
- California Delivery Association
- Safari Club International California Coalition

Opposition:

- California Nurses Association
- National Nurses United

Comments

None.

Action Required

None.

AMENDED IN ASSEMBLY FEBRUARY 7, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 77

**Introduced by Assembly Member Fong
(Principal coauthor: Assembly Member Gallagher)**

January 4, 2017

An act to amend Sections 11343.4 and 11349.3 of the Government Code, relating to regulations.

LEGISLATIVE COUNSEL’S DIGEST

AB 77, as amended, Fong. Regulations: effective dates and legislative review.

The Administrative Procedure Act governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law. That act requires an agency, prior to submitting a proposal to adopt, amend, or repeal an administrative regulation, to determine the economic impact of that regulation, in accordance with certain procedures. The act defines a major regulation as a regulation that the agency determines has an expected economic impact on California business enterprises and individuals estimated to exceed \$50,000,000. The act requires the office to transmit a copy of a regulation to the Secretary of State for filing if the office approves the regulation or fails to act on it within 30 days. The act provides that a regulation or an order of repeal of a regulation becomes effective on a quarterly basis, as prescribed, except in specified instances, including if a regulation adopted by the Fish and Game Commission requires a different effective date to conform with federal law.

This bill would require the office to submit to each house of the Legislature for review a copy of each major regulation that it submits to the Secretary of State. ~~The bill would eliminate the quarterly schedule pursuant to which regulations and orders of repeal become effective, as well as the provisions specifically addressing the effective dates of regulations adopted by the Fish and Game Commission. The bill would, instead, provide that a regulation or order of repeal required to be filed with the Secretary of State generally becomes effective the 90th day after the date of filing, subject to certain exceptions. The bill would add another exception to those currently provided that specifies that a regulation does not become effective if the Legislature passes *enacts* a statute to override the regulation.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 11343.4 of the Government Code, as~~
2 ~~amended by Section 26 of Chapter 546 of the Statutes of 2016, is~~
3 ~~amended to read:~~
4 ~~11343.4. A regulation or an order of repeal required to be filed~~
5 ~~with the Secretary of State shall become effective on the 90th day~~
6 ~~after the date of filing unless any of the following occur:~~
7 ~~(a) The statute pursuant to which the regulation or order of~~
8 ~~repeal was adopted specifically provides otherwise, in which event~~
9 ~~it becomes effective on the day prescribed by the statute.~~
10 ~~(b) A later date is prescribed by the state agency in a written~~
11 ~~instrument filed with, or as part of, the regulation or order of repeal.~~
12 ~~(c) The agency makes a written request to the office~~
13 ~~demonstrating good cause for an earlier effective date, in which~~
14 ~~case the office may prescribe an earlier date.~~
15 ~~(d) The Legislature passes a statute to override the regulation.~~
16 ~~SECTION 1. Section 11343.4 of the Government Code is~~
17 ~~amended to read:~~
18 ~~11343.4. (a) Except as otherwise provided in subdivision (b),~~
19 ~~a regulation or an order of repeal required to be filed with the~~
20 ~~Secretary of State shall become effective on a quarterly basis as~~
21 ~~follows:~~
22 ~~(1) January 1 if the regulation or order of repeal is filed on~~
23 ~~September 1 to November 30, inclusive.~~

(2) April 1 if the regulation or order of repeal is filed on December 1 to February 29, inclusive.

(3) July 1 if the regulation or order of repeal is filed on March 1 to May 31, inclusive.

(4) October 1 if the regulation or order of repeal is filed on June 1 to August 31, inclusive.

(b) The effective dates in subdivision (a) shall not apply in all of the following:

(1) The effective date is specifically provided by the statute pursuant to which the regulation or order of repeal was adopted, in which event it becomes effective on the day prescribed by the statute.

(2) A later date is prescribed by the state agency in a written instrument filed with, or as part of, the regulation or order of repeal.

(3) The agency makes a written request to the office demonstrating good cause for an earlier effective date, in which case the office may prescribe an earlier date.

(4) (A) A regulation adopted by the Fish and Game Commission that is governed by Article 2 (commencing with Section 250) of Chapter 2 of Division 1 of the Fish and Game Code.

(B) A regulation adopted by the Fish and Game Commission that requires a different effective date in order to conform to a federal regulation.

(5) *When the Legislature enacts a statute to override the regulation.*

SEC. 2. Section 11349.3 of the Government Code is amended to read:

11349.3. (a) (1) The office shall either approve a regulation submitted to it for review and transmit it to the Secretary of State for filing or disapprove it within 30 working days after the regulation has been submitted to the office for review. If the office fails to act within 30 days, the regulation shall be deemed to have been approved and the office shall transmit it to the Secretary of State for filing.

(2) The office shall submit a copy of each major regulation submitted to the Secretary of State pursuant to paragraph (1) to each house of the Legislature for review.

(b) If the office disapproves a regulation, it shall return it to the adopting agency within the 30-day period specified in subdivision (a) accompanied by a notice specifying the reasons for disapproval.

1 Within seven calendar days of the issuance of the notice, the office
2 shall provide the adopting agency with a written decision detailing
3 the reasons for disapproval. No regulation shall be disapproved
4 except for failure to comply with the standards set forth in Section
5 11349.1 or for failure to comply with this chapter.

6 (c) If an agency determines, on its own initiative, that a
7 regulation submitted pursuant to subdivision (a) should be returned
8 by the office prior to completion of the office's review, it may
9 request the return of the regulation. All requests for the return of
10 a regulation shall be memorialized in writing by the submitting
11 agency no later than one week following the request. Any
12 regulation returned pursuant to this subdivision shall be resubmitted
13 to the office for review within the one-year period specified in
14 subdivision (b) of Section 11346.4 or shall comply with Article 5
15 (commencing with Section 11346) prior to resubmission.

16 (d) The office shall not initiate the return of a regulation pursuant
17 to subdivision (c) as an alternative to disapproval pursuant to
18 subdivision (b).

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Bill Analysis

Bill Number: AB 149 **Version:** Introduced 1/10/17
Author: Jones-Sawyer **Sponsor:**
Subject: Criminal Procedure: **Status:** In Senate. Read
 Disclosure: Felony First Time. To
 Conviction Senate Rules
 Consequences Committee for
 Assignment

Adopted Position:
 None.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Enrolled	Vetoed	Chaptered	Effective Date	2 yr./ Dead
1 st House				2 nd House								

Red: Current/completed status Gray: Not applicable

Existing Law

- Existing law requires, prior to acceptance of a plea of guilty or nolo contendere to any offense punishable as a crime under state law, the court shall administer the following advisement on the record to the defendant: "[i]f you are not a citizen, you are hereby advised that conviction of the offense for which you have been charged may have the consequences of deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States."
- States that upon request, the court shall allow the defendant additional time to consider the appropriateness of the plea in light of the advisement as described in this section.
- Provides if the court fails to advise the defendant as required by this section and the defendant shows that conviction of the offense to which defendant pleaded guilty or nolo contendere may have the consequences for the defendant of deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States, the court, on defendant's motion, shall vacate the judgment and permit the defendant to withdraw the plea of guilty or nolo contendere, and enter a plea of not guilty.
- States that absent a record that the court provided the advisement required by this section, the defendant shall be presumed not to have received the required advisement.



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5. Provides that with respect to pleas entered prior to January 1, 1978, it is not the intent of the Legislature that a court's failure to provide the required advisement should require the vacation of judgment and withdrawal of the plea or constitute grounds for finding a prior conviction invalid.
6. Finds and declares that in many instances involving an individual who is not a citizen of the United States charged with an offense punishable as a crime under state law, a plea of guilty or nolo contendere is entered without the defendant knowing that a conviction of such offense is grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States. Therefore, it is the intent of the Legislature in enacting this section to promote fairness to such accused individuals by requiring in such cases that acceptance of a guilty plea or plea of nolo contendere be preceded by an appropriate warning of the special consequences for such a defendant which may result from the plea. It is also the intent of the Legislature that the court in such cases shall grant the defendant a reasonable amount of time to negotiate with the prosecuting agency in the event the defendant or the defendant's counsel was unaware of the possibility of deportation, exclusion from admission to the United States, or denial of naturalization as a result of conviction. It is further the intent of the Legislature that at the time of the plea no defendant shall be required to disclose his or her legal status to the court.

This Bill

1. This bill states that prior to the defendant pleading guilty or no contest to a felony offense, defense counsel must inform the defendant that the plea of guilty or no contest may impact the following:
 - a) The defendant's ability to obtain employment generally, and may make the defendant ineligible for employment in certain jobs;
 - b) The loss of voting rights while incarcerated and while on parole;
 - c) The eligibility of the defendant to enlist in the military;
 - d) The eligibility to obtain or maintain certain state professional licenses;
 - e) The eligibility to serve on a jury;
 - f) The eligibility to own or possess a firearm;
 - g) The eligibility for federal health care programs if the felony is related to fraud involving a federal program, patient abuse, or drugs;
 - h) The eligibility for federal financial aid if the felony was committed while the defendant was receiving financial aid;
 - i) The eligibility for federal cash assistance if the felony is drug related;
 - j) The ability to receive Supplemental Security Income; and
 - k) Legal parental and child custody rights.



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2. Specifies that if defense counsel failed to provide this information prior to the entry of a plea prior to January 1, 2018, there is no requirement to vacate the judgment and withdraw the plea, no grounds for finding a prior conviction invalid, and does not provide grounds for appeal from the judgment.

Purpose/Background

Author's Statement: "Currently, upon arrest, police officers are required to inform a suspect of their Miranda rights, which includes a 'right to silence' warning given by police to criminal suspects in police custody. This bill, similarly, will inform defendants verbally of the civil rights they lose if they take a plea and become a felon. These rights range from a loss of certain professional licensure opportunities to forfeiture of eligibility to become a United States citizen.

According to the Harvard University Institute of Politics' Mass Incarceration Policy Group, one out of 100 adults is incarcerated, equaling more than 2.2 million Americans. The system has expanded in recent decades due to the War on Drugs, the implementation of mandatory minimum sentencing, and the prevalence of plea bargaining, a process that circumvents the Constitutional right to trial by jury. While there is a logical appeal to plea deals, which offer a possibility to reduce time to be incarcerated, individuals under arrest, are not being informed adequately about the consequences that result from becoming a felon.

According to the New York Times, 'Fewer than one in 40 felony cases now make it to trial, as compared to 1970, when the ratio was about one in twelve. The decline has been even steeper in federal district courts.' From 1986 to 2006 the ratio of pleas to trials nearly doubled, according to the Bureau of Justice Statistics."

Related Legislation

AB 273 (Jones-Sawyer), of the 2015-2016 Legislative Session, required the court, prior to the acceptance of a guilty plea to a felony offense, to inform the defendant of the various consequences that may result from conviction of a felony. AB 149 was vetoed by the Governor.

AB 142 (Fuentes), of the 2011-12 Legislative Session, required that courts advise defendants that if they are deported from the United States and return illegally, they could be charged with a separate federal offense. AB 142 was vetoed by the Governor.

AB 806 (Fuentes), of the 2009-10 Legislative Session, required that courts advise defendants that if they are deported from the United States and return illegally, they could be charged with a separate federal offense. AB 806 was vetoed by the Governor.



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AB 15 (Fuentes), of the 2009-10 Legislative Session, required that courts advise defendants that if they are deported from the United States and return illegally, they could be charged with a separate federal offense. AB 806 was vetoed by the Governor.

Fiscal Impact:

This bill is keyed non-fiscal by the Legislative Counsel.

Support and Opposition

Support:

- American Civil Liberties Union of California
- California Attorneys for Criminal Justice
- California Public Defenders Association
- Firearms Policy Coalition
- Friends Committee on Legislation of California

Opposition:

None.

Comments

None.

Action Required

None.

ASSEMBLY BILL

No. 149

Introduced by Assembly Member Jones-Sawyer

January 10, 2017

An act to add Section 858.2 to the Penal Code, relating to criminal procedure.

LEGISLATIVE COUNSEL'S DIGEST

AB 149, as introduced, Jones-Sawyer. Criminal procedure: disclosure: felony conviction consequences.

Existing law requires, when a defendant first appears for arraignment on a charge of having committed a public offense, the magistrate to immediately inform the defendant that he or she has the right to the aid of counsel in every stage of the proceedings.

This bill would require defense counsel, before a defendant pleads guilty or nolo contendere to an offense punishable as a felony, to inform the defendant that a felony conviction may result in various adverse consequences and that the plea may impact, among other things, the eligibility to obtain or maintain certain state professional licenses, to own or possess a firearm, and to enlist in the military. The bill would state that it is not the intent of the legislature that the failure of defense counsel to provide this information with respect to pleas accepted prior to January 1, 2018, require the vacation of judgment and withdrawal of a plea, constitutes grounds to find a conviction invalid, or provides grounds for appeal from the judgment or appealable order.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 858.2 is added to the Penal Code, to read:

858.2. (a) Before a defendant pleads guilty or nolo contendere to any offense punishable as a felony under state law, defense counsel shall inform the defendant that a felony conviction may result in various adverse consequences for the defendant. Defense counsel shall inform the defendant that the plea of guilty or nolo contendere may impact all of the following:

(1) Ability to obtain employment generally, and may make the defendant ineligible for employment in certain jobs.

(2) The loss of voting rights while incarcerated and while on parole.

(3) Eligibility to enlist in the military.

(4) Eligibility to obtain or maintain certain state professional licenses.

(5) Eligibility to serve on a jury.

(6) Eligibility to own or possess a firearm.

(7) Eligibility for federal health care programs if the felony is related to fraud involving a federal program, patient abuse, or drugs.

(8) Eligibility for federal financial aid if the felony was committed while the defendant was receiving financial aid.

(9) Eligibility for federal cash assistance if the felony is drug related.

(10) Receipt of Supplemental Security Income.

(11) Legal parental and child custody rights.

(b) With respect to a plea accepted prior to January 1, 2018, it is not the intent of the Legislature that the failure of defense counsel to provide the information required by subdivision (a) requires the vacation of judgment and withdrawal of the plea, constitutes grounds for finding a prior conviction invalid, or provides grounds for appeal from the judgment or appealable order.

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Bill Analysis

Bill Number:	AB 208	Version:	Amended 3/08/17
Author:	Eggman	Sponsor:	Drug Policy Alliance and Mexican American Legal Defense and Educational Fund Immigrant Legal Resource Center, America Civil Liberties Union, and Coalition for Humane Immigrant Rights
		Co-Sponsors:	
Subject:	Deferred Entry of Judgment: Pretrial Diversion	Status:	Assembly Appropriations Committee. Suspense File.

Adopted Position:
None.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Enrolled	Vetoed	Chaptered	Effective Date	2 yr./ Dead
1 st House				2 nd House								

Red: Current/completed status Gray: Not applicable

Existing Law

- Existing law allows individuals charged with specified crimes to qualify for deferred entry of judgment. A defendant qualifies if he or she has no conviction for any offense involving controlled substances, the charged offense did not involve violence, there is no evidence of a violation relating to narcotics or restricted dangerous drugs other than a violation that qualifies for the program, the defendant's record does not indicate that probation or parole has ever been revoked without being completed, and the defendant's record does not indicate that he or she has been granted diversion, deferred entry of judgment, or was convicted of a felony within 5 years prior to the alleged commission of the charged offense.
- Under the existing deferred entry of judgment program, an eligible defendant may have entry of judgment deferred, upon pleading guilty to the offenses charged and entering a drug treatment program for 18 months to 3 years. If the



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defendant does not perform satisfactorily in the program, does not benefit from the program, is convicted of specified crimes, or engages in criminal activity rendering him or her unsuitable for deferred entry of judgment, the defendant's guilty plea is entered and the court enters judgment and proceeds to schedule a sentencing hearing. If the defendant completes the program, the criminal charges are dismissed. Existing law allows the presiding judge of the superior court, with the district attorney and public defender, to establish a pretrial diversion drug program.

This Bill

1. This bill would make the deferred entry of judgment program a pretrial diversion program.
2. This bill would make a defendant qualified for the pretrial diversion program if:
 - a) the defendant must not have a prior conviction for any offense involving a controlled substance other than the offenses that may be diverted as specified;
 - b) the offense charged must not have involved a crime of violence or threatened violence;
 - c) there must be no evidence of a violation relating to narcotics or restricted dangerous drugs other than a violation of an offense that may be diverted;
 - d) the defendant must not have any prior convictions for a serious or violent felony, as defined, within five years prior to the alleged commission of the charged offense.
3. Under the pretrial diversion program created by this bill, a qualifying defendant would enter a plea of not guilty, and proceedings would be suspended in order for the defendant to enter a drug treatment program for 6 months to one year, or longer if requested by the defendant with good cause. The bill would require the court, if the defendant does not perform satisfactorily in the program or is convicted of specified crimes, to terminate the program and reinstate the criminal proceedings. The bill would require the criminal charges to be dismissed if the defendant completes the program.

Purpose/Background

Purpose:

According to the author, "This bill seeks to limit harsh consequences to immigrants by changing the current process for nonviolent, misdemeanor drug offenses from deferred entry of judgment (DEJ) to pretrial diversion. While the current DEJ process eliminates a conviction if the defendant successfully completes DEJ, the defendant may still face federal consequences, including deportation if the defendant is undocumented, or the



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prohibition from becoming a U.S. citizen if the defendant is a legal permanent resident. This is a systemic injustice to immigrants to this country, but even U.S. citizens may face federal consequences, including loss of federal housing and educational benefits. This bill will keep families together, help people retain eligibility for U.S. citizenship, and also preserve access to other benefits for those who qualify.”

Background:

Under existing law, a defendant charged with violations of certain specified drug offenses may be eligible to participate in a DEJ program if he or she meets specified criteria. With DEJ, a defendant must enter a guilty plea and entry of judgment on the defendant's guilty plea is deferred pending successful completion of a program or other conditions. If a defendant placed in a DEJ program fails to complete the program or comply with conditions imposed, the court may resume criminal proceedings and the defendant, having already pleaded guilty, would be sentenced. If the defendant successfully completes DEJ, the arrest shall be deemed to never have occurred and the defendant may indicate in response to any question concerning his or her prior criminal record that he or she was not arrested or granted pretrial diversion for the offense.

Diversion, on the other hand, suspends the criminal proceedings without requiring the defendant to enter a plea. Diversion also requires the defendant to successfully complete a program and other conditions imposed by the court. Unlike DEJ however, if a defendant does not successfully complete the diversion program, criminal proceedings resume but the defendant, having not entered a plea, may still proceed to trial or enter a plea. If diversion is successfully completed, the criminal charges are dismissed and the defendant may, with certain exceptions, legally answer that he or she has never been arrested or charged for the diverted offense.

In order to avoid adverse immigration consequences, diversion of an offense is preferable to DEJ because the defendant is not required to plea guilty in order to participate in the program. Having a conviction for possession of controlled substances, even if dismissed, could trigger deportation proceedings or prevent a person from becoming a U.S. citizen.

This bill seeks to minimize the potential exposure to adverse immigration consequences for persons who commit minor drug possession offenses by re-establishing a pretrial diversion program for minor drug possession. Prior to 1997, the program was a pretrial diversion program, but SB 1369 (Kopp), Chapter 1132, Statutes of 1996, changed the diversion program to a DEJ program.

Current law authorizes counties to establish and conduct a preguilty plea drug court program wherein criminal proceedings are suspended without a plea of guilty for designated defendants if so agreed upon in writing by the presiding judge of the superior court, or a judge designated by the presiding judge, together with the district



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attorney and the public defender. If the defendant is not performing satisfactorily in the program, the court may reinstate criminal proceedings. If the defendant has performed satisfactorily during the period of the preguilty plea program, at the end of that period, the criminal charge or charges shall be dismissed.

Related Legislation

This bill is almost identical to AB 1351 (Eggman), of the 2015-2016 Legislative Session, which was vetoed by Governor Brown who said: "AB 1351 would transform the existing deferred entry of judgment program available to low level drug offenders to one that does not require a guilty plea. Instead, the offender would plead not guilty and when the program is completed, the charges would be dropped. If the offender fails to complete the program, the prosecutor would proceed with the charges at that time. While I support the goal of giving low-level offenders a second chance, I am concerned that the bill eliminates the most powerful incentive to stay in treatment - the knowledge that judgment will be entered for failure to do so. The bill goes too far."

AB 596 (Choi) provides that drug diversion qualifies as a conviction for purposes of obtaining victim restitution. AB 596 is pending hearing in Assembly Public Safety Committee.

SB 8 (Beall) allows pretrial diversion if the court is satisfied the defendant suffers from a mental disorder, that the defendant's mental disorder played a significant role in the commission of the crime, and that the defendant would benefit from mental health treatment. SB 8 is pending hearing in Senate Appropriations Committee

Fiscal Impact:

Significant costs, in the hundreds of thousands of dollars (GF), to the courts for additional court trials since more individuals will likely plead innocent to drug offenses, even after failing the diversion program. The incentive to plead guilty to qualify for the DEJ is removed by this bill.

Support and Opposition

Arguments in Support:

According to the Drug Policy Alliance, a co-sponsor of this bill, "Noncitizen defendants charged with minor drug offenses, including misdemeanors, are often incorrectly advised or believe that pleading guilty with a deferred entry of judgment will not count as a conviction for any purpose. However, under federal immigration laws, post-plea deferred entry of judgment programs, ... are still considered a conviction for immigration purposes, even if the defendant successfully completed the program, or the case was dismissed, and the conviction no longer exists under state law. Deferred entry of



Physical Therapy Board of California

STATE AND CONSUMER SERVICES AGENCY - GOVERNOR EDMUND G. BROWN JR.

Physical Therapy Board of California

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judgments convictions are used against non-U.S. citizens to deport them, prevent them from gaining lawful status, and from being eligible for pardons against deportation. These unjust consequences are equally true for longtime lawful permanent residents and beneficiaries of the Deferred Action for Childhood Arrivals program, as for undocumented persons.”

Support:

- California Attorneys for Criminal Justice
- California Public Defenders Association
- Ella Baker Center for Human Rights
- National Association of Social Workers, California Chapter (NASW-CA)
- Drug Policy Alliance (sponsor)
- Human Impact Partners
- Mexican American Legal Defense and Educational Fund (sponsor)
- Immigrant Legal Resource Center (co-sponsor)
- America Civil Liberties Union (Co-Sponsor)
- Coalition for Humane Immigrant Rights (Co-Sponsor)

Opposition:

None.

Comments

None.

Action Required

None.

AMENDED IN ASSEMBLY MARCH 8, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 208

Introduced by Assembly Member Eggman

January 23, 2017

An act to amend Sections 1000, 1000.1, 1000.2, 1000.3, 1000.4, 1000.5, and 1000.6 of, and to add Section 1000.65 to, the Penal Code, relating to deferred entry of judgment.

LEGISLATIVE COUNSEL'S DIGEST

AB 208, as amended, Eggman. Deferred entry of judgment: pretrial diversion.

Existing law allows individuals charged with specified crimes to qualify for deferred entry of judgment. A defendant qualifies if he or she has no conviction for any offense involving controlled substances, the charged offense did not involve violence, there is no evidence of a violation relating to narcotics or restricted dangerous drugs other than a violation that qualifies for the program, the defendant's record does not indicate that probation or parole has ever been revoked without being completed, and the defendant's record does not indicate that he or she has been granted diversion, deferred entry of judgment, or was convicted of a felony within 5 years prior to the alleged commission of the charged offense.

Under the existing deferred entry of judgment program, an eligible defendant may have entry of judgment deferred, upon pleading guilty to the offenses charged and entering a drug treatment program for 18 months to 3 years. If the defendant does not perform satisfactorily in the program, does not benefit from the program, is convicted of specified crimes, or engages in criminal activity rendering him or her unsuitable

for deferred entry of judgment, the defendant's guilty plea is entered and the court enters judgment and proceeds to schedule a sentencing hearing. If the defendant completes the program, the criminal charges are dismissed. Existing law allows the presiding judge of the superior court, with the district attorney and public defender, to establish a pretrial diversion drug program.

This bill would make the deferred entry of judgment program a pretrial diversion program. The bill would make ~~that a defendant qualify for the pretrial diversion program if he or she has no prior conviction within 5 years prior to the alleged commission of the charged offense for any offense involving controlled substances other than the offense that qualifies him or her for diversion~~, *a defendant qualified for the pretrial diversion program if there is no evidence of a contemporaneous violation relating to narcotics or restricted dangerous drugs other than a violation of the offense that qualifies him or her for diversion*, the charged offense did not involve violence, there is no evidence within the past 5 years of a violation relating to narcotics or restricted dangerous drugs other than a violation that qualifies for the program, and the defendant has no prior conviction for a serious or violent felony within 5 years prior to the alleged commission of the charged offense.

Under the pretrial diversion program created by this bill, a qualifying defendant would enter a plea of not guilty, and proceedings would be suspended in order for the defendant to enter a drug treatment program for 6 months to one year, or longer if requested by the defendant with good cause. The bill would require the court, if the defendant does not perform satisfactorily in the program or is convicted of specified crimes, to terminate the program and reinstate the criminal proceedings. The bill would require the criminal charges to be dismissed if the defendant completes the program.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1000 of the Penal Code is amended to
- 2 read:
- 3 1000. (a) This chapter shall apply whenever a case is before
- 4 any court upon an accusatory pleading for a violation of Section
- 5 11350, 11357, 11364, or 11365, paragraph (2) of subdivision (b)
- 6 of Section 11375, Section 11377, or Section 11550 of the Health

1 and Safety Code, or subdivision (b) of Section 23222 of the Vehicle
2 Code, or Section 11358 of the Health and Safety Code if the
3 marijuana planted, cultivated, harvested, dried, or processed is for
4 personal use, or Section 11368 of the Health and Safety Code if
5 the narcotic drug was secured by a fictitious prescription and is
6 for the personal use of the defendant and was not sold or furnished
7 to another, or subdivision (d) of Section 653f if the solicitation
8 was for acts directed to personal use only, or Section 381 or
9 subdivision (f) of Section 647 of the Penal Code, if for being under
10 the influence of a controlled substance, or Section 4060 of the
11 Business and Professions Code, and it appears to the prosecuting
12 attorney that, except as provided in subdivision (b) of Section
13 11357 of the Health and Safety Code, all of the following apply
14 to the defendant:

15 (1) Within five years prior to the alleged commission of the
16 charged offense, the defendant has not suffered a conviction for
17 any offense involving controlled substances other than the offenses
18 listed in this subdivision.

19 (2) The offense charged did not involve a crime of violence or
20 threatened violence.

21 (3) ~~Within five years prior to the determination of eligibility of~~
22 ~~this chapter, there is no evidence of a~~ *There is no evidence of a*
23 *contemporaneous* violation relating to narcotics or restricted
24 dangerous drugs other than a violation of the offenses listed in this
25 subdivision.

26 (4) Within five years prior to the alleged commission of the
27 charged offense, the defendant has no prior conviction for a serious
28 felony, as defined in subdivision (c) of Section 1192.7, or a violent
29 felony, as defined in subdivision (c) of Section 667.5.

30 (b) The prosecuting attorney shall review his or her file to
31 determine whether or not paragraphs (1) to (4), inclusive, of
32 subdivision (a) apply to the defendant. If the defendant is found
33 eligible, the prosecuting attorney shall file with the court a
34 declaration in writing or state for the record the grounds upon
35 which the determination is based, and shall make this information
36 available to the defendant and his or her attorney. This procedure
37 is intended to allow the court to set the hearing for pretrial diversion
38 at the arraignment. If the defendant is found ineligible for pretrial
39 diversion, the prosecuting attorney shall file with the court a
40 declaration in writing or state for the record the grounds upon

1 which the determination is based, and shall make this information
2 available to the defendant and his or her attorney. The sole remedy
3 of a defendant who is found ineligible for pretrial diversion is a
4 postconviction appeal.

5 (c) All referrals for pretrial diversion granted by the court
6 pursuant to this chapter shall be made only to programs that have
7 been certified by the county drug program administrator pursuant
8 to Chapter 1.5 (commencing with Section 1211) of Title 8, or to
9 programs that provide services at no cost to the participant and
10 have been deemed by the court and the county drug program
11 administrator to be credible and effective. The defendant may
12 request to be referred to a program in any county, as long as that
13 program meets the criteria set forth in this subdivision.

14 (d) Pretrial diversion for an alleged violation of Section 11368
15 of the Health and Safety Code shall not prohibit any administrative
16 agency from taking disciplinary action against a licensee or from
17 denying a license. This subdivision does not expand or restrict the
18 provisions of Section 1000.4.

19 (e) Any defendant who is participating in a program authorized
20 in this section may be required to undergo analysis of his or her
21 urine for the purpose of testing for the presence of any drug as part
22 of the program. However, urinalysis results shall not be admissible
23 as a basis for any new criminal prosecution or proceeding.

24 SEC. 2. Section 1000.1 of the Penal Code is amended to read:

25 1000.1. (a) If the prosecuting attorney determines that this
26 chapter may be applicable to the defendant, he or she shall advise
27 the defendant and his or her attorney in writing of that
28 determination. This notification shall include all of the following:

29 (1) A full description of the procedures for pretrial diversion.

30 (2) A general explanation of the roles and authorities of the
31 probation department, the prosecuting attorney, the program, and
32 the court in the process.

33 (3) A clear statement that the court may grant pretrial diversion
34 with respect to any offense specified in subdivision (a) of Section
35 1000 that is charged, provided that the defendant pleads not guilty
36 to the charge or charges, waives the right to a speedy trial and to
37 a speedy preliminary hearing, if applicable, and that upon the
38 defendant's successful completion of a program, as specified in
39 subdivision (c) of Section 1000, the positive recommendation of
40 the program authority and the motion of the defendant, prosecuting

1 attorney, the court, or the probation department, but no sooner than
2 six months and no later than one year from the date of the
3 defendant's referral to the program, the court shall dismiss the
4 charge or charges against the defendant.

5 (4) A clear statement that upon any failure of treatment or
6 condition under the program, or any circumstance specified in
7 Section 1000.3, the prosecuting attorney or the probation
8 department or the court on its own may make a motion to the court
9 to terminate pretrial diversion and schedule further proceedings
10 as otherwise provided in this code.

11 (5) An explanation of criminal record retention and disposition
12 resulting from participation in the pretrial diversion program and
13 the defendant's rights relative to answering questions about his or
14 her arrest and pretrial diversion following successful completion
15 of the program.

16 (b) If the defendant consents and waives his or her right to a
17 speedy trial and a speedy preliminary hearing, if applicable, the
18 court may refer the case to the probation department or the court
19 may summarily grant pretrial diversion. When directed by the
20 court, the probation department shall make an investigation and
21 take into consideration the defendant's age, employment and
22 service records, educational background, community and family
23 ties, prior controlled substance use, treatment history, if any,
24 demonstrable motivation, and other mitigating factors in
25 determining whether the defendant is a person who would be
26 benefited by education, treatment, or rehabilitation. The probation
27 department shall also determine which programs the defendant
28 would benefit from and which programs would accept the
29 defendant. The probation department shall report its findings and
30 recommendations to the court. The court shall make the final
31 determination regarding education, treatment, or rehabilitation for
32 the defendant. If the court determines that it is appropriate, the
33 court shall grant pretrial diversion if the defendant pleads not guilty
34 to the charge or charges and waives the right to a speedy trial and
35 to a speedy preliminary hearing, if applicable.

36 (c) (1) No statement, or any information procured therefrom,
37 made by the defendant to any probation officer or drug treatment
38 worker, that is made during the course of any investigation
39 conducted by the probation department or treatment program
40 pursuant to subdivision (b), and prior to the reporting of the

1 probation department's findings and recommendations to the court,
2 shall be admissible in any action or proceeding brought subsequent
3 to the investigation.

4 (2) No statement, or any information procured therefrom, with
5 respect to the specific offense with which the defendant is charged,
6 that is made to any probation officer or drug program worker
7 subsequent to the granting of pretrial diversion shall be admissible
8 in any action or proceeding.

9 (d) A defendant's participation in pretrial diversion pursuant to
10 this chapter shall not constitute a conviction or an admission of
11 guilt for any purpose.

12 SEC. 3. Section 1000.2 of the Penal Code is amended to read:

13 1000.2. (a) The court shall hold a hearing and, after
14 consideration of any information relevant to its decision, shall
15 determine if the defendant consents to further proceedings under
16 this chapter and if the defendant should be granted pretrial
17 diversion. If the defendant does not consent to participate in pretrial
18 diversion, the proceedings shall continue as in any other case.

19 (b) At the time that pretrial diversion is granted, any bail bond
20 or undertaking, or deposit in lieu thereof, on file by or on behalf
21 of the defendant shall be exonerated, and the court shall enter an
22 order so directing.

23 (c) The period during which pretrial diversion is granted shall
24 be for no less than six months nor longer than one year. However,
25 the defendant may request, and the court shall grant, for good cause
26 shown, an extension of time to complete a program specified in
27 subdivision (c) of Section 1000. Progress reports shall be filed by
28 the probation department with the court as directed by the court.

29 SEC. 4. Section 1000.3 of the Penal Code is amended to read:

30 1000.3. (a) If it appears to the prosecuting attorney, the court,
31 or the probation department that the defendant is performing
32 unsatisfactorily in the assigned program, that the defendant is
33 convicted of an offense that reflects the defendant's propensity for
34 violence, or that the defendant is convicted of a felony, the
35 prosecuting attorney, the court on its own, or the probation
36 department may make a motion for termination from pretrial
37 diversion.

38 (b) After notice to the defendant, the court shall hold a hearing
39 to determine whether pretrial diversion shall be terminated.

1 (c) If the court finds that the defendant is not performing
2 satisfactorily in the assigned program, or the court finds that the
3 defendant has been convicted of a crime as indicated in subdivision
4 (a), the court shall schedule the matter for further proceedings as
5 otherwise provided in this code.

6 (d) If the defendant has completed pretrial diversion, at the end
7 of that period, the criminal charge or charges shall be dismissed.

8 (e) Prior to dismissing the charge or charges or terminating
9 pretrial diversion, the court shall consider the defendant's ability
10 to pay and whether the defendant has paid a diversion restitution
11 fee pursuant to Section 1001.90, if ordered, and has met his or her
12 financial obligation to the program, if any. As provided in Section
13 1203.1b, the defendant shall reimburse the probation department
14 for the reasonable cost of any program investigation or progress
15 report filed with the court as directed pursuant to Sections 1000.1
16 and 1000.2.

17 SEC. 5. Section 1000.4 of the Penal Code is amended to read:

18 1000.4. (a) Any record filed with the Department of Justice
19 shall indicate the disposition in those cases referred to pretrial
20 diversion pursuant to this chapter. Upon successful completion of
21 a pretrial diversion program, the arrest upon which the defendant
22 was diverted shall be deemed to have never occurred. The
23 defendant may indicate in response to any question concerning his
24 or her prior criminal record that he or she was not arrested or
25 granted pretrial diversion for the offense, except as specified in
26 subdivision (b). A record pertaining to an arrest resulting in
27 successful completion of a pretrial diversion program shall not,
28 without the defendant's consent, be used in any way that could
29 result in the denial of any employment, benefit, license, or
30 certificate.

31 (b) The defendant shall be advised that, regardless of his or her
32 successful completion of the pretrial diversion program, the arrest
33 upon which pretrial diversion was based may be disclosed by the
34 Department of Justice in response to any peace officer application
35 request and that, notwithstanding subdivision (a), this section does
36 not relieve him or her of the obligation to disclose the arrest in
37 response to any direct question contained in any questionnaire or
38 application for a position as a peace officer, as defined in Section
39 830.

40 SEC. 6. Section 1000.5 of the Penal Code is amended to read:

1000.5. (a) (1) The presiding judge of the superior court, or a judge designated by the presiding judge, together with the district attorney and the public defender, may agree in writing to establish and conduct a preguilty plea drug court program pursuant to the provisions of this chapter, wherein criminal proceedings are suspended without a plea of guilty for designated defendants. The drug court program shall include a regimen of graduated sanctions and rewards, individual and group therapy, urinalysis testing commensurate with treatment needs, close court monitoring and supervision of progress, educational or vocational counseling as appropriate, and other requirements as agreed to by the presiding judge or his or her designee, the district attorney, and the public defender. If there is no agreement in writing for a preguilty plea program by the presiding judge or his or her designee, the district attorney, and the public defender, the program shall be operated as a pretrial diversion program as provided in this chapter.

(2) A person charged with a misdemeanor under paragraph (3) of subdivision (b) of Section 11357.5 or paragraph (3) of subdivision (b) of *Section 11375.5* of the Health and Safety Code shall be eligible to participate in a preguilty plea drug court program established pursuant to this chapter, as set forth in Section 11375.7 of the Health and Safety Code.

(b) The provisions of Section 1000.3 and Section 1000.4 regarding satisfactory and unsatisfactory performance in a program shall apply to preguilty plea programs, except as provided in Section 11375.7 of the Health and Safety Code. If the court finds that (1) the defendant is not performing satisfactorily in the assigned program, (2) the defendant is not benefiting from education, treatment, or rehabilitation, (3) the defendant has been convicted of a crime specified in Section 1000.3, or (4) the defendant has engaged in criminal conduct rendering him or her unsuitable for the preguilty plea program, the court shall reinstate the criminal charge or charges. If the defendant has performed satisfactorily during the period of the preguilty plea program, at the end of that period, the criminal charge or charges shall be dismissed and the provisions of Section 1000.4 shall apply.

SEC. 7. Section 1000.6 of the Penal Code is amended to read:

1000.6. (a) A person who is participating in a pretrial diversion program or a preguilty plea program pursuant to this chapter is authorized under the direction of a licensed health care practitioner,

1 to use medications including, but not limited to, methadone,
2 buprenorphine, or levoalphacetylmethadol (LAAM) to treat
3 substance use disorders if the participant allows release of his or
4 her medical records to the court presiding over the participant's
5 preguilty plea or pretrial diversion program for the limited purpose
6 of determining whether or not the participant is using such
7 medications under the direction of a licensed health care
8 practitioner and is in compliance with the pretrial diversion or
9 preguilty plea program rules.

10 (b) If the conditions specified in subdivision (a) are met, the
11 use by a participant of medications to treat substance use disorders
12 shall not be the sole reason for exclusion from a pretrial diversion
13 or preguilty plea program. A patient who uses medications to treat
14 substance use disorders and participates in a preguilty plea or
15 pretrial diversion program shall comply with all court program
16 rules.

17 (c) A person who is participating in a pretrial diversion program
18 or preguilty plea program pursuant to this chapter who uses
19 medications to treat substance use disorders shall present to the
20 court a declaration from his or her health care practitioner, or his
21 or her health care practitioner's authorized representative, that the
22 person is currently under their care.

23 (d) Urinalysis results that only establish that a person described
24 in this section has ingested medication duly prescribed to that
25 person by his or her physician or psychiatrist, or medications used
26 to treat substance use disorders, shall not be considered a violation
27 of the terms of the pretrial diversion or preguilty plea program
28 under this chapter.

29 (e) Except as provided in subdivisions (a) to (d), inclusive, this
30 section does not affect any other law governing diversion programs.

31 SEC. 8. Section 1000.65 is added to the Penal Code,
32 immediately following Section 1000.6, to read:

33 1000.65. This chapter does not affect a pretrial diversion
34 program provided pursuant to Chapter 2.7 (commencing with
35 Section 1001).

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BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY - GOVERNOR EDMUND G. BROWN JR.

Physical Therapy Board of California

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September 16, 2015

The Honorable Edmund G. Brown Jr.
Governor of California
State Capitol
Sacramento, CA 95814

Dear Governor Brown,

The Physical Therapy Board of California (Board), at its August meeting voted to oppose both AB 1351 and 1352 as long as the provisions of the bill applied to applicants and or licensees of the Board.

The Board is mandated by Business and Professions Code section 2602.1 that the Board's highest priority is to protect the public. Applicants and licensees who have been arrested for violations involving drugs pose a great concern as many licensees work in positions where they may have access to controlled substances. Licensees who care for patients while under the influence of controlled substances pose a danger to the public.

Under the proposed revisions currently in AB 1351, the Board may never learn about an applicant's entry into a pretrial diversion program for violations of drug offenses. This information about prior acts is essential to the Board in making informed decisions about licensure and provides a level of public protection. Further, the removal of the entry of a guilty plea before entering a drug diversion program will impair the Board's ability to prove in a disciplinary proceeding that a licensee or applicant has engaged in illicit drug activities; it will also impair the Board's ability to consider this information as part of our enforcement activities.

In addition, evidence shows that individuals who may have issues with controlled substances should participate in treatment for a period of time much greater than 6-12 months as specified in your bill.

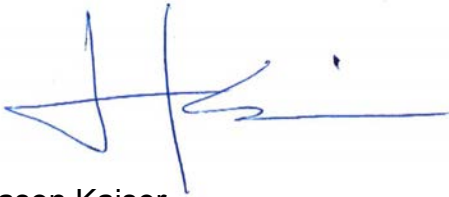
The Board has a Substance Abuse Rehabilitation Program and monitors licensees in probation with substance abuse issues to ensure licensed practitioners are safe to practice. Licensees who have substance abuse issues are monitored from 3-5 years, which is the average time needed to properly address substance abuse in a program and provide proper public protection before being allowed to practice with an unencumbered license. The Board's Substance Abuse Rehabilitation Program is a key component. Because of the monitoring that it provides, it can often be used to improve public protection while allowing a licensee to practice while they deal with a substance abuse issue. The individual circumstances of each criminal charge are considered in our discipline and licensing decisions. We seek to allow practice if the public is reasonably and properly protected.

The effect of AB 1351 and 1352 would be that the Board would be unable to charge and take action on violations of licensees with potential substance abuse issues. These licensees may be able to practice and could harm vulnerable patients in California. The public and the licensee would not have the benefit of proper monitoring such as the Board's Substance Abuse Rehabilitation Program.

Now, we understand that legislation (AB 1351 and 1352) may soon arrive at your desk asking for your signature. We respectfully ask that you consider a veto of this legislation, without it, the consumer's of California will be adversely impacted if this bill is enacted as currently written.

Thank you for your consideration of our concerns.

Sincerely,

A handwritten signature in blue ink, appearing to be 'JK' followed by a long horizontal line.

Jason Kaiser
Executive Officer

Cc: Melinda McClain, Deputy Director of Legislative and Regulatory Review, Department of Consumer Affairs



Physical Therapy Board of California

BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY - GOVERNOR EDMUND G. BROWN JR.

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September 8, 2015

Assembly Member Susan Talamantes Eggman
California State Assembly
State Capitol, Room 3173
Sacramento, CA 95814

Dear Assembly Member Eggman,

The Physical Therapy Board of California (Board) wishes to respectfully **Oppose Unless Amended, AB 1351 and 1352.**

The Board, at its August meeting voted to oppose both AB 1351 and 1352 as long as the provisions of the bill applied to applicants and or licensees of the Board.

The Board is mandated by Business and Professions Code section 2602.1 that the Board's highest priority is to protect the public. Applicants and licensees who have been arrested for violations involving drugs pose a great concern as many licensees work in positions where they may have access to controlled substances. Licensees who care for patients while under the influence of controlled substances pose a danger to the public.

Under the proposed revisions currently in AB 1351, the Board may never learn about an applicant's entry (even possible multiple entries) into a pretrial diversion program for violations of drug offenses. This information about prior acts is essential to the Board in making informed decisions about licensure and provides a level of public protection. Further, the removal of the entry of guilty plea before entering a drug diversion program will impair the Board's ability to prove in a disciplinary proceeding that a licensee or applicant has engaged in illicit drug activities; it will also impair the Board's ability to consider this information as part of our enforcement activities.

In addition, evidence shows that individuals who may have issues with controlled substances should participate in treatment for a period of time much greater than 6-12 months as specified in your bill.

The Board has a Substance Abuse Rehabilitation Program and monitors licensees in probation with substance abuse issues to ensure licensed practitioners are safe to practice. Licensees who have substance abuse issues are monitored from 3-5 years, which is the average time needed to properly address substance abuse in a program and provide proper public protection before being allowed to practice with an unencumbered license. The Board's Substance Abuse Rehabilitation Program is a key component. Because of the monitoring that it provides, it can often be used to improve public protection while allowing a licensee to

practice while they deal with a substance abuse issue. The individual circumstances of each criminal charge are considered in our discipline and licensing decisions. We seek to allow practice if the public is reasonably and properly protected.

The effect of your bills would be that the Board would be unable to charge and take action on violations of licensees with potential substance abuse issues. These licensees may be able to practice and could harm vulnerable patients in California. The public and the licensee would not have the benefit of proper monitoring such as the Board's Substance Abuse Rehabilitation Program.

The Board of California respectfully submits an oppose unless amended position to AB 1351 and 1352. We thank you for your consideration of the Board's concerns. If additional information is needed, please feel free to contact the Board's Legislative Analyst, Brooke Arneson at (916) 561-8260.

Sincerely,

A handwritten signature in black ink, appearing to read 'Debra J. Alviso', enclosed within a thin black rectangular border.

Debra J. Alviso, PT, DPT
Board President

Cc: Melinda McClain, Deputy Director of Legislative and Regulatory Review, Department of Consumer Affairs



Physical Therapy Board of California

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Bill Analysis

Bill Number: AB 349 **Version:** Amended 4/19/17
Author: McCarty, Gonzalez **Sponsor:**
 Fletcher, and
 Nazarian

Subject: Civil Service: **Status:** Assembly
 Preference: Special Appropriations
 Immigrant Visa Committee
 Holder

Adopted Position:
 None.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Enrolled	Vetoed	Chaptered	Effective Date	2 yr./ Dead
1 st House				2 nd House								

Red: Current/completed status Gray: Not applicable

Existing Law

State

1. Provides, pursuant to Section 1 of Article VII of the Constitution of California, that the civil service includes every officer and employee of the state except as otherwise provided, and that in the civil service, permanent appointment and promotion be made under a general system based on merit ascertained by competitive examination.
2. Requires, pursuant to the Civil Service Act, state employment to be based on the merit principle; that appointments are based upon merit and fitness ascertained through practical and competitive examination; and that tenure of civil service employment is subject to good behavior.
3. Requires the California Department of Human Resources and the Department of Fair Employment and Housing to work cooperatively to develop uniform employment forms where possible pursuant to the provisions of the Civil Service Act and coordinate their enforcement of the Civil Service Act.
4. Identifies certain groups of individuals who receive additional points based on their status or prior experience, after becoming eligible for a hiring list by obtaining a passing score on an open, nonpromotional exam.
5. Establishes a number of provisions that provide additional exam points for veterans, disabled veterans, spouses of 100 percent disabled veterans, and



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widows and widowers of veterans who obtain passing scores on state civil service exams.

Federal

1. For purposes of the Immigration and Nationality Act, Section 1059 of the National Defense Authorization Act (NDAA) for Fiscal Year 2006 (Public Law 109-163):
 - a. Authorizes the Secretary of Homeland Security to provide a foreign national, as specified, with the status of a special immigrant and SIV holder if the following conditions are satisfied:
 - i. The individual is a national of Iraq or Afghanistan.
 - ii. The individual worked directly with United States (U.S.) Armed Forces as a translator for at least 12 months.
 - iii. The individual received a favorable written recommendation from a general or flag officer in the chain of command of the U.S. Armed Forces Unit supported by the foreign national.
 - iv. Prior to filing a petition for the SIV status, the foreign national, as specified, must clear a background check and screening by the U.S. Armed Forces Unit that was supported by the foreign national.
 - b. Authorizes the Secretary of Homeland to grant SIV status to the spouse or child of the principal SIV holder.
 - c. Restricts the number of foreign nationals who may be provided SIV status to 50 each fiscal year.
2. For purposes of the Immigration and Nationality Act, Section 1244 of the NDAA for Fiscal Year 2008 (Public Law 110-181):
 - a. Authorizes the Secretary of Homeland Security, or Secretary of State in consultation with the Secretary of Homeland Security, to provide a foreign national or citizen of Iraq, as specified, with a SIV status if:
 - i. The foreign national, or his or her agent, submits a petition for the classification as specified.
 - ii. Is eligible to receive and immigrant visa.
 - iii. Is admissible to the United States for permanent residence.
 - iv. Cleared a background check and screening, as specified.
 - b. Specifies that the petitioner, as specified, must have been employed by, or on behalf of the United States government in Iraq on or after March 20, 2003, for at least one year; provided faithful and valuable service that is documented in a positive recommendation or evaluation, as specified; and has experienced or is experiencing an ongoing serious threat as a result of his or her employment by the United States government.
 - c. Authorizes such status to a spouse or child of the principal SIV holder under the NDAA of Fiscal Year 2006.



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- d. Restricts the number of Iraqi nationals or citizens who may be provided SIV status to 5,000 per fiscal year, up to 5 fiscal years after enactment of the NDAA for Fiscal Year 2008.

This Bill

1. Authorizes any person who holds a Special Immigrant Visa (SIV), as specified, to be ranked in the top of the resulting eligibility list for state employment, if he or she achieves a passing score on the state civil service entrance exam.
2. Defines "SIV holder" to mean any person who assisted the United States military and was issued an SIV pursuant to Section 1059 of the National Defense Authorization Act (NDAA) of Fiscal Year 2006 (Public Law 109-163), and Section 1244 of the NDAA of Fiscal Year 2008 (Public Law 110-181).
3. Specifies that, for purposes of this article, an entrance examination is any open competitive exam for state civil service.
4. Specifies that no SIV preference is to be awarded to permanent civil service employees.
5. Provides that an SIV holder who successfully passes any state civil service examination, has his or name placed on an employment list and who, within 12 months after the establishment of the employment list for which the examination was given, qualified for SIV preference as specified, must be allotted the appropriate SIV credit as though he or she were entitled to that credit at the time of the establishment of the employment list.
6. Provides that requests for, and proof of eligibility for SIV holder preference must be submitted by the SIV holder to the department or to the designated appointing authority conducting the employment examination, and that the procedures and time of filing the request must be subject to rules promulgated by the department.

Purpose/Background

According to the author, "California is home to one of the largest refugee and SIV populations in the nation. During the conflicts in Afghanistan and Iraq, many SIVs served as translators or advisors to the US military – often putting their lives and the lives of their family in danger. This measure recognizes their sacrifices by providing a civil service eligibility preference, similar to what is available to those who served in the armed forces.

1) SIV Programs: Issuance of SIVs and Current Status of the Programs



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Under the NDAA of 2006, only 50 of such visas may be granted by the federal government each fiscal year to nationals of Iraq or Afghanistan. Under the NDAA of 2008, up to 5,000 may be granted each fiscal year (up to 5 fiscal years) to foreign nationals of Iraq.

According to the U.S. State Department, "Iraqi and Afghan SIV programs remain active," and "...will continue until all visa numbers allocated under the Act are used." The state department also intimates that there are a limited number of SIVs remaining, and that the department is in the final stages of the visa process to exhaust all remaining visa numbers.

2) Congressional Research Service Report: Iraqi and Afghan Special Immigrant Visa Programs – National Figures

In February 2006, the Congressional Research Service (CRS) issued a report that states that there are three SIV programs for Iraqi and Afghan nationals. One is a permanent program for certain Iraqis and Afghans who have worked directly with U.S. Armed Forces, or under Chief of Mission authority, for at least one year as translators or interpreters. The other two programs for Iraqi and Afghans are temporary.

Though the NDAA of 2008 expired, it was subsequently revived, and current statutory authority provides for the issuance of no more than 2,500 visas to principal applicants after January 1, 2014. The report further states that, "[t]hrough the end of Fiscal Year 2015, more than 37,000 individuals were granted special immigrant status under the three SIV programs for Iraqi and Afghan nationals." The following tables show the number of SIVs issued nationally, according to the report.

Special Immigrant Visas for Iraqi and Afghan Translators and Interpreters

Fiscal Year	Principals	Dependents	Total
2007	539	466	1,003
2008	559	557	1,116
2009	51	69	120
2010	43	84	127
2011	42	85	127
2012	64	91	155
2013	32	80	112
2014	45	131	176
2015	44	146	190
Totals	1,417	1,709	3,126

Note: The data above includes individuals classified as special immigrants who adjusted to legal permanent resident status in the U.S.



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Special Immigrant Visas for Iraqis and Afghans Who Worked for the U.S. Government

Fiscal Year	Principals	Dependents	Total
2008	371	334	705
2009	1,680	1,736	3,416
2010	947	1,103	2,050
2011	320	392	712
2012	1,724	2,320	4,044
2013	1,992	3,116	5,108
2014	3,876	6,805	10,681
2015	2,636	5,299	7,935
Totals	13,546	21,105	34,651

Note: The data above includes individuals with approved petitions under the translator/interpreter program who were converted under Public Law 110-242 (2008); and also includes individuals classified as special immigrants who adjusted to legal permanent resident status in the U.S.

3) Number of SIV Holders in California

According to data maintained by the California Department of Social Services, San Diego, Sacramento, and Los Angeles counties are the largest among 21 counties that have refugees resettling in California, and nationwide. During federal fiscal year 2016, the population of San Diego County included 3,620 refugees; Sacramento County included 3,261, and Los Angeles County included 2,456.

According to the U.S. state department, an Iraqi or Afghan refugee already in the United States is not eligible to adjust from refugee to SIV status, since “an employment-based immigrant must be in valid nonimmigrant status to apply for adjustment. Instead, a refugee may adjust to lawful permanent resident status after acquiring one year of physical presence in the U.S. following his or her refugee admission.”

It is important to note that the data available to, and reviewed by the committee specifically references “refugees,” in general, and does not delineate SIV holders granted such status under the federal SIV programs. In addition, the data does not extract the number of those who were granted principal SIV status, nor those whom are the spouse or children of the principal SIV holder. Therefore, the number of SIV holders who would be directly affected by the measure, and, more specifically, those who potentially could be eligible to take the state civil service entrance examination and benefit from the provisions of this measure, are presently unknown to the committee.

4) Possible Restrictions and Limitations of this Measure

The measure references specific federal laws relevant to SIV holders and applicability to the state civil service entrance examination. However, by limiting applicability to individuals holding a SIV pursuant to the referenced federal laws, civil service



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preference will not apply to those who are granted this status in the future under new federal laws regarding the SIV program.

The committee acknowledges that this issue can be addressed with additional drafting. Or, if enacted, the Government Code could be amended to adjust for changes in federal law at that time.

In addition, the SIV programs potentially could be eliminated due to changes in national security, foreign and immigration policies at the federal level. Moreover, present SIV holders might be subject to changes in their status due to recent and future actions at the federal level related to these policies.

5) Constitutional Concerns, Proposition 209, Fairness in Competition for State Employment, Equal Opportunity, and Legislative Proliferation and Down-Stream Effects

The intent and goals of the author are laudable, and there is little doubt that individuals who assisted U.S. Armed Forces as translators or interpreters in Iraq and Afghanistan possess a special skill set, demonstrated bravery, shared in sacrifice, and placed their lives and the lives of their families in peril. However, committee staff have several concerns based on possible and significant legal implications, *infra*.

a) Constitutional Concerns

As stated *supra*, the California Constitution provides that in the civil service, permanent appointment and promotion be made under a general system based on merit ascertained by competitive examination.

In addition, Section 6 of Article VII of the California Constitution provides that the Legislature may provide preferences for veterans and their surviving spouses. Moreover, by special rule, the State Personnel Board (SPB) may permit persons in exempt positions who are brought into civil service by constitutional provision, to qualify to continue in their positions.

Since preference to veterans and their surviving spouses is specifically provided for in the state Constitution, and the SPB is granted certain authority thereunder, Assembly Bill 349 may be viewed as an attempt to circumvent the process to amend the state's Constitution to include another class of individuals for preference related to civil service employment by the state.

b) Proposition 209

Passed by voters in 1996, this ballot measure amended the California Constitution to prohibit state government from considering race, sex or ethnicity in the areas of public employment, contracting and education.

Assembly Bill 349 does not specifically provide for preference based on ethnicity or national origin. However, the potential exists for a legal challenge and



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arguments that a nexus exists, direct or indirect, to state employment based on national origin or ethnicity due to the measure's provisions related to federal law, applicability and granting of preference for the targeted individuals who are SIV holders from specific countries based on federal law, and the proximate relationship between federal law, nationality, and application or the applicability of a benefit, for purposes of state employment.

In practical effect, the measure could be considered or viewed as an attempt to establish an affirmative action program, which is prohibited.

c) Fairness in Competition and Equal Opportunity

Creating another special class of individuals who are afforded a benefit for employment opportunity, of which others are not, might result in inquiries or litigation as to whether the state's civil service entrance examination is indeed competitively fair; meets the standard of a merit-based system pursuant to the California Constitution; and, a venue of equal opportunity among all individuals seeking employment by the state.

d) Legislative Proliferation and Down-Stream Effects

Should the measure ultimately be signed into law, the possibility exists that other legislative proposals will be introduced to grant preference to other classes of individuals for state civil service. This might result in questions as to whether the intent and "spirit" of the state's merit-based employment system, pursuant to the California Constitution, remains.

Further, because of the number and types of classes of individuals who potentially could benefit from preference for state civil service employment is unlimited, the proliferation of such measures potentially create significant state governmental and administrative burdens related to management of the possible exponential preferences that may be granted. Finally, it is likely that all state departments, agencies and boards would have to revise employment eligibility lists and require information from candidates that can be certified, to grant preference.

Related Legislation

2007: AB 671 (Beall), prior to substantive amendments that gutted and amended the bill, would have provided foster and former foster youth preference points for civil service employment. This bill was held by the Senate Appropriations Committee.

Fiscal Impact:

Unknown. This bill has been flagged as fiscal by the Legislative Counsel.



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Support and Opposition

Comments by Supporters:

According to the International Rescue Committee, Open Doors, Inc., and World Relief, “[e]conomic self-sufficiency is the hallmark of success for refugees in the U.S. Resettlement program. With limited federal financial support, refugees often take on multiple low-wage jobs at once in order to support themselves and their families. In recent years, the State of California has welcomed over 6,000 refugees through the SIV program. Beneficiaries of this program have a strong command of the English language and were highly trained in their home countries, both distinct advantages. Despite these skills, SIV recipients often face challenges accessing employment commensurate with their training.”

These supporters also state that, “Assembly Bill 349 acknowledges the training these men and women received in their service to the United States – often placing their own lives and the lives of their families at risk – and helps them achieve the goals of obtaining jobs that will enable [them] to provide for their families and contribute to their community as they rebuild their lives here in the State of California.”

Support:

- California Immigrant Policy Center
- International Rescue Committee
- Nile Sisters Development Initiative
- Opening Doors, Inc.
- World Relief, Sacramento Field Office

Opposition:

Comments by Opponents:

The Service Employees International Union, Local 1000 (SEIU Local 1000) states that it “...supports the concept of supporting immigrants that have assisted the United States military in times of war or conflict,” but that ranking these individuals in the top rank on an entrance exam “goes too far” as “this is a benefit for our veterans.”

In addition, SEIU Local 1000 states that prior similar efforts “... dilute the merit system to stray away from merit by conferring preferential hiring status to additional groups.”

Finally, SEIU Local 100 suggests that “the author and Legislature consider alternatives such as setting up programs to assist these individuals through the process of applying for a state job or helping them develop skills that could help them find employment.”

Opposition:

- Service Employees International Union, Local 1000

Comments

None.

Action Required

None.

AMENDED IN ASSEMBLY APRIL 19, 2017

AMENDED IN ASSEMBLY MARCH 22, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 349

**Introduced by Assembly Members McCarty, Gonzalez Fletcher,
and Nazarian**

February 8, 2017

An act to ~~amend Section 18973 of~~ *add Article 4.5 (commencing with Section 18980) to Chapter 4 of Part 2 of Division 5 of Title 2 to the Government Code*, relating to civil service.

LEGISLATIVE COUNSEL'S DIGEST

AB 349, as amended, McCarty. Civil service: ~~veterans' preferences:~~ *preference: special immigrant visas: visa holder.*

~~Existing law defines the term "veteran" for purposes of provisions of the State Civil Service Act that require that, whenever any veteran, widow or widower of a veteran, or spouse of a 100% disabled veteran achieves a passing score on an entrance examination, he or she be ranked in the top rank of the resulting civil service eligibility list, unless the veteran was dishonorably discharged or released, as any person who has served full time in the Armed Forces in time of national emergency or state military emergency or during any expedition of the Armed Forces and who has been discharged or released under conditions other than dishonorable. list.~~

~~This bill would expand the definition of "veteran" for these purposes to include~~ *authorize any person who assisted the United States military and was issued a specified special immigrant visa: also to be ranked in*

the top of the resulting eligibility list if he or she achieves a passing score on an entrance examination.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Article 4.5 (commencing with Section 18980) is*
2 *added to Chapter 4 of Part 2 of Division 5 of Title 2 of the*
3 *Government Code, to read:*

4
5 *Article 4.5. Special Immigrant Visa Holder's Preference*
6

7 *18980. For purposes of this article, "SIV holder" means any*
8 *person who assisted the United States military and was issued a*
9 *special immigrant visa pursuant to Section 1059 of the National*
10 *Defense Authorization Act for Fiscal Year 2006 (Public Law*
11 *109-163) or Section 1244 of the National Defense Authorization*
12 *Act for Fiscal Year 2008 (Public Law 110-181).*

13 *18981. Whenever a SIV holder achieves a passing score on an*
14 *entrance examination, he or she shall be ranked in the top rank*
15 *of the resulting eligibility list.*

16 *18982. (a) For purposes of this article, an entrance*
17 *examination is any open competitive examination.*

18 *(b) No SIV preference under this article shall be awarded to*
19 *permanent civil service employees.*

20 *18983. A SIV holder who successfully passes any state civil*
21 *service examination and whose name, as a result, is placed on an*
22 *employment list and who within 12 months after the establishment*
23 *of the employment list for which the examination was given*
24 *qualified for SIV preference as provided for in this article shall*
25 *be allowed the appropriate SIV credit to the same effect as though*
26 *he or she were entitled to that credit at the time of the establishment*
27 *of the employment list.*

28 *18984. Request for and proof of eligibility for SIV holder*
29 *preference shall be submitted by the SIV holder to the department*
30 *or to the designated appointing authority conducting the*
31 *employment examination. The procedures and time of filing the*
32 *request shall be subject to rules promulgated by the department.*

1 ~~SECTION 1. Section 18973 of the Government Code is~~
2 ~~amended to read:~~

3 ~~18973. For purposes of this article, the following definitions~~
4 ~~shall apply:~~

5 ~~(a) “Veteran” means any person who has served full time in the~~
6 ~~Armed Forces in time of national emergency or state military~~
7 ~~emergency or during any expedition of the Armed Forces and who~~
8 ~~has been discharged or released under conditions other than~~
9 ~~dishonorable or any person who assisted the United States military~~
10 ~~and was issued a special immigrant visa pursuant to Section 1059~~
11 ~~of the National Defense Authorization Act for Fiscal Year 2006~~
12 ~~(Public Law 109-163) or Section 1244 of the National Defense~~
13 ~~Authorization Act for Fiscal Year 2008 (Public Law 110-181).~~

14 ~~(b) “Disabled veteran” means any veteran as defined in~~
15 ~~subdivision (a) who is currently declared by the United States~~
16 ~~Veterans Administration to be 10 percent or more disabled as a~~
17 ~~result of service in the Armed Forces. Proof of disability shall be~~
18 ~~deemed conclusive if it is of record in the United States Veterans~~
19 ~~Administration.~~

20 ~~(c) “100 percent disabled veteran” means any veteran as defined~~
21 ~~in this section who is currently declared by the United States~~
22 ~~Veterans Administration to be 100 percent disabled as a result of~~
23 ~~his or her service.~~

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Bill Analysis

Bill Number: AB 387
Author: Thurmond
Version: Introduced 02/09/17
Sponsor: SIEU- California
Subject: Minimum Wage:
 Health
 Professionals:
 Interns
Status: Assembly
 Appropriations
 Committee.
 Suspense File.

Adopted Position:

None.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Enrolled	Vetoed	Chaptered	Effective Date	2 yr./ Dead
1 st House				2 nd House								

Red: Current/completed status Gray: Not applicable

Existing Law

State Law

1. Defines an employer for purposes of those provisions related to minimum wage to mean a person who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, hours, or working conditions of another person.
2. Provides that for purposes of those provisions related to the minimum wage, employer includes the state, political subdivisions of the state, and municipalities.
3. Provides for the minimum wage in California to be raised incrementally until January 1, 2023 when it shall reach fifteen dollars (\$15) per hour, unless specified.

Federal Law

1. Defines "allied health professionals" as a health professional (other than a registered nurse or physician assistant),
 - a) who has received a certificate, an associate's degree, a bachelor's degree, a master's degree, a doctoral degree, or post baccalaureate training, in a science relating to health care;
 - b) who shares in the responsibility for the delivery of health care services or related services, including services relating to the identification, evaluation, and prevention of disease and disorders; dietary and nutrition services; health promotion services; rehabilitation services; or health systems management services; and



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- c) who has not received a degree of doctor of medicine, a degree of doctor of osteopathy, a degree of doctor of dentistry or an equivalent degree, a degree of doctor of veterinary medicine or an equivalent degree, a degree of doctor of optometry or an equivalent degree, a degree of doctor of podiatric medicine or an equivalent degree, a degree of bachelor of science in pharmacy or an equivalent degree, a degree of doctor of pharmacy or an equivalent degree, a graduate degree in public health or an equivalent degree, a degree of doctor of chiropractic or an equivalent degree, a graduate degree in health administration or an equivalent degree, a doctoral degree in clinical psychology or an equivalent degree, or a degree in social work or an equivalent degree or a degree in counseling or an equivalent degree.
2. Provides under federal law, for the minimum wage to be set at \$7.25 an hour and states that when state and federal laws differ, one must comply with the more restrictive requirement. (Fair Labor Standards Act of 1938, 29 U.S. Code section 206).

This Bill

1. This bill expands the definition of employer under provisions related to minimum wage, to include any person who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, hours or working conditions of any person, including any person engaged in a period of supervised work experience to satisfy requirements for licensure, registration, or certification as an allied health professional.
2. Specifies that for purposes of this subdivision, allied health professional, uses the federal definition. (42 U.S. Code section 295p).

Purpose/Background

Purpose:

According to the author, AB 387 will ensure that allied health professionals who are currently required to work hundreds of unpaid clinical hours will earn at least the statewide minimum wage, thereby removing barriers to entry for low-income students and working adults.

Allied health professionals

Under current federal law, an allied health professional is an employee who has received a certificate or a bachelor degree, or higher, who shares in the responsibility for the delivery of health care services, such as services relating to the identification, evaluation, and prevention of disease and disorders, dietary and nutrition services,



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health promotion services, rehabilitation service, or health systems management services. This definition excludes register nurses and physicians but includes a wide range of medical employees, such as radiologic technologists to pharmacy technicians.

California trainees

An estimated 50,000 allied health trainees do clinical hours across a variety of California medical facilities. The number of hours required for these students varies by the occupation, ranging from 160 for certain medical assisting training programs to 1,850 for radiologic technology. Under AB 387, these hours will be covered by statewide minimum wage laws.

Allied Health Workplace Shortages.

A 2011 survey and report by the California Hospital Association found a concern about the long-term supply of allied health workers. That report concluded that the “To meet the long-term demands for health care services in the state, policymakers and others must recognize the need to develop a sufficient supply of qualified, culturally competent allied health professionals.” The report identified higher education funding and access to training programs as key barriers to increasing the supply of workers.

Related Legislation

None.

Fiscal Impact:

1. Increased costs for the Department of State Hospitals (DSH) in the range of \$2.5 million to \$4 million (GF) to pay allied health trainees in 2018, with costs rising along with the statewide minimum wage. Costs across individual hospitals will vary based on their respective staffing arrangements. For instance, under this bill, Patton State Hospital will see increased wage costs of approximately \$600,000 for the clinical hours of psychiatric technician and licensed vocational nurse trainees that rotate through the hospital each year.
2. Unknown but likely significant General Fund (GF) costs to reimburse skilled nursing facilities (SNFs) for increased costs of paying certified nurse assistant trainees and licensed vocational nurse trainees. Medi-Cal reimbursement for SNFs is partially based on direct care labor costs. These reimbursement costs will increase along with the statewide minimum wage.
3. Assorted state cost pressures as a result of the new statewide minimum wage requirements. For example, wages will increase by an estimated \$200,000 across the athletic departments in the California State University (CSU), University of California (UC), and Community College (CCC) systems because of wages paid to 40 students participating in the California State University Athletic Training Program. Moreover, wages will increase by a range of \$1.0 to \$2.5



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million for the University of California medical centers. Like state hospitals, costs depend on each medical center's staffing arrangements and the individual programs for each medical center.

4. Administrative costs of approximately \$75,000 for the Department of Industrial Relations (DIR) implement this bill and respond to a potential increase in wage claims.
5. Indirect cost pressure to the state as a large payer of health care. Statewide, this bill is estimated to result in an increase in the aggregate wages earned by allied health trainees in the range of \$250 million to \$300 million in 2018. Given a significant share of state's population is enrolled in Medi-Cal, this magnitude of health system labor costs could result in an indirect, unknown but potentially significant ongoing cost pressure on the state Medi-Cal program, largely in the form of higher Medi-Cal managed care rates, which could rise along with the statewide minimum wage (GF/federal). A similar indirect effect on the state's employee health care costs through California Public Employees Retirement System (CalPERS) is possible (various funds).

Support and Opposition

Arguments in Support:

The California Employment Lawyers Association argues in support, "AB 387 helps to address a problematic practice in an industry that is predominately female, that contributes to the gender wage gap and limits job opportunities. Every year, more than 50,000 Californians train to become allied health professionals. Clinical hours required as a part of that training can vary from as few as 160 hours for medical assistants to as many as 1,850 hours for a radiologic technologist – nearly a working year. The clinical hour requirement is in addition to in-classroom course work requirements, meaning that some students are in school 30 to 50 hours a week in addition to their clinical hours and the time they spend studying. In fact, most community college programs recommend that students not work because of the programs' heavy time demands.

Requiring students to contribute substantial hours of unpaid work imposes an unrealistic burden on individuals with families to support. This explains some of the racial and ethnic achievement gaps in healthcare career technical education programs. But this is not just a matter of disparities in economic opportunity for workers. The disparities in success rates in healthcare training programs result in a less culturally competent workforce as well. For example only 25% of the healthcare workforce is Latino, even though Latinos are 40% of California's population.

That is a healthcare quality problem. A number of studies have pointed to cultural competency as a key factor in better health outcomes.

Students in allied healthcare programs, which are traditionally and predominantly female, are not paid. In contrast, individuals in traditionally male occupations, even



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those in training, are paid for their labor. In healthcare, once students show competency, they are able to carry out the day-to-day functions of medical care with indirect supervision. The healthcare industry receives a direct economic benefit from that labor without paying for it. It is estimated that California allied health professionals contribute up to 25 million unpaid clinical hours each year. Workers with families shouldn't have to contribute a quarter of a billion dollars a year to an already-profitable industry. AB 387 will require healthcare providers to compensate allied health professionals fairly, paying them at least the minimum wage. That pay will enable more individuals from underrepresented communities to complete the required clinical training for allied health professions, thereby increasing the overall numbers and diversity of the students in the pipeline. Moreover, this bill will provide fair compensation for training in an industry that is predominately female, thus helping to reduce the gender wage gap."

The California Pan-Ethnic Health Network writes in support, "California has more than 600,000 allied healthcare professionals with employment expected to grow to one million by 2030. More than half of those occupations require a license or certification. These jobs typically offer good wages and benefits providing a path to the middle class, but entry can be difficult as students are required to contribute significant hours of unpaid work to achieve their degrees. Requiring students to contribute significant hours of unpaid work is an unrealistic burden for individuals with families to support. This explains some of the racial and ethnic achievement gaps in Healthcare Career Technical Education Programs. The disparities in success for healthcare training programs result in a less culturally competent workforce with only 25% of the healthcare workforce being Latino, compared to 40% of California's population. To build a healthcare workforce that reflects the diversity of California and meet the state's cultural and linguistic needs, we must empower allied healthcare professionals of all socio-economic and cultural backgrounds to complete their training and ensure that they compensated for their work."

Support:

- California Employment Lawyers Association
- California Labor Federation, AFL-CIO
- California Pan-Ethnic Health Network
- Community Coalition
- Laborers International Union of North America, LIUNA Locals 777 & 792
- Los Angeles Alliance for a New Economy
- Numerous Individuals
- SEIU- California (sponsor)
- United Food and Commercial Workers Western States Council
- Western Center on Law and Poverty
- Working Partnerships USA



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Arguments in Opposition:

A coalition of hospitals and healthcare facilities, including the California Hospital Association writes in opposition, "Many allied health professions require students to participate in clinical or experiential training at a hospital to obtain a degree and/or be qualified for the licensure or certification examination. These occupations include radiologic technologists, clinical laboratory scientists, respiratory therapists, physical therapists, occupational therapists and speech therapists, among others... CHA estimates that hospitals statewide train more than 40,000 allied health students each year.

CHA opposes AB 387 because it would result in a significant decrease in the capacity to train the allied health workforce needed to provide care for California's patients now and in the future. We estimate that the cost of this proposed requirement to be hundreds of millions of dollars annually. Therefore, if passed, AB 387 would cause many clinical training slots for these critical professionals to be eliminated, which, in turn, would put allied health educational programs at risk of closure. The programs, many of which are offered by California's Community Colleges, would not be able to offer program enrollment without enough clinical training placements for students at hospitals. The effects of this significant decrease in capacity within the current training system would exacerbate existing allied health care workforce shortages; put the development of a strong pipeline of future health care givers in jeopardy which in turn would have a detrimental effect on access to care.

Sponsors of this bill [cite] the need to remove barriers for low-income students who want to go into allied health professions and they assert that these low-income students do not currently aspire to these professions because of clinical hour requirements.... Currently within the California Community Colleges 49.3% of students pay little or no tuition because they are eligible for Board of Governor fee waivers, making it possible for students of all income levels to enroll in allied health professions programs provided there is sufficient enrollment space. Unfortunately, many programs have waiting lists for high demand programs in areas such as radiological technology, sonography, medical laboratory technology, and others. If AB 387 passes, these waiting lists will grow longer as capacity will decrease with the constriction of corresponding clinical slots. Furthermore, to refute the claim that low-income students are crowded out of these professions, it should be noted that students facing challenges with paying for school and training are often eligible for financial aid and grants that do not have to be paid back through state and federal programs, such as Cal-Grant B. In addition, when students complete their training and become licensed in these occupations, they often become employees of their training program sponsor (the hospital), many of which offer loan forgiveness and tuition reimbursement.

Further, AB 387 will have a negative impact on the educational market place. If California Community College health professions programs... are limited in capacity by



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the number of clinical placements they can secure, students will have limited choices in California for education and training. Recognizing that neither hospitals, nor colleges, will have the resources to support the minimum wage requirements for clinical hours at today's capacity, this will open the market up to out-of-state and proprietary schools. This would be a tremendous disservice to California students seeking access to an affordable public education from an accredited, local source, such as their local community college. AB 387 has the potential to drive students out of state for education and training, which presents the risk that they will not return after licensure, thus depriving California of valuable health care workers. This emerging market could leave students saddled with debt that is unnecessary under the current system.

Students are not employees. They are engaged in classroom and clinical activities to become qualified for licensure, certification and employment. AB 387 will increase health care costs without any improvements in quality, value or diversity of the workforce. Further, AB 387 will have the adverse consequence of reducing students' opportunities to benefit from hospital-provided training and clinical experience, thus exacerbating workforce shortages."

Opposition:

- Adventists Health
- Alliance of Catholic Health Care
- Association of California Healthcare Districts
- Bakersfield College
- Banner Lassen Medical Center
- Bear Valley Community Healthcare District
- CA State University Northridge, Department of Health Services
- California Ambulance Association
- California Association for Medical Laboratory Technology
- California Children's Hospital Association
- California Hospital Association
- California Medical Association
- California Radiological Society
- California Society for Respiratory Care
- California Society of Pathologists
- California Society of Radiologic Technologists
- California Speech-Language and Hearing Association
- California State University, Office of the Chancellor
- Cedars-Sinai Medical Center
- City College of San Francisco Radiologic Sciences Department
- City of Hope National Medical Center School of Radiation Therapy
- Clinical Laboratory Science Department at CSU Dominguez Hills
- Coalinga Regional Medical Center Diagnostic Medical Sonography
- College of Marin



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- Community Medical Centers
- Deanza College Medical Laboratory Technician Program
- Delano Regional Medical Center
- Dignity Health
- District Hospital Leadership Forum
- Eastern Plumas Health Care
- El Camino Hospital Imaging Services Department
- Enloe Medical Center
- Folsom Lake College Medical Laboratory Technician Program
- Foothill College, Radiologic and Clinical Technology Programs
- Fresno City College
- Glenn Medical Center
- Good Samaritan Hospital
- Henry Mayo Newhall Hospital
- John C Fremont Healthcare District
- John Muir Health
- Joint Review Committee on Education in Radiologic Technology
- Kern Radiology Medical Group
- Loma Linda University Health and Department of Occupational Therapy
- Los Angeles City College
- Marshall Medical Center
- Medical Career College of Northern California
- Merced College
- Methodists Hospital of Southern California
- Modern Technology School
- NorthBay Healthcare
- Numerous Individuals
- Occupational Therapy Association of California
- Ohlone Community College District
- Palomar Medical Center, Poway and Escondido
- Plumas District Hospital
- Providence Health & Services Southern California
- Regional Medical Center of San Jose
- Rio Hondo College
- Saint Agnes Medical Center
- San Gregorio Memorial Hospital
- San Jose State Clinical Laboratory Scientist Department
- Seneca Healthcare District
- Sharp Chula Vista medical Center Laboratory
- Sharp HealthCare
- Shasta Regional Medical Center
- Sierra View Medical Center
- Society for Nuclear Medicine and Molecular Imaging-Technologists Section



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- Society for Vascular Ultrasound
- Society of Diagnostic Medical Sonography
- Sonographers of the Echocardiography Department, University of San Diego
- Sonoma Valley Hospital
- Southern California Society of Radiation Therapists, National University
- Southern Humboldt Community Healthcare District
- Southwest California Legislative Council
- St. Mary Medical Center, Long Beach
- Stanford Health Care
- Stanford Health Care-ValleyCare
- Tenet Healthcare
- UCSF Medical Center
- Ukiah Valley Medical Center
- United Hospital Association
- Vibra Hospital of Sacramento
- Volunteer Service Department of Glendale Memorial Hospital and Health Center
- Watsonville Community Hospital
- Yuba Community College District

Comments

None.

Action Required

None.

ASSEMBLY BILL

No. 387

Introduced by Assembly Member Thurmond

February 9, 2017

An act to amend Section 1182.12 of the Labor Code, relating to wages.

LEGISLATIVE COUNSEL'S DIGEST

AB 387, as introduced, Thurmond. Minimum wage: health professionals: interns.

Existing law requires the minimum wage for all industries to not be less than specified amounts to be increased from January 1, 2017, to January 1, 2022, inclusive, for employers employing 26 or more employees and from January 1, 2018, to January 1, 2023, inclusive, for employers employing 25 or fewer employees, except when the scheduled increases are temporarily suspended by the Governor, based on certain determinations. Existing law defines an employer for purposes of those provisions to mean a person who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, hours, or working conditions of another person. Payment of less than the established minimum wage is a misdemeanor.

This bill would expand the definition of “employer” for purposes of these provisions to include a person who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, hours, or working conditions of a person engaged in a period of supervised work experience to satisfy requirements for licensure, registration, or certification as an allied health professional, as defined.

Because this bill would expand the definition of a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1182.12 of the Labor Code is amended
2 to read:

3 1182.12. (a) Notwithstanding any other provision of this part,
4 on and after July 1, 2014, the minimum wage for all industries
5 shall be not less than nine dollars (\$9) per hour, and on and after
6 January 1, 2016, the minimum wage for all industries shall be not
7 less than ten dollars (\$10) per hour.

8 (b) Notwithstanding subdivision (a), the minimum wage for all
9 industries shall not be less than the amounts set forth in this
10 subdivision, except when the scheduled increases in paragraphs
11 (1) and (2) are temporarily suspended under subdivision (d).

12 (1) For any employer who employs 26 or more employees, the
13 minimum wage shall be as follows:

14 (A) From January 1, 2017, to December 31, 2017,
15 inclusive,—ten dollars and fifty cents (\$10.50) per hour.

16 (B) From January 1, 2018, to December 31, 2018,
17 inclusive,—eleven dollars (\$11) per hour.

18 (C) From January 1, 2019, to December 31, 2019,
19 inclusive,—twelve dollars (\$12) per hour.

20 (D) From January 1, 2020, to December 31, 2020,
21 inclusive,—thirteen dollars (\$13) per hour.

22 (E) From January 1, 2021, to December 31, 2021,
23 inclusive,—fourteen dollars (\$14) per hour.

24 (F) From January 1, 2022, and until adjusted by subdivision
25 (c)—fifteen dollars (\$15) per hour.

26 (2) For any employer who employs 25 or fewer employees, the
27 minimum wage shall be as follows:

28 (A) From January 1, 2018, to December 31, 2018,
29 inclusive,—ten dollars and fifty cents (\$10.50) per hour.

(B) From January 1, 2019, to December 31, 2019, inclusive,—eleven dollars (\$11) per hour.

(C) From January 1, 2020, to December 31, 2020, inclusive,—twelve dollars (\$12) per hour.

(D) From January 1, 2021, to December 31, 2021, inclusive,—thirteen dollars (\$13) per hour.

(E) From January 1, 2022, to December 31, 2022, inclusive,—fourteen dollars (\$14) per hour.

(F) From January 1, 2023, and until adjusted by subdivision (c)—fifteen dollars (\$15) per hour.

(3) For purposes of this subdivision, “employer” means any person who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, hours, or working conditions of any ~~person~~ *person, including any person engaged in a period of supervised work experience to satisfy requirements for licensure, registration, or certification as an allied health professional*. For purposes of this subdivision, “employer” includes the state, political subdivisions of the state, and municipalities.

(4) *For purposes of this subdivision, “allied health professional” has the same meaning as in Section 295p of Part F of Subchapter V of Chapter 6A of Title 42 of the United States Code.*

~~(4)~~
(5) Employees who are treated as employed by a single qualified taxpayer under subdivision (h) of Section 23626 of the Revenue and Taxation Code, as it read on the effective date of this section, shall be considered employees of that taxpayer for purposes of this subdivision.

(c) (1) Following the implementation of the minimum wage increase specified in subparagraph (F) of paragraph (2) of subdivision (b), on or before August 1 of that year, and on or before each August 1 thereafter, the Director of Finance shall calculate an adjusted minimum wage. The calculation shall increase the minimum wage by the lesser of 3.5 percent and the rate of change in the averages of the most recent July 1 to June 30, inclusive, period over the preceding July 1 to June 30, inclusive, period for the United States Bureau of Labor Statistics nonseasonally adjusted United States Consumer Price Index for Urban Wage Earners and Clerical Workers (U.S. CPI-W). The result shall be rounded to the nearest ten cents (\$0.10). Each adjusted minimum wage increase

1 calculated under this subdivision shall take effect on the following
2 January 1.

3 (2) If the rate of change in the averages of the most recent July
4 1 to June 30, inclusive, period over the preceding July 1 to June
5 30, inclusive, period for the United States Bureau of Labor
6 Statistics nonseasonally adjusted U.S. CPI-W is negative, there
7 shall be no increase or decrease in the minimum wage pursuant to
8 this subdivision on the following January 1.

9 (3) (A) Notwithstanding the implementation timing described
10 in paragraph (1) of this subdivision, if the rate of change in the
11 averages of the most recent July 1 to June 30, inclusive, period
12 over the preceding July 1 to June 30, inclusive, period for the
13 United States Bureau of Labor Statistics nonseasonally adjusted
14 U.S. CPI-W exceeds 7 percent in the first year that the minimum
15 wage specified in subparagraph (F) of paragraph (1) of subdivision
16 (b) is implemented, the indexing provisions described in paragraph
17 (1) of this subdivision shall be implemented immediately, such
18 that the indexing will be effective on the following January 1.

19 (B) If the rate of change in the averages of the most recent July
20 1 to June 30, inclusive, period over the preceding July 1 to June
21 30, inclusive, period for the United States Bureau of Labor
22 Statistics nonseasonally adjusted U.S. CPI-W exceeds 7 percent
23 in the first year that the minimum wage specified in subparagraph
24 (F) of paragraph (1) of subdivision (b) is implemented,
25 notwithstanding any other law, for employers with 25 or fewer
26 employees the minimum wage shall be set equal to the minimum
27 wage for employers with 26 or more employees, effective on the
28 following January 1, and the minimum wage increase specified in
29 subparagraph (F) of paragraph (2) of subdivision (b) shall be
30 considered to have been implemented for purposes of this
31 subdivision.

32 (d) (1) On or before July 28, 2017, and on or before every July
33 28 thereafter until the minimum wage is fifteen dollars (\$15) per
34 hour pursuant to paragraph (1) of subdivision (b), to ensure that
35 economic conditions can support a minimum wage increase, the
36 Director of Finance shall annually make a determination and certify
37 to the Governor and the Legislature whether each of the following
38 conditions is met:

39 (A) Total nonfarm employment for California, seasonally
40 adjusted, decreased over the three-month period from April to

June, inclusive, prior to the July 28 determination. This calculation shall compare seasonally adjusted total nonfarm employment in June to seasonally adjusted total nonfarm employment in March, as reported by the Employment Development Department.

(B) Total nonfarm employment for California, seasonally adjusted, decreased over the six-month period from January to June, inclusive, prior to the July 28 determination. This calculation shall compare seasonally adjusted total nonfarm employment in June to seasonally adjusted total nonfarm employment in December, as reported by the Employment Development Department.

(C) Retail sales and use tax cash receipts from a 3.9375-percent tax rate for the July 1 to June 30, inclusive, period ending one month prior to the July 28 determination is less than retail sales and use tax cash receipts from a 3.9375-percent tax rate for the July 1 to June 30, inclusive, period ending 13 months prior to the July 28 determination. The calculation for the condition specified in this subparagraph shall be made as follows:

(i) The State Board of Equalization shall publish by the 10th of each month on its Internet Web site the total retail sales (sales before adjustments) for the prior month derived from their daily retail sales and use tax reports.

(ii) The State Board of Equalization shall publish by the 10th of each month on its Internet Web site the monthly factor required to convert the prior month's retail sales and use tax total from all tax rates to a retail sales and use tax total from a 3.9375-percent tax rate.

(iii) The Department of Finance shall multiply the monthly total from clause (i) by the monthly factor from clause (ii) for each month.

(iv) The Department of Finance shall sum the monthly totals calculated in clause (iii) to calculate the 12-month July 1 to June 30, inclusive, totals needed for the comparison in this subparagraph.

(2) (A) On or before July 28, 2017, and on or before every July 28 thereafter until the minimum wage is fifteen dollars (\$15) per hour pursuant to paragraph (1) of subdivision (b), to ensure that the state General Fund fiscal condition can support the next scheduled minimum wage increase, the Director of Finance shall annually make a determination and certify to the Governor and the Legislature whether the state General Fund would be in a deficit

1 in the current fiscal year, or in either of the following two fiscal
2 years.

3 (B) For purposes of this subdivision, deficit is defined as a
4 negative balance in the Special Fund for Economic Uncertainties,
5 as provided for in Section 16418 of the Government Code, that
6 exceeds, in absolute value, 1 percent of total state General Fund
7 revenue and transfers, based on the most recent Department of
8 Finance estimates required by Section 12.5 of Article IV of the
9 California Constitution. For purposes of this subdivision, the
10 estimates shall include the assumption that only the minimum
11 wage increases scheduled for the following calendar year pursuant
12 to subdivision (b) will be implemented.

13 (3) (A) (i) If, for any year, the condition in either subparagraph
14 (A) or (B) of paragraph (1) is met, and if the condition in
15 subparagraph (C) of paragraph (1) is met, the Governor may, on
16 or before August 1 of that year, notify the Legislature of an initial
17 determination to temporarily suspend the minimum wage increases
18 scheduled pursuant to subdivision (b) for the following year.

19 (ii) If the Director of Finance certifies under paragraph (2) that
20 the state General Fund would be in a deficit in the current fiscal
21 year, or in either of the following two fiscal years, the Governor
22 may, on or before August 1 of that fiscal year, notify the
23 Legislature of an initial determination to temporarily suspend the
24 minimum wage increases scheduled pursuant to subdivision (b)
25 for the following year.

26 (B) If the Governor provides notice to the Legislature pursuant
27 to subparagraph (A), the Governor shall, on September 1 of any
28 such year, make a final determination whether to temporarily
29 suspend the minimum wage increases scheduled pursuant to
30 subdivision (b) for the following year. The determination to
31 temporarily suspend the minimum wage increases scheduled
32 pursuant to subdivision (b) for the following year shall be made
33 by proclamation.

34 (C) The Governor may temporarily suspend scheduled minimum
35 wage increases pursuant to clause (ii) of subparagraph (A) no more
36 than two times.

37 (D) If the Governor makes a final determination to temporarily
38 suspend the scheduled minimum wage increases pursuant to
39 subdivision (b) for the following year, all dates specified in

1 subdivision (b) that are subsequent to the September 1 final
2 determination date shall be postponed by an additional year.

3 SEC. 2. No reimbursement is required by this act pursuant to
4 Section 6 of Article XIII B of the California Constitution because
5 the only costs that may be incurred by a local agency or school
6 district will be incurred because this act creates a new crime or
7 infraction, eliminates a crime or infraction, or changes the penalty
8 for a crime or infraction, within the meaning of Section 17556 of
9 the Government Code, or changes the definition of a crime within
10 the meaning of Section 6 of Article XIII B of the California
11 Constitution.

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Bill Analysis

Bill Number: AB 505
Author: Caballero
Version: Amended 03/27/17
Sponsor: California Medical Association

Subject: Physicians and Surgeons: Probation
Status: Assembly Appropriations Committee. Suspense File.

Adopted Position:
 None.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Enrolled	Vetoed	Chaptered	Effective Date	2 yr./ Dead
1 st House				2 nd House								

Red: Current/completed status Gray: Not applicable

Existing Law

- Under existing law, a physician and surgeon whose matter has been heard by an administrative law judge, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the Medical Board of California (MBC), is authorized to be subject to, among other things, license revocation, suspension, or probation as specified.
- Existing law authorizes the board to discipline a licensee by placing him or her on probation subject to specified conditions.

This Bill

- Specifies that the MBC may not enter into any stipulation for disciplinary action, if the stipulation places a licensee on probation, and the operative accusation includes any of the following:
 - Felony conviction involving harm to patient safety or health;
 - Drug or alcohol abuse directly resulting in harm to patient safety or health;
 - or
 - Sexual act or sexual exploitation.



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Purpose/Background

Purpose:

This bill, sponsored by the California Medical Association, will effectively prohibit probation from being offered as a means to settle the enumerated accusations unless an investigation has been completed and reviewed by a judge.

Background:

MBC Enforcement Data.

According to information obtained from the MBC, in fiscal year 2015-2016, the Enforcement Program received 8,679 complaints against physicians and surgeons and unlicensed individuals alleged to be practicing medicine without a license. This was an increase of 412 complaints from the prior fiscal year. Since fiscal year 2012-2013, the MBC has seen a significant increase in complaints received. These complaints include allegations including excessive prescribing, gross negligence/incompetence, licensee self-abuse of drugs or alcohol, convictions of a crime and general unprofessional conduct.

Stipulated Settlements.

According to information obtained from the Department of Consumer Affairs (DCA), stipulations are legal documents that typically contain admissions by the licensee to one or more violations of law and set forth a proposal for appropriate discipline. Appropriate discipline is based on the MBC's disciplinary guidelines which outline both minimum and maximum penalties for every violation of the Medical Practice Act.

Discipline comes in many forms and, depending on the admission(s) of misconduct, may include probation with terms and conditions, suspension, surrender of license, or even revocation. Minor violations are settled less stringently by way of reprimands, educational coursework or conferences, or perhaps an oral examination. Stipulations are negotiated between the licensee or his/her attorney and the MBC's legal representative from the Office of the Attorney General. Once a stipulation is agreed upon and signed by the licensee and the MBC's legal representative, the document is voted upon by the MBC. The MBC votes to either adopt the stipulation, reject it, or offer a counterproposal. If the licensee does not agree with the counterproposal, s/he has the right to request a formal hearing before an Administrative Law Judge.

Licensees who choose stipulated agreements over formal hearings waive their rights to further due process procedures and appeals and are legally bound by the terms of the penalty order, but in so doing, save time and money and often end up with the same penalty order that would result after a full administrative hearing. This bill would prohibit the option to enter into a stipulated settlement if the stipulation places a licensee on probation if the accusation includes felony conviction resulting in harm to patient safety;



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drug or alcohol abuse directly resulting in harm to patient safety; or, sexual acts or sexual exploitation.

Related Legislation

None.

Fiscal Impact:

By reducing the number of cases that can enter into a stipulated judgment, this bill has the potential to significantly increase enforcement costs. The MBC projects costs to refer more cases to the Attorney General (AG) would be in the range of \$3.5 to \$4.4 million, and related costs to the Office of Administrative Hearings by \$500,000 to \$600,000 per year (reimbursed from the Contingent Fund of the Medical Board of California).

Support and Opposition

Arguments in Support:

The California Medical Association (sponsor) writes in support, "CMA believe AB 505 enhances the integrity of the profession by ensuring that serious allegations are fully investigated by an administrative law judge and probation can be offered only after a finding of fact. When serious allegations are leveled, it is important that they be treated in a manner that ensures public trust in the disciplinary process while maintain due process for physicians at the same time."

Support:

- California Medical Association (Sponsor)

Opposition:

None.

Comments

None.

Action Required

None.

AMENDED IN ASSEMBLY MARCH 27, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 505

Introduced by Assembly Member Caballero

February 13, 2017

An act to add Section 2227.1 to the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL’S DIGEST

AB 505, as amended, Caballero. Physicians and surgeons: probation.

Under existing law, a physician and surgeon whose matter has been heard by an administrative law judge, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the Medical Board of California, is authorized to be subject to, among other things, license revocation, suspension, or probation, as specified. Existing law authorizes the board to discipline a licensee by placing him or her on probation subject to specified conditions.

This bill would prohibit the board from entering into any stipulation for disciplinary action, ~~including placing~~ *action if the stipulation places* a licensee on ~~probation, if probation and~~ the operative accusation includes specified acts.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 2227.1 is added to the Business and
- 2 Professions Code, to read:

1 2227.1. Notwithstanding Sections 2227 and 2228, the board
2 may not enter into any stipulation for disciplinary ~~action, which~~
3 ~~includes placing~~ *action if the stipulation places* a licensee on
4 ~~probation, if probation and~~ the operative accusation includes any
5 of the following:
6 (a) Felony conviction involving harm to patient safety or health.
7 (b) Drug or alcohol abuse directly resulting in harm to patient
8 safety or health.
9 (c) Sexual act or sexual exploitation as defined in Section 726
10 and subdivision (a) of Section 729.

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Bill Analysis

Bill Number:	AB 508	Version:	Introduced 02/13/17
Author:	Santiago	Sponsor:	Author
Subject:	Health Care Practitioners: Student Loans	Status:	Assembly Consent Calendar.

Adopted Position:

None.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Enrolled	Vetoed	Chaptered	Effective Date	2 yr./ Dead
1 st House				2 nd House								

Red: Current/completed status *Gray: Not applicable*

Existing Law

1. Provides for the licensure and regulation of various professions and vocations by boards, bureaus, and other entities within the DCA. (Business and Professions Code (BPC) Section 22, 100-144.5).
2. Categorizes licensed professions into two general types, healing arts and professions and vocations generally. (BPC Section 500 et seq).
3. Authorizes a board to cite and fine a currently licensed health care practitioner if the licensee is in default on a United States Department of Health and Human Services (HHS) education loan, including a Health Education Assistance Loan. (BPC Section 685(a)).
4. Authorizes a board to deny an application for a health care practitioner license or deny renewal of a license if the applicant or licensee is in default on an HHS education loan, including a Health Education Assistance Loan, until the default is cleared or until the applicant or licensee has made satisfactory repayment arrangements. (BPC Section 685(b)).
5. Provides that, in determining whether to issue a citation and the amount of the fine to a licensee or to deny an application or renewal of a license, a board shall take into consideration a) the population served by the health care practitioner and b) the health care practitioner's economic status. (BPC Section 685(c)).
6. Defines, for purposes of discipline based on default on a health education loan, the following terms: (BPC Section 685(d)).
 - a. "Board" means a licensing board or agency having jurisdiction of a licensee, but does not include the Board of Chiropractic Examiners.



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- b. "Health care practitioner" means a person licensed or certified pursuant to Division 2 (Healing Arts) of the BPC (Sections 500-4999.129), or licensed pursuant to the Osteopathic Initiative Act.

This Bill

1. Repeals the authority for a licensing board under the Department of Consumer Affairs (DCA), as defined, to cite and fine a licensed healthcare practitioner or deny an initial license application or renewal for a healing arts license if the applicant or licensee is in default on a federal health education loan.

Purpose/Background

Purpose:

This bill is author sponsored. According to the author, "...the deficiency in the current law is that it gives licensing Boards excessive authority to punish professionals on the basis of loan default, which is not an important factor in the practice of health professions. Legislative action is required because it's the only way to remove these unnecessarily punitive laws. According to recent reporting from [National Public Radio], other states that have similar laws...have also begun to review their policies surrounding this issue. In fact, last year Montana became the first state in the nation to repeal their law and we believe it's time for California to do the same. When these laws were passed it was common belief that people behind on their payments were careless borrowers and harsh punishments were needed to motivate borrowers to pay. We know...student debt is a burden for lots of people, many of whom are honest borrowers who struggle to make a living even beside their student loans. California should not be in the business of disciplining working professionals struggling to pay off their debts, especially those who provide a vital service to the public such as nurses, dentists, and doctors."

Background:

In California, many professions require a license to legally practice, including many of the healing arts. Many of the professional licenses are administered by licensing boards, bureaus, and other entities within the DCA. The DCA licensing entities are established to protect the people of California through adequate regulation of businesses and professions that engage in activities that risk harm to the health, safety, and welfare of the public (BPC § 101.6).

While the typical focus of licensing is consumer protection, occupational licensing has been used for more general public welfare purposes (although also sometimes indirectly benefiting consumers). For instance, the Contractor's State Licensing Board has the authority to work with the Labor Commissioner and discipline licensees for failing to carry workers' compensation insurance (BPC § 7011.4).

Healing arts boards (except for the Board of Chiropractic Examiners) also have an authority that is not directly tied to consumer protection. Currently, the boards are



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authorized to issue a citation or a fine to a licensee or deny the license renewal of a licensee who has defaulted on a federal HHS education loan. The law also authorizes the boards to deny the license of an applicant in default on an HHS education loan. This bill would repeal that authority.

According to the author, “[w]e believe the authority granted to licensing boards is unnecessarily punitive.... [I]f people had the means to pay down their debt then they would. We would give the benefit of the doubt to professionals that loan default is not the result of careless borrowing, but instead legitimate financial issues. If then debtors are punished by having their licenses revoked or denied we believe this is excessive and actually would actually not motivate people to make payments since they do not have the money to do so.”

According to the DCA, based on discussions with its healing arts boards, it does not appear that the boards have used this authority. One board that had received HHS loan default notifications in the past has confirmed that it no longer does. Even if the boards still wish to use the authority, they may not be the right entity to properly determine what “satisfactory repayment arrangements” are or have the ability to determine equitable thresholds for a practitioner’s “economic status.”

Federal Health Education Loans. The authority to discipline healing arts licensees and deny applicants for defaulting on an HHS loan was established under AB 2019 (Speier), Chapter 683, Statutes of 2002. At the time, the author of AB 2019 stated that \$173 million was owed nationwide by health care practitioners in defaulted educational loan debts, \$40 million of which was estimated to be owed by California practitioners. According to the author of AB 2019, “these individuals are hard-core defaulters who may only respond to strong local pressure, including revocation or suspension of their license to practice.”

However, it is not clear that the loans targeted under by that bill are the same loans currently in existence. For example, according to the U.S. Department of Education, the Health Education Assistance Loan (HEAL) Program was only available from fiscal year 1978 through fiscal year 1998 (on July 1, 2014, the HEAL Program was transferred from the U.S. Department of Health and Human Services to the U.S. Department of Education). It is no longer possible to obtain a new HEAL Program loan.

At the time AB 2019 was enacted, the HHS published a list of practitioners who defaulted under the HEAL program in the federal register. Currently, the U.S. Department of Education does not publish this information, but, pursuant to 42 U.S.C. 292h(c), it plans to in the future (82 FR 7807).

Currently, the loans offered by the HHS (through the Health Resources & Services Administration (HRSA)) appear to be aimed at improving health workforce shortages and providing educational opportunities for disadvantaged students from diverse



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backgrounds. For instance, under the Health Professions Student Loans (HPSL) program, HRSA provides “grants to participating schools to offer long-term, low interest loans to needy students, enrolled full-time or half-time in a dentistry, optometry, pharmacy, podiatric, or veterinary medicine.”

Related Legislation

AB 2019 (Speier), Chapter 683, Statutes of 2002, authorized a licensing agency to cite, fine, or deny the license application or renewal for a healing arts licensee who is in default on the specified federal health education loans.

Fiscal Impact:

No fiscal impact. This bill eliminates oversight responsibilities for a federal health loan that no longer exists.

Support and Opposition

Arguments in Support:

The California Optometric Association writes that, “...many healthcare providers are burdened with enormous student loan debt upon graduation. For instance, in California, a doctor of optometry pays an average of \$152,000 in graduate school tuition alone. Figures estimate the national student loan debt is a staggering 1.3 trillion dollars, second only to mortgages. Repayment of loans is directly correlated with employment. Health care professionals depend upon licensure in order to practice, which enables them to repay their student loans. Health care practitioners should not be penalized for falling into arrears. There already is a shortage of healthcare providers in California, let us not increase the numbers by denying licensure to qualified professionals based upon non-payment of school debt.”

Support:

- California Optometric Association
- American College of Emergency Physicians, California Chapter
- California Health + Advocates
- Service Employees International Union SEIU Local 1000

Opposition:

None.

Comments

None.

Action Required

None.

ASSEMBLY BILL

No. 508

Introduced by Assembly Member Santiago

February 13, 2017

An act to repeal Section 685 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 508, as introduced, Santiago. Health care practitioners: student loans.

Existing law authorizes a board, defined as a licensing board or agency having jurisdiction over a licensee, as specified, to cite and fine a licensed health care practitioner who is in default on a United States Department of Health and Human Services education loan, including a Health Education Assistance Loan. Existing law authorizes the board to deny a license to an applicant to become a health care practitioner or deny renewal of a license if he or she is in default on a loan until the default is cleared or until the applicant or licensee makes satisfactory repayment arrangements. Existing law requires a board, prior to taking these actions, to take into consideration the population served by the health care practitioner and his or her economic status. Existing law requires that each board that issues citations and imposes fines retain the money from these fines for deposit into its appropriate fund.

This bill would repeal these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 685 of the Business and Professions Code
2 is repealed.
- 3 ~~685. (a) (1) A board may cite and fine a currently licensed~~
4 ~~health care practitioner if he or she is in default on a United States~~
5 ~~Department of Health and Human Services education loan,~~
6 ~~including a Health Education Assistance Loan.~~
- 7 ~~(2) Each board that issues citations and imposes fines shall retain~~
8 ~~the money from these fines for deposit into its appropriate fund.~~
- 9 ~~(b) The board may deny a license to an applicant to be a health~~
10 ~~care practitioner or deny renewal of a license if he or she is in~~
11 ~~default on a United States Department of Health and Human~~
12 ~~Services education loan, including a Health Education Assistance~~
13 ~~Loan, until the default is cleared or until the applicant or licensee~~
14 ~~has made satisfactory repayment arrangements.~~
- 15 ~~(c) In determining whether to issue a citation and the amount~~
16 ~~of the fine to a health care practitioner or to deny a license to an~~
17 ~~applicant to be a health care practitioner or to deny the renewal of~~
18 ~~a license, a board shall take into consideration the following:~~
- 19 ~~(1) The population served by the health care practitioner.~~
20 ~~(2) The health care practitioner's economic status.~~
- 21 ~~(d) For purposes of this section, the following terms shall have~~
22 ~~the following meanings:~~
- 23 ~~(1) "Board" means a licensing board or agency having~~
24 ~~jurisdiction of a licensee, but does not include the Board of~~
25 ~~Chiropractic Examiners.~~
- 26 ~~(2) "Health care practitioner" means a person licensed or~~
27 ~~certified pursuant to this division or licensed pursuant to the~~
28 ~~Osteopathic Initiative Act.~~
- 29 ~~(e) This section shall become operative on July 1, 2003.~~



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Bill Analysis

Bill Number:	AB 767	Version:	Introduced 02/15/17
Author:	Quirk-Silva	Sponsor:	
Subject:	Master Business License Act	Status:	Assembly Appropriations Committee.

Adopted Position:

None.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Enrolled	Vetoed	Chaptered	Effective Date	2 yr./ Dead
1 st House				2 nd House								

Red: Current/completed status Gray: Not applicable

Existing Law

1. Establishes GO-Biz to serve the Governor as the lead entity for economic strategy and the marketing of California on issues relating to business development, private sector investment, and economic growth. Among other duties, GO-Biz is authorized to make recommendations to the Governor and the Legislature on new state policies, programs, and actions, or amendments to existing programs in order to advance statewide economic goals, respond to emerging economic problems, and to ensure that all state policies and programs conform to the state economic and business development goals.
2. Finds and declares that there has been an unprecedented growth in the number of administrative regulations in recent years and that correcting the problems requires the direct involvement of the Legislature, as well as that of the executive branch of the state government. Further, the statute finds and declares that the complexity and lack of clarity in many regulations put small businesses, which do not have the resources to hire experts to assist them, at a distinct disadvantage.
3. Authorizes GO-Biz to provide, including, but not limited to, all of the following:
 - a. Economic and demographic data;
 - b. Financial information to help link businesses with state and local public and private programs;
 - c. Workforce information, including, but not limited to, labor availability, training, and education programs;
 - d. Transportation and infrastructure information;
 - e. Assistance in obtaining state and local permits;
 - f. Information on tax credits and other incentives; and
 - g. Permitting, siting, and other regulatory information pertinent to business operations in the state.



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This Bill

1. Enacts the Master Small Business License Act, which establishes the Center for the purpose of developing and administering an Internet-based platform that allows businesses to electronically submit a master application, required permit and license fees, and a fee to cover the cost of the master application system, as specified.
2. Requires GO-Biz, in consultation with other regulatory agencies, to establish a uniform business identification number for each business. The uniform business identification number is to be used by all affected state agencies for the purpose of facilitating information sharing between state agencies and to improve customer service to businesses.
3. Specifies that the Center is to be administered through GO-Biz and authorizes GO-Biz to adopt regulations necessary to operate the Center pursuant to the rules and conditions specified in this bill.
4. Requires each state agency to cooperate and provide reasonable assistance to GO-Biz to implement this bill.
5. Authorizes any person that applies for two or more business licenses that have been incorporated into the master business license system to submit a master application requesting the issuance of the licenses.
6. Specifies that the authority for approving the issuance and renewal of a license remains with the licensing agency.
7. Requires the master business license system to be capable of immediately notifying the business that the application and fees have been submitted.
8. Requires GO-Biz to establish a fee for each master application that does exceed the reasonable costs of administering the program and provides authority for its collection.
9. Establishes the Master License Fund within the State Treasury for the purpose of receiving all moneys paid into the master business license system, including those fees that will be transferred to the regulatory agency and those that are to be used to pay for the operation of the system. Moneys in the fund are subject to appropriation by the Legislature.
10. Defines the following terms:



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- a. "Business license center" means the business registration and licensing center established by this part and located in and under the administrative control of the office.
- b. "License information packet" means a collection of information about licensing requirements and application procedures custom assembled for each request.
- c. "License" means the whole or part of any state agency permit, license, certificate, approval, registration, charter, or any form or permission required by law, including agency regulation, to engage in any activity.
- d. "Master application" means a document incorporating pertinent data from existing applications for licenses covered under this part.
- e. "Master business license system" or "system" means the mechanism by which licenses are issued, license and regulatory information is disseminated, and account data is exchanged by state agencies.
- f. "Person" means any individual, sole proprietorship, partnership, association, cooperative, corporation, nonprofit organization, state or local government agency, and any other organization required to register with the state to do business in the state and to obtain one or more licenses from the state or any of its agencies.
- g. "Regulatory" means all licensing and other governmental or statutory requirements pertaining to business activities.
- h. "Regulatory agency" means any state agency, board, commission, or division that regulates one or more industries, businesses, or activities.

Purpose/Background

Starting and maintaining a business in California often requires an entrepreneur to apply for and annually renew a range of permits and licenses. Identifying which applications need to be completed, where to file, and what fees are necessary can be a significant challenge.

The Internet offers a useful tool for assisting businesses in navigating the required federal, state, and local permit requirements. This bill leverages an existing GO-Biz web-based platform to become a single access point for applying to and meeting existing requirements.

1. The Role of Small Businesses within the California Economy:

California's dominance in many economic areas is based, in part, on the significant role small businesses play in the state's \$2.4 trillion economy. Two separate studies, one by the U.S. Census Bureau and another by the Kaufman Foundation, found that net job growth was strongest among businesses with less than 20 employees. Among other advantages, small businesses are crucial in the state's international competitiveness and are an important means for dispersing the positive economic impacts of trade within the California economy.



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Sole proprietorships comprise the single largest component of businesses in California, 3.1 million out of an estimated 4 million firms in 2014, representing over \$162 billion in revenues with the highest number of businesses (over 539,000) in the professional, scientific, and technical services industry sector.

Excluding sole proprietorships, businesses with less than 20 employees comprise over 87% of all businesses and employ approximately 18% of all workers. Businesses with less than 100 employees represent 97% of all businesses and employ 31% of the workforce. These non-employer and small employer firms create jobs, generate taxes, support important industry sectors, and revitalize communities. Since the recession, these businesses have become increasingly important because of their ability to be more flexible and adaptive to both foreign and domestic market needs.

Reflective of their important role within the economy, the JEDE Committee Members regularly hear about the challenges small businesses face meeting the implementation requirements of state, local, and federal regulations. While opponents of regulatory reform accuse small businesses of trying to avert their responsibilities, businesses that have testified before the Committee have repeatedly stated that their goal is to achieve a regulatory environment that encourages small business development, while still maintaining public health and safety standards.

AB 767 does not authorize the lowering of any regulatory standard. The bill provides an opportunity for the state to use technology to enhance customer service to the state's job creators and revenue generators.

2. The Governor's Office of Business and Economic Development:
In April 2010, the Governor's Office of Economic Development was established to provide a one-stop-shop for serving the needs of businesses and economic developers. While initially established through Executive Order S-01-10, the office was later codified and renamed as GO-Biz. [AB 29 (John A. Pérez), Chapter 475, Statutes of 2010] GO-Biz carries out its mission through the activities of six GO-Biz service units: California Business Investment Services, Permit Assistance, the Office of the Small Business Advocate, International Affairs and Business Development, the California Competes Tax Credit Program, and the Innovation and Entrepreneurship Program.

Among other programs, GO-Biz provides permit and other business assistance for new and expanding businesses, as well as administering the California Innovation Hub Program and the state international trade investment program. GO-Biz also oversees the Office of the Small Business Advocate, who advocates for and provides key information to small businesses.



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3. Permit Assistance Unit at GO-Biz:

The Permit Assistance Unit within GO-Biz provides businesses with comprehensive permit, regulatory, and compliance assistance. Among other services, the unit schedules pre-application meetings between businesses and the appropriate regulatory agencies to help streamline the permitting process. In some instances, GO-Biz can assign a project manager to personally guide an applicant through the entire permit process. Services are confidential and provided without cost. The goal of the unit is to help businesses solve permitting and regulatory challenges.

The Office of Permit Assistance works in partnership with the California Business Investment Service, and other GO-Biz units in serving employers, corporate executives, business owners, and site location consultants who are considering California for business investment and expansion.

The unit is also responsible for maintaining the California Government Online to Desktops (CalGOLD) website. At www.calgold.ca.gov businesses can obtain a list of the required federal, state, and local permits, webpage links, addresses, and other contact information.

In July 2015, GO-Biz launched the California Business Portal which expanded on the utility and availability of a searchable online application that could provide individualized information to businesses, including application forms and links to fee information. <http://www.business.ca.gov/Programs/Permits.aspx>

GO-Biz also partners with the Government Operations Agency to offer Lean 6-SIGMA Training to state agencies. The 6-SIGMA training is designed to address process-based issues within state departments that were causing delays in services to both internal and external stakeholders. Over a 6 month period, participants receive training on complex analytical and statistical tools that identify waste and inefficiencies in processes. From January 2016 to July 2016, GO-Biz worked with six departments on 23 individual projects, including projects to reduce issuance time for 401 Water Quality Certificates from 273 days to 90 days and reduction of State Water Resources Control Board contract completion times from an average of 145 days to 45 days.

AB 767 would build on these efforts by allowing a business to complete an initial list of core information, which would populate the various permit and licensing forms. Fees would be itemized, aggregated, and could be paid in a single transfer from the business. Unique information to a particular permit would then be completed by the business. From the state agency's perspective, it would receive completed forms and the payment of fees, while retaining full authority for the approval or disapproval of the application.



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4. Cost of Regulations on Business:

There are two major sources of data on the cost of regulatory compliance on businesses, the federal Small Business Administration (SBA) and the Office of the Small Business Advocate (OSBA). For the last 10 years, the federal SBA has conducted a peer reviewed study that analyzes the cost of federal government regulations on different size businesses. This research shows that small businesses continue to bear a disproportionate share of the federal regulatory burden. On a per employee basis, it costs about \$2,400, or 45% more, for small firms to comply with federal regulations than their larger counterparts.

The first study on the impact of California regulations on small businesses was released by the OSBA in 2009. This first in-the-nation study found that the total cost of regulations to small businesses averaged about \$134,000 per business in 2007. Of course, no one would advocate that there should be no regulations in the state. The report, however, importantly identifies that the cost of regulations can provide a significant cost to the everyday operations of California businesses and should therefore be a consideration among the state's economic development policies.

Regulatory costs are driven by a number of factors including multiple definitions of small business in state and federal law, the lack of e-commerce solutions to address outdated paperwork requirements, procurement requirements that favor larger size bidders, and the lack of technical assistance to alleviate such obstacles that inhibit small business success.

5. Different Approaches to Regulatory Reform:

In general, the Legislature's engagement on regulatory reforms has taken two basic approaches. One set of policies has addressed specific regulatory challenges on a case-by-case basis. The other approach makes systemic change to the way in which rules are adopted, often adding a supplemental more targeted review pre- or post-adoption.

Recommendations for systemic change has included:

a. Dynamic Fiscal Analysis in Appropriations Committee:

These bills required an analysis of bills before the Legislature on their impact on business and the economy. Currently, the Legislature's fiscal committee reviews focus on the bill's direct impact on state funds, and most specifically on the General Fund. The fiscal committee's analysis is not intended to include legislations' potential economic impact on the state.

b. Substantive Administrative Review:

These bills shifted the review of the Office of Administrative Law from a procedural review of the regulation package to a substantive review of its impact on business and the economy, including the sufficiency of the



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assessment of alternatives. Alternatively, legislation has suggested that another state entity, such as the State Auditor or Legislative Analyst's Office, could be designated to undertake an expanded review of proposed regulations.

c. Enhanced Analysis of Alternatives

These bills required a more meaningful consideration of alternative implementation models, which could lower costs or reduce the implementation burden on small businesses.

d. Post Implementation Analysis

These bills required a review of a regulation's impact five-years after its implementation. Alternatively, legislation has been suggested that all regulations have a sunset date, which would allow for full review once the actual impacts could be identified.

Until now, the first approach has been the most successful, although by its nature addressing regulatory impacts on a case by case basis has had very limited overall impact on California's regulatory business climate. Due to their potential implementation costs, a majority of the bills advancing the systemic approach to regulatory reform have failed to move from the fiscal committees - as illustrated in the comment on related legislation.

The most significant systemic change in recent years was approved in SB 617 (Calderon), Chapter 496, Statutes of 2011, which required an enhanced economic impact analysis for regulations with an anticipated impact of \$50 million or more. The SB 617 process follows the federal regulatory model, however, it should be noted that the state process is silent as to the assessment of costs based on size of business and requires no post impact review.

AB 767 supports the ongoing challenges faced by the Legislature in simplifying and adopting regulatory implementation processes which are more business-friendly, without lowering policy standards. By streamlining the process for applying for permits and licenses, the bill could reduce the actual time and complexity in applying for multiple approvals.

6. Amendments: Staff understands that the author will offer the following amendments in committee.

- a. Authorize GO-Biz to borrow funding to implement this bill and provides that the funding will be repaid through the payment of user fees.
- b. Authorize other state agencies, with the approval of GO-Biz, to borrow funds to upgrade their application processes in order to connect to the Master License platform and provides that the funding will be repaid through the payment of user fees.
- c. Make other technical and conforming changes.



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Related Legislation

SB 992 (Garamendi) Office of Permit Assistance: This bill created the Office of Permit Assistance within the Office of Planning and Research and delegated certain responsibilities, including providing information to developers and mediating disputes. Status: Signed by the Governor, Chapter 1263, Statutes of 1983.

AB 2351 (Assembly Ways and Means) Permit Assistance at the Commerce Agency: This bill, among other actions, eliminated the Office of Permit Assistance at the Governor's Office of Planning and Research and established the Department of Permit Assistance at the California Trade and Commerce Agency. The new department was vested with all of the duties and purposes of the Office of Permit Assistance. Status: Signed by the Governor, Chapter 56, Statutes of 1993.

AB 2582 (Mullin) Update of CALGOLD Program: This bill requires the CALGOLD website to be updated periodically to include permitting and regulatory compliance information relevant to emerging and evolving industries. The author was particularly interested in adding online resources for the life sciences industry. Status: Signed by the Governor, Chapter 283, Statutes of 2006.

AB 978 (V. Manuel Pérez and Logue) Streamlined State Licensing: This bill requires the State Chief Information Officer (CIO) to collaborate with the Department of Consumer Affairs to acquire a new, integrated, enterprise-wide enforcement and licensing system, that will replace the current licensing and monitoring system being used by the Department of Consumer Affairs. Status: The content of the bill was included in the 2010-11 Budget.

AB 2012 (John A. Pérez) Trade and Internet-Based Permit Assistance: Transfers the authority for undertaking international trade and foreign investment activities from the Business, Transportation and Housing Agency (BTH) to the Governor's Office of Business and Economic Development (GO-Biz). In addition, the bill transfers the responsibility for establishing an Internet-based permit assistance center from the Secretary of the California Environmental Protection Agency to GO-Biz. Status: Signed by the Governor, Chapter 294, Statutes of 2012.

Fiscal Impact:

Unknown.

Support and Opposition

Support:

- California Association for Health Services at Home (CAHSAH)



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Opposition:

None.

Comments

None.

Action Required

None.

ASSEMBLY BILL

No. 767

Introduced by Assembly Member Quirk-Silva

February 15, 2017

An act to add Part 12. 5 (commencing with Section 15930) to Division 3 of Title 2 of the Government Code, relating to economic development.

LEGISLATIVE COUNSEL'S DIGEST

AB 767, as introduced, Quirk-Silva. Master Business License Act.

Existing law authorizes various state agencies to issue permits and licenses in accordance with specified requirements to conduct business within this state. Existing law establishes the Governor's Office of Business and Economic Development to serve the Governor as the lead entity for economic strategy and the marketing of California on issues relating to business development, private sector investment, and economic growth. Existing law creates within the Governor's Office of Business and Economic Development the Office of Small Business Advocate to advocate for the causes of small business and to provide small businesses with the information they need to survive in the marketplace.

This bill would create within the Governor's Office of Business and Economic Development, or its successor, a business license center to develop and administer a computerized master business license system to simplify the process of engaging in business in this state. The bill would set forth the duties and responsibilities of the business license center. The bill would require each state agency to cooperate and provide reasonable assistance to the office to implement these provisions.

This bill would authorize a person that applies for 2 or more business licenses that have been incorporated into the master business license

system to submit a master application to the office requesting the issuance of the licenses. The bill would require the office to develop and adopt an Internet-based platform that allows the business to electronically submit the master application to the office, as well as the payment of every fee required to obtain each requested license and a master application fee, which would be deposited into the Master License Fund, which would be created by the bill. The bill would authorize moneys in the fund, upon appropriation, to be expended only to administer this bill or be transferred to the appropriate licensing agencies. The bill would also require, upon issuance of the license or licenses, the office to transfer the fees, except for the master license fee, to the appropriate accounts under the applicable statutes for those regulatory agencies' licenses.

The bill would require the office to establish a reasonable fee for each master license application and to collect those fees for deposit into the Master License Fund established by this bill. Funds derived from the master license application fees would be expended to administer the master business license program upon appropriation by the Legislature. The bill would require the license fees of the regulatory agencies deposited into the fund to be transferred to the appropriate accounts of the regulatory agencies, as provided.

The bill would require the office, in consultation with other regulatory agencies, to establish a uniform business identification number for each business that would be recognized by all affected state agencies and used to facilitate the information sharing between state agencies and to improve customer service to businesses.

The bill would also require the Director of Small Business Advocate to work with small business owners and all regulatory agencies to ensure the state's implementation of a consolidated business license and permit system.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Part 12.5 (commencing with Section 15930) is
- 2 added to Division 3 of Title 2 of the Government Code, to read:

PART 12.5. MASTER BUSINESS LICENSE ACT

CHAPTER 1. GENERAL PROVISIONS

15930. This part may be known, and may be cited as, the Master Business Licence Act.

15931. As used in this part, the following words shall have the following meanings:

(a) “Business license center” means the business registration and licensing center established by this part and located in and under the administrative control of the office.

(b) “Director” means the Director of the Governor’s Office of Business and Economic Development.

(c) “License information packet” means a collection of information about licensing requirements and application procedures custom assembled for each request.

(d) “License” means the whole or part of any state agency permit, license, certificate, approval, registration, charter, or any form or permission required by law, including agency regulation, to engage in any activity.

(e) “Master application” means a document incorporating pertinent data from existing applications for licenses covered under this part.

(f) “Master business license system” or “system” means the mechanism by which licenses are issued, license and regulatory information is disseminated, and account data is exchanged by state agencies.

(g) “Office” means the Governor’s Office of Business and Economic Development or its successor.

(h) “Person” means any individual, sole proprietorship, partnership, association, cooperative, corporation, nonprofit organization, state or local government agency, and any other organization required to register with the state to do business in the state and to obtain one or more licenses from the state or any of its agencies.

(i) “Regulatory” means all licensing and other governmental or statutory requirements pertaining to business activities.

(j) “Regulatory agency” means any state agency, board, commission, or division that regulates one or more industries, businesses, or activities.

CHAPTER 2. BUSINESS LICENSE CENTER

15932. (a) There is created within the office a business license center.

(b) The duties of the center shall include, but not be limited to, all of the following:

(1) Developing and administering a computerized onestop master business license system capable of storing, retrieving, and exchanging license information with due regard to privacy statutes.

(2) Providing a license information service detailing requirements to establish or engage in business in this state.

(3) Identifying types of licenses appropriate for inclusion in the master business license system.

(4) Recommending in reports to the Governor and the Legislature the elimination, consolidation, or other modification of duplicative, ineffective, or inefficient licensing or inspection requirements.

(5) Incorporating licenses into the master business license system.

15933. (a) The director may adopt regulations as may be necessary to effectuate the purposes of this part.

(b) The director shall encourage state entities to participate in the online master business license system.

15934. Each state agency shall cooperate and provide reasonable assistance to the office in the implementation of this part.

CHAPTER 3. MASTER LICENSE

15935. (a) Any person that applies for two or more business licenses that have been incorporated into the master business license system may submit a master application to the office requesting the issuance of the licenses. The office shall develop and adopt an Internet-based platform that allows the business to electronically submit the master application to the office, as well as the payment of every fee required to obtain each requested license and a master application fee established pursuant to Section 15936.

(b) Irrespective of any authority delegated to the office to implement this part, the authority for approving the issuance and

1 renewal of any requested license that requires a prelicensing or
2 renewal investigation, inspection, testing, or other judgmental
3 review by the regulatory agency otherwise legally authorized to
4 issue the license shall remain with that agency.

5 (c) Upon receipt of the application and proper fee payment for
6 any license for which issuance is subject to regulatory agency
7 action under subdivision (a), the office shall immediately notify
8 the business of receipt of the application and fees.

9 15936. The office shall establish a fee for each master
10 application that does exceed the reasonable costs of administering
11 this part and collect that fee.

12 15937. All fees collected under the master business license
13 system, including the master license application fee and the fees
14 of the regulatory agencies, shall be deposited into the Master
15 License Fund, which is hereby created in the State Treasury.
16 Moneys in the fund from master application fees may, upon
17 appropriation by the Legislature, be expended only to administer
18 this part or be transferred to the appropriate licensing agencies.
19 Moneys in the fund from other fees shall be transferred to the
20 appropriate accounts under the applicable statutes for those
21 regulatory agencies' licenses.

22
23 CHAPTER 4. UNIFORM BUSINESS IDENTIFICATION NUMBER
24

25 15940. (a) The office, in consultation with other regulatory
26 agencies, shall establish a uniform business identification number
27 for each business. The uniform business identification number
28 shall be recognized by all affected state agencies and shall be used
29 by state agencies to facilitate information sharing between state
30 agencies and to improve customer service to businesses.

31 (b) It is the intent of the Legislature that the uniform business
32 number would permit the office to do both of the following:

33 (1) Register a business with multiple state agencies electronically
34 as licenses and permits are processed.

35 (2) Input and update information regarding a business once,
36 thereby reducing the number of duplicate or conflicting records
37 from one state agency to another.

CHAPTER 5. OVERSIGHT

1
2
3 15945. The Director of Small Business Advocate from the
4 Governor's Office of Planning and Research shall work with small
5 business owners and all regulatory agencies to ensure the state's
6 implementation of a consolidated business license and permit
7 system under this part.

O



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Bill Analysis

Bill Number:	AB 1005	Version:	Amended 05/02/17
Author:	Calderon	Sponsor:	Author
Subject:	Professions and Vocations: Fines: Relief	Status:	Assembly Appropriations Committee.

Adopted Position:

None.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Enrolled	Vetoed	Chaptered	Effective Date	2 yr./ Dead
1 st House				2 nd House								

Red: Current/completed status *Gray: Not applicable*

Existing Law

1. Establishes licensing and regulatory programs for professions, vocations, and business, including attorneys under the State Bar, clinical laboratories under the Department of Public health, alcohol under the Department of Alcoholic Beverage Control, and business licensing and regulation under cities, counties, and the Office of the Attorney General. (BPC §§1-26211).
2. Specifies that, whenever a provision of the BPC authorizes an entity to issue a citation for a violation of the code, the authority also includes the authority to issue a citation for the violation of any regulation adopted pursuant to the code. (BPC §12.5).
3. Provides for the licensure and regulation of various professions and vocations by boards, bureaus, and other entities within the Department of Consumer Affairs (DCA). (BPC §§22, 100-144.5).
4. Specifies that each of the entities comprising the department exists as a separate unit, and has the functions of setting standards, holding meetings, and setting dates thereof, preparing and conducting examinations, passing upon applicants, conducting investigations of violations of laws under its jurisdiction, issuing citations and holding hearings for the revocation of licenses, and the imposing of penalties following those hearings, insofar as these powers are given by statute to each respective entity. (BPC §108).
5. Authorizes, except for the Bureau of Security and Investigative Services with respect to repossession agencies, any entity within the DCA, including those established by initiative acts, to establish, by regulation, a system for the issuance to a licensee of a citation which may contain an order of abatement or an order to pay an administrative fine assessed by the entity where the licensee



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or unlicensed individual is in violation of the applicable licensing act or any regulation adopted pursuant the act. (BPC §§125.9(a), 148).

6. Requires a citation system adopted under the authority to meet the following (BPC §125.9(b)):
 - a. Citations must be in writing and describe with particularity the nature of the violation, included specific reference to the provision of law determined to have been violated.
 - b. Whenever appropriate, the citation must contain an order of abatement fixing a reasonable time for abatement of the violation.
 - c. The administrative fine assessed by the entity may not exceed \$5,000 for each inspection or each investigation made with respect to the violation, or \$5,000 for each violation or count if the violation involves fraudulent billing submitted to an insurance company, the Medi-Cal program, or Medicare.
 - d. In assessing a fine, the entity must give due consideration to the appropriateness of the amount of the fine with respect to factors that include the gravity of the violation, the good faith of the licensee, and the history of previous violations.
 - e. The citation or fine assessment issued pursuant to a citation must inform the licensee that if the licensee desires a hearing to contest the finding of a violation, the licensee must request the hearing in writing to the issuing entity within 30 days of the date the citation or assessment was issued, as specified.
 - f. Failure of a licensee to pay a fine within 30 days of the date of assessment, unless the citation is being appealed, may result in disciplinary action being taken by the board, bureau, or commission. Where a citation is not contested and a fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee and fine.
7. The system may contain the following provisions (BPC §125.9(c)).
 - a. A citation may be issued without the assessment of an administrative fine.
 - b. Assessment of administrative fines may be limited to only particular violations of the applicable licensing act.
8. Notwithstanding any other provision of law, if a fine is paid to satisfy an assessment based on the finding of a violation, payment of the fine shall be represented as satisfactory resolution of the matter for purposes of public disclosure. (BPC § 125.9(d))

This Bill

1. Specifies that the authority to issue a citation for a violation of any provision of the BPC also includes the authority to issue a fix-it ticket, in lieu of a fine.



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2. Provides a person who is issued a fix-it ticket in lieu of a fine 30 days in which to correct the violation before being issued a fine.

Purpose/Background

Purpose:

This bill is sponsored by the author. According to the author, "According to the U.S. Small Business Administration report, California has over 3.7 million small businesses, which is 1.3 million more than any other state, and also employs half of the state's private workforce. While small businesses often function as an economic engine for the state's economy, small businesses suffer as they are often unable to meet the multitude of regulations while running the daily operation of their business.

In order to ease the burden of excessive fines on businesses whose goal is to achieve a regulatory safe environment, [this bill] seeks to have investigative agencies offer a correctable citation should a business be found with a non-serious violations before being fined. This solution is a way California can move in the right direction to spur economic growth and create jobs."

Background:

The BPC contains the California laws pertaining to the regulation of businesses and licensed professions. The BPC is generally divided up by topic, including professional licensing and consumer affairs under the DCA and the State Bar, standards for weighing and measuring, business contracts and rights, consumer rights and remedies, antitrust, advertising, arts and entertainment, online privacy, standards for gas stations, tobacco licensing and regulation, alcohol licensing and regulation, and cannabis licensing and regulation. The BPC also contains provisions implementing several initiative acts, including the Chiropractic Initiative Act, the Osteopathic Initiative Act, and the Adult Use of Marijuana Act.

Various governmental entities are authorized to administer and enforce the provisions, including the Department of Justice, the Department of General Services, the Department of Alcoholic Beverage Control, the Board of Equalization, the DCA, the licensing entities under the DCA, the California Horse Racing Board, cities, and localities, among others. This bill extends any authority to issue a citation for a violation of the provisions of the BPC to also include the authority to issue a "fix-it ticket," under which the person who is issued the citation has thirty days to correct before the issuing authority may issue a fine.

DCA Licensing Entities. In California, many professions require a license to legally practice. Many of the licensing programs are administered by licensing boards, bureaus, and other entities within the DCA. A large number of the entities authorized to issue citations under the BPC are the DCA licensing entities.

The DCA licensing entities are established to protect the people of California through adequate regulation of businesses and professions that engage in activities that risk harm to the health, safety, and welfare of the public (BPC § 101.6). Each profession and



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entity generally has a "practice act," or a chapter within a practice act, which serves as the entity's enacting statute and establishes the requirements and authorities specific to the profession covered by the practice act.

The professions and entities under the DCA are divided into "healing arts" and "professions and vocations generally" (non-healing arts). The healing arts entities are as follows:

- a. Acupuncture Board
- b. Board of Behavioral Sciences
- c. Board of Chiropractic Examiners
- d. Dental Board of California
- e. Dental Hygiene Committee of California
- f. Medical Board of California
- g. Naturopathic Medicine Committee
- h. California Board of Occupational Therapy
- i. Board of Optometry
- j. Osteopathic Medical Board of California
- k. Board of Pharmacy
- l. Physical Therapy Board of California
- m. Physician Assistant Board
- n. Board of Podiatric Medicine
- o. Board of Psychology
- p. Board of Registered Nursing
- q. Respiratory Care Board
- r. Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board
- s. Veterinary Medical Board
- t. Board of Vocational Nursing and Psychiatric Technicians

The non-healing arts entities are as follows:

- a. Board of Accountancy
- b. Arbitration Certification Program
- c. California Architects Board
- d. Athletic Commission of California
- e. Bureau of Automotive Repair
- f. Board of Barbering and Cosmetology
- g. Cemetery and Funeral Bureau
- h. Contractors State License Board
- i. Court Reporters Board
- j. Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation
- k. Board for Professional Engineers, Land Surveyors, and Geologists
- l. Board of Guide Dogs for the Blind
- m. Landscape Architects Technical Committee
- n. Bureau of Medical Cannabis Regulation
- o. Bureau for Private Postsecondary Education
- p. Professional Fiduciaries Bureau



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- q. Bureau of Real Estate
- r. Bureau of Real Estate Appraisers
- s. Bureau of Security and Investigative Services
- t. Structural Pest Control Board

The DCA supports these entities by providing centralized administrative, investigative, and technological support services. Further, the DCA itself is technically a licensing entity as the bureaus are under the direct control and supervision of the director. The DCA also houses the Consumer Information Center and Complaint Resolution Program, which mediates consumer complaints involving industries regulated by the following programs:

1. Bureau of Security and Investigative Services
2. Bureau of Electronic and Appliance Repair and Home Furnishings and Thermal Insulation
3. Bureau of Automotive Repair
4. Cemetery and Funeral Bureau

DCA Licensing Enforcement

Existing law authorizes the licensing entities to enforce the practice requirements to ensure licensees provide safe and effective services to the public and prevent unlicensed practice. Some of the authorities are located under the BPC's general provisions while others are specific to an entity and located in the entity's practice act.

In general, the enforcement authority includes administrative actions that are tied to a license, such as the ability to issue a citation, assess a fine, place a license on probationary status (including suspension), and ultimately license revocation. For unlicensed practice and criminal violations rising above administrative action, the licensing entities may seek an injunction or other equitable remedies in a court of law (BPC § 125.5) or refer the case for criminal prosecution (BPC § 160). Most licensing violations are misdemeanors.

Like other state enforcement agencies, DCA entities are authorized to determine the appropriate penalty based on the nature of the violation, including the relation to a licensee's practice, the level of consumer harm, number of offenses, remedial steps taken, and other relevant factors. To that end, DCA entities are authorized to investigate potential violations to confirm whether a violation has occurred and determine the nature of the violation.

As state agencies, all DCA entities are subject to the Administrative Procedure Act (APA) (Government Code (GOV) §§ 11340-11500), which establishes rulemaking procedures and standards, fosters public participation, and ensures agencies comply with state law. The APA's administrative adjudication provisions ensure licensee due process rights, including notice, an opportunity for fair hearing, administrative review (agency appeal), and judicial review (court appeal) (GOV §§ 11400-11475.70).



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Cite and Fine

With regard to DCA entities, this bill clarifies that the entities that are authorized to issue citations may also issue a "fix-it ticket." The DCA's general provisions authorize DCA entities (except for the BSIS with regard to repossession agencies) to establish a citation program for violations of the laws and regulations within each entity's jurisdiction. In addition, each DCA entity's practice act usually contains specific citation authority. DCA entities typically use citations for minor violations that do not warrant formal discipline, such as failure to notify of a change of address, failure to renew a license in time, or other procedural violations.

A citation is a written document issued to a licensee who is found to be in violation of an applicable licensing law. A citation must describe the nature of a violation and cite to the violated provision of law or regulation. The citation may include an order of abatement (order for corrective action), an order to pay an administrative fine, neither, or both. Existing law requires that all citations include, if appropriate, an order of abatement fixing a reasonable amount of time to correct the violation.

A licensee has 30 days to contest a citation or a fine by requesting a hearing. If the licensee does not request a hearing, the licensee must correct the violation within the time noted in any included order of abatement and pay any assessed fines within 30 days. Usually the minimum fine is \$50 and the maximum is \$5,000 (typically reserved for egregious, intentional, or repeated violations). The ranges are often specified in each entity's practice act, and some practice acts establish specific amounts for particular violations.

AMENDMENTS:

According to the author:

California's business climate is crucial to the state's international trade and is an important factor for dispersing the positive economic impacts of trade within the state's economy. It is common to hear the challenges small businesses face when meeting the multitude of state regulations, as noted in a study by the National Federation of Independent Business (NFIB).

Often time, business owners are unaware of the multitude of regulations they must follow and it is not uncommon to have owners act as their own compliance officer. Despite businesses being not nearly as knowledgeable on every hundreds of regulations in statute, the state does bear some responsibility in educating and assisting businesses to comply.

NFIB stated in their study that regulations are a problem for businesses and their members have voiced concerns that regulations are costly, confusing, and makes it difficult for them to operate their business.

The intent of [this bill] is to give business owners, especially small businesses, a chance to correct their non-serious violations before being fined excessive amounts that can impact the business ability to grow, hire new employees, or potentially force their business into closure.



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To that end, the bill should be amended to do the following:

- 1) Narrow the applicable entities to non-healing arts entities under the DCA.
- 2) Require all citations with a fine assessment to also contain an abatement period in which the licensee has the opportunity to correct the violation before being required to pay a fine.
- 3) Require the abatement period to be at least 30 days instead of a "reasonable period."

IMPLEMENTATION ISSUES:

There are concerns raised with this amendment, including:

1. The amendment requires non-healing arts entities to include an order for abatement in all citations with a fine assessment instead of "whenever appropriate" as specified under BPC § 125.9(b)(2). However, some citable violations are not correctable or can be corrected before the entity finds out about it. In one common example, if a licensee is late in submitting a renewal, the licensing entity may not find out until it has received the delinquent renewal.

Even after the renewal is processed and the licensee is in good standing, there may have been a period of time where the licensee practiced on the expired license. Therefore, the entity may investigate to determine whether the licensee should be penalized, considering factors such as consumer harm, good faith, or prior violations. Procedural violations like this do not normally rise to the level of formal discipline and typically result in a warning or small fine for a first offense, with increasing fine assessments for aggravating factors.

As amended, this bill requires a citation that contains a fine assessment to also include an abatement period, even if there is nothing to correct. If this bill passes this Committee, the author may wish to remedy this issue.

2. The amendment may conflict with existing citation authorities under the general provisions or within the specific practice acts of each entity. For instance, BPC § 136 requires a licensee to notify the issuing entity of mailing address changes within 30 days of the change, unless the entity has specified by regulations a shorter time period. It also specifies that the failure to comply with the requirement is grounds for the issuance of a citation and administrative fine if the entity is authorized to issue a citation or fine.

As amended, this bill requires that a non-healing arts entity choosing to issue a citation that contains a fine assessment pursuant to that authority also include a 30-day abatement period. This may create a loophole in the 30-day notice requirement. If an entity discovers that a licensee has not submitted an address change, the amendment may allow the licensee to avoid a fine by submitting the notice within 30 days of the citation instead of when the address change



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occurred. If this bill passes this Committee, the author may wish to harmonize the language with conflicting provisions in the BPC.

3. As amended, this bill may require certain entities to send additional investigators in cases where a fine is assessed in order to determine timely compliance with the abatement order (for instance where a real estate licensee has posted a sign without the proper license number). This could potentially increase enforcement costs and impact enforcement caseloads.

POLICY CONCERNS:

1. If all fine assessments allow licensees to correct the violation, the fine assessments may lose their deterrent effect. As amended, this bill allows any assessed fine to be corrected, even fines assessed at the statutory maximum of \$5,000. This may incentivize boards to skip the fine and instead impose formal discipline or criminal prosecution (which can still include a fine).

2. As amended, this bill removes the entities' discretion to determine a reasonable period for correction. Due to the wide range of violations and variation in ways a violation may occur, the DCA entities are authorized to investigate cases and make determinations on a case-by-case basis. For example, some violations may require immediate correction, such as in cases of accidental misrepresentation of a title or scope of practice. Under the amended language, the licensee could in theory continue to misrepresent the ability to practice for 29 more days. This period could be extended further by requesting an appeal on the 29th day.

This could create different issues for different entities. If a non-specialty contractor submits a bid for a roof repair requiring a specialty license, the Contractors State License Board could issue a citation ordering the contractor to withdraw the bid and assess a fine for unlicensed practice. Under the amended language, the contractor would have 30 days to withdraw the bid. If the bid was for a sub-contract as part of a larger renovation and the bid was accepted within the 30 day window, the harm to the consumer and other contractors has already occurred. However, the Board would be prevented from fining or disciplining the licensee for this behavior because the licensee was in compliance with the 30-day requirement. This may again incentivize boards to skip citations altogether in situations where formal discipline or criminal prosecution may not initially be warranted.

3. As amended, this bill gives all non-healing arts licensees a 30-day window to correct a violation resulting in a fine. Existing law already authorizes licensees to appeal a citation they believe may be unfair or improperly issued (which would halt enforcement of the citation). If the licensee wins on appeal, the fine does not need to be paid. If the licensee loses the administrative appeal, the licensee may appeal to a court of law.



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In addition, if DCA licensing entities are being overly harsh or punitive to licensees, this is often revealed during the Joint Sunset Review process held by this Committee in partnership with the Senate Committee on Business, Professions, and Economic Development. The Committees thoroughly review enforcement data, solicit input from stakeholders, make extensive recommendations, and author "sunset bills." Due process issues like the one raised under this bill are often addressed as a part of that process.

4. Applying this to non-healing arts licensees while excluding healing arts licensees raises both fairness and constitutional concerns (equal protection — treating two similarly situated classes differently). Even as amended, this bill covers a large number and wide variation of license types within both classes of licensees. It is not currently clear that healing arts licensees as a whole are so different from non-healing arts licensees, in practice and in potential consumer harms, that one group merits the categorical application of this policy over the other.

Related Legislation

None.

Fiscal Impact:

Unknown.

Support and Opposition

None.

Comments

None.

Action Required

None.

AMENDED IN ASSEMBLY MAY 2, 2017

AMENDED IN ASSEMBLY APRIL 17, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 1005

Introduced by Assembly Member Calderon

February 16, 2017

~~An act to amend Section 12.5 of the Business and Professions Code, relating to professions and vocations. An act to amend Section 125.9 of the Business and Professions Code, relating to professions and vocations.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1005, as amended, Calderon. Professions and vocations: fines: relief.

Under existing law, the Department of Consumer Affairs is under the control of the Director of Consumer Affairs and is comprised of various ~~boards, bureaus, commissions, committees, and similarly constituted agencies~~ *boards* that license and regulate the practice of various professions and vocations. A violation of a regulatory act by a licensee can subject a licensee to discipline, including administrative penalties or citations, suspension, or revocation of the license. Existing law specifies that whenever any provision of law governing businesses and professions grants authority to issue a citation for a violation of a code provision, that authority also includes the authority to issue a citation for the violation of any regulation adopted pursuant to code.

~~This bill would authorize boards, bureaus, commissions, committees, and similarly constituted agencies that license and regulate professions and vocations, when granted the authority to issue a citation, to instead~~

~~issue a fix-it ticket in lieu of a fine. The bill would specify that any person who is issued a fix-it ticket in lieu of a citation would have 30 days in which to correct the violation before being issued the fine.~~

Under existing law, any board within the Department of Consumer Affairs, the board created by the Chiropractic Initiative Act, and the Osteopathic Medical Board of California, is authorized to establish, by regulation, a system for the issuance to a licensee of a citation which may contain an order of abatement or an order to pay an administrative fine assessed by the board where the licensee is in violation of the applicable law. Existing law requires the system, whenever appropriate, to include a provision requiring the citation to contain an order of abatement fixing a reasonable time for abatement of the violation.

This bill, except with regard to healing arts licensees, would instead require a citation containing an order to pay an administrative fine to contain an order of abatement fixing a period of no less than 30 days for abatement of the violation before the administrative fine becomes effective, as provided.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 125.9 of the Business and Professions
- 2 Code is amended to read:
- 3 125.9. (a) Except with respect to persons regulated under
- 4 Chapter 11 (commencing with Section 7500), any board, bureau,
- 5 or commission within the department, the board created by the
- 6 Chiropractic Initiative Act, and the Osteopathic Medical Board of
- 7 California, may establish, by regulation, a system for the issuance
- 8 to a licensee of a citation which may contain an order of abatement
- 9 or an order to pay an administrative fine assessed by the board,
- 10 bureau, or commission where the licensee is in violation of the
- 11 applicable licensing act or any regulation adopted pursuant thereto.
- 12 (b) The system shall contain the following provisions:
- 13 (1) Citations shall be in writing and shall describe with
- 14 particularity the nature of the violation, including specific reference
- 15 to the provision of law determined to have been violated.
- 16 (2) ~~Whenever~~ Except as provided in paragraph (3), whenever
- 17 appropriate, the citation shall contain an order of abatement fixing
- 18 a reasonable time for abatement of the violation.

1 (3) Notwithstanding paragraph (2), except with respect to
2 healing arts licensees licensed pursuant to Division 2 (commencing
3 with Section 500, the board created by the Chiropractic Initiative
4 Act, and the Osteopathic Medical Board of California, a citation
5 containing an order to pay an administrative fine shall contain
6 the following:

7 (A) An order of abatement fixing a period of no less than 30
8 days for abatement of the violation before the administrative fine
9 becomes effective.

10 (B) If the licensee successfully abates the violation within the
11 30-day period, the licensee shall not be responsible for payment
12 of the administrative fine.

13 (C) If the licensee fails to abate the violation within the 30-day
14 period, the licensee shall pay the administrative fine.

15 ~~(3)~~

16 (4) In no event shall the administrative fine assessed by the
17 board, bureau, or commission exceed five thousand dollars (\$5,000)
18 for each inspection or each investigation made with respect to the
19 violation, or five thousand dollars (\$5,000) for each violation or
20 count if the violation involves fraudulent billing submitted to an
21 insurance company, the Medi-Cal program, or Medicare. In
22 assessing a fine, the board, bureau, or commission shall give due
23 consideration to the appropriateness of the amount of the fine with
24 respect to factors such as the gravity of the violation, the good
25 faith of the licensee, and the history of previous violations.

26 ~~(4)~~

27 (5) A citation or fine assessment issued pursuant to a citation
28 shall inform the licensee that if he or she desires a hearing to
29 contest the finding of a violation, that hearing shall be requested
30 by written notice to the board, bureau, or commission within 30
31 days of the date of issuance of the citation or ~~assessment~~.
32 ~~assessment or the date the administrative fine becomes effective~~
33 ~~pursuant to paragraph (3)~~. If a hearing is not requested pursuant
34 to this section, payment of any fine shall not constitute an
35 admission of the violation charged. Hearings shall be held pursuant
36 to Chapter 5 (commencing with Section 11500) of Part 1 of
37 Division 3 of Title 2 of the Government Code.

38 ~~(5)~~

39 (6) Failure of a licensee to pay a fine within 30 days of the date
40 of ~~assessment~~, ~~assessment or the date the administrative fine~~

1 *becomes effective pursuant to paragraph (3)* unless the citation is
2 being appealed, may result in disciplinary action being taken by
3 the board, bureau, or commission. Where a citation is not contested
4 and a fine is not paid, the full amount of the assessed fine shall be
5 added to the fee for renewal of the license. A license shall not be
6 renewed without payment of the renewal fee and fine.

7 (c) The system may contain the following provisions:

8 (1) A citation may be issued without the assessment of an
9 administrative fine.

10 (2) Assessment of administrative fines may be limited to only
11 particular violations of the applicable licensing act.

12 (d) Notwithstanding any other ~~provision of~~ law, if a fine is paid
13 to satisfy an assessment based on the finding of a violation,
14 payment of the fine shall be represented as satisfactory resolution
15 of the matter for purposes of public disclosure.

16 (e) Administrative fines collected pursuant to this section shall
17 be deposited in the special fund of the particular board, bureau, or
18 commission.

19 ~~SECTION 1. Section 12.5 of the Business and Professions~~
20 ~~Code is amended to read:~~

21 ~~12.5. (a) Whenever any provision of this code grants authority~~
22 ~~to issue a citation for a violation of any provision of this code, that~~
23 ~~authority also includes the authority to issue a citation for the~~
24 ~~violation of any regulation adopted pursuant to any provision of~~
25 ~~this code.~~

26 ~~(b) The authority to issue a citation for a violation of any~~
27 ~~provision of this code also includes the authority to issue a fix-it~~
28 ~~ticket, in lieu of a fine. Any person who is issued a fix-it ticket in~~
29 ~~lieu of a citation and fine shall have 30 days in which to correct~~
30 ~~the violation before being issued the fine.~~



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STATE AND CONSUMER SERVICES AGENCY - GOVERNOR EDMUND G. BROWN JR.

Physical Therapy Board of California

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Bill Analysis

Bill Number: AB 1510 **Version:** Introduced 02/17/17
Author: Dababneh **Sponsor:** Author
Subject: Athletic Trainers **Status:** Assembly Business and Professions Committee. Failed deadline pursuant to rule 61(a)(2).

Adopted Position:
None.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Enrolled	Vetoed	Chaptered	Effective Date	2 yr./ Dead
1 st House				2 nd House								

Red: Current/completed status Gray: Not applicable

Existing Law

- Establishes requirements and procedures for legislative oversight of state board formation and licensed professional practice. (Government Code (GOV) §§ 9148-9148.8).
- Provides Requires, prior to consideration by the Legislature of legislation creating a new state board or legislation creating a new category of licensed professional, that the author or sponsor of the legislation develop a plan for the establishment and operation of the proposed state board or new category of licensed professional. (GOV § 9148.4).
- The plan must include, but not be limited to, all of the following:
 - A description of the problem that the creation of the specific state board or new category of licensed professional would address, including the specific evidence of need for the state to address the problem. (GOV § 9148.4 (a)).
 - The reasons why this proposed state board or new category of licensed professional was selected to address this problem, including the full range of alternatives considered and the reason why each of these alternatives was not selected. (GOV § 9148.4(b)).
 - Alternatives that shall be considered include, but are not limited to, the following:
 - No action taken to establish a state board or create a new category of licensed professional. (GOV § 9148.4(b)(1)).
 - The use of a current state board or agency or the existence of a current category of licensed professional to address the problem, including any necessary changes to the mandate or composition of



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- the existing state board or agency or current category of licensed professional. (GOV § 9148.4(b)(2)).
- iii. The various levels of regulation or administration available to address the problem. (GOV § 9148.4(b)(3)).
 - iv. Addressing the problem by federal or local agencies. (GOV § 9148.4(b)(4)).
 - d. The specific public benefit or harm that would result from the establishment of the proposed state board or new category of licensed professional, the specific manner in which the proposed state board or new category of licensed professional would achieve this benefit, and the specific standards of performance which shall be used in reviewing the subsequent operation of the board or category of licensed professional. (GOV § 9148.4(c)).
 - e. The specific source or sources of revenue and funding to be utilized by the proposed state board or new category of licensed professional in achieving its mandate. (GOV § 9148.4(d)).
 - f. The necessary data and other information required in this section shall be provided to the Legislature with the initial legislation and forwarded to the policy committees in which the bill will be heard. (GOV § 9148.4(e)).
- 4. Authorizes the appropriate policy committee of the Legislature to evaluate the plan prepared in connection with a legislative proposal to create a new state board and provides that, if the appropriate policy committee does not evaluate a plan, then the Joint Sunset Review Committee shall evaluate the plan and provide recommendations to the Legislature. (GOV § 9148.8).
 - 5. Establishes the Department of Consumer Affairs (DCA) within the Business, Consumer Services, and Housing Agency. (Business and Professions Code (BPC) § 100).
 - 6. Provides for the licensure and regulation of various professions and vocations by boards, bureaus, and other entities within the DCA. (BPC §§ 22, 100-144.5).
 - 7. Specifies that the DCA is under the control of a civil executive officer who is known as the Director of Consumer Affairs and specifies the duties and authority of the Director. (BPC §§ 150-166).
 - 8. Authorizes the DCA to levy a charge for estimated administrative expenses, not to exceed the available balance in any appropriation for any one fiscal year, in advance on a pro rata share basis against any of the boards, bureaus, commissions, divisions, and agencies, at the discretion of the director and with the approval of the Department of Finance. (BPC § 201).
 - 9. Establishes the Bagley-Keene Open Meetings Act, which covers all state boards and commissions and requires them to publicly notice their meetings, prepare agendas, accept public testimony, and conduct their meetings in public unless specifically authorized to meet in closed session. (GOV §§ 11120-11132).



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10. Provides for the licensure and regulation of occupational therapists, as defined, by the CBOT within the DCA until January 1, 2018, and provides that the repeal of these provisions subjects the CBOT to review by the appropriate policy committees of the Legislature. (BPC § 3716).

11. Administrative Procedure Act (GOV §§ 11340-11529).

This Bill

1. Establishes, until January 1, 2025, the Athletic Training Practice Act.
2. Declares the following Legislative Intent:
 - a. California is one of only two states that does not currently regulate the practice of athletic training. This lack of regulation creates the risk that individuals who have lost or are unable to obtain licensure in another state will come to California to practice, thereby putting the public in danger and degrading the standards of the profession as a whole.
 - b. There is a pressing and immediate need to regulate the profession of athletic training in order to protect the public health, safety, and welfare. This need is particularly important because athletic trainers often work with school age children.
 - c. There is also a pressing and immediate need to regulate the profession of athletic training because the absence of regulation puts California businesses, colleges, universities, and other organizations at risk of liability solely because of the unlicensed status of athletic trainers in the state.
3. Defines, for the purposes of the practice act, the following:
 - a. "Athletic trainer" means a person who meets the requirements of this chapter, is licensed by the committee, and practices under the direction of a licensed physician or surgeon.
 - b. "Board" means the California Board of Occupational Therapy.
 - c. "Committee" means the Athletic Trainer Licensing Committee.
 - d. "Director" means the Director of Consumer Affairs.
4. Establishes the Athletic Trainer Licensing Committee within the CBOT and specifies the following:
 - a. The committee shall consist of seven members.
 - b. The seven committee members shall include the following:
 - i. Four licensed athletic trainers, and specifies procedures for selecting the athletic trainer members prior to licensure of athletic trainers in this state.
 - ii. One public member



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- iii. One physician and surgeon licensed by the Medical Board of California or one osteopathic physician and surgeon licensed by the Osteopathic Medical Board of California.
- iv. One occupational therapist licensed by the board.
- c. Subject to confirmation by the Senate, the Governor shall appoint two of the licensed athletic trainers, the public member, the physician and surgeon or osteopathic physician and surgeon, and the licensed occupational therapist. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint a licensed athletic trainer.
- d. All appointments are for a term of four years and shall expire on June 30 of the year in which the term expires, as specified.
- e. Each member of the committee shall receive per diem and expenses as provided under existing law.
- f. Protection of the public shall be the highest priority for the committee in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.
- 5. Requires the Athletic Trainer Licensing Committee to do the following:
 - a. Adopt, repeal, and amend regulations as may be necessary to enable it to administer this chapter, as provided.
 - b. Allows the committee to consult the professional standards issued by the National Athletic Trainers Association, the Board of Certification, Inc., the Commission on Accreditation of Athletic Training Education, or any other nationally recognized professional athletic training organization before adopting regulations.
 - c. Approve programs for the education and training of athletic trainers.
 - d. Investigate each applicant, before a license is issued, in order to determine whether the applicant meets the qualifications required by this chapter.
- 6. Requires the committee to issue an athletic training license to an applicant who meets all of the following requirements:
 - a. Has submitted an application developed by the committee that includes evidence that the applicant has graduated from a professional degree program in athletic training accredited by the Commission on Accreditation of Athletic Training Education, or its predecessors or successors, and approved by the committee, at an accredited postsecondary institution or institutions approved by the committee. The professional degree program shall consist of didactic, clinical, and research experiences in athletic training using critical thinking and weighing of evidence.
 - b. Has passed an athletic training certification examination offered by the Board of Certification, Inc., its predecessors or successors, or another nationally accredited athletic trainer certification agency approved and recognized by the committee.
 - c. Possesses a certificate in Cardio Pulmonary Resuscitation (CPR) and Automated External Defibrillator (AED), as specified.



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- d. Has paid the application fee established by the committee.
7. Requires the committee to "grandfather" specified athletic training practitioners. Specifically, the committee shall issue an athletic training license to an applicant who did not graduate from an accredited athletic training education program described under the practice act, but who received athletic training via an internship, if the applicant meets all of the following requirements:
 - a. Furnishes evidence satisfactory to the committee of completion of a degree at an accredited postsecondary institution that included instruction in basic sciences related to, and on the practice of, athletic training.
 - b. Passes the required examination.
 - c. Completes at least 1,500 hours of clinical experience under an athletic trainer certified by a certification agency, as specified.
 - d. Possesses a certificate in CPR and AED, as specified.
 - e. Pays the application fee.
8. Licenses are valid for two years and may be renewed if the licensee meets the following renewal requirements:
 - a. Pays the renewal fee as established by the committee.
 - b. Submits proof of all of the following:
 - i. Satisfactory completion of continuing education, as determined by the committee.
 - ii. Current athletic training certification from an approved certification body, as specified.
 - iii. Current certification CPR and AED certification.
9. Authorizes the committee to deny a license or the renewal of a license for an applicant or licensee who is described by any of the following:
 - a. Does not meet the requirements of this chapter.
 - b. Has had an athletic training license, certification, or registration revoked or suspended by an accredited organization, state or territory.
 - c. Has been convicted of a felony or any other crime that substantially relates to the functions or duties of an athletic trainer.
 - d. Has committed unprofessional conduct, as specified.
10. Authorizes the committee to order any of the following actions relative to an athletic training license after a hearing for unprofessional conduct, which includes, but is not limited to, a violation of this chapter, any regulation adopted by the committee pursuant to this chapter, and revocation or suspension of an athletic training license, certification, or registration by an accredited organization, state, or territory:
 - a. Issuance of the athletic training license subject to terms and conditions.
 - b. Suspension or revocation of the athletic training license.
 - c. Imposition of probationary conditions upon the athletic training license.
11. Establishes the following offenses:



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- a. A person shall not engage in the practice of athletic training unless licensed under the practice act.
 - b. A person shall not use the title “athletic trainer,” “licensed athletic trainer,” “certified athletic trainer,” “athletic trainer certified,” “a.t.,” “a.t.l.,” “c.a.t.,” “a.t.c.,” or any other variation of these terms, or any other similar terms indicating that the person is an athletic trainer, unless that person is licensed under the practice act.
 - c. Notwithstanding the above, there is an exception period for a person who practiced athletic training in California for a period of 20 consecutive years prior to July 1, 2018, and is not eligible on that date for an athletic training license to engage in the practice of athletic training and use the title “athletic trainer” without being licensed by the committee, upon registration with the committee. However, on and after January 1, 2021, a person shall not engage in the practice of athletic training or use the title “athletic trainer” unless he or she is licensed by the committee pursuant to this chapter.
12. Establishes the following relating to the scope of practice of athletic training:
- a. The scope of practice of athletic training includes the following:
 - i. Risk management and injury or illness prevention.
 - ii. The clinical evaluation and assessment of an injury sustained or exacerbated while participating in physical activity.
 - iii. The immediate care of an injury sustained or exacerbated while participating in physical activity or a condition exacerbated while participating in physical activity.
 - iv. The rehabilitation and reconditioning from an injury or an illness sustained or exacerbated while participating in physical activity.
 - b. The practice of athletic training does not include grade 5 spinal manipulations.
 - c. An athletic trainer shall refer a patient to an appropriate licensed health care provider when the treatment or management of the injury or condition does not fall within the practice of athletic training.
 - d. An athletic trainer shall not provide, offer to provide, or represent that he or she is qualified to provide any treatment that he or she is not qualified to perform by his or her education, training, or experience, or that he or she is otherwise prohibited by law from performing.
 - e. Defines, for purposes of athletic training scope of practice, the following:
 - i. “Injury” means an injury sustained as a result of, or exacerbated by, participation in athletics or physical activity for which the athletic trainer has had formal training during his or her professional education program or advanced post-professional study and falls within the practice of athletic training.
 - ii. “Condition” means a condition acutely exacerbated while participating in athletics or physical activity for which the athletic trainer has had formal training during his or her professional



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education program or advanced post-professional study and falls within the practice of athletic training.

- f. An athletic trainer shall render treatment within his or her scope of practice under the direction of a physician and surgeon licensed by the Medical Board of California or an osteopathic physician and surgeon licensed by the Osteopathic Medical Board of California, as provided.
 - g. Notwithstanding any other law, and consistent with the practice act, the committee may establish other alternative mechanisms for the adequate direction of an athletic trainer.
13. Provides the following exceptions from the licensure requirement:
- a. An athletic trainer licensed, certified, or registered in another state or country who is in California temporarily, traveling with a team or organization, to engage in the practice of athletic training for, among other things, an athletic or sporting event.
 - b. An athletic trainer licensed, certified, or registered in another state who is invited by a sponsoring organization, such as the United States Olympic Committee, to temporarily provide athletic training services under his or her state's scope of practice for athletic training.
 - c. A student enrolled in an athletic training education program, while participating in educational activities during the course of his or her educational rotations under the supervision and guidance of an athletic trainer licensed under this chapter, a physician and surgeon licensed by the Medical Board of California, an osteopathic physician and surgeon licensed by the Osteopathic Medical Board of California, or other licensed health care provider.
 - d. A member or employee of the United States Armed Forces, licensed, certified, or registered in another state, as part of his or her temporary federal deployment or employment in California for a limited time.
 - e. Any person licensed and regulated under the healing arts provisions of the BPC (Division 2, BPC §§ 500-4999.129). Specifically, the practice act does not limit, impair, or otherwise apply to the practice of healing arts licensees.
14. Establishes the following relating to funding:
- a. The committee shall establish license application and renewal fees in an amount sufficient to cover the reasonable regulatory costs of administering the practice act.
 - b. There is an Athletic Trainers' Fund.
 - c. All fees collected pursuant to the practice act shall be paid into the fund and shall be available to the committee, upon appropriation by the Legislature, for the regulatory purpose of implementing the practice act.
 - d. The Director of Consumer Affairs may seek and receive funds from the California Athletic Trainers Association for the initial costs of implementing the practice act, as specified.



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15. Implementation of the practice act shall be delayed until sufficient funds are collected and deposited as specified, in the following timeline:

- a. Articles 1 (Administration) and 2 (Athletic Training) shall not become operative unless the director determines, on or before January 1, 2019, that sufficient funds to pay for the initial costs of the practice act have been received from the California Athletic Trainers Association, or some other source of funding, and the funds are deposited in the Athletic Trainers' Fund, in which case Article 1 shall become operative on the first January 1 or July 1, whichever occurs first, immediately following this determination.
- b. Article 2 shall become operative on the first January 1 or July 1, whichever occurs first, immediately following the operative date of Article 1. If the director finds that sufficient funds are not available by January 1, 2019, the director shall reexamine the funding status by June 30 of each subsequent year until either the director determines that sufficient funds have been received and deposited or until January 1, 2021, whichever occurs first.

Purpose/Background

Purpose:

This bill is sponsored by the author. According to the author, "Athletic trainers are physical medicine and rehabilitation specialists who focus on the prevention, treatment, and rehabilitation of injuries. Although they are recognized by the American Medical Association, U.S. Health Resources Services Administration, and the U.S. Department of Health and Human Services as a healthcare profession, California remains the only state that does not regulate the profession of athletic training. Approximately 30% of individuals calling themselves athletic trainers in high schools are not qualified. This poses significant risks to student athletes because the mistakes of unlicensed athletic trainers can lead to serious issues, including permanent disability or death. Additionally, an increasing number of states, such as Utah, Texas, Hawaii, and Massachusetts, have made it illegal for unregulated athletic trainers to practice. When California athletic trainers travel with their teams or companies to these states, both the employers and athletic trainers are exposed to legal and financial consequences just because they are trying to do their job. In order to effectively protect the public, the profession, and California employers, athletic trainers need to be licensed."

Background:

In California, many professions require a license to legally practice. Many of the professional licenses are administered by licensing boards, bureaus, and other entities within the DCA. The DCA licensing entities are established to protect the people of California through adequate regulation of businesses and professions that engage in activities that risk harm to the health, safety, and welfare of the public (BPC § 101.6).

The licensing entities establish the minimum level of competency required to engage in the occupations they regulate. As a result, an applicant seeking a license to practice from a licensing authority must demonstrate the ability to provide safe and effective



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services to the public. However, to avoid creating unnecessary barriers to entering a profession, the requirements should not require more than the minimum amount of training, education, and experience necessary to practice safely.

Sunrise of New Licensing Programs

The Legislature uses a Sunrise process for the purpose of assessing requests for new or increased occupational regulation, pursuant to GOV § 9148 and policy Committee Rules. The process includes a questionnaire and a set of evaluative scales to be completed by the group supporting regulation. The questionnaire is an objective tool for collecting and analyzing information needed to arrive at accurate, informed, and publicly supportable decisions regarding the merits of regulatory proposals. According to the author's Sunrise Questionnaire, "Athletic trainers are seeking licensure. The California Athletic Trainers Association (CATA) is the membership organization pursuing regulation for the athletic training profession in California."

The Legislature often receives requests for new or expanded occupational regulation. The regulatory proposals are generally intended to assure the competence of specified practitioners in different occupations. The requests have resulted in a proliferation of licensure and certification programs, which are often met with mixed reviews. Proponents argue that licensing benefits the public by assuring competence and an avenue for consumer redress. Critics disturbed by increased governmental intervention in the marketplace have cited shortages of practitioners and increased costs of service as indicators that regulation benefits a profession more than it benefits the public.

State legislators and administrative officials are expected to weigh arguments regarding the necessity of such regulation, determine the appropriate level of regulation (e.g., registration, certification or licensure), and select a set of standards (education, experience, examinations) that will assure competency. Requests for regulatory decisions often result in sharp differences of opinion as supporters and critics of the proposed regulation present their arguments. As a result, accurate information is necessary.

The Sunrise process was designed to ensure that necessary information is collected and that the arguments presented are objectively weighed. In developing the sunrise process, the Legislature and the DCA looked at methods for assessing needs for examinations, educational standards, and experience requirements that would assure provider competence. The project resulted in the current Sunrise process, an evaluative process designed to provide a uniform basis for the presentation and review of proposed occupational regulation. The Sunrise process includes a questionnaire and evaluative scales that allow systematic collection and analysis of the data required for decisions about new regulation.

This process accomplishes the following: (1) places the burden of showing the necessity for new regulations on the requesting groups; (2) allows the systematic collection of opinions both pro and con; and (3) documents the criteria used to decide upon new regulatory proposals. This helps to ensure that regulatory mechanisms are



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imposed only when proven to be the most effective way of protecting the public health, safety and welfare.

If review of the proponents' case indicates that regulation is appropriate, a determination must be made regarding the appropriate level of regulation. As noted above, the public is best served by minimal government intervention. The definitions and guidelines below are intended to facilitate selection of the least restrictive level of regulation that will adequately protect the public interest.

- Level I: Strengthen existing laws and controls. The choice may include providing stricter civil actions or criminal prosecutions. It is most appropriate where the public can effectively implement control.
- Level II: Impose inspections and enforcement requirements. This choice may allow inspection and enforcement by a state agency. These should be considered where a service is provided that involves a hazard to the public health, safety, or welfare. Enforcement may include recourse to court injunctions, and should apply to the business or organization providing the service, rather than the individual employees.
- Level III: Impose registration requirements. Under registration, the state maintains an official roster of the practitioners of an occupation, recording also the location and other particulars of the practice, including a description of the services provided. This level of regulation is appropriate where any threat to the public is small.
- Level IV: Provide opportunity for certification. Certification is voluntary; it grants recognition to persons who have met certain prerequisites. Certification protects a title: non-certified persons may perform the same tasks but may not use "certified" in their titles. Usually an occupational association is the certifying agency, but the state can be one as well. Either can provide consumers a list of certified practitioners who have agreed to provide services of a specified quality for a stated fee. This level of regulation is appropriate when potential for harm exists and when consumers have substantial need to rely on the services of practitioners.
- Level V: Impose licensure requirements. Under licensure, the state allows persons who meet predetermined standards to work at an occupation that would be unlawful for an unlicensed person to practice. Licensure protects the scope of practice and the title. It also provides for a disciplinary process administered by a state control agency. This level of regulation is appropriate only in those cases where a clear potential for harm exists and no lesser level of regulation can be shown to adequately protect the public.

Licensing Reform

In July of 2015, the White House issued a report, Occupational Licensing: A Framework for Policymakers. The report was prepared by the Department of the Treasury Office of Economic Policy, the Council of Economic Advisers, and the Department of Labor. The report noted that there has been a sharp increase in the number of workers holding a license. It also noted that, while licensing offers important protections to consumers and can benefit workers, there are also substantial costs and licensing requirements may



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not always align with the skills necessary for the profession being licensed. Specifically, the report found:

“There is evidence that licensing requirements raise the price of goods and services, restrict employment opportunities, and make it more difficult for workers to take their skills across State lines. Too often, policymakers do not carefully weigh these costs and benefits when making decisions about whether or how to regulate a profession through licensing. In some cases, alternative forms of occupational regulation, such as State certification, may offer a better balance between consumer protections and flexibility for workers.”

In response to the report, the Little Hoover Commission began a study on occupational licensing in October 2015. The Little Hoover Commission, formally known as the Milton Marks “Little Hoover” Commission on California State Government Organization and Economy, is an independent state oversight agency.

In October 2016, the Little Hoover Commission published its report, *Jobs for Californians: Strategies to Ease Occupational Licensing Barriers* (Report #234). The report noted:

“One out of every five Californians must receive permission from the government to work. For millions of Californians, that means contending with the hurdles of becoming licensed. Sixty years ago the number needing licenses nationally was one in 20. What has changed? What once was a tool for consumer protection, particularly in the healing arts professions, is now a vehicle to promote a multitude of other goals. These include professionalism of occupations, standardization of services, a guarantee of quality and a means of limiting competition among practitioners, among others. Many of these goals, though usually well intentioned, have had a larger impact of preventing Californians from working, particularly harder-to-employ groups such as former offenders and those trained or educated outside of California, including veterans, military spouses and foreign-trained workers.”

The Commission found that the effects of occupational licensing may extend beyond the people entering a licensed occupation. The Commission specifically expressed concern over those with lower incomes, “When government limits the supply of providers, the cost of services goes up. Those with limited means have a harder time accessing those services. Consequently, occupational licensing hurts those at the bottom of the economic ladder twice: first by imposing significant costs on them should they try to enter a licensed occupation and second by pricing the services provided by licensed professionals out of reach.”

As a result, the Commission recommended caution when looking at new licensing schemes (in addition to reviewing the current ones). Among other things, it recommended participating in a White House effort to review licensing programs across the country. It is providing, through the Department of Labor, \$7.5 million in funding for a



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consortium of states to assess whether current levels of occupational regulation are appropriate.

The Commission also recommended that the state consider the impact of licensing on groups disproportionately harmed by the regulations, including:

- 1) Former offenders. Witnesses testified there is no evidence demonstrating that having a criminal record is related to providing low quality services. Unnecessary restrictions on criminal convictions simply punish again people who have already served their time.
- 2) Military spouses. When military spouses cannot transfer their licenses across state lines due to state restrictions, they spend precious time and resources re-completing requirements they already have, or taking, in all likelihood, a lower-paying, lower-skilled job. Married service members overwhelmingly report their spouse's ability to maintain a career affects their decision to remain in the military.
- 3) Veterans. Veterans often face difficulty transferring their military education and experience into civilian licensing requirements. Sometimes they must repeat these requirements for a job they have been performing for years. Taxpayers then pay twice for them to learn the same set of skills: once while in the military and again through the G.I. Bill.
- 4) Foreign-trained workers. Like veterans, foreign-trained workers often have difficulty translating their education and experience into state licensing requirements and often take lower-skilled jobs instead. With worker shortages looming in mid- and high-skilled professions, the state should embrace these workers instead of erecting barriers to keep them out of jobs.

The Commission further noted that examining and assessing occupational regulations does not mean stripping consumer protection. Instead, it is an exercise in striking the appropriate balance between protecting consumers and limiting access to occupations and services.

Athletic Trainers

According to the author, "There is urgent and compelling need to license the profession of athletic training to: 1) protect the public; 2) protect employers of athletic trainers; and 3) protect athletic trainers." While protection of athletic trainers and their employers are a welcome collateral benefit, the focus of licensing is consumer protection.

According to the author's sunrise questionnaire, "The state of California has demanded strict standards for medical professionals. This reduces the chance of incompetent persons making difficult and life threatening decisions. Athletic training is one of the last allied health professions to be regulated by California, thus increasing the likelihood that unqualified, unethical or sanctioned individuals may practice athletic training."

With regard to specific harms:

Nationally in 2010, nearly 100 young athletes died, including 13 in California as a result of their participation in sports. These deaths were due to injuries and illnesses that included: mild traumatic brain injury, severe heat illness, exertional



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sickling, sport-induced asthma, or sudden cardiac arrest – all during or immediately following sporting activity. Additionally, children suffer cervical spine injuries and other catastrophic events in sports-related activity.

Athletic trainers are trained to evaluate and manage these conditions, as well as other potentially catastrophic injuries such as knee dislocations and fractures that if left unmanaged, or are mismanaged, may result in the loss of a limb. They also work with athletes and other patients who are diabetic, asthmatic, or have other chronic health conditions in which the patient may suffer acute or life threatening episodes.

As noted above, the questionnaire states that the applicant group representing the athletic trainers in this effort is the California Athletic Trainers Association (CATA). The CATA is a professional association that represents athletic trainers in California and includes both certified and non-certified members. Certification is obtained from the Board of Certification for the Athletic Trainer (BOCATC). According to the CATA, education for athletic training has been standardized and is accredited by a national accreditation agency, the Commission on Accreditation of Athletic Training Education (CAATE).

Occupational Therapy and the CBOT

This bill establishes the athletic trainer licensing program under the CBOT. The CBOT is a licensing board under the DCA. The purpose of the CBOT is to protect consumers through regulation of the practice of occupational therapy in California. Specifically, the CBOT administers the licensing and enforcement programs for occupational therapists (OTs), occupational therapy assistants (OTAs), and occupational therapy aides. The CBOT also establishes and clarifies state-specific process and practice standards through administrative rulemaking.

In California, regulation of occupational therapy began in 1977. Initially, regulation was limited to a title protection statute, which prohibited the use of titles such as “occupational therapist” or “O.T.” without meeting specific requirements. In 2000, the Legislature passed the first iteration of the Occupational Therapy Practice Act. The OT Practice Act establishes the CBOT and specifies the scope, licensing requirements and fees, and penalties for violations of the OT Practice Act, including unlicensed practice.

Under the OT Practice Act, it is a misdemeanor to practice occupational therapy or hold oneself out as being able to practice occupational therapy, via titles or other methods, unless licensed or otherwise authorized by law. The OT Practice Act provides, among others, the following definitions relating to the breadth and scope of occupational therapy as regulated in California:

- “Practice of occupational therapy” means the therapeutic use of occupations.
- “Occupations” are “purposeful and meaningful goal-directed activities... which engage the individual’s body and mind in meaningful, organized, and self-directed actions that maximize independence, prevent or minimize disability, and maintain health.”



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- “Occupational therapy services” include “occupational therapy assessment, treatment, education of, and consultation with, individuals who have been referred for occupational therapy services subsequent to diagnosis of disease or disorder (or who are receiving occupational therapy services as part of an Individualized Education Plan (IEP) pursuant to the federal Individuals with Disabilities Education Act (IDEA)).”
- “Occupational therapy assessment” is the identification of “performance abilities and limitations that are necessary for self-maintenance, learning, work, and other similar meaningful activities.”
- “Occupational therapy treatment” is defined as being “focused on developing, improving, or restoring functional daily living skills, compensating for and preventing dysfunction, or minimizing disability.” Treatment “may involve modification of tasks or environments to allow an individual to achieve maximum independence.”
- “Occupational therapy techniques that are used for treatment” are defined as involving “teaching activities of daily living (excluding speech-language skills); designing or fabricating selective temporary orthotic devices, and applying or training in the use of assistive technology or orthotic and prosthetic devices (excluding gait training).”
- “Occupational therapy consultation” provides expert advice to enhance function and quality of life. Consultation, like treatment, may also “involve modification of tasks or environments to allow an individual to achieve maximum independence.”

The CBOT oversees over 12,000 OTs and 2,500 OTAs. During each of the last three fiscal years, the CBOT issued a combined average of 1,018 licenses and renewed a combined average of 6,849 licenses.

The CBOT’s mandates include:

- Administer, coordinate, and enforce the provisions of the Practice Act.
- Evaluate the qualifications of applicants.
- Approve the examinations for licensure.
- Adopt rules relating to professional conduct to carry out the purpose of the Practice Act, including, but not limited to, rules relating to professional licensure and to the establishment of ethical standards of practice for persons holding a license to practice occupational therapy or to assist in the practice of occupational therapy in this state.

The current CBOT mission statement, as stated in its 2016–2019 Strategic Plan, is as follows:

“To protect California consumers of occupational therapy services through effective regulation, licensing and enforcement.”

The CBOT also interacts frequently with stakeholders, such as professional associations and consumers. The two professional associations cited in the CBOT’s 2016 Sunset Review Report are the local Occupational Therapy Association of California, Inc. (OTAC) and the national American Occupational Therapy



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Association, Inc. (AOTA). The CBOT also utilizes the examination provided by the National Board for Certification in Occupational Therapy (NBCOT), a voluntary certification organization.

POLICY ISSUES FOR CONSIDERATION:

Timeline for Consideration of Evidence

The Committee may wish to recommend holding this bill until the second year of the current Legislative Session. Pursuant to GOV §§ 9148-9148.8, the Committee requested that the author complete a Sunrise Questionnaire in late March. Committee rules specify that the Sunrise Questionnaire should be returned "at least seven (7) days prior to the proposed hearing of the bill." The Committee received the author's 44 page Sunrise Questionnaire on Thursday, April 20, 2017, at 3:57 p.m. The questionnaire's numerous appendices were delivered shortly after at 4:15 p.m. Additional time is required for a fair and diligent evaluation.

Timeline for Consideration of Amendments

The CBOT, the OTAC, and the CATA have each proposed separate sets of amendments (with some overlap) for review. The Committee has not had a sufficient amount of time to review the amendments. The Committee received 15 pages of proposed author amendments on Thursday, April 20, 2017, at 4:48 p.m.

In addition, the CBOT, which is the regulator under this bill, is currently supportive of this bill if amended. Due to the nature of the board decision-making process, the CBOT was not able to submit amendments until Thursday, April 20, 2017, at 3:04 p.m.

Additional time would allow the Committee to review and reconcile the CBOT's amendments with those from the author and opposition.

Additional time would also give the CBOT time to meet and vote to continue to support as amended if the amendments differ. The CBOT's vote did not specify whether deviation from the proposed language would be supported.

Further, this bill was first referred to the Assembly Committee on Arts, Entertainment, Sports, Tourism, and Internet Media, which also recommended amendments. Additional time would allow this Committee to coordinate with the Committee of first-referral, which retains jurisdiction over this bill.

Need for Legislation

There is significant disagreement over the need for this legislation among stakeholders. There is also disagreement over the necessity of establishing licensure over title protection. The Sunrise Questionnaire is one tool the Committee may rely on to settle arguments based in fact. The Committee may wish to recommend holding this bill to provide sufficient time to review the Questionnaire.

Scope of Practice

There is significant disagreement over the way the athletic trainer scope of practice is drafted, including whether administration of medication should be excluded and the proper way to delineate the conditions an athletic trainer may provide services for. While



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there currently appears to be conceptual agreement, additional time to work with stakeholders is needed.

Physician Direction versus Supervision

This bill authorizes an athletic trainer to perform services under the direction of a physician and surgeon and authorizes the Athletic Training Committee to determine additional methods for direction. Direction is not a recognized form of supervision under California law. Additional time is necessary to determine whether an athletic trainer operates under standardized protocols, a delegated services agreement, or some other form of supervision. Further, time is needed to explore whether the Athletic Training Committee should have the authority to amend the supervision requirement.

Overlapping Practitioners

The opposition argues that there are already practitioners who may provide athletic training services. This argument may be based in workplace competition. One study looked at the influence of occupational licensing on two occupations that provide similar services: occupational therapists and physical therapists (Cai, Jing and Morris M. Kleiner, *The Labor Market Consequences of Regulating Similar Occupations: The Licensing of Occupational and Physical Therapists*, Upjohn Institute Working Paper 16-259 (2016)).

That study noted, among other things, "Most of the tasks for these two occupations differ, but several jobs overlap, and individuals in both occupations could have legal jurisdiction over these tasks. We empirically examine how these two occupations interact with one another in the labor market on wage determination and employment.... The ability of these two occupations to be both complements to and substitutes for one another provides new evidence on how the growing number of regulated occupations that are similar interact and influence one another."

Governor's Vetoes

Last session, two different bills reached the Governor's desk which would have provided certified athletic trainers with title protection. Each was vetoed, with essentially the same message:

"This bill prohibits a person from using the title of athletic trainer unless they have received a bachelor's degree and are certified by a national certification body. I vetoed a nearly identical measure last year and continue to believe that the conditions set forth in this bill impose unnecessary burdens on athletic trainers without sufficient evidence that changes are needed."

Given that title protection is a lesser form of regulation than licensing, this bill increases the burdens. However, the Sunrise Questionnaire contains a significant amount of information and, if sufficiently reviewed, may provide evidence to support the proposed licensing program.



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IMPLEMENTATION ISSUES:

There are a number of outstanding implementations issues that need time to address, such as whether the Athletic Trainers' Fund should be merged with the Occupational Therapy Fund. Due to the low number of potential licensees, the application and renewal fees may need to be higher than expected to sustain the program.

For example, the Board of Vocational Nursing and Psychiatric Technicians previously had two funds, one for vocational nurses and one for psychiatric technicians. While the licenses are relatively similar, because there are significantly less psychiatric technicians than vocational nurses, the psychiatric technicians paid twice the amount in license fees than vocational nurses (\$300 to \$150). This was remedied by merging the funds in AB 179 (Bonilla), Chapter 510, Statutes of 2015. Additional time is necessary to explore these issues.

Related Legislation

AB 161 (Chau) of 2015 would have established certification and training requirements for athletic trainers and prohibit individuals from calling themselves athletic trainers unless they meet those requirements. NOTE: This bill was vetoed by Governor Brown who wrote in his veto message that the conditions set forth in the bill "impose unnecessary burdens on athletic trainers without sufficient evidence that they are really needed."

AB 1890 (Chau) of 2014 was substantially similar to AB 161. NOTE: This bill was vetoed by Governor Brown who wrote in his veto message that the conditions set forth in the bill "impose unnecessary burdens on athletic trainers without sufficient evidence that they are really needed."

AB 864 (Skinner) of 2013 would have established the licensure and regulation of athletic trainers through the creation of an Athletic Trainer Licensing Committee under the Physical Therapy Board of California. NOTE: This bill died in the Assembly Committee on Appropriations.

SB 1273 (Lowenthal) of 2012 was substantially similar to AB 864. NOTE: This bill died in the Senate Committee on Business, Professions, and Economic Development.

AB 374 (Hayashi) of 2011 as introduced would have established the Athletic Trainer Licensing Committee within the Medical Board of California to license and regulate athletic trainers commencing January 1, 2013, with a sunset date of January 1, 2018. The bill was later amended to provide title protection for athletic trainers. NOTE: This bill was later amended to become a bill by Assemblymember Hill that dealt with funeral embalmers and signed by the Governor.)

AB 1647 (Hayashi) of 2010 would have established certification and training requirements for athletic trainers and prohibited individuals from calling themselves



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athletic trainers unless they meet those requirements. NOTE: This bill was vetoed by Governor Schwarzenegger.

SB 284 (Lowenthal) of 2007 would have enacted the Athletic Trainers Registration Act prohibiting a person from representing himself or herself as a “certified athletic trainer,” unless he or she is registered by an athletic training organization. NOTE: This bill was vetoed by Governor Schwarzenegger.

SB 1397 (Lowenthal) of 2006 would have enacted the Athletic Trainers Certification Act, prohibiting a person from representing him or herself as an athletic trainer unless he or she is certified as an athletic trainer by an athletic training organization, as defined. NOTE: This bill was vetoed by Governor Schwarzenegger.

AB 614 (Lowenthal) of 2003 would have required the DCA to submit a recommendation to the Legislature as to whether the state should license and regulate athletic trainers by January 1, 2006, if the DCA is provided with an occupational analysis of persons providing athletic trainer services by July 1, 2005. NOTE: This bill was held in Senate Committee on Business and Professions Committee to allow the Joint Committee on Boards, Commissions and Consumer Protections to examine whether athletic trainers should be licensed as part of the Sunrise process.

AB 2789 (Lowenthal) of 2002 would have required the Department of Consumer Affairs to review the need for licensing of athletic trainers and undertake an occupational analysis. NOTE: This bill was held under submission in the Assembly Committee on Appropriations.

SB 2036 (McCorquodale), Chapter 908, Statutes of 1994, expanded existing law into the current Sunrise process, covering the creation of new categories of licensed professionals and the revision of the scope of practice of an existing category of licensed professional.

Fiscal Impact:

Unknown. This bill is keyed fiscal by the Legislative Counsel.

Support and Opposition

Support:

- Advocates for Injured Athletes
- American Medical Society for Sports Medicine
- Association of Independent California Colleges and Universities
- Beta Health Care Group
- Breg, Inc.
- Board of Certification, Inc. (BOC)
- California Athletic Trainers Association (CATA)



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- California Baptist University
- California Community College Athletic Trainers Association
- Chapman University
- California Interscholastic Federation and Sections
- Commission on Accreditation of Athletic Training Education (CAATE)
- DonJoy
- Eric Paredes Save a Life Foundation
- Los Angeles Unified School District – Board of Education
- National Athletic Trainers Association
- National Federation of State High School Associations
- National Collegiate Athletic Association
- National Hockey League
- University of the Pacific
- Onsite Innovations
- Play Safe
- Providence Health System

Opposition:

- California Academy of PAs (unless amended)
- California Nurses Association
- California Physical Therapy Association
- Occupational Therapy Association of California (unless amended)
- Numerous individual occupational therapists
- Numerous individual physical therapists

Comments

None.

Action Required

None.

ASSEMBLY BILL

No. 1510

Introduced by Assembly Member Dababneh

February 17, 2017

An act to add and repeal Chapter 5.8 (commencing with Section 2697) of Division 2 of the Business and Professions Code, relating to athletic trainers.

LEGISLATIVE COUNSEL'S DIGEST

AB 1510, as introduced, Dababneh. Athletic trainers.

Existing law provides for the regulation of various professions and vocations, including those of an athlete agent.

This bill would enact the Athletic Training Practice Act, which would, after a determination is made that sufficient funds have been received to pay initial costs of this bill, provide for the licensure and regulation of athletic trainers, as defined. The bill would, after that determination, establish the Athletic Trainer Licensing Committee within the California Board of Occupational Therapy to implement these provisions, including issuing and renewing athletic training licenses and imposing disciplinary action. Under the bill, the committee would be comprised of 7 members, to be appointed to 4-year terms, except as specified. Commencing 6 months after the committee is established by this bill, the bill would prohibit a person from practicing as an athletic trainer or using certain titles without a license issued by the committee, except as specified. The bill would prohibit, except in specified cases for a specified period, a person from using the title "athletic trainer," unless the person is licensed by the committee. The bill would specify the requirements for licensure, including education, examination, and the payment of a license application fee established by the committee. The bill would define the

practice of athletic training and prescribe supervision requirements on athletic trainers.

The bill would also establish the Athletic Trainers' Fund for the deposit of license application and renewal fees, and would make those fees available to the committee for the purpose of implementing these provisions upon appropriation by the Legislature. The bill would authorize the Director of Consumer Affairs to seek and receive donations from the California Athletic Trainers Association for purposes of obtaining funds for the startup costs of implementing the act. The bill would require the director to determine that sufficient funds for that purpose have been obtained and to provide notice to the Legislature, the Governor, and on the department's Internet Web site of the determination, as specified. This bill would repeal these provisions on January 1, 2025.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares the following:
- 2 (a) California is one of only two states that does not currently
- 3 regulate the practice of athletic training. This lack of regulation
- 4 creates the risk that individuals who have lost or are unable to
- 5 obtain licensure in another state will come to California to practice,
- 6 thereby putting the public in danger and degrading the standards
- 7 of the profession as a whole.
- 8 (b) There is a pressing and immediate need to regulate the
- 9 profession of athletic training in order to protect the public health,
- 10 safety, and welfare. This need is particularly important because
- 11 athletic trainers often work with schoolage children.
- 12 (c) There is also a pressing and immediate need to regulate the
- 13 profession of athletic training because the absence of regulation
- 14 puts California businesses, colleges, universities, and other
- 15 organizations at risk of liability solely because of the unlicensed
- 16 status of athletic trainers in the state.
- 17 SEC. 2. Chapter 5.8 (commencing with Section 2697) is added
- 18 to Division 2 of the Business and Professions Code, to read:

CHAPTER 5.8. ATHLETIC TRAINERS

Article 1. Administration

2697. This chapter shall be known, and may be cited, as the Athletic Training Practice Act.

2697.1. For the purposes of this chapter, the following definitions apply:

(a) "Athletic trainer" means a person who meets the requirements of this chapter, is licensed by the committee, and practices under the direction of a licensed physician or surgeon.

(b) "Board" means the California Board of Occupational Therapy.

(c) "Committee" means the Athletic Trainer Licensing Committee.

(d) "Director" means the Director of Consumer Affairs.

2697.2. (a) There is established the Athletic Trainer Licensing Committee within the California Board of Occupational Therapy. The committee shall consist of seven members.

(b) The seven committee members shall include the following:

(1) Four licensed athletic trainers. Initially, the committee shall include four athletic trainers who have graduated from a professional degree program described in subdivision (a) of Section 2697.5 prior to approval by the committee and who will satisfy the remainder of the licensure requirements, including submission of an application, described in Section 2697.5 as soon as it is practically possible.

(2) One public member.

(3) One physician and surgeon licensed by the Medical Board of California or one osteopathic physician and surgeon licensed by the Osteopathic Medical Board of California.

(4) One occupational therapist licensed by the board.

(c) Subject to confirmation by the Senate, the Governor shall appoint two of the licensed athletic trainers, the public member, the physician and surgeon or osteopathic physician and surgeon, and the licensed occupational therapist. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint a licensed athletic trainer.

(d) (1) All appointments are for a term of four years and shall expire on June 30 of the year in which the term expires. Vacancies shall be filled for any unexpired term.

(2) Notwithstanding paragraph (1), for initial appointments to the committee, the public member appointed by the Governor and two of the athletic trainers shall serve terms of two years, and the remaining members shall serve terms of four years.

(e) Each member of the committee shall receive per diem and expenses as provided in Section 103.

2697.3. (a) (1) The committee shall adopt, repeal, and amend regulations as may be necessary to enable it to administer this chapter. All regulations shall be in accordance with this chapter.

(2) Before adopting regulations, the committee may consult the professional standards issued by the National Athletic Trainers Association, the Board of Certification, Inc., the Commission on Accreditation of Athletic Training Education, or any other nationally recognized professional athletic training organization.

(b) The committee shall approve programs for the education and training of athletic trainers.

(c) The committee shall investigate each applicant, before a license is issued, in order to determine whether the applicant meets the qualifications required by this chapter.

(d) Protection of the public shall be the highest priority for the committee in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

2697.4. Except as otherwise provided in this chapter, the committee shall issue an athletic training license to an applicant who meets all of the following requirements:

(a) Has submitted an application developed by the committee that includes evidence that the applicant has graduated from a professional degree program in athletic training accredited by the Commission on Accreditation of Athletic Training Education, or its predecessors or successors, and approved by the committee, at an accredited postsecondary institution or institutions approved by the committee. The professional degree program shall consist of didactic, clinical, and research experiences in athletic training using critical thinking and weighing of evidence.

1 (b) Has passed an athletic training certification examination
2 offered by the Board of Certification, Inc., its predecessors or
3 successors, or another nationally accredited athletic trainer
4 certification agency approved and recognized by the committee.

5 (c) Possesses a certificate in Cardio Pulmonary Resuscitation
6 (CPR) and Automated External Defibrillator (AED) for
7 professional rescuers and health care providers from a certification
8 body, approved by the committee, that adheres to the most current
9 international guidelines for cardiopulmonary resuscitation and
10 emergency cardiac care.

11 (d) Has paid the application fee established by the committee.

12 2697.5. Notwithstanding Section 2697.4, the committee shall
13 issue an athletic training license to an applicant who did not
14 graduate from an accredited athletic training education program
15 described in subdivision (a) of Section 2697.4, but who received
16 athletic training via an internship, if the applicant meets all of the
17 following requirements:

18 (a) Furnishes evidence satisfactory to the committee of
19 completion of a degree at an accredited postsecondary institution
20 that included instruction in basic sciences related to, and on the
21 practice of, athletic training.

22 (b) Passes the examination described in subdivision (b) of
23 Section 2697.4.

24 (c) Completes at least 1,500 hours of clinical experience under
25 an athletic trainer certified by a certification agency described in
26 subdivision (b) of Section 2697.4.

27 (d) Possesses a certificate in CPR and AED for professional
28 rescuers and health care providers from a certification body,
29 approved by the committee, that adheres to the most current
30 international guidelines for cardiopulmonary resuscitation and
31 emergency cardiac care.

32 (e) Has paid the application fee established by the committee.

33 2697.6. A license issued by the committee pursuant to Section
34 2697.4 or 2697.5 is valid for two years and thereafter is subject to
35 the renewal requirements described in Sections 2697.7 and 2697.8.

36 2697.7. The committee shall establish license application and
37 renewal fees in an amount sufficient to cover the reasonable
38 regulatory costs of administering this chapter.

39 2697.8. The committee shall renew a license if an applicant
40 meets all of the following requirements:

- 1 (a) Pays the renewal fee as established by the committee.
2 (b) Submits proof of all of the following:
3 (1) Satisfactory completion of continuing education, as
4 determined by the committee.
5 (2) Current athletic training certification from a certification
6 body approved by the committee, including, but not limited to, the
7 Board of Certification, Inc., or its predecessors or successors.
8 (3) Current certification described in subdivision (c) of Section
9 2697.4.
10 2697.9. (a) The committee may deny a license or the renewal
11 of a license for an applicant or licensee who is described by any
12 of the following:
13 (1) Does not meet the requirements of this chapter.
14 (2) Has had an athletic training license, certification, or
15 registration revoked or suspended by an accredited organization,
16 state, or territory.
17 (3) Has been convicted of a felony or any other crime that
18 substantially relates to the functions or duties of an athletic trainer.
19 (4) Has committed unprofessional conduct, as described in
20 subdivision (b).
21 (b) The committee may order any of the following actions
22 relative to an athletic training license after a hearing for
23 unprofessional conduct, which includes, but is not limited to, a
24 violation of this chapter, any regulation adopted by the committee
25 pursuant to this chapter, and revocation or suspension of an athletic
26 training license, certification, or registration by an accredited
27 organization, state, or territory:
28 (1) Issuance of the athletic training license subject to terms and
29 conditions.
30 (2) Suspension or revocation of the athletic training license.
31 (3) Imposition of probationary conditions upon the athletic
32 training license.

33 Article 2. Athletic Training 34 35

- 36 2697.10. (a) A person shall not engage in the practice of
37 athletic training unless licensed pursuant to this chapter.
38 (b) A person shall not use the title “athletic trainer,” “licensed
39 athletic trainer,” “certified athletic trainer,” “athletic trainer
40 certified,” “a.t.,” “a.t.l.,” “c.a.t.,” “a.t.c.,” or any other variation of

1 these terms, or any other similar terms indicating that the person
2 is an athletic trainer unless that person is licensed pursuant to this
3 chapter.

4 (c) Notwithstanding subdivisions (a) and (b), a person who
5 practiced athletic training in California for a period of 20
6 consecutive years prior to July 1, 2018, and is not eligible on that
7 date for an athletic training license may engage in the practice of
8 athletic training and use the title “athletic trainer” without being
9 licensed by the committee, upon registration with the committee.
10 However, on and after January 1, 2021, a person shall not engage
11 in the practice of athletic training or use the title “athletic trainer”
12 unless he or she is licensed by the committee pursuant to this
13 chapter.

14 2697.11. (a) The practice of athletic training includes all of
15 the following:

16 (1) Risk management and injury or illness prevention.

17 (2) The clinical evaluation and assessment of an injury sustained
18 or exacerbated while participating in physical activity.

19 (3) The immediate care of an injury sustained or exacerbated
20 while participating in physical activity or a condition exacerbated
21 while participating in physical activity.

22 (4) The rehabilitation and reconditioning from an injury or an
23 illness sustained or exacerbated while participating in physical
24 activity.

25 (b) The practice of athletic training does not include grade 5
26 spinal manipulations.

27 (c) An athletic trainer shall refer a patient to an appropriate
28 licensed health care provider when the treatment or management
29 of the injury or condition does not fall within the practice of athletic
30 training.

31 (d) An athletic trainer shall not provide, offer to provide, or
32 represent that he or she is qualified to provide any treatment that
33 he or she is not qualified to perform by his or her education,
34 training, or experience, or that he or she is otherwise prohibited
35 by law from performing.

36 (e) (1) For purposes of this section, “injury” means an injury
37 sustained as a result of, or exacerbated by, participation in athletics
38 or physical activity for which the athletic trainer has had formal
39 training during his or her professional education program or

1 advanced postprofessional study and falls within the practice of
2 athletic training.

3 (2) For purposes of this section, “condition” means a condition
4 acutely exacerbated while participating in athletics or physical
5 activity for which the athletic trainer has had formal training during
6 his or her professional education program or advanced
7 postprofessional study and falls within the practice of athletic
8 training.

9 2697.12. (a) An athletic trainer shall render treatment within
10 his or her scope of practice under the direction of a physician and
11 surgeon licensed by the Medical Board of California or an
12 osteopathic physician and surgeon licensed by the Osteopathic
13 Medical Board of California. This direction shall be provided by
14 verbal or written order by the directing physician and surgeon or
15 osteopathic physician and surgeon or by athletic training treatment
16 plans or protocols established by the physician and surgeon or
17 osteopathic physician and surgeon.

18 (b) Notwithstanding any other law, and consistent with this
19 chapter, the committee may establish other alternative mechanisms
20 for the adequate direction of an athletic trainer.

21 2697.13. The requirements of this chapter do not apply to the
22 following:

23 (a) An athletic trainer licensed, certified, or registered in another
24 state or country who is in California temporarily, traveling with a
25 team or organization, to engage in the practice of athletic training
26 for, among other things, an athletic or sporting event.

27 (b) An athletic trainer licensed, certified, or registered in another
28 state who is invited by a sponsoring organization, such as the
29 United States Olympic Committee, to temporarily provide athletic
30 training services under his or her state’s scope of practice for
31 athletic training.

32 (c) A student enrolled in an athletic training education program,
33 while participating in educational activities during the course of
34 his or her educational rotations under the supervision and guidance
35 of an athletic trainer licensed under this chapter, a physician and
36 surgeon licensed by the Medical Board of California, an osteopathic
37 physician and surgeon licensed by the Osteopathic Medical Board
38 of California, or other licensed health care provider.

39 (d) A member or employee of the United States Armed Forces,
40 licensed, certified, or registered in another state, as part of his or

1 her temporary federal deployment or employment in California
2 for a limited time.

3 2697.14. This chapter does not limit, impair, or otherwise apply
4 to the practice of any person licensed and regulated under any
5 other chapter of Division 2 (commencing with Section 500).

6 2697.15. This chapter does not require new or additional
7 third-party reimbursement for services rendered by an individual
8 licensed under this chapter.

9
10 Article 3. Athletic Trainers' Fund
11

12 2697.16. The Athletic Trainers' Fund is hereby established.
13 All fees collected pursuant to this chapter shall be paid into the
14 fund. These fees shall be available to the committee, upon
15 appropriation by the Legislature, for the regulatory purpose of
16 implementing this chapter.

17 2697.17. (a) Notwithstanding any other law, including Section
18 11005 of the Government Code, the Director of Consumer Affairs
19 may seek and receive funds from the California Athletic Trainers
20 Association for the initial costs of implementing this chapter.

21 (b) Articles 1 (commencing with Section 2697) and 2
22 (commencing with Section 2697.10) shall not become operative
23 unless the director determines, on or before January 1, 2019, that
24 sufficient funds to pay for the initial costs of this chapter have been
25 received from the California Athletic Trainers Association, or
26 some other source of funding, and the funds are deposited in the
27 Athletic Trainers' Fund, in which case Article 1 shall become
28 operative on the first January 1 or July 1, whichever occurs first,
29 immediately following this determination. Article 2 shall become
30 operative on the first January 1 or July 1, whichever occurs first,
31 immediately following the operative date of Article 1. If the
32 director finds that sufficient funds are not available by January 1,
33 2019, the director shall reexamine the funding status by June 30
34 of each subsequent year until either the director determines that
35 sufficient funds have been received and deposited or until January
36 1, 2021, whichever occurs first.

37 (c) The director shall provide written notification to the
38 Legislature and the Governor when the determination described
39 in subdivision (b) has been made, and shall concurrently post a

- 1 notice on the Department of Consumer Affairs Internet Web site
- 2 that the determination has been made.
- 3 (d) A failure of the director to comply with subdivision (c) shall
- 4 not affect the validity of a determination made pursuant to
- 5 subdivision (b).
- 6 2697.18. This chapter shall remain in effect only until January
- 7 1, 2025, and as of that date is repealed.

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Physical Therapy Board of California

STATE AND CONSUMER SERVICES AGENCY - GOVERNOR EDMUND G. BROWN JR.

Physical Therapy Board of California

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Bill Analysis

Bill Number: AB 1706 **Version:** Amended 05/02/17
Author: Committee on Business and Professions **Sponsor:**
Subject: Healing Arts: **Status:** Assembly
 Chiropractic Appropriations
 Practice: Committee. To
 Occupational Consent Calendar.
 Therapy: Physical
 Therapy

Adopted Position:

None.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Enrolled	Vetoed	Chaptered	Effective Date	2 yr./ Dead
1 st House				2 nd House								

Red: Current/completed status Gray: Not applicable

Existing Law

1. The Chiropractic Act, enacted by an initiative measure, provides for the licensure and regulation of chiropractors in this state by the State Board of Chiropractic Examiners. Existing law requires that the powers and duties of the board, as provided, be subject to review by the appropriate policy committees of the Legislature as if that act were scheduled to be repealed on January 1, 2018.
2. Provides for the licensure and regulation of occupational therapists, as defined, by the CBOT within the Department of Consumer Affairs (DCA) until January 1, 2018, and provides that the repeal of these provisions subjects the CBOT to review by the appropriate policy committees of the Legislature. (BPC § 3716).
3. Provides for the licensure, approval, and regulation of physical therapists and physical therapist assistants by the PTBC within the DCA until January 1, 2018, and subjects the PTBC to review by the appropriate policy committees of the Legislature. (BPC § 2602; 2607.5) No action taken to establish a state board or create a new category of licensed professional. (GOV § 9148.4(b)(1)).

This Bill

1. This bill would require that the powers and duties of the State Board of Chiropractic Examiners as provided, be subject to review by the appropriate policy committees of the Legislature as if that act were scheduled to be repealed on January 1, 2022.



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2. This bill would extend the operation of the California Board of Occupational Therapy until January 1, 2022.
3. This bill would extend the operation of the Physical Therapy Board of California and the board's authority to appoint an executive officer and other personnel until January 1, 2022.

Purpose/Background

Purpose:

Unless legislation is carried this year to extend the sunset date for the boards specified under this bill, they will be repealed on January 1, 2018. The legislative changes that will be reflected in this bill are solutions to issues raised in the committee staff background paper and during the sunset review hearings on February 27, 2017 and March 6, 2017.

Background:

In February and March of 2017, the Assembly Business and Professions Committee and the Senate Business, Professions and Economic Development Committee (Committees) conducted multiple joint oversight hearings to review 12 regulatory boards within the DCA and one regulatory entity outside of the DCA. The sunset bills are intended to implement legislative changes recommended in the respective background reports drafted by the Committees for the agencies reviewed this year. During the sunset review hearings, the Committees take public testimony and evaluate the eligible agency prior to the date the agency is scheduled to be repealed. An eligible agency is allowed to sunset unless the Legislature enacts a law to extend, consolidate, or reorganize the eligible agency.

The Sunset Review Process

The sunset review process provides a formal mechanism for the DCA, the Legislature, the regulatory boards, bureaus and committees, interested parties, and stakeholders to make recommendations for improvements to the authority of consumer protection boards and bureaus. This is performed on a standard four-year cycle and was mandated by SB 2036 (McCorquodale), Chapter 908, Statutes of 1994. Each eligible agency is required to submit to the Committees a report covering the entire period since last reviewed that includes, among other things, the purpose and necessity of the agency and any recommendations of the agency for changes or reorganization in order to better fulfill its purpose. During the sunset review hearings, the Committees take public testimony and evaluate the eligible agency prior to the date the agency is scheduled to be repealed. An eligible agency is allowed to sunset unless the Legislature enacts a law to extend, consolidate, or reorganize the eligible agency.



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The CBOT is a licensing board under the DCA. The purpose of the CBOT is to protect consumers through regulation of the practice of occupational therapy in California. Specifically, the CBOT administers the licensing and enforcement programs for occupational therapists (OTs), occupational therapy assistants (OTAs), and occupational therapy aides. The CBOT also establishes and clarifies state-specific process and practice standards through administrative rulemaking. The CBOT was last reviewed in 2013.

PTBC

The purpose of the PTBC is to protect consumers from incompetent, unprofessional, and fraudulent practice through regulation of practitioners. Specifically, the PTBC administers the licensing and enforcement programs for physical therapists (PTs), physical therapist assistants (PTAs), and unlicensed physical therapy aides. The PTBC also establishes and clarifies state-specific process and practice standards through administrative rulemaking. The PTBC was last reviewed in 2013.

Amendments:

Because the BCE was created via initiative act, it does not have a sunset date. The amendment will update the language requiring the BCE to be reviewed consistent with other healing arts boards under the DCA and, subject to the recommendation of the Committees, specify the time for review.

Related Legislation

SB 198 (Lieu), reorganizes, revises, recasts and updates the Physical Therapy Practice Act and extended, until January 1, 2018, the authority of the PTBC to administer the Act and appoint an executive officer.

SB 305 (Price), Chapter 516, Statutes of 2013, extended, until January 1, 2018, the sunset dates for the Naturopathic Medicine Committee, the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board, the CBOT, the Board of Optometry, and the Respiratory Care Board of California; subjected the Board of Chiropractic Examiners (BCE) and the Osteopathic Medical Board to review by the appropriate policy committees of the legislature, and made other technical changes.

Fiscal Impact:

Unknown. This bill is keyed fiscal by the Legislative Counsel.

Support and Opposition

Support:

- Occupational Therapy Association of California

Opposition:



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None.

Comments

None.

Action Required

None.

AMENDED IN ASSEMBLY MAY 2, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 1706

Introduced by Committee on Business and Professions (Assembly Members—~~Salas~~ Low (Chair), Brough (Vice Chair), Arambula, Baker, Bloom, Chiu, Dahle, Gipson, Grayson, Holden, ~~Low~~, Mullin, Steinorth, and Ting)

March 2, 2017

An act to amend Sections 1000, 2570.19, 2602, and 2607.5 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1706, as amended, Committee on Business and Professions. Healing arts: *chiropractic practice*: occupational therapy: physical therapy.

The Chiropractic Act, enacted by an initiative measure, provides for the licensure and regulation of chiropractors in this state by the State Board of Chiropractic Examiners. Existing law requires that the powers and duties of the board, as provided, be subject to review by the appropriate policy committees of the Legislature as if that act were scheduled to be repealed on January 1, 2018.

This bill would require that the powers and duties of the board, as provided, be subject to review by the appropriate policy committees of the Legislature as if that act were scheduled to be repealed on January 1, 2022.

Existing law, the Occupational Therapy Practice Act, provides for the licensure and regulation of occupational therapists by the California Board of Occupational Therapy, which is within the Department of

Consumer Affairs, and repeals the provisions establishing the board on January 1, 2018.

This bill would extend the operation of the board until January 1, 2022.

Existing law, the Physical Therapy Practice Act, provides for the licensure and regulation of physical therapists and physical therapist assistants by the Physical Therapy Board of California, which is within the Department of Consumer Affairs. That act requires the board to appoint an executive officer and authorizes the board to employ other persons, as specified. That act repeals the provisions establishing the board and the board's authority to appoint an executive officer and other personnel on January 1, 2018.

This bill would extend the operation of the board and the board's authority to appoint an executive officer and other personnel until January 1, 2022.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 1000 of the Business and Professions*
2 *Code is amended to read:*

3 1000. (a) The law governing practitioners of chiropractic is
4 found in an initiative act entitled "An act prescribing the terms
5 upon which licenses may be issued to practitioners of chiropractic,
6 creating the State Board of Chiropractic Examiners and declaring
7 its powers and duties, prescribing penalties for violation hereof,
8 and repealing all acts and parts of acts inconsistent herewith,"
9 adopted by the electors November 7, 1922.

10 (b) The State Board of Chiropractic Examiners is within the
11 Department of Consumer Affairs.

12 (c) Notwithstanding any other law, the powers and duties of the
13 State Board of Chiropractic Examiners, as set forth in this article
14 and under the act creating the board, shall be subject to review by
15 the appropriate policy committees of the Legislature. The review
16 shall be performed as if this chapter were scheduled to be repealed
17 as of January 1, ~~2018~~. 2022.

18 ~~SECTION 1.~~

19 *SEC. 2. Section 2570.19 of the Business and Professions Code*
20 *is amended to read:*

1 2570.19. (a) There is hereby created a California Board of
2 Occupational Therapy, hereafter referred to as the board. The board
3 shall enforce and administer this chapter.

4 (b) The members of the board shall consist of the following:

5 (1) Three occupational therapists who shall have practiced
6 occupational therapy for five years.

7 (2) One occupational therapy assistant who shall have assisted
8 in the practice of occupational therapy for five years.

9 (3) Three public members who shall not be licentiates of the
10 board, of any other board under this division, or of any board
11 referred to in Section 1000 or 3600.

12 (c) The Governor shall appoint the three occupational therapists
13 and one occupational therapy assistant to be members of the board.
14 The Governor, the Senate Committee on Rules, and the Speaker
15 of the Assembly shall each appoint a public member. Not more
16 than one member of the board shall be appointed from the full-time
17 faculty of any university, college, or other educational institution.

18 (d) All members shall be residents of California at the time of
19 their appointment. The occupational therapist and occupational
20 therapy assistant members shall have been engaged in rendering
21 occupational therapy services to the public, teaching, or research
22 in occupational therapy for at least five years preceding their
23 appointments.

24 (e) The public members may not be or have ever been
25 occupational therapists or occupational therapy assistants or in
26 training to become occupational therapists or occupational therapy
27 assistants. The public members may not be related to, or have a
28 household member who is, an occupational therapist or an
29 occupational therapy assistant, and may not have had, within two
30 years of the appointment, a substantial financial interest in a person
31 regulated by the board.

32 (f) The Governor shall appoint two board members for a term
33 of one year, two board members for a term of two years, and one
34 board member for a term of three years. Appointments made
35 thereafter shall be for four-year terms, but no person shall be
36 appointed to serve more than two consecutive terms. Terms shall
37 begin on the first day of the calendar year and end on the last day
38 of the calendar year or until successors are appointed, except for
39 the first appointed members who shall serve through the last
40 calendar day of the year in which they are appointed, before

1 commencing the terms prescribed by this section. Vacancies shall
2 be filled by appointment for the unexpired term. The board shall
3 annually elect one of its members as president.

4 (g) The board shall meet and hold at least one regular meeting
5 annually in the Cities of Sacramento, Los Angeles, and San
6 Francisco. The board may convene from time to time until its
7 business is concluded. Special meetings of the board may be held
8 at any time and place designated by the board.

9 (h) Notice of each meeting of the board shall be given in
10 accordance with the Bagley-Keene Open Meeting Act (Article 9
11 (commencing with Section 11120) of Chapter 1 of Part 1 of
12 Division 3 of Title 2 of the Government Code).

13 (i) Members of the board shall receive no compensation for
14 their services, but shall be entitled to reasonable travel and other
15 expenses incurred in the execution of their powers and duties in
16 accordance with Section 103.

17 (j) The appointing power shall have the power to remove any
18 member of the board from office for neglect of any duty imposed
19 by state law, for incompetency, or for unprofessional or
20 dishonorable conduct.

21 (k) This section shall remain in effect only until January 1, 2022,
22 and as of that date is repealed.

23 (l) Notwithstanding any other law, the repeal of this section
24 renders the board subject to review by the appropriate policy
25 committees of the Legislature.

26 ~~SEC. 2.~~

27 *SEC. 3.* Section 2602 of the Business and Professions Code is
28 amended to read:

29 2602. (a) The Physical Therapy Board of California, hereafter
30 referred to as the board, shall enforce and administer this chapter.

31 (b) This section shall remain in effect only until January 1, 2022,
32 and as of that date is repealed.

33 (c) Notwithstanding any other law, the repeal of this section
34 renders the board subject to review by the appropriate policy
35 committees of the Legislature.

36 ~~SEC. 3.~~

37 *SEC. 4.* Section 2607.5 of the Business and Professions Code
38 is amended to read:

39 2607.5. (a) The board may employ an executive officer exempt
40 from the provisions of the State Civil Service Act (Part 2

1 (commencing with Section 18500) of Division 5 of Title 2 of the
2 Government Code) and may also employ investigators, legal
3 counsel, physical therapist consultants, and other assistance as it
4 may deem necessary to carry out this chapter. The board may fix
5 the compensation to be paid for services and may incur other
6 expenses as it may deem necessary. Investigators employed by the
7 board shall be provided special training in investigating physical
8 therapy practice activities.

9 (b) The Attorney General shall act as legal counsel for the board
10 for any judicial and administrative proceedings and his or her
11 services shall be a charge against it.

12 (c) This section shall remain in effect only until January 1, 2022,
13 and as of that date is repealed.

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Bill Analysis

Bill Number: SB 27
Author: Morrell
Coauthors: Senators Bates, Berryhill, Nguyen, Wilk
 Assembly Members Acosta, Baker, Chavez, Cunningham, Lackey, Mathis and Patterson

Version: Amended 04/17/17
Sponsor: Author
Status: Senate Appropriations Committee.

Subject: Professions and Vocations: Military Service

Adopted Position:

None.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Enrolled	Vetoed	Chaptered	Effective Date	2 yr./ Dead
1 st House				2 nd House								

Red: Current/completed status Gray: Not applicable

Existing Law

1. Provides for the licensure, registration and regulation of various professions and vocations by the boards, bureaus, committees, programs and commission (boards) administered within DCA.
2. Specifies that State policy directs persons with the skills, knowledge, and experiences obtained in the armed services should be permitted to apply this learning and contribute to the employment needs of this state at the maximum level of responsibility and skill for which they are qualified, and that to this end, that the rules and regulations of boards shall provide a method of evaluating education, training and experience obtained in the armed services and determine how it may be used to meet the licensure requirements for the particular business, or occupation, or profession regulated. Each board shall consult with the Department of Veterans Affairs and the Military Department before adopting these rules and regulations.
3. Authorizes any licensee whose license expired while on active duty as a member of the California National Guard (CNG) or United States Armed Forces to reinstate his or her license without examination or penalty, if certain specified requirements are met.



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4. Provides that every board within DCA shall waive the renewal fees, continuing education requirements, and other renewal requirements as determined by the board, if they are applicable, for any licensee or registrant called to active duty as a member of the Armed Forces or the CNG, if certain specified requirements are met.
5. Requires each board to inquire in every application whether the individual applying for licensure is serving in or has served previously in the military.
6. Requires that a board within DCA expedite, and may assist, the initial licensure process for an applicant who supplies satisfactory evidence to the board that the applicant has served as an active duty member of the Armed Forces and was honorably discharged and provides that the board may adopt regulations necessary to implement this requirement.
7. Requires a board within DCA to expedite the licensure process for an applicant who is married to, or in a domestic partnership or other legal union with, an active duty member or who is assigned to a duty station within this state under official active duty military orders and holds a current license from another state in the profession or vocation for which he or she seeks a license from the board.
8. Requires a board within DCA to issue, after appropriate investigation, temporary licenses for specified professions for an applicant who is married to, or is in a domestic partnership or other legal union with an active duty member or who is assigned to a duty station within this state under official active duty military orders, if specified requirements are met.
9. Authorizes the State Bar of California to waive the membership fees of any member who is in good standing with the State Bar at the time the member enters into military service and for the period for which the service member is in military service.

This Bill

1. Requires every board within DCA to grant a fee waiver for the application for and the issuance of an initial license to an individual, who supplies satisfactory evidence to the board that the applicant has served as an active duty member of the CNG or Armed Forces and was honorably discharged.
2. Provides that "satisfactory evidence" means a completed "Certificate of Release or Discharge from Active Duty" (DD Form 214).
3. Provides that a veteran shall be granted only one fee waiver, except if a board charges a fee for the application for a license and another fee for the issuance of a license. In that case, the board shall grant the veteran fee waivers for both the application for and issuance of a license.



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4. Specifies that, after a fee waiver has been issued by any board under the DCA pursuant to the provisions under this bill, the veteran will no longer be eligible for a waiver.
5. Specifies that the fee waiver shall apply only to an application of, and a license issued to, an individual veteran and not to an application of, or a license issued to, an individual veteran on behalf of a business or other entity.
6. Specifies that a waiver shall not be issued for: a) renewal of a license; b) the application for and issuance of an additional license, a certificate, a registration, or a permit associated with the initial license; or c) the application for an examination.

Purpose/Background

Occupational Licensing

One out of every five Californians must receive permission from the government to work. For millions of Californians, that means contending with the hurdles of becoming licensed. The DCA currently oversees 39 state licensing programs that issue more than two million licenses, registrations and certifications in nearly 200 professional categories. These licensing boards are charged with regulating specific professions through licensure and enforcement. Each regulatory entity is responsible for enforcing the minimum licensure qualifications established by statute and regulation. Licensure requirements vary in their specificity and flexibility. In many cases, the stated qualifications are specific and provide the regulating entity with little or no discretion over what experience or education can be accepted. Professional and occupational licensure requirements range from completing a form and paying a licensing fee to satisfying significant experiential, educational, and exam requirements.

Little Hoover Commission Study

In October 2016, the Little Hoover Commission published a study on occupational licensing, which focused on whether the state properly balances consumer protection with ensuring that Californians have adequate access to jobs and services. The study reported that certain groups are especially vulnerable to licensing regulations, including veterans. Citing testimony from the federal government, the Commission stated:

The primary occupational licensing problem for separating service members is licensing boards not accepting their military-acquired knowledge, skills and abilities toward credentialing requirements. This common roadblock impacts taxpayers as well as service members, noted Commission witness Laurie Crehan, of the Department of the Defense. Taxpayers foot the bill twice to train service members for the same job: the first time while they're in the military, then again following discharge to meet licensing requirements.



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The Commission also observed that California and other states have enacted legislative efforts to resolve the licensing problems, but noted that “common problems” in these state laws nationwide are:

- Broadly written laws provide too little guidance.
- Veterans may be unaware of their licensing eligibility.
- Legitimate skills gaps may go unaddressed.
- Insufficient partnerships between state, schools and the military.
- Lack of consistent metrics to measure licensure challenges.

Veteran Fee Waivers

Existing law provides veterans with waivers for other state programs:

- 1) Motor Vehicle Registration Fees: Waiver of vehicle registration fees, and free license plate for one passenger motor vehicle, one motorcycle, or one commercial motor vehicle of less than 8,001 pounds unladen weight. Eligibility: Medal of Honor recipients, American ex-prisoners of war (POW) and “disabled veterans,” as specified,
- 2) Fishing and Hunting License Fees: Partial waiver (reduction) of annual fees. Eligibility: Any honorably-discharged veteran with a 50% or greater service-connected disability.
- 3) State Parks and Recreation “Distinguished Veteran” Pass Fees: Waiver of all fees for use of all basic State Park System operated facilities, including camping and day use. Eligibility: Medal of Honor recipients, American ex-POWs and disabled veterans with a 50% or more service-connected disability.
- 4) Business License, Tax and Fees: Waiver on municipal, county, and state business license fees, taxes, and fees for veterans who hawk, peddle, or vend any goods, wares, or merchandise owned by the veteran, except spirituous, malt, vinous, or other intoxicating liquor, including sales from a fixed location. Eligibility: Honorably discharged veterans who engage in sales (not services) activities may be eligible. Eligibility criteria will differ based upon local jurisdiction.

Related Legislation

SB 1155 (Morrell, 2016) requires, on or after January 1, 2018, every board under DCA to waive initial license fees for veterans. (Held in Assembly Appropriations)

SB 1226 (Correa, Chapter 657, Statutes of 2014) requires DCA boards to expedite licensure of honorably-discharged veterans.

AB 1057 (Medina, Chapter 693, Statutes of 2013) requires DCA boards to renew licenses that expire while an individual is on active duty without penalties or examination.

AB 1588 (Atkins, Chapter 742, Statutes of 2012) requires DCA boards to waive renewal fees for licenses that expire while the practitioner is on active military duty.

AB 2462 (Block, Chapter 404, Statutes of 2012) requires the Chancellor of the California Community College to determine which courses should receive credit for prior



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military experience, using the descriptors and recommendations provided by the American Council on Education.

AB 2783 (Salas, Chapter 214, Statutes of 2010) requires DCA boards to promulgate regulations to evaluate and credit military education, training, and experience if applicable to the profession.

Fiscal Impact:

Unknown. This measure is keyed “fiscal” by Legislative Counsel.

Support and Opposition

Support:

- American Council of Engineering Companies, California
- American G.I. Forum of California
- American Legion-Department of California
- AMVETS-Department of California
- California Association of County Veterans Service Officers
- California Association of Licensed Investigators, Inc.
- California Board of Accountancy
- California Optometric Association
- California State Commanders Veterans Council
- Military Officers Association of America, California Council of Chapters
- Vietnam Veterans of America-California State Council

Comments

1) This bill is almost identical to SB 1155 (Morrell, 2016).

2) This bill was approved by Senate Business, Professions, and Economic Development by a 9-0 vote. The Committee’s analysis stated that “Florida, Michigan, Texas and Wisconsin have granted licensing fee waivers for the initial issuance of occupational licenses to honorably discharged veterans.” Nevertheless, the Little Hoover Commission’s 2016 study (cited above under this analysis’ Background section) did not include application fees among the recognized barriers to veteran licensing.

Action Required

None.

AMENDED IN SENATE APRIL 17, 2017

SENATE BILL

No. 27

Introduced by Senator Morrell

(Coauthors: Senators Bates, Berryhill, Nguyen, and Wilk)

(Coauthors: Assembly Members Acosta, Baker, Chávez, Cunningham, Lackey, Mathis, and Patterson)

December 5, 2016

An act to add Section 114.6 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 27, as amended, Morrell. Professions and vocations: licenses: military service.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law authorizes any licensee or registrant whose license expired while he or she was on active duty as a member of the California National Guard or the United States Armed Forces to reinstate his or her license or registration without examination or penalty if certain requirements are met. Existing law also requires the boards to waive the renewal fees, continuing education requirements, and other renewal requirements, if applicable, of any licensee or registrant called to active duty as a member of the United States Armed Forces or the California National Guard, if certain requirements are met. Existing law requires each board to inquire in every application if the individual applying for licensure is serving in, or has previously served in, the military. Existing law requires a board within the Department of Consumer Affairs to expedite, and authorizes a board to assist with, the initial licensure

process for an applicant who has served as an active duty member of the United States Armed Forces and was honorably discharged.

This bill would require every board within the Department of Consumer Affairs to grant a fee waiver for the application for and the issuance of an initial license to an applicant who supplies satisfactory evidence, as defined, to the board that the applicant has served as an active duty member of the California National Guard or the United States Armed Forces and was honorably discharged. The bill would require that a veteran be granted only one fee waiver, except as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 114.6 is added to the Business and
2 Professions Code, to read:

3 114.6. (a) (1) Notwithstanding any other law, every board
4 within the department shall grant a fee waiver for the application
5 for and issuance of an initial license to an applicant who supplies
6 satisfactory evidence to the board that the applicant has served as
7 an active duty member of the California National Guard or the
8 United States Armed Forces and was honorably discharged.

9 (2) For purposes of this section, “satisfactory evidence” means
10 a completed “Certificate of Release or Discharge from Active
11 Duty” (DD Form 214).

12 (b) (1) A veteran shall be granted only one fee waiver, except
13 as specified in paragraph (2). After a fee waiver has been issued
14 by ~~any~~ a board within the department, the veteran is no longer
15 eligible for a waiver.

16 (2) If a board charges a fee for the application for a license and
17 another fee for the issuance of a license, the veteran shall be granted
18 fee waivers for both the application for and issuance of a license.

19 (3) The fee waiver shall apply only to an application of and a
20 license issued to an individual veteran and not to an application
21 of or a license issued to an individual veteran on behalf of a
22 business or other entity.

23 (4) A fee waiver shall not be issued for any of the following:

24 (A) Renewal of a license.

- 1 (B) The application for and issuance of an additional license, a
- 2 certificate, a registration, or a permit associated with the initial
- 3 license.
- 4 (C) The application for an examination.

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Briefing Paper

Date: April 25, 2017

Prepared for: PTBC Members

Prepared by: Brooke Arneson

Subject: Rulemaking Report

Purpose: To update the Board on the status of proposed rulemaking in progress and to provide an update on the rulemaking process.

Attachments:

1. [2016/17 Rulemaking Tracking Form](#)
2. [Updated DCA Rulemaking Process](#)

Background:

At the November 2016 meeting, the Board adopted the 2017 Rulemaking Calendar as required by Government Code (GC) § 11017.6. The rulemaking calendar prepared pursuant to this section sets forth the Board's rulemaking plan for the year and is published by the Office of Administrative Law (OAL) in the California Regulatory Notice Register (Notice Register); the Notice Register is available on OAL's website: http://www.oal.ca.gov/Notice_Register.htm

From the 2017 Rulemaking Calendar, staff developed a rulemaking tracking form on which all rulemaking progress is noted and reported to the Board at its quarterly meetings.

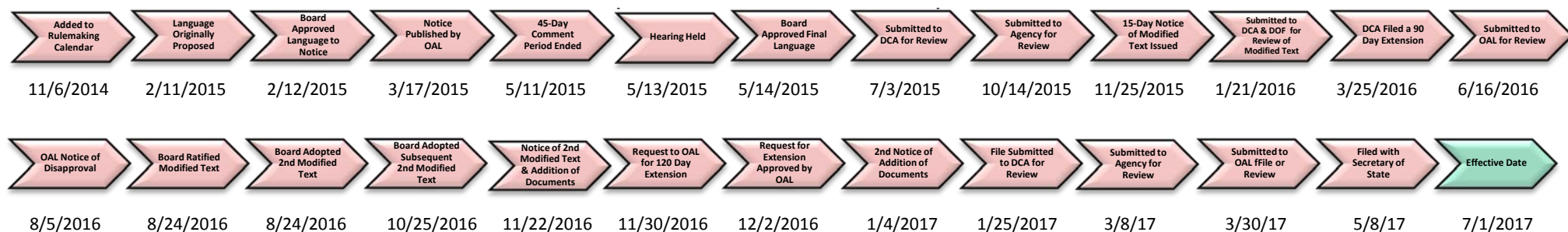
Effective September 7th, 2016 all regulatory packages must be submitted to the Department of Consumer Affairs for Business, Consumer Services, and Housing Agency (Agency) review, prior to publicly noticing with the Office of Administrative Law (OAL). To reflect the updated rulemaking procedure, a copy of the revised DCA Rulemaking process is included.

Action Requested:

No action is requested on presentation of the rulemaking report; however, staff is requesting action which will be addressed during the presentation of agenda item 19(B) and 19(C).

2017 Rulemaking Tracking Form

(2015/16/17) Requirements for Graduates from Non-Accredited Programs: Test of English as a Foreign Language (TOEFL)

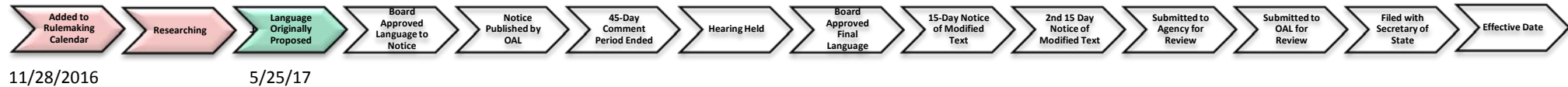


OAL No.: Notice File No. Z-2017-0330-01SR

Notes: Business and Profession Code (BPC) § 2653 was amended by Chapter 338, Statutes of 2013 (SB 198, Lieu), which added a provision requiring applicants who graduated from non-accredited physical therapist programs to demonstrate English proficiency by achieving a score specified by the Board on the TOEFL. This regulation will set a Board established passing score that must be met within a single administration of the TOEFL. The proposed language also requires approved credential evaluation services (CES) to report on the evaluation the applicant's compliance on the TOEFL examination or exemption.

The rulemaking file was submitted to the Office of Administrative Law (OAL) for review on June 16, 2016 and was disapproved on August 5, 2016. In OAL's Decision of Disapproval, the Board was given direction for correcting minor procedural issues and consistency, clarity and necessity standards within the file. On August 24, 2016 the Board ratified the November 2015 modified text and also adopted the second modified text. On October 25, 2016 the Board adopted a subsequent second modified text after recognizing that BPC Section 2653(b) does not contain any language permitting the Board to exempt specific applicants from demonstrating English proficiency. The Board mailed a 15-day Notice of Availability of Second Modified Text and Notice of Addition of Documents and Information to the Rulemaking File on November 22, 2016. The additional document that was added to the file was an Addendum to the Initial Statement of Reasons. The Board had 120 days to resubmit the revised regulation to OAL for approval which commenced on December 2, 2016. The Board filed a 120 day extension request with the Director of OAL that was granted on December 2, 2016 which extended the resubmittal date of the rulemaking file to OAL to April 3, 2017. At the recommendation of the reviewing attorney at OAL, the Board submitted a second 15-day Notice of Addition of Documents and Information to the Rulemaking File on January 4, 2017 which included the August and October 2016 meeting minutes and FSBPT's Technical Memo and 2016 TOEFL Standard Setting for Licensing PT's and PTA's. On January 25, 2017 the rulemaking file was submitted to DCA for review. The file (while still being reviewed by DCA) was submitted for concurrent review by Agency on March 8, 2017. Agency approved the file on March 23, 2017 and DCA approved the file on March 27, 2017. The rulemaking file was submitted to OAL for review on March 30, 2017. The regulation was filed with the Secretary of State on May 8, 2017 and it will take effect on July 1, 2017.

(2017) Satisfactory Documentary Evidence of Equivalent Degree for Licensure as a Physical Therapist or Physical Therapist Assistant/Coursework Tool

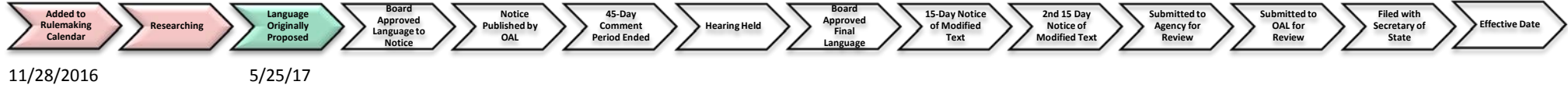


OAL No.:

Notes:

Placed on the 2017 Rulemaking Calendar that was adopted at the Board meeting on November 28, 2016. Proposed Regulatory Language will be presented under Agenda Item 18(B).

(2017) Examination Passing Standard/Setting Examination Score

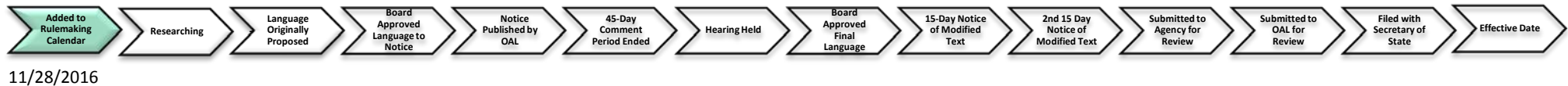


OAL No.:

Notes:

Placed on the 2017 Rulemaking Calendar that was adopted at the Board meeting on November 28, 2016. Proposed Regulatory Language will be presented under Agenda Item 18(C).

(2017) License Renewal Exemptions: Disability and Retired License Status



OAL No.:

Notes:

Placed on the 2017 Rulemaking Calendar that was adopted at the Board meeting on November 28, 2016.

(2017) Application and Licensing Regulations, Continuing Competency



11/28/2016

OAL No.:

Notes:

Placed on the 2017 Rulemaking Calendar that was adopted at the Board meeting on November 28, 2016.

(2017) Unprofessional Conduct



11/28/2016

OAL No.:

Notes:

Placed on the 2017 Rulemaking Calendar that was adopted at the Board meeting on November 28, 2016.

Teal: Current Status Burgundy: Completed

Agenda Item 19(A) – Rulemaking Update

Processing Times

- A rulemaking file must be completed within one year of the publication date of the Notice of Proposed Action. The OAL issues the Notice File Number upon filing the Notice of Proposed Action.
- The DCA is allowed thirty calendar days to review the rulemaking file prior to submission to the Department of Finance (DOF).
- The DOF is allowed thirty days to review the rulemaking file prior to submission to the OAL.
- The OAL is allowed thirty working days to review the file and determine whether to approve or disapprove it. The OAL issues the Regulatory Action Number upon submission of the rulemaking file for final review.
- Pursuant to Government Code section 11343.4, as amended by Section 2 of Chapter 295 of the Statutes of 2012 (SB 1099, Wright), regulation effective dates are as follows:

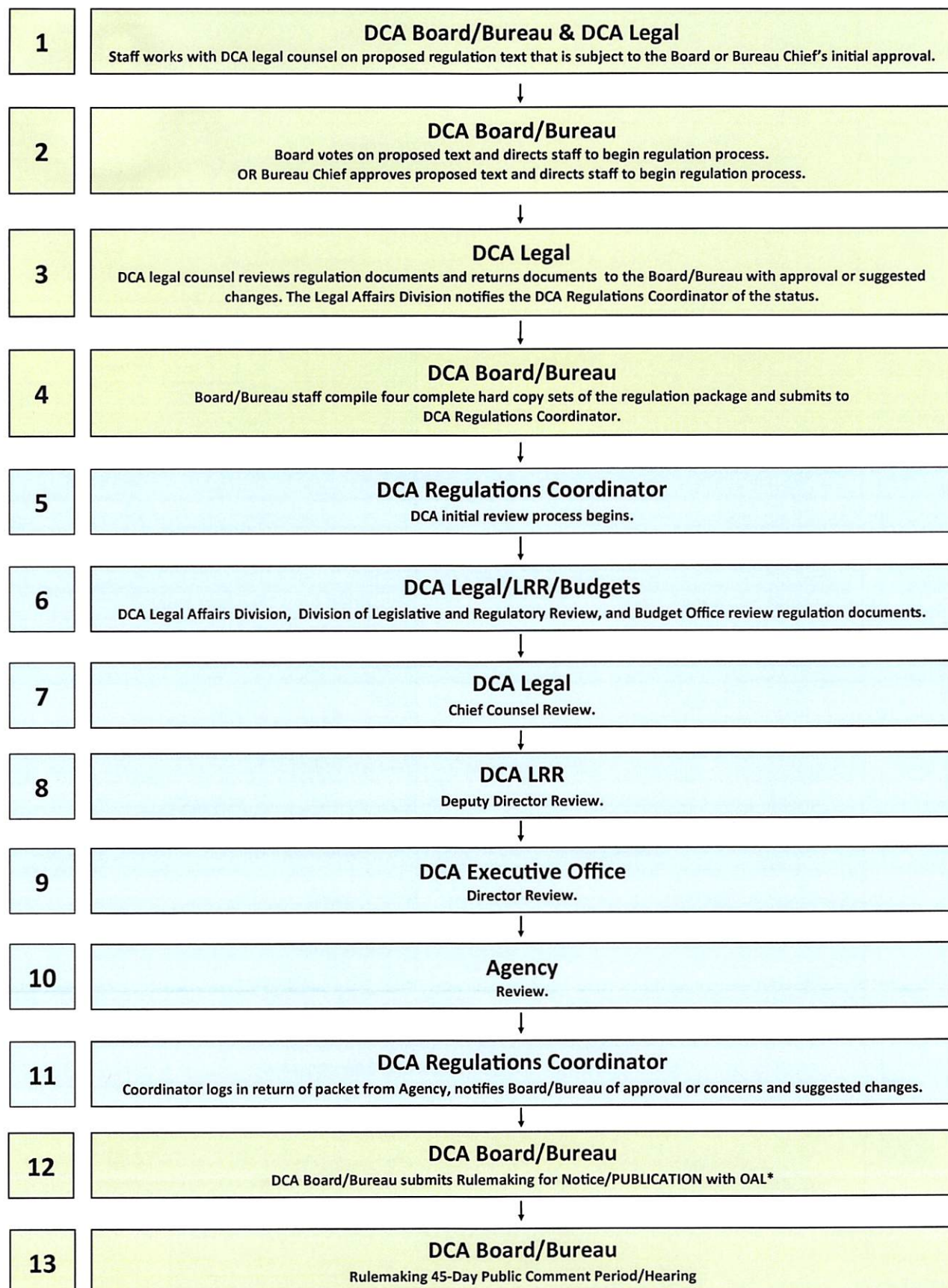
Date Filed with the Secretary of State

Effective Date

September 1 st – November 30 th	January 1 st
December 1 st – February 29 th	April 1 st
March 1 st – May 31 st	July 1 st
June 1 st – August 31 st	October 1 st

REGULAR RULEMAKING PROCESS—DCA BOARDS/BUREAUS

INITIAL PHASE



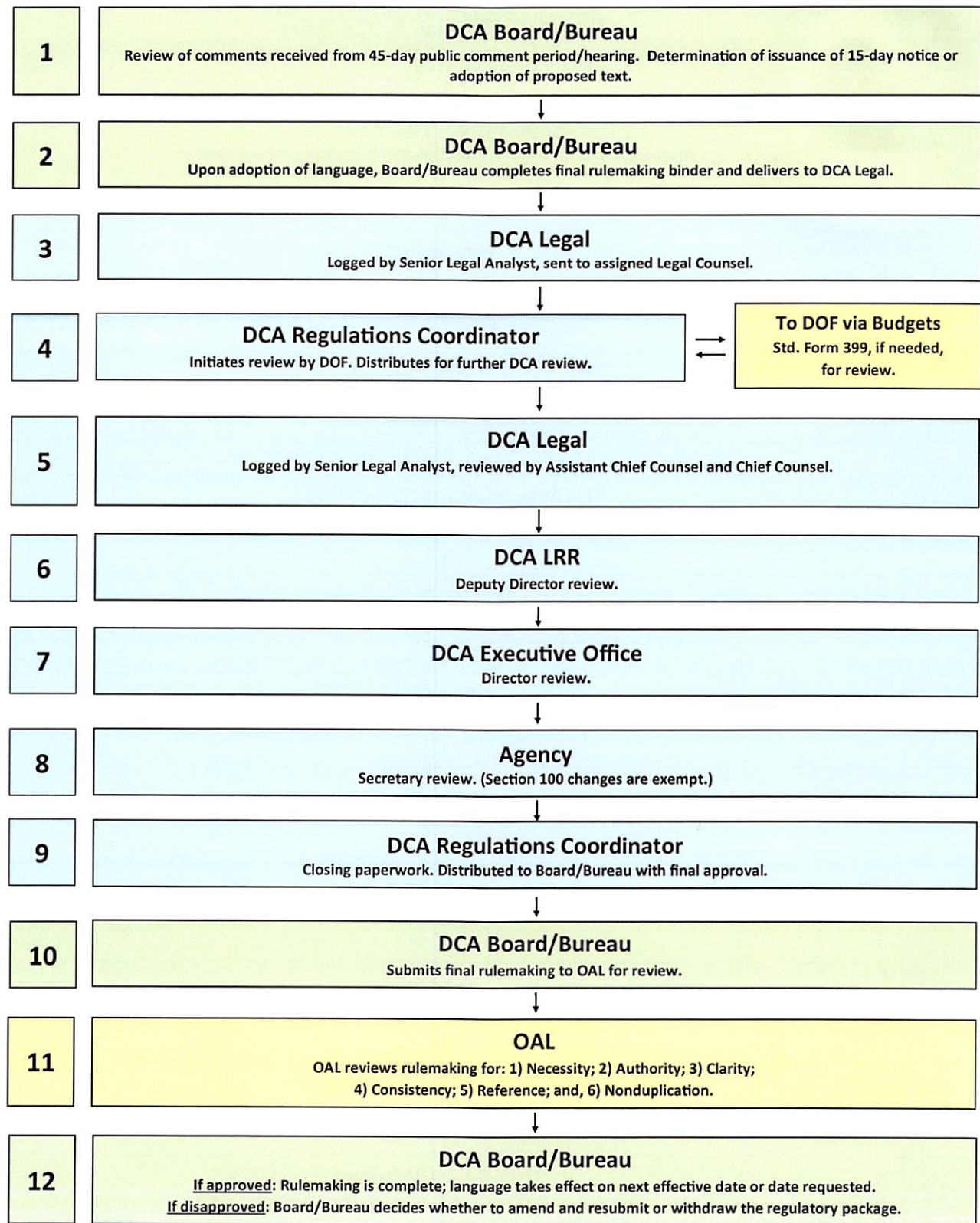
Legend

DCA – Department of Consumer Affairs
LRR – Division of Legislative Regulatory Review
OAL – Office of Administrative Law

* If any changes to language last approved by the Board are needed, a vote by the Board may be necessary.

REGULAR RULEMAKING PROCESS—DCA BOARDS/BUREAUS

FINAL PHASE



Legend

DCA – Department of Consumer Affairs
LRR – Division of Legislative Regulatory Review
OAL – Office of Administrative Law
DOF – Department of Finance
Std. Form 399 – Economic and Fiscal Impact Statement



Physical Therapy Board of California

BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY - GOVERNOR EDMUND G. BROWN JR.

Physical Therapy Board of California

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Briefing Paper

Date: May 8, 2017

Prepared for: PTBC Members

Prepared by: Becky Marco

Subject: 1398.26.1. Satisfactory Documentary Evidence of Equivalent Degree for Licensure as a Physical Therapist or Physical Therapist Assistant; 1398.26.5. Clinical Service Requirements for Foreign Educated Applicants; 1398.26.6. Supervising Physical Therapist of Foreign Educated Applicant; 1398.38. Criteria for Approval of Physical Therapy Facilities to Supervise the Clinical Service of Foreign Educated Applicants.

Purpose: To propose amending sections 1398.26.1; 1398.26.5, 1398.38; adding section 1398.26.6; renumbering 1398.38 to 1398.27 and moving 1398.38 from Article 3 to Article 2

Attachments:

- [Proposed Language](#)
- [Coursework Tool 6 \(CWT\)](#)
- [Clinical Performance Instrument \(CPI\)](#)
- [Clinical Site Information Form \(CSIF\)](#)

Background:

Amend section 1398.26.1 Satisfactory Documentary Evidence of Equivalent Degree for Licensure as a Physical Therapist or Physical Therapist Assistant

In August, 2005 the Board adopted into regulation five Coursework Tools for Foreign Educated Physical Therapists (CWT's 1 through 5). The CWT's aka "retro tools" are applied according to the date the applicant graduated from their respective physical therapy education program. Each CWT reflects the minimum general and professional educational requirements for substantial equivalence *at the time of graduation* with respect to a US first professional degree in physical therapy. The tools provide a standardized method of evaluating education equivalence and afford the same mobility of foreign educated physical therapists as that afforded to US educated graduates.

In October 2016, through a motion passed at the 2014 Delegate Assembly, the FSBPT adopted CWT 6. In summary, the motion allowed for use of the retro tools for those PT's who are seeking licensure through endorsement but requires first-time licensure candidates be evaluated using CWT 6. CWT 6 is based upon the Commission on Accreditation of Physical Therapy Education (CAPTE) Evaluative Criteria for PT Programs August 2014, and was implemented by FSBPT on January 1, 2017.

Section 1398.26.1 *Satisfactory Documentary Evidence of Equivalent Degree for Licensure as a Physical Therapist or Physical Therapist Assistant* further defines the education requirement specified in Business and Professions Code (BPC) section 2653(a), which states:

Furnish documentary evidence satisfactory to the board, that he or she has completed a professional degree in a physical therapist educational program substantially equivalent at the time of his or her graduation [underlined for emphasis] to that issued by a board approved physical therapist education program. The professional degree must entitle the applicant to practice as a physical therapist in the country where the diploma was issued. The applicant shall meet the educational requirements set forth in paragraph (2) of subdivision (a) 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.

The proposed amendment to section 1398.26.1 restructures the CWT's into an outline format for reading ease and adds CWT 6 as an option for foreign educated applicants. BPC 2653 specifically authorizes evaluation of a physical therapist educational program substantially equivalent *at the time of graduation*; therefore, CWT 6 cannot be required as there is no statutory authority. Section 1398.26.1, as proposed to be amended, would afford an applicant to use either the CWT corresponding to their graduation date or CWT 6.

Amend section 1398.26.5 Clinical Service Requirements for Foreign Educated Applicants.

The proposed amendment strikes subsection (c) since the effective date has passed; amends the following subsections accordingly; updates the *Physical Therapist Clinical Performance Instrument* issued by the American Physical Therapy Association to the current November, 2006 revision date; and, corrects a typographical error in the third sentence (the word "elevates" is corrected to read "evaluates").

Add section 1398.26.6 Supervising Physical Therapist of Foreign Educated Applicant

The proposed addition of section 1398.26.6 adds clarity to section 1398.26.5. Section 1398.26.5 speaks of two separate and very different certifications making it confusing to the reader. In subsection (a) it speaks to the period of clinical service being certified but then subsection (c) speaks to the center coordinator of clinical education being certified (by the APTA as a clinical instructor). Subsection (d) then refers back to "the certification" spoken of in subsection (a).

Amend section 1398.38 Criteria for Approval of Physical Therapy Facilities to Supervise the Clinical Service of Foreign Educated Applicants

The proposed amendment updates the *Clinical Site Information Form* (CSIF) issued by the American Physical Therapy Association to the current January, 2006 revision date.

It also proposes to renumber 1398.38 to 1398.27. Section 100 changes repealed section 1398.27 since the statutory authority BPC 15376 was repealed in 2003. Relocating this section logically places it with like regulations.

Action Requested:

Consideration of the following motion:

"I move that we approve the proposed text for noticing a 45-day comment period, and direct staff to take all steps necessary to initiate the formal rulemaking process. If no adverse comments are received during the 45-day comment period and no hearing is requested, delegate to the Executive Officer the authority to adopt the proposed regulatory changes as modified and make any technical or non-substantive changes that may be required in completing the rulemaking file."

The Physical Therapy Board of California proposes to amend sections 1398.26.1, 1398.26.5; and add section 1398.26.6 in Article 2, amend section 1398.38 in Article 3, renumber 1398.38 to 1398.27 and move it from Article 3 to Article 2 of Division 13.2, Title 16 of the California Code of Regulations, as follows:

1398.26.1. Satisfactory Documentary Evidence of Equivalent Degree for Licensure as a Physical Therapist or Physical Therapist Assistant.

(a) For the purposes of determining educational equivalency for physical therapist licensure, the credential evaluation services will evaluate foreign educational credentials based on either the corresponding Federation of State Boards of Physical Therapy's Coursework Evaluation Tool For Foreign Educated Physical Therapists (CWT) or the Coursework Tool for Foreign Education Physical Therapists – CWT 6 (2017). ~~if applying for physical therapist assistant license, the Coursework Tool For Foreign Educated Physical Therapist Assistants (PTA Tool 2007).~~ For the purpose of this subdivision regulation, the six following publications are incorporated by reference:

- (1) FSBPT Coursework Tool For Foreign Educated Physical Therapists Who Graduated before 1978 - CWT 1 (2004),
- (2) FSBPT Coursework Tool For Foreign Educated Physical Therapists Who Graduated From 1978 to 1991 - CWT 2 (2004),
- (3) FSBPT Coursework Tool For Foreign Educated Physical Therapists Who Graduated From 1992 to 1997 - CWT 3 (2004),
- (4) FSBPT Coursework Tool For Foreign Educated Physical Therapists Who Graduated From 1998 to June 30, 2009 - CWT 4 (2004),
- (5) FSBPT Coursework Tool For Foreign Educated Physical Therapists Who Graduated after June 30, 2009 - CWT 5 (2004) (Rev. 2009-07),
- (6) FSBPT Coursework Tool For Foreign Educated Physical Therapists – CWT 6 (Rev. 2016-10).

(b) if For the purposes of determining educational equivalency for physical therapist assistant licensure, the credential evaluation services will evaluate foreign educational credentials based on the Coursework Tool For Foreign Educated Physical Therapist Assistants (PTA Tool 2007).

~~Coursework Tool for Physical Therapist Assistants – PTA Tool 2007 (2004).~~

Note: Authority cited: Section 2615, Business and Professions Code. Reference: Sections 2650, ~~and~~ 2653 and 2654, Business and Professions Code.

1398.26.5. Clinical Service Requirements for Foreign Educated Applicants.

(a) The period of clinical service required by Section 2653 of the Code shall be certified by at least one supervising physical therapist (the supervising physical therapist is the Center Coordinator of Clinical Education and/or the Clinical Instructor) licensed by the board, or by a physical therapy licensing authority in another jurisdiction which is accepted by the board.

(b) For the purposes of this regulation, supervision means the supervising physical therapist must be onsite in the same facility and available to the physical therapist license applicant to provide assistance with any patient care.

~~(c) Effective January 1, 2008, the center coordinator of clinical education (CCCE) must be an American Physical Therapy Association (APTA) certified clinical instructor. Effective January 1, 2010, all clinical instructors must be APTA certified.~~

~~(c)~~ (d) The certification shall be submitted in a report to the board and shall document the supervising physical therapist's determination that the physical therapist license applicant possesses the skills necessary to perform any physical therapy evaluation or any physical therapy procedure of patient care within the California healthcare system. The supervising physical therapist's evaluation of the physical therapist license applicant shall be prepared utilizing the *Physical Therapist Clinical Performance Instrument* issued by the American Physical Therapy Association in ~~December of 1997~~ November, 2006. The certification shall include two ~~elevations~~ evaluations of the physical therapist license applicant's skills. One evaluation shall determine the skill level mid-way through the period of clinical service and the other evaluation shall determine the skill level at the end of the clinical service. Both evaluations shall be reported at the end of the period of clinical service.

~~(e)~~ (d) Three (3) months of the required nine (9) months of clinical service shall be waived by the board if the physical therapist license applicant successfully completes a course in Law and Professional Ethics as offered by a post-secondary educational institution or by successfully completing four (4) continuing education units in Ethics offered by a continuing education provider recognized by a California healthcare board.

~~(f)~~ (e) One (1) month of clinical service shall be waived for each month of licensed clinical practice in another state up to the required total of nine (9) months.

Note: Authority cited: Section 2615, Business and Professions Code. Reference: Sections 2650 and 2653, Business and Professions Code.

1398.26.6. Supervising Physical Therapist of Foreign Educated Applicant.

(a) For purposes of Section 1398.26.5, the supervising physical therapist shall be the Center Coordinator of Clinical Education (CCCE) and/or the Clinical Instructor (CI) of the facility and who is licensed by the board, or by a physical therapy licensing authority in another jurisdiction which is accepted by the board.

(b) The CCCE and/or the CI must have successfully completed the American Physical Therapy Association's (APTA) Credentialed Clinical Instructor program and be APTA certified through the APTA's Physical Therapist Clinical Performance Instrument (CPI): Version 2006 operative July 15, 2008 as a web-based product.

Note: Authority cited: Section 2615, Business and Professions Code. Reference: Sections 2650 and 2653, Business and Professions Code.

1398.38. 1398.27 Criteria for Approval of Physical Therapy Facilities to Supervise the Clinical Service of Foreign Educated Applicants.

Pursuant to Section 2653 of the code in order to be approved as a facility in which a foreign educated applicant may complete a period of clinical service, each physical therapy facility shall complete a form entitled Clinical Site Information Form (CSIF), as developed by the American Physical Therapy Association and revised on ~~11-01-99~~ January 2006, hereby incorporated by reference, certifying that the facility has the

staffing, clinical experiences, and clinical instruction to provide physical therapy clinical experience for the foreign educated physical therapist applicant for licensure. The CSIF shall be submitted to the Board accompanied by the Board's Notice of Intent to Supervise a Foreign Educated Physical Therapist", form F1B, revised July 2013, hereby incorporated by reference. For each foreign educated applicant, both forms shall be complete and signed in order for the physical therapy facility to be approved by the Board.

Note: Authority cited: Section 2615, Business and Professions Code. Reference: Sections 2650 and 2653, Business and Professions Code.



FSBPT Coursework Tool For Foreign Educated Physical Therapists

CWT 6

For implementation beginning January 1, 2017

Federation of State Boards of Physical Therapy
124 West Street, South Alexandria, VA 22314
Telephone: 703.299.3100 Fax: 703.299.3110
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COURSEWORK TOOL 6

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INTRODUCTION

The Coursework Tools for Foreign Educated Physical Therapists (CWT) were developed by the Federation of State Boards of Physical Therapy (FSBPT) in response to the needs of its member jurisdictions for a standardized method to evaluate the educational equivalence of foreign educated physical therapists. Each CWT reflects the minimum general and professional educational requirements for substantial equivalence at the time of graduation with respect to a US first professional degree in physical therapy. Adoption of the tools would allow the same mobility of foreign educated physical therapists as that afforded to US educated graduates. Coursework Tools should not be interpreted as the sole determinant of an individual's educational preparation or competence to practice. CWT 6 is based upon the Commission on Accreditation of Physical Therapy Education (CAPTE) *Evaluative Criteria for PT Programs* August 2014, which will be implemented by FSBPT on January 1, 2017.

The CWT that reflects current standards may be used to determine qualifications for an applicant to sit for the NPTE, for first-time licensure in US jurisdictions and prescreening certification for the United States Citizenship and Immigration Services (USCIS).

Per the following motion passed by the 2014 Delegate Assembly, CWTs that reflect previous standards may be used to determine qualifications for licensure through endorsement of a foreign educated PT or PTA who is already licensed, certified or registered in another US jurisdiction.

DEL-14-02

The credentials of a foreign educated physical therapist (FEPT) who is currently licensed in a jurisdiction, and is seeking licensure through endorsement in another jurisdiction should be evaluated using the version of the FSBPT Coursework Tool retro tool that covers the date the applicant graduated from their respective physical therapy education program.

This process should be used for those seeking licensure through endorsement only. First-time licensure candidates should be evaluated using the current Coursework Tool.

In addition, rescind Delegate Assembly motion DEL-05-10.

They are also designed to be used by credentialing organizations and education programs. In addition, the CWTs may be used as a self-evaluation method to guide foreign educated physical therapists in comparing their education to US standards.

OVERVIEW

Summary

The applicant must meet the requirement of not less than 170 semester credit hours as a prerequisite. The minimum coursework requirements, in and of themselves, do not necessarily satisfy the requirements of the first professional degree. The applicant must have completed sufficient credit to satisfy the requirement for at minimum a post-baccalaureate degree. The applicant must also meet any jurisdiction-specific requirements.

General Education

General education in the areas of communications and humanities, physical science, biological science, social and behavioral science, and mathematics, must be identified. A minimum of a one course must be successfully completed in each area of general education unless otherwise noted.

Note: Some jurisdictions may require a specific number of semester credits. The applicant must meet the specific requirements in the jurisdiction where they are seeking licensure.

1. Communication and Humanities

- | | |
|--|--------------------|
| a. English | e. Native Language |
| b. English composition | f. Literature |
| c. Speech or oral communication | g. Visual Arts |
| d. Foreign language (other than native language) | h. Performing Arts |
| | i. Philosophy |
| | j. Ethics |

2. Physical Science

- a. Chemistry with laboratory (one course required) *
- b. Physics with laboratory (one courses required) *
- c. Geology
- d. Astronomy

3. Biological Science (General – not core to PT)

- | | |
|---------------|-----------------|
| a. Biology | e. Kinesiology |
| b. Anatomy | f. Neuroscience |
| c. Physiology | |
| d. Zoology | |

4. Social and Behavioral Science

- | | |
|----------------|----------------------|
| a. History | e. Economics |
| b. Geography | f. Political science |
| c. Sociology | g. Religion |
| d. Psychology* | h. Anthropology |

* Required

5. Mathematics

- | | |
|---------------|-------------|
| a. Statistics | d. Calculus |
|---------------|-------------|

- | | |
|-----------------|---------------------|
| b. Algebra | e. Trigonometry |
| c. Pre-calculus | f. Geometry |
| | g. Computer Studies |

Professional Education

Ninety semester credits shall be the minimum required in professional education. There should be at least 68 didactic credits and 22 clinical education credits.

1. Basic Health Science

Content is required in each topic listed (a through l) under basic health sciences. The didactic content is basic to the practice of PT practice.

- a. Human anatomy (specific to physical therapy)
- b. Human physiology (specific to physical therapy)
- c. Neuroscience (Neuroanatomy/Neurophysiology)
- d. Kinesiology, functional anatomy or biomechanics
- e. Pathology
- f. Pharmacology
- g. Genetics
- h. Histology
- i. Nutrition
- j. Exercise Science
- k. Psychosocial aspects of health, disability, physical therapy
- l. Diagnostic imaging

2. Medical Science

The competent physical therapist practitioner is cognizant of general medical sciences relevant to healthcare, human function and system interaction. This must include but not be limited to:

- a. Cardiovascular (Including Lymphatic) system
- b. Respiratory system
- c. Endocrine & metabolic systems
- d. Renal, genitourinary systems
- e. Immune system
- f. Integumentary system
- g. Musculoskeletal system
- h. Neurologic system
- i. System interactions
- j. Differential diagnosis
- k. Medical, surgical conditions across the lifespan
 - i. Pediatrics
 - ii. Geriatrics

To prepare a competent physical therapist practitioner, the education must incorporate the essential elements of Examination, Evaluation, and Intervention. Therefore, educational coursework must contain all of the following:

3. Examination

- a. Patient history
- b. Screening of patient
- c. Systems review
- d. Physical exams, tests and measure selection
 - i. Test and measures administration
 - ii. Aerobic capacity/endurance

- iii. Anthropometric characteristics
- iv. Mental functions
- v. Assistive, adaptive devices
- vi. Community work (job, school, or play) reintegration
- vii. Cranial nerve integrity
- viii. Peripheral nerve integrity
- ix. Environmental, home, work barriers
- x. Ergonomics, body mechanics
- xi. Gait
- xii. Integumentary integrity
- xiii. Joint integrity and mobility
- xiv. Mobility (excluding gait)
- xv. Motor function
- xvi. Muscle performance
- xvii. Neuromotor development, sensory processing
- xviii. Pain
- xix. Posture
- xx. Range of motion
- xxi. Reflex integrity
- xxii. Self-care, home management
- xxiii. Sensory integrity
- xxiv. Ventilation, respiration or gas exchange

4. Evaluation

The physical therapist is responsible for the interpretation and analysis of the data collected in the examination of the client/patient. Education must include the following but is not limited to:

- a. Data analysis and evaluation
- b. Patient problem identification
- c. Findings that warrant referral
- d. Prognosis and goal formulation
- e. Plan of care development

5. Plan of Care Implementation

The implementation of treatment interventions is to be included in the educational program for the physical therapist practitioner. This includes the following but is not limited to:

- a. Interventions
 - i. Airway clearance techniques
 - ii. Integumentary repair and protection
 - iii. Wound debridement
 - iv. Electrotherapy
 - v. Physical agents
 - vi. Mechanical agents
 - vii. Community, work, functional training
 - viii. Self-care, home management, functional training
 - ix. Manual therapy techniques (including joint and soft tissue mobilization and massage)
 - x. Patient/client education
 - xi. Prescription, application, and as appropriate, fabrication of assistive, adaptive, orthotic, protective, supportive, and prosthetic devices and equipment
 - xii. Therapeutic exercise
 - xiii. Mobility training
- b. Plan of care management
- c. Supervision of support staff

- d. Outcome assessment
- e. Discharge or discontinuation planning
- f. Patient-related emergency procedures

6. Clinical Education

Clinical education must include physical therapist-supervised application of physical therapy theory, examination, evaluation, and intervention. The applicant must have a minimum of two full-time clinical internships of no less than 900 hours total, which are supervised by a physical therapist. The required and maximum number of full-time clinical education credits is 22. The clinical internships must also show evidence of a variety of patient diagnoses or conditions.

7. Related Professional Coursework

Content is required in the following 12 areas:

- | | | |
|---|--|--|
| a. Professional roles and behaviors | f. Teaching & learning (including educational theory) | k. Teamwork and inter-professional collaboration |
| b. Healthcare Systems, Administration and Management | g. Documentation (all aspects of patient/client management) | l. Cultural competency |
| c. Community health | h. Communication | m. Consultation |
| d. Health promotion and wellness | i. Legal and regulatory aspects of physical therapy practice | |
| e. Clinical Decision Making Processes - Evidence-based Practice and | j. Ethical aspects and values of physical therapy practice | |

EVALUATION CHECKLIST

Name:	Date:
School:	Country:
Degree:	
Reviewing Organization:	
Reviewer(s):	
Signature of Issuing Organization's Authorized Representative:	
Print Name and Title:	

Note for Reviewing Organizations: Please affix official organization seal to the Evaluation Checklist authentication purposes.

General Education

A. Communication and Humanities One course minimum from the category	Credit Hours	Transcript Reference
1. English Language		
2. English Composition		
3. Speech or Oral Communication		
4. Foreign Language		
5. Native Language		
6. Composition of Research Writing		
7. Literature		
8. Visual Arts		
9. Performing Arts		
10. Philosophy		
11. Ethics		

B. Physical Science: One course in chemistry (with laboratory) and one course in physics (with laboratory) are required*.	Credit Hours	Transcript Reference
1. Chemistry (with laboratory)*		
2. Physics (with laboratory)*		
3. Geology		
4. Astronomy		

C. Biological Science: (General - not core to PT) One course minimum	Credit Hours	Transcript Reference
1. Biology		
2. Anatomy		
3. Physiology		
4. Zoology		
5. Kinesiology		
6. Neuroscience		

D. Social and Behavioral Science: Two courses minimum from the category	Credit Hours	Transcript Reference
1. History		
2. Geography		
3. Sociology		
4. Economics		
5. Religion		
6. Political Science		
7. Psychology*		
8. Anthropology		

*Required

E. Mathematics: One course minimum from the category	Credit Hours	Transcript Reference
1. Statistics		
2. Algebra		
3. Pre-Calculus		
4. Calculus		
5. Trigonometry		
6. Geometry		
7. Computer Studies		

SUB-TOTAL GENERAL EDUCATION CREDITS: _____

Professional Education

A minimum of 90 semester credits is required in this area.

A. Basic Health Science: Must include but not limited to areas 1– 12.	Credit Hours	Transcript Reference	Justification
1. Human Anatomy /core to PT			
2. Human Physiology / core to PT			
3. Neuroscience (Neuroanatomy/ Neurophysiology)			
4. Kinesiology, Functional Anatomy, or Biomechanics			
5. Pathology			
6. Pharmacology			
7. Genetics			
8. Histology			
9. Nutrition			
10. Exercise Science			
11. Psychosocial aspects of health, disability, physical therapy			
12. Diagnostic imaging			

Subtotal Basic Health Science			
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B. Medical Science: Must include but not limited to areas 1 – 11b.	Credit Hours	Transcript Reference	Justification
1. Cardiovascular (including Lymphatic)			
2. Respiratory			
3. Endocrine& Metabolic			
4. Renal, Genitourinary			
5. Immune			
6. Integumentary			
7. Musculoskeletal			
8. Neurologic			
9. System Interactions			
10. Differential Diagnosis			
11. Medical, Surgical Conditions across the life span			
11a. Pediatrics			
11b. Geriatrics			
Subtotal Medical Science			

C. Examination: Must include but not limited to areas 1 – 5w.	Credit Hours	Transcript Reference	Justification
1. History			
2. Screening			
3. Systems Review			
4. Physical Exams, Tests, Measures Selection			
5. Tests and Measures Administration:			
a. Aerobic capacity/Endurance			
b. Anthropometric characteristics			
c. Mental Functions			
d. Assistive, adaptive devices			
e. Community, work (job, school, or play) reintegration			
f. Cranial Nerve Integrity			
g. Peripheral Nerve Integrity			
h. Environmental, home, work barriers			
i. Ergonomics, body mechanics			
j. Gait			
k. Integumentary integrity			
l. Joint integrity and mobility			
m. Mobility (excluding gait)			
n. Motor function			
o. Muscle performance			

p. Neuromotor development, sensory processing			
q. Pain			
r. Posture			
s. Range of motion			
t. Reflex integrity			
u. Self-care, home management			
v. Sensory integrity			
w. Ventilation, respiration or gas exchange			
Subtotal Examination			

D. Evaluation: Must include but not limited to areas 1 - 5.	Credit Hours	Transcript Reference	Justification
1. Data Analysis and Evaluation			
2. Patient Problem Identification			
3. Findings that Warrant Referral			
4. Prognosis and Goal Formulation			
5. Plan of Care Development			
Subtotal Evaluation			

E. Plan of Care Implementation: Must include but not limited to areas 1 (1a-m) – 6.	Credit Hours	Transcript Reference	Justification
1. Interventions			
a. Airway clearance techniques			
b. Integumentary Repair & Protection			
c. Wound Debridement			
d. Electrotherapy			
e. Physical Agents			
f. Mechanical Agents			
g. Community, Work Functional Training			
h. Self-Care, Home Management Function Training			
i. Manual therapy techniques (including joint and soft tissue mobilization and massage)			
j. Patient/Client Education			
k. Prescription, application, and as appropriate, fabrication of assistive, adaptive, orthotic, protective, supportive, and prosthetic devices and			

equipment			
l. Therapeutic exercise			
m. Mobility Training			
2. Plan of Care Management			
3. Supervision of Support Staff			
4. Outcome Assessment			
5. Discharge or Discontinuation			
6. Patient-related Emergency Procedures			
Subtotal Plan of Care Implementation			

F. Clinical Education 22 credits required*	Credit Hours	Transcript Reference	Justification

Clinical experiences:	Yes	No	TRANSCRIPT REFERENCE
1. Deliver physical therapy services to patients/clients with a variety of diseases and conditions settings			
2. Occur in at least 2 different types of practice settings			

Note: Clinical education must include physical therapist-supervised application of physical therapy theory, examination, evaluation, and intervention. The applicant must have a minimum of two full-time clinical educational experiences (with a variety of patient populations, diagnoses, and acuity levels) of no less than 900 hours.

*Full time clinical education credits is to be 22 credits.

G. Related Professional Coursework: Must include but not limited to areas 1-13.	Credit Hours	Transcript Reference	Justification
1. Professional Roles and Behaviors			
2. Healthcare Systems, Administration, and Management			
3. Community Health			
4. Health Promotion and Wellness			
5. Clinical Decision Making Processes - Evidence-based Practice and			
6. Teaching and Learning (including educational theory)			
7. Documentation (all aspects of patient/client management)			
8. Communication			
9. Legal and Regulatory Aspects			

of Physical Therapy practice			
10. Ethical Aspects and values of Physical Therapy Practice			
11. Teamwork and Inter-professional Collaboration			
12. Cultural Competency			
13. Consultation			
Subtotal Related Professional Coursework			

SUB-TOTAL PROFESSIONAL EDUCATION CREDITS: _____
(90 minimum)

Academic Institution

Describe the academic level of the educational program and the institution within the context of the country's educational system:	
1.	Status (recognition/accreditation) within the country's educational system:
2.	Entry Requirements (secondary education):
3.	Degree Equivalence (Baccalaureate, Post-Baccalaureate etc.)
4.	Other (CAPTE accreditation, etc.)

Summary

Total General Education Credits:	
Total Professional Education Didactic Credits (68 Minimum):	
Total Clinical Education Hours (900 Hours required equals 22 credits)	
Total Credits (170 Minimum)	

DEFINITIONS

Adequate: Coursework satisfies the requirement that the level of complexity and scope of the content in a course or courses meets established standards necessary for the entry-level degree.

Clinical Education: That aspect of the professional curriculum during which student learning occurs directly as a function of being immersed within physical therapist practice. These experiences comprise all of the formal and practical “real-life” learning experiences provided for students to apply classroom knowledge, skills, and professional behaviors in the clinical environment. (CAPTE Evaluative Criteria)

Clinical Sciences: Content includes both diseases that require direct intervention of a physical therapist for management and diseases that affect conditions being managed by physical therapists across systems. (*A Normative Model of Physical Therapist Professional Education: Version 2004; p. 159*)

Comments: Validation of transcript references. Identifies specific location within official institutional records where content area(s) may be found. These references may be in the form of educational objectives, listing of course content, course syllabi, test questions or other curricular documents.

Course: A series of study which is taught at the post secondary level, which results in an official transcript of record with assigned grade, a course description and syllabus, and credit that can be verified by the institution. Credit is either assigned by a semester of 15 weeks, plus an exam week, or is converted to semester hours based on 16 weeks of study.

Credit Hour: A semester credit hour must include at a minimum: 15 hours of lecture, or 30 hours of laboratory, or 40 hours of clinical education.

Evaluation: A dynamic process in which the physical therapist makes clinical judgments gathered during the examination (*Guide to Physical Therapist Practice Rev. Second Edition, 2003, APTA*).

Examination: A comprehensive and specific testing process performed by a physical therapist that leads to diagnostic classification or, as appropriate, to a referral to another practitioner. The Examination has three components: the patient/client history, the systems reviews, and tests and measures. (*Guide to Physical Therapist Practice Rev. Second Edition, APTA, 2003*).

General Education: General Education constitutes all non-physical therapy education completed, provided these courses were taken at the post secondary level from a recognized educational program. These courses, both pre-professional and post-professional education, may be used to fulfill the core course requirements

Grades: Undergraduate grades must equate to a “C” average in the United States. No failing grades should be accepted. Professional coursework must meet the requirement of a “C” or higher. Credentialing decisions for conversion of grades or semester credits should follow accepted guidelines as published in acceptable and recognized country codes and “International Reference Guides.” This includes, but is not limited to P.I.E.R., NAFAA publications, or AACROA publications.

Intervention: The purposeful interaction of the physical therapist with the patient/client, and, when appropriate, with other individuals involved in patient/client care, using various physical therapy procedures and techniques to produce changes in the condition. (*A Normative Model of Physical Therapist Professional Education: Version 2004;*

Page 163)

Standards: Foundational requirements of an established profession; in this case used by credentialing agencies to determine entry-level professional requirements for physical therapists. In physical therapy, *The Guide to Physical Therapist Practice Second Edition, A Normative Model of Physical Therapist Professional Education: Version 2004*, and *Evaluative Criteria for PT Programs* serve as resources for setting these requirements.

Substantially Equivalent: The individual has satisfied or exceeded the minimum number of credits required in general and professional education needed for a U.S. first professional degree in physical therapy. Coursework completed may not be identical in all respects to a U.S. first professional degree in physical therapy, but all required content areas are evident. Deficiencies may be noted in coursework, but not in essential areas of professional education nor be of such magnitude that the education is not deemed to be at the entry-level of preparation for practice in the United States.

Transcript Reference: Official documentation from the academic institution of courses completed, grades assigned, and degree conferred in the form of an official transcript. In the exceptional cases where an official transcript does not exist within the institution, an alternative official document may be considered.

**PHYSICAL THERAPIST
CLINICAL PERFORMANCE INSTRUMENT
FOR STUDENTS**

June 2006

**American Physical Therapy Association
Department of Physical Therapy Education
1111 North Fairfax Street
Alexandria, Virginia 22314**



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¹ Terms used in this instrument are denoted by an asterisk (*) and can be found in the Glossary.

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CLINICAL PERFORMANCE INSTRUMENT

INTRODUCTION

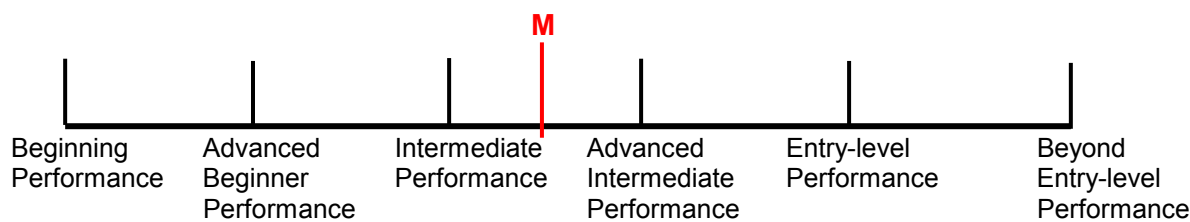
- This instrument should only be used after completing the APTA web-based training for the Physical Therapist Clinical Performance Instrument (PT CPI) at www.apta/education (TBD).
- The PT CPI is applicable to a broad range of clinical settings and can be used throughout the continuum of clinical learning experiences.
- Every performance criterion* in this instrument is important to the overall assessment of clinical competence, and all criteria are observable in every clinical experience.
- All performance criteria should be rated based on observation of student performance relative to entry-level.
- The PT CPI from any previous student experience should not be shared with any subsequent experiences.
- The PT CPI consists of 18 performance criteria.
- Each performance criterion includes a list of sample behaviors, a section for midterm and final comments for each performance dimension, a rating scale consisting of a line with 6 defined anchors, and a significant concerns box for midterm and final evaluations.
- Terms used in this instrument are denoted by an asterisk (*) and can be found in the Glossary.
- Summative midterm and final comments and recommendations are provided at the end of the CPI.
- **Altering this instrument is a violation of copyright law.**

Instructions for the Clinical Instructor

- Sources of information to complete the PT CPI may include, but are not limited to, clinical instructors (CIs), other physical therapists, physical therapist assistants*, other professionals, patients/clients*, and students. Methods of data collection may include direct observation, videotapes, documentation review, role playing, interviews, standardized practical activities, portfolios, journals, computer-generated tests, and patient and outcome surveys.
- Prior to beginning to use the instrument in your clinical setting it would be useful to discuss and reach agreement on how the sample behaviors would be specifically demonstrated at entry-level by students in your clinical setting.
- The CI(s) will assess a student's performance and complete the instrument at midterm and final evaluation periods.
- The CI(s) reviews the completed instrument formally with the student at a minimum at the midterm evaluation and at the end of the clinical experience and signs the signature pages (midterm 35 and final 36) following each evaluation.
- Each academic institution is responsible for determining minimum performance expectations for successful completion of each clinical experience. Since CIs are not responsible for assigning grades it is essential for them to rate student performance based only on their direct observations of student performance.

Rating Scale

- The rating scale was designed to reflect a continuum of performance ranging from "Beginning Performance" to "Beyond Entry-Level Performance." Student performance should be described in relation to one or more of the six anchors. For example, consider the following rating on a selected performance criterion.



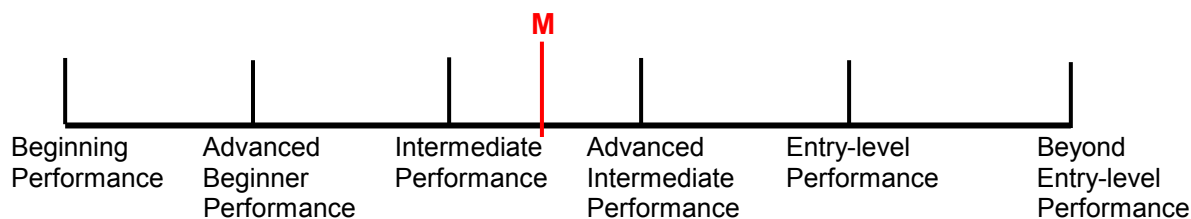
- The rating scale was not designed to be a visual analog scale. The vertical mark indicates that the student has exceeded the anchor definition of "intermediate performance," however the student has yet to satisfy the definition associated with "advanced intermediate performance." In order to place the rating on an anchor, all of the conditions of that level of the rating must be satisfied as provided in the description for each of the 6 anchors.

Instructions for the Student

- The student is expected to perform self-assessment based on CI feedback, student peer assessments, and patient/client assessments.
- The student self-assesses his/her performance on a separate copy of the instrument.
- The student reviews the completed instrument with the CI at the midterm evaluation and at the end of the clinical experience and signs the signature page (midterm 35 and final 36) following each evaluation.
- Each academic institution is responsible for determining minimum performance expectations for successful completion of each clinical experience. Since CIs are not responsible for assigning grades it is essential for them to rate student performance based only on their direct observations of student performance.

Rating Scale

- The rating scale was designed to reflect a continuum of performance ranging from “Beginning Performance” to “Beyond Entry-Level Performance.” Student performance should be described in relation to one or more of the six anchors. For example, consider the following rating on a selected performance criterion.



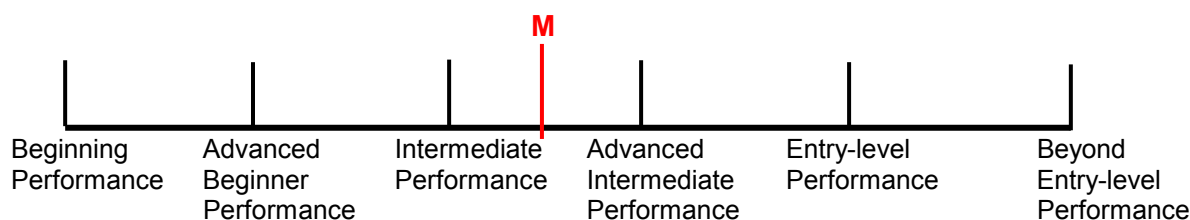
- The rating scale was not designed to be a visual analog scale. The vertical mark indicates that the student has exceeded the anchor definition of “intermediate performance” however the student has yet to satisfy the definition associated with “advanced intermediate performance.” In order to place the rating on an anchor, all of the conditions of that level of the rating must be satisfied as provided in the description for each of the 6 anchors.

Instructions for the Academic Coordinator/Director of Clinical Education (ACCE/DCE*)

- A physical therapist (PT) student assessment* system evaluates knowledge, skills, and attitudes and incorporates multiple sources of information to make decisions about readiness to practice.
- Sources of information may include clinical performance evaluations of students, classroom performance evaluations, students' self-assessments, peer assessments, and patient assessments. The system is intended to enable clinical educators and academic faculty to obtain a comprehensive perspective of students' progress through the curriculum and competence* to practice at entry-level. The uniform adoption and consistent use of this instrument will ensure that all practitioners entering practice have demonstrated a core set of clinical attributes.
- The ACCE/DCE* reviews the completed form at the end of the clinical experience and assigns a grade or pass/fail according to institution policy.

Rating Scale

- The rating scale was designed to reflect a continuum of performance ranging from "Beginning Performance" to "Beyond Entry-Level Performance." Student performance should be described in relation to one or more of the six anchors. For example, consider the following rating on a selected performance criterion.



- The rating scale was not designed to be a visual analog scale. The vertical mark indicates that the student has exceeded the anchor definition of "intermediate performance," however the student has yet to satisfy the definition associated with "advanced intermediate performance." In order to place the rating on an anchor, all of the conditions of that level of the rating must be satisfied as provided in the description for each of the 6 anchors.
- Attempts to quantify a rating on the scale in millimeters or as a percentage would be considered an invalid use of the assessment tool. For example, a given academic institution may require their students to achieve a minimum student rating of "intermediate performance" by the conclusion of an initial clinical experience. It was not the intention of the developers to establish uniform grading criteria given the unique curricular design of each academic institution.
- Each academic institution is responsible for determining minimum performance expectations for successful completion of each clinical experience. Since clinical instructors (CIs) are not responsible for assigning grades it is essential for them to rate student performance based only on their direct observations of student performance. It would be inappropriate for the ACCE/DCE to provide a pre-marked PT CPI with minimum performance expectations, send an additional page of information that identify specific marked expectations, or add/delete items from PT CPI.

Determining a Grade

- Each academic institution determines what constitutes satisfactory performance. The guide below is provided to assist the program in identifying what is expected for the student's performance depending upon their level of education* and clinical experience within the program.


- First clinical experience: Depending upon your academic curriculum, ratings of student performance may be expected in the first two intervals between beginning clinical performance,* advanced beginner performance, and intermediate clinical performance.
- Intermediate clinical experiences: Depending upon your academic curriculum, student performance ratings are expected to progress along the continuum ranging from a minimum of advanced beginner clinical performance (interval 2) to advanced intermediate clinical performance* (interval 4). The ratings on the performance criteria will be dependent upon the clinical setting, level of didactic and clinical experience within the curriculum, and expectations of the clinical site and the academic program.
- Final clinical experience: Students should achieve ratings of entry-level or beyond (interval 5) for all 18 performance criteria.
- At the conclusion of a clinical experience, grading decisions made by the ACCE/DCE, may also consider:
 - clinical setting,
 - experience with patients or clients* in that setting,
 - relative weighting or importance of each performance criterion,
 - expectations for the clinical experience,
 - progression of performance from midterm to final evaluations,
 - level of experience within the didactic and clinical components,
 - whether or not “significant concerns” box was checked, and
 - the congruence between the CI’s narrative midterm and final comments related to the five performance dimensions and the ratings provided.

COMPONENTS OF THE FORM

Performance Criteria*

- The 18 performance criteria* describe the essential aspects of professional practice of a physical therapist* clinician performing at entry-level.
- The performance criteria are grouped by the aspects of practice that they represent.
- Items 1-6 are related to professional practice, items 7-15 address patient management, and items 16-18 address practice management*.

Red Flag Item

- A flag () to the left of a performance criterion indicates a “red-flag” item.
- The five “red-flag” items (numbered 1, 2, 3, 4, and 7) are considered foundational elements in clinical practice.
- Students may progress more rapidly in the “red flag” areas than other performance criteria.
- Significant concerns related to a performance criterion that is a red-flag item warrants immediate attention, more expansive documentation*, and a telephone call to the ACCE/DCE*. Possible outcomes from difficulty in performance with a red-flag item may include remediation, extension of the experience with a learning contract, and/or dismissal from the clinical experience.

Sample Behaviors

- The sample of commonly observed behaviors (denoted with lower-case letters in shaded boxes) for each criterion are used to guide assessment* of students' competence relative to the performance criteria.
- Given the diversity and complexity of clinical practice, it must be emphasized that ***the sample behaviors provided are not meant to be an exhaustive list.***
- There may be additional or alternative behaviors relevant and critical to a given clinical setting and all listed behaviors need not be present to rate student performance at the various levels.
- Sample behaviors are not listed in order of priority, but most behaviors are presented in logical order.

Midterm and Final Comments

- The clinical instructor* must provide descriptive narrative comments for all performance criteria.
- For each performance criterion, space is provided for written comments for midterm and final ratings.
- Each of the five performance dimensions (supervision/guidance*, quality*, complexity*, consistency*, and efficiency*) are common to all types and levels of performance and should be addressed in providing written comments.

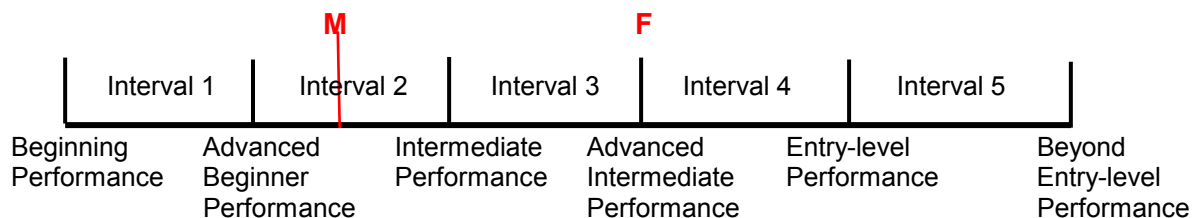
Performance Dimensions

- **Supervision/guidance*** refers to the level and extent of assistance required by the student to achieve entry-level performance.
 - As a student progresses through clinical education experiences*, the degree of supervision/guidance needed is expected to progress from 100% supervision to being capable of independent performance with consultation* and may vary with the complexity of the patient or environment.
- **Quality*** refers to the degree of knowledge and skill proficiency demonstrated.
 - As a student progresses through clinical education experiences, quality should range from demonstration of limited skill to a skilled or highly skilled performance.

- **Complexity*** refers to the number of elements that must be considered relative to the patient*, task, and/or environment.
 - As a student progresses through clinical education experiences, the level of complexity of tasks, patient management, and the environment should increase, with fewer elements being controlled by the CI.
- **Consistency*** refers to the frequency of occurrences of desired behaviors related to the performance criterion.
 - As a student progresses through clinical education experiences, consistency of quality performance is expected to progress from infrequently to routinely.
- **Efficiency*** refers to the ability to perform in a cost-effective and timely manner.
 - As the student progresses through clinical education experiences, efficiency should progress from a high expenditure of time and effort to economical and timely performance.

Rating Student Performance

- Each performance criterion is rated relative to entry-level practice as a physical therapist.
- The rating scale consists of a horizontal line with 6 vertical lines defining anchors at each end and at four intermediate points along that line.
- The 6 vertical lines define the borders of five intervals.
- Rating marks may be placed on the 6 vertical lines or anywhere within the five intervals.
- The same rating scale is used for midterm evaluations and final evaluations.
- Place one vertical line on the rating scale at the appropriate point indicating the midterm evaluation rating and label it with an “**M**”.
- Place one vertical line on the rating scale at the appropriate point indicating the final evaluation rating and label it with an “**F**”.
- Placing a rating mark on a vertical line indicates the student’s performance matches the definition attached to that particular vertical line.
- Placing a rating mark in an interval indicates that the student’s performance is somewhere between the definitions attached to the vertical marks defining that interval.
- For completed examples of how to mark the rating scale, refer to *Appendix A: Examples*).



Anchor Definitions

Beginning performance*:

- A student who requires close clinical supervision 100% of the time managing patients with constant monitoring and feedback, even with patients with simple conditions.
- At this level, performance is inconsistent and clinical reasoning* is performed in an inefficient manner.
- Performance reflects little or no experience.
- The student does not carry a caseload.

Advanced beginner performance*:

- A student who requires clinical supervision 75% – 90% of the time managing patients with simple conditions, and 100% of the time managing patients with complex conditions.
- At this level, the student demonstrates consistency in developing proficiency with simple tasks (eg, medical record review, goniometry, muscle testing, and simple interventions), but is unable to perform skilled examinations, interventions, and clinical reasoning skills.
- The student may begin to share a caseload with the clinical instructor.

Intermediate performance*:

- A student who requires clinical supervision less than 50% of the time managing patients with simple conditions, and 75% of the time managing patients with complex conditions.
- At this level, the student is proficient with simple tasks and is developing the ability to consistently perform skilled examinations, interventions, and clinical reasoning.
- The student is **capable of** maintaining 50% of a full-time physical therapist's caseload.

Advanced intermediate performance*:

- A student who requires clinical supervision less than 25% of the time managing new patients or patients with complex conditions and is independent managing patients with simple conditions.
- At this level, the student is consistent and proficient in simple tasks and requires only occasional cueing for skilled examinations, interventions, and clinical reasoning.
- The student is **capable of** maintaining 75% of a full-time physical therapist's caseload.

Entry-level performance*:

- A student who is **capable of** functioning without guidance or clinical supervision managing patients with simple or complex conditions.
- At this level, the student is consistently proficient and skilled in simple and complex tasks for skilled examinations, interventions, and clinical reasoning.
- Consults with others and resolves unfamiliar or ambiguous situations.
- The student is **capable of** maintaining 100% of a full-time physical therapist's caseload in a cost effective manner.

Beyond entry-level performance*:

- A student who is **capable of** functioning without clinical supervision or guidance in managing patients with simple or highly complex conditions, and is able to function in unfamiliar or ambiguous situations.
- At this level, the student is consistently proficient at highly skilled examinations, interventions, and clinical reasoning, and is capable of serving as a consultant or resource for others.
- The student is **capable of** maintaining 100% of a full-time physical therapist's caseload and seeks to assist others where needed.
- The student is capable of supervising others.
- The student willingly assumes a leadership role* for managing patients with more difficult or complex conditions.

- Actively contributes to the enhancement of the clinical facility with an expansive view of physical therapy practice and the profession.

Significant Concerns Box

- Checking this box (☐) indicates that the student's performance on this criterion is unacceptable for this clinical experience.
- When the Significant Concerns Box is checked, written comments to substantiate the concern, additional documentation such as a critical incident form and learning contract are required with a phone call (☎) placed to the ACCE.
- The significant concerns box provides an early warning system to identify student performance problems thereby enabling the CI, student, and ACCE/DCE to determine a mechanism for remediation, if appropriate.
- A box is provided for midterm and final assessments*.

Summative Comments

- Summative comments should be used to provide a global perspective of the student's performance across all 18 criteria at midterm and final evaluations.
- The summative comments, located after the last performance criterion, provide a section for the rater to comment on the overall strengths, areas requiring further development, other general comments, and any specific recommendations with respect to the learner's needs, interests, planning, or performance.
- Comments should be based on the student's performance relative to stated objectives* for the clinical experience.

CLINICAL PERFORMANCE INSTRUMENT INFORMATION

STUDENT INFORMATION (Student to Complete)

Student's Name: _____

Date of Clinical Experience: _____ Course Number: _____

E-mail: _____

Total Number of Days Absent: _____

Specify Clinical Experience(s)/Rotation(s) Completed:

_____ Acute Care/Inpatient	_____ Private Practice
_____ Ambulatory Care/Outpatient	_____ Rehab/Sub-Acute Rehab
_____ ECF/Nursing Home/SNF	_____ School/Pre-school
_____ Federal/State/County Health	_____ Wellness/Prevention/Fitness
_____ Industrial/Occupational Health	_____ Other; specify _____

ACADEMIC PROGRAM INFORMATION (Program to Complete)

Name of Academic Institution: _____

Address: _____
(Department) (Street)

_____ (City) (State/Province) (Zip)

Phone: _____ ext. _____ Fax: _____

E-mail: _____ Website: _____

CLINICAL EDUCATION SITE INFORMATION (Clinical Site to Complete)

Name of Clinical Site: _____

Address: _____
(Department) (Street)

_____ (City) (State/Province) (Zip)

Phone: _____ ext. _____ Fax: _____

E-mail: _____ Website: _____

Clinical Instructor's* Name: _____

Clinical Instructor's Name: _____

Clinical Instructor's Name: _____

Center Coordinator of Clinical Education's Name: _____

PROFESSIONAL PRACTICE
SAFETY



1. Practices in a safe manner that minimizes the risk to patient, self, and others.

SAMPLE BEHAVIORS

- a. Establishes and maintains safe working environment.
- b. Recognizes physiological and psychological changes in patients* and adjusts patient interventions* accordingly.
- c. Demonstrates awareness of contraindications and precautions of patient intervention.
- d. Ensures the safety of self, patient, and others throughout the clinical interaction (eg, universal precautions, responding and reporting emergency situations, etc).
- e. Requests assistance when necessary.
- f. Uses acceptable techniques for safe handling of patients (eg, body mechanics, guarding, level of assistance, etc.).
- g. Demonstrates knowledge of facility safety policies and procedures.

MIDTERM COMMENTS: (Provide comments based on the performance dimensions including supervision/guidance*, quality*, complexity*, consistency*, and efficiency*.)

FINAL COMMENTS: (Provide comments based on the performance dimensions including supervision/guidance*, quality*, complexity*, consistency*, and efficiency*.)

Rate this student's clinical performance based on the sample behaviors and comments above:

Beginning Performance*	Advanced Beginner Performance*	Intermediate Performance*	Advanced Intermediate Performance*	Entry-level Performance*	Beyond Entry-level Performance*

Significant Concerns: If performance on this criterion is unacceptable, check the box and call the ACCE/DCE.

	Midterm	<input type="checkbox"/>		Final	<input type="checkbox"/>
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PROFESSIONAL PRACTICE
PROFESSIONAL BEHAVIOR



2. Demonstrates professional behavior in all situations.

SAMPLE BEHAVIORS

- a. Demonstrates initiative (eg, arrives well prepared, offers assistance, seeks learning opportunities).
- b. Is punctual and dependable.
- c. Wears attire consistent with expectations of the practice setting.
- d. Demonstrates integrity* in all interactions.
- e. Exhibits caring*, compassion*, and empathy* in providing services to patients.
- f. Maintains productive working relationships with patients, families, CI, and others.
- g. Demonstrates behaviors that contribute to a positive work environment.
- h. Accepts feedback without defensiveness.
- i. Manages conflict in constructive ways.
- j. Maintains patient privacy and modesty.
- k. Values the dignity of patients as individuals.
- l. Seeks feedback from clinical instructor related to clinical performance.
- m. Provides effective feedback to CI related to clinical/teaching mentoring.

MIDTERM COMMENTS: (Provide comments based on the performance dimensions including supervision/guidance*, quality*, complexity*, consistency*, and efficiency*.)

FINAL COMMENTS: (Provide comments based on the performance dimensions including supervision/guidance*, quality*, complexity*, consistency*, and efficiency*.)

Rate this student's clinical performance based on the sample behaviors and comments above:

Beginning Performance	Advanced Beginner Performance	Intermediate Performance	Advanced Intermediate Performance	Entry-level Performance	Beyond Entry-level Performance

Significant Concerns: If performance on this criterion is unacceptable, check the box and call the ACCE/DCE.



Midterm

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PROFESSIONAL PRACTICE
ACCOUNTABILITY*



3. Practices in a manner consistent with established legal and professional standards and ethical guidelines.

SAMPLE BEHAVIORS

- a. Places patient's needs above self interests.
- b. Identifies, acknowledges, and accepts responsibility for actions and reports errors.
- c. Takes steps to remedy errors in a timely manner.
- d. Abides by policies and procedures of the practice setting (eg, OSHA, HIPAA, PIPEDA [Canada], etc.)
- e. Maintains patient confidentiality.
- f. Adheres to legal practice standards including all federal, state/province, and institutional regulations related to patient care and fiscal management.*
- g. Identifies ethical or legal concerns and initiates action to address the concerns.
- h. Displays generosity as evidenced in the use of time and effort to meet patient needs.
- i. Recognize the need for physical therapy services to underserved and under represented populations.
- j. Strive to provide patient/client services that go beyond expected standards of practice.

MIDTERM COMMENTS: (Provide comments based on the performance dimensions including supervision/guidance*, quality*, complexity*, consistency*, and efficiency*.)

FINAL COMMENTS: (Provide comments based on the performance dimensions including supervision/guidance*, quality*, complexity*, consistency*, and efficiency*.)

Rate this student's clinical performance based on the sample behaviors and comments above:

Beginning Performance	Advanced Beginner Performance	Intermediate Performance	Advanced Intermediate Performance	Entry-level Performance	Beyond Entry-level Performance

Significant Concerns: If performance on this criterion is unacceptable, check the box and call the ACCE/DCE.



Midterm

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Final

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PROFESSIONAL PRACTICE
COMMUNICATION*



4. Communicates in ways that are congruent with situational needs.

SAMPLE BEHAVIORS

- a. Communicates, verbally and nonverbally, in a professional and timely manner.
- b. Initiates communication* in difficult situations.
- c. Selects the most appropriate person(s) with whom to communicate.
- d. Communicates respect for the roles* and contributions of all participants in patient care.
- e. Listens actively and attentively to understand what is being communicated by others.
- f. Demonstrates professionally and technically correct written and verbal communication without jargon.
- g. Communicates using nonverbal messages that are consistent with intended message.
- h. Engages in ongoing dialogue with professional peers or team members.
- i. Interprets and responds to the nonverbal communication of others.
- j. Evaluates effectiveness of his/her communication and modifies communication accordingly.
- k. Seeks and responds to feedback from multiple sources in providing patient care.
- l. Adjust style of communication based on target audience.
- m. Communicates with the patient using language the patient can understand (eg, translator, sign language, level of education*, cognitive* impairment*, etc).

MIDTERM COMMENTS: (Provide comments based on the performance dimensions including supervision/guidance*, quality*, complexity*, consistency*, and efficiency*.)

FINAL COMMENTS: (Provide comments based on the performance dimensions including supervision/guidance*, quality*, complexity*, consistency*, and efficiency*.)

Rate this student's clinical performance based on the sample behaviors and comments above:

Beginning Performance	Advanced Beginner Performance	Intermediate Performance	Advanced Intermediate Performance	Entry-level Performance	Beyond Entry-level Performance

Significant Concerns: If performance on this criterion is unacceptable, check the box and call the ACCE/DCE.



Midterm

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PROFESSIONAL PRACTICE
CULTURAL COMPETENCE*

5. Adapts delivery of physical therapy services with consideration for patients' differences, values, preferences, and needs.

SAMPLE BEHAVIORS

- a. Incorporates an understanding of the implications of individual and cultural differences and adapts behavior accordingly in all aspects of physical therapy services.
- b. Communicates with sensitivity by considering differences in race/ethnicity, religion, gender, age, national origin, sexual orientation, and disability* or health status.*
- c. Provides care in a nonjudgmental manner when the patients' beliefs and values conflict with the individual's belief system.
- d. Discovers, respects, and highly regards individual differences, preferences, values, life issues, and emotional needs within and among cultures.
- e. Values the socio-cultural, psychological, and economic influences on patients and clients* and responds accordingly.
- f. Is aware of and suspends own social and cultural biases.

MIDTERM COMMENTS: (Provide comments based on the performance dimensions including supervision/guidance*, quality*, complexity*, consistency*, and efficiency*.)

FINAL COMMENTS: (Provide comments based on the performance dimensions including supervision/guidance*, quality*, complexity*, consistency*, and efficiency*.)

Rate this student's clinical performance based on the sample behaviors and comments above:

Beginning Performance	Advanced Beginner Performance	Intermediate Performance	Advanced Intermediate Performance	Entry-level Performance	Beyond Entry-level Performance

Significant Concerns: If performance on this criterion is unacceptable, check the box and call the ACCE/DCE.



Midterm

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PROFESSIONAL PRACTICE
PROFESSIONAL DEVELOPMENT

6. Participates in self-assessment to improve clinical and professional performance.

SAMPLE BEHAVIORS

- a. Identifies strengths and limitations in clinical performance.
- b. Seeks guidance as necessary to address limitations.
- c. Uses self-evaluation, ongoing feedback from others, inquiry, and reflection to conduct regular ongoing self-assessment to improve clinical practice and professional development.
- d. Acknowledges and accepts responsibility for and consequences of his or her actions.
- e. Establishes realistic short and long-term goals in a plan for professional development.
- f. Seeks out additional learning experiences to enhance clinical and professional performance.
- g. Discusses progress of clinical and professional growth.
- h. Accepts responsibility for continuous professional learning.
- i. Discusses professional issues related to physical therapy practice.
- j. Participates in professional activities beyond the practice environment.
- k. Provides to and receives feedback from peers regarding performance, behaviors, and goals.
- l. Provides current knowledge and theory (in-service, case presentation, journal club, projects, systematic data collection, etc) to achieve optimal patient care.

MIDTERM COMMENTS: (Provide comments based on the performance dimensions including supervision/guidance*, quality*, complexity*, consistency*, and efficiency*.)

FINAL COMMENTS: (Provide comments based on the performance dimensions including supervision/guidance*, quality*, complexity*, consistency*, and efficiency*.)

Rate this student's clinical performance based on the sample behaviors and comments above:

Beginning Performance	Advanced Beginner Performance	Intermediate Performance	Advanced Intermediate Performance	Entry-level Performance	Beyond Entry-level Performance

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Midterm

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PATIENT MANAGEMENT
CLINICAL REASONING*



- 7. Applies current knowledge, theory, clinical judgment, and the patient's values and perspective in patient management.**

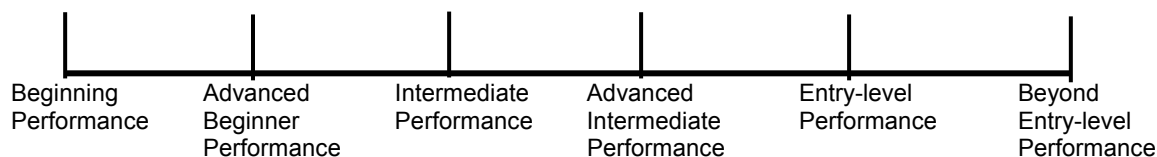
SAMPLE BEHAVIORS

- a. Presents a logical rationale (cogent and concise arguments) for clinical decisions.
- b. Makes clinical decisions within the context of ethical practice.
- c. Utilizes information from multiple data sources to make clinical decisions (eg, patient and caregivers*, health care professionals, hooked on evidence, databases, medical records).
- d. Seeks disconfirming evidence in the process of making clinical decisions.
- e. Recognizes when plan of care* and interventions are ineffective, identifies areas needing modification, and implements changes accordingly.
- f. Critically evaluates published articles relevant to physical therapy and applies them to clinical practice.
- g. Demonstrates an ability to make clinical decisions in ambiguous situations or where values may be in conflict.
- h. Selects interventions based on the best available evidence, clinical expertise, and patient preferences.
- i. Assesses patient response to interventions using credible measures.
- j. Integrates patient needs and values in making decisions in developing the plan of care.
- k. Clinical decisions focus on the whole person rather than the disease.
- l. Recognizes limits (learner and profession) of current knowledge, theory, and judgment in patient management.

MIDTERM COMMENTS: (Provide comments based on the performance dimensions including supervision/guidance*, quality*, complexity*, consistency*, and efficiency*.)

FINAL COMMENTS: (Provide comments based on the performance dimensions including supervision/guidance*, quality*, complexity*, consistency*, and efficiency*.)

Rate this student's clinical performance based on the sample behaviors and comments above:



Significant Concerns: If performance on this criterion is unacceptable, check the box and call the ACCE/DCE.



Midterm

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Final

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PATIENT MANAGEMENT
SCREENING*

8. Determines with each patient encounter the patient's need for further examination or consultation* by a physical therapist* or referral to another health care professional.

SAMPLE BEHAVIORS

- a. Utilizes test and measures sensitive to indications for physical therapy intervention.
- b. Advises practitioner about indications for intervention.
- c. Reviews medical history* from patients and other sources (eg, medical records, family, other health care staff).
- d. Performs a system review and recognizes clusters (historical information, signs and symptoms) that would preclude interventions due to contraindications or medical emergencies.
- e. Selects the appropriate screening* tests and measurements.
- f. Conducts tests and measurements appropriately.
- g. Interprets tests and measurements accurately.
- h. Analyzes and interprets the results and determines whether there is a need for further examination or referral to other services.
- i. Chooses the appropriate service and refers the patient in a timely fashion, once referral or consultation is deemed necessary
- j. Conducts musculoskeletal, neuromuscular, cardiopulmonary, and integumentary systems screening at community sites.

MIDTERM COMMENTS: (Provide comments based on the performance dimensions including supervision/guidance*, quality*, complexity*, consistency*, and efficiency*.)

FINAL COMMENTS: (Provide comments based on the performance dimensions including supervision/guidance*, quality*, complexity*, consistency*, and efficiency*.)

Rate this student's clinical performance based on the sample behaviors and comments above:

Beginning Performance	Advanced Beginner Performance	Intermediate Performance	Advanced Intermediate Performance	Entry-level Performance	Beyond Entry-level Performance

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Midterm

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Final

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PATIENT MANAGEMENT EXAMINATION*

9. Performs a physical therapy patient examination using evidenced-based* tests and measures.

SAMPLE BEHAVIORS

- a. Obtains a history* from patients and other sources as part of the examination.*
- b. Utilizes information from history and other data (eg, laboratory, diagnostic tests and pharmacological information) to formulate initial hypothesis and prioritize selection of test and measures.
- c. Performs systems review.
- d. Selects evidence-based tests and measures* that are relevant to the history, chief complaint, and screening.
 Tests and measures* (listed alphabetically) include, but are not limited to, the following: a) aerobic capacity, b) anthropometric characteristics, c) arousal, mentation, and cognition, d) assistive and adaptive devices*, e) community and work (job, school, or play) reintegration, f) cranial nerve integrity, g) environmental, home, and work barriers, h) ergonomics and body mechanics, i) gait, assisted locomotion, and balance, j) integumentary integrity, k) joint integrity and mobility, l) motor function*, m) muscle performance (including strength, power, and endurance), n) neuromotor development and sensory integration, o) orthotic, protective, and supportive devices, p) pain, q), posture, r) prosthetic requirements, s) range of motion, t) reflex integrity, u) self-care and home management (including activities of daily living and instrumental activities of daily living), v) sensory integration (including proprioception and kinesthesia), and w) ventilation, respiration, and circulation.
- e. Conducts tests and measures accurately and proficiently.
- f. Sequences tests and measures in a logical manner to optimize efficiency*.
- g. Adjusts tests and measures according to patient's response.
- h. Performs regular reexaminations* of patient status.
- i. Performs an examination using evidence based test and measures.

MIDTERM COMMENTS: (Provide comments based on the performance dimensions including supervision/guidance*, quality*, complexity*, consistency*, and efficiency*.)

FINAL COMMENTS: (Provide comments based on the performance dimensions including supervision/guidance*, quality*, complexity*, consistency*, and efficiency*.)

Rate this student's clinical performance based on the sample behaviors and comments above:

Beginning Performance	Advanced Beginner Performance	Intermediate Performance	Advanced Intermediate Performance	Entry-level Performance	Beyond Entry-level Performance

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Midterm

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PATIENT MANAGEMENT
EVALUATION*

10. Evaluates data from the patient examination (history, systems review, and tests and measures) to make clinical judgments.

SAMPLE BEHAVIORS

- a. Synthesizes examination data and identifies pertinent impairments, functional limitations* and quality of life. [WHO – ICF Model for Canada]
- b. Makes clinical judgments based on data from examination (history, system review, tests and measurements).
- c. Reaches clinical decisions efficiently.
- d. Cites the evidence to support a clinical decision.

MIDTERM COMMENTS: (Provide comments based on the performance dimensions including supervision/guidance*, quality*, complexity*, consistency*, and efficiency*.)

FINAL COMMENTS: (Provide comments based on the performance dimensions including supervision/guidance*, quality*, complexity*, consistency*, and efficiency*.)

Rate this student's clinical performance based on the sample behaviors and comments above:

Beginning Performance	Advanced Beginner Performance	Intermediate Performance	Advanced Intermediate Performance	Entry-level Performance	Beyond Entry-level Performance

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PATIENT MANAGEMENT
DIAGNOSIS* AND PROGNOSIS*

11. Determines a diagnosis* and prognosis* that guides future patient management.

SAMPLE BEHAVIORS

- a. Establishes a diagnosis for physical therapy intervention and list for differential diagnosis*.
- b. Determines a diagnosis that is congruent with pathology, impairment, functional limitation, and disability.
- c. Integrates data and arrives at an accurate prognosis* with regard to intensity and duration of interventions and discharge* status.
- d. Estimates the contribution of factors (eg, preexisting health status, co-morbidities, race, ethnicity, gender, age, health behaviors) on the effectiveness of interventions.
- e. Utilizes the research and literature to identify prognostic indicators (co-morbidities, race, ethnicity, gender, health behaviors, etc) that help predict patient outcomes.

MIDTERM COMMENTS: (Provide comments based on the performance dimensions including supervision/guidance*, quality*, complexity*, consistency*, and efficiency*.)

FINAL COMMENTS: (Provide comments based on the performance dimensions including supervision/guidance*, quality*, complexity*, consistency*, and efficiency*.)

Rate this student's clinical performance based on the sample behaviors and comments above:

Beginning Performance	Advanced Beginner Performance	Intermediate Performance	Advanced Intermediate Performance	Entry-level Performance	Beyond Entry-level Performance

Significant Concerns: If performance on this criterion is unacceptable, check the box and call the ACCE/DCE.



Midterm

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PATIENT MANAGEMENT
PLAN OF CARE*

12. Establishes a physical therapy plan of care* that is safe, effective, patient-centered, and evidence-based.

SAMPLE BEHAVIORS

- a. Establishes goals* and desired functional outcomes* that specify expected time durations.
- b. Establishes a physical therapy plan of care* in collaboration with the patient, family, caregiver, and others involved in the delivery of health care services.
- c. Establishes a plan of care consistent with the examination and evaluation.*
- d. Selects interventions based on the best available evidence and patient preferences.
- e. Follows established guidelines (eg, best practice, clinical pathways, and protocol) when designing the plan of care.
- f. Progresses and modifies plan of care and discharge planning based on patient responses.
- g. Identifies the resources needed to achieve the goals included in the patient care.
- h. Implements, monitors, adjusts, and periodically re-evaluate a plan of care and discharge planning.
- i. Discusses the risks and benefits of the use of alternative interventions with the patient.
- j. Identifies patients who would benefit from further follow-up.
- k. Advocates for the patients' access to services.

MIDTERM COMMENTS: (Provide comments based on the performance dimensions including supervision/guidance*, quality*, complexity*, consistency*, and efficiency*.)

FINAL COMMENTS: (Provide comments based on the performance dimensions including supervision/guidance*, quality*, complexity*, consistency*, and efficiency*.)

Rate this student's clinical performance based on the sample behaviors and comments above:

Beginning Performance	Advanced Beginner Performance	Intermediate Performance	Advanced Intermediate Performance	Entry-level Performance	Beyond Entry-level Performance

Significant Concerns: If performance on this criterion is unacceptable, check the box and call the ACCE/DCE.



Midterm

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PATIENT MANAGEMENT PROCEDURAL INTERVENTIONS*

13. Performs physical therapy interventions* in a competent manner.

SAMPLE BEHAVIORS

- a. Performs interventions* safely, effectively, efficiently, fluidly, and in a coordinated and technically competent* manner.
Interventions (listed alphabetically) include, but not limited to, the following: a) airway clearance techniques, b) debridement and wound care, c) electrotherapeutic modalities, d) functional training in community and work (job, school, or play) reintegration (including instrumental activities of daily living, work hardening, and work conditioning), e) functional training in self-care and home management (including activities of daily living and instrumental activities of daily living), f) manual therapy techniques*: spinal/peripheral joints (thrust/non-thrust), g) patient-related instruction, h) physical agents and mechanical modalities, i) prescription, application, and as appropriate fabrication of adaptive, assistive, orthotic, protective, and supportive devices and equipment, and j) therapeutic exercise (including aerobic conditioning).
- b. Performs interventions consistent with the plan of care.
- c. Utilizes alternative strategies to accomplish functional goals.
- d. Follows established guidelines when implementing an existing plan of care.
- e. Provides rationale for interventions selected for patients presenting with various diagnoses.
- f. Adjusts intervention strategies according to variables related to age, gender, co-morbidities, pharmacological interventions, etc.
- g. Assesses patient response to interventions and adjusts accordingly.
- h. Discusses strategies for caregivers to minimize risk of injury and to enhance function.
- i. Considers prevention*, health, wellness* and fitness* in developing a plan of care for patients with musculoskeletal, neuromuscular, cardiopulmonary, and integumentary system problems.
- j. Incorporates the concept of self-efficacy in wellness and health promotion.*

MIDTERM COMMENTS: (Provide comments based on the performance dimensions including supervision/guidance*, quality*, complexity*, consistency*, and efficiency*.)

FINAL COMMENTS: (Provide comments based on the performance dimensions including supervision/guidance*, quality*, complexity*, consistency*, and efficiency*.)

Rate this student's clinical performance based on the sample behaviors and comments above:

Beginning Performance	Advanced Beginner Performance	Intermediate Performance	Advanced Intermediate Performance	Entry-level Performance	Beyond Entry-level Performance

Significant Concerns: If performance on this criterion is unacceptable, check the box and call the ACCE/DCE.

Midterm ☐

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PATIENT MANAGEMENT
EDUCATIONAL INTERVENTIONS*

- 14. Educates* others (patients, caregivers, staff, students, other health care providers*, business and industry representatives, school systems) using relevant and effective teaching methods.**

SAMPLE BEHAVIORS

- a. Identifies and establishes priorities for educational needs in collaboration with the learner.
- b. Identifies patient learning style (eg, demonstration, verbal, written).
- c. Identifies barriers to learning (eg, literacy, language, cognition).
- d. Modifies interaction based on patient learning style.
- e. Instructs patient, family members and other caregivers regarding the patient's condition, intervention and transition to his or her role at home, work, school or community.
- f. Ensures understanding and effectiveness of recommended ongoing program.
- g. Tailors interventions with consideration for patient family situation and resources.
- h. Provides patients with the necessary tools and education* to manage their problem.
- i. Determines need for consultative services.
- j. Applies physical therapy knowledge and skills to identify problems and recommend solutions in relevant settings (eg, ergonomic evaluations, school system assessments*, corporate environmental assessments*).
- k. Provides education and promotion of health, wellness, and fitness.

MIDTERM COMMENTS: (Provide comments based on the performance dimensions including supervision/guidance*, quality*, complexity*, consistency*, and efficiency*.)

FINAL COMMENTS: (Provide comments based on the performance dimensions including supervision/guidance*, quality*, complexity*, consistency*, and efficiency*.)

Rate this student's clinical performance based on the sample behaviors and comments above:

Beginning Performance	Advanced Beginner Performance	Intermediate Performance	Advanced Intermediate Performance	Entry-level Performance	Beyond Entry-level Performance

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 **Midterm** ☐

  **Final** ☐

PATIENT MANAGEMENT
DOCUMENTATION*

- 15. Produces quality documentation* in a timely manner to support the delivery of physical therapy services.**

SAMPLE BEHAVIORS

- a. Selects relevant information to document the delivery of physical therapy care.
- b. Documents all aspects of physical therapy care, including screening, examination, evaluation, plan of care, intervention, response to intervention, discharge planning, family conferences, and communication* with others involved in the delivery of care.
- c. Produces documentation (eg, electronic, dictation, chart) that follows guidelines and format required by the practice setting.
- d. Documents patient care consistent with guidelines and requirements of regulatory agencies and third-party payers.
- e. Documents all necessary information in an organized manner that demonstrates sound clinical decision-making.
- f. Produces documentation that is accurate, concise, timely and legible.
- g. Utilizes terminology that is professionally and technically correct.
- h. Documentation accurately describes care delivery that justifies physical therapy services.
- i. Participates in quality improvement* review of documentation (chart audit, peer review, goals achievement).

MIDTERM COMMENTS: (Provide comments based on the performance dimensions including supervision/guidance*, quality*, complexity*, consistency*, and efficiency*.)

FINAL COMMENTS: (Provide comments based on the performance dimensions including supervision/guidance*, quality*, complexity*, consistency*, and efficiency*.)

Rate this student's clinical performance based on the sample behaviors and comments above:

Beginning Performance	Advanced Beginner Performance	Intermediate Performance	Advanced Intermediate Performance	Entry-level Performance	Beyond Entry-level Performance

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Midterm

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PATIENT MANAGEMENT OUTCOMES ASSESSMENT*

16. Collects and analyzes data from selected outcome measures in a manner that supports accurate analysis of individual patient and group outcomes.*

SAMPLE BEHAVIORS

- a. Applies, interprets, and reports results of standardized assessments throughout a patient's episode of care.
- b. Assesses and responds to patient and family satisfaction with delivery of physical therapy care.
- c. Seeks information regarding quality of care rendered by self and others under clinical supervision.
- d. Evaluates and uses published studies related to outcomes effectiveness.
- e. Selects, administers, and evaluates valid and reliable outcome measures for patient groups.
- f. Assesses the patient's response to intervention in practical terms.
- g. Evaluates whether functional goals from the plan of care have been met.
- h. Participates in quality/performance improvement programs (program evaluation, utilization of services, patient satisfaction).

MIDTERM COMMENTS: (Provide comments based on the performance dimensions including supervision/guidance*, quality*, complexity*, consistency*, and efficiency*.)

FINAL COMMENTS: (Provide comments based on the performance dimensions including supervision/guidance*, quality*, complexity*, consistency*, and efficiency*.)

Rate this student's clinical performance based on the sample behaviors and comments above:

Beginning Performance	Advanced Beginner Performance	Intermediate Performance	Advanced Intermediate Performance	Entry-level Performance	Beyond Entry-level Performance

Significant Concerns: If performance on this criterion is unacceptable, check the box and call the ACCE/DCE.



Midterm

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PATIENT MANAGEMENT FINANCIAL RESOURCES

- 17. Participates in the financial management (budgeting, billing and reimbursement, time, space, equipment, marketing, public relations) of the physical therapy service consistent with regulatory, legal, and facility guidelines.**

SAMPLE BEHAVIORS

- a. Schedules patients, equipment, and space.
- b. Coordinates physical therapy with other services to facilitate efficient and effective patient care.
- c. Sets priorities for the use of resources to maximize patient and facility outcomes.
- d. Uses time effectively.
- e. Adheres to or accommodates unexpected changes in the patient's schedule and facility's requirements.
- f. Provides recommendations for equipment and supply needs.
- g. Submits billing charges on time.
- h. Adheres to reimbursement guidelines established by regulatory agencies, payers, and the facility.
- i. Requests and obtains authorization for clinically necessary reimbursable visits.
- j. Utilizes accurate documentation, coding, and billing to support request for reimbursement.
- k. Negotiates with reimbursement entities for changes in individual patient services.
- l. Utilizes the facility's information technology effectively.
- m. Functions within the organizational structure of the practice setting.
- n. Implements risk-management strategies (ie, prevention of injury, infection control, etc).
- o. Markets services to customers (eg, physicians, corporate clients*, general public).
- p. Promotes the profession of physical therapy.
- q. Participates in special events organized in the practice setting related to patients and care delivery.
- r. Develops and implements quality improvement plans (productivity, length of stay, referral patterns, and reimbursement trends).

MIDTERM COMMENTS: (Provide comments based on the performance dimensions including supervision/guidance*, quality*, complexity*, consistency*, and efficiency*.)

FINAL COMMENTS: (Provide comments based on the performance dimensions including supervision/guidance*, quality*, complexity*, consistency*, and efficiency*.)

Rate this student's clinical performance based on the sample behaviors and comments above:

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Midterm

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Final

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PATIENT MANAGEMENT
DIRECTION AND SUPERVISION OF PERSONNEL

- 18. Directs and supervises personnel to meet patient's goals and expected outcomes according to legal standards and ethical guidelines.**

SAMPLE BEHAVIORS

- a. Determines those physical therapy services that can be directed to other support personnel according to jurisdictional law, practice guidelines, policies, codes of ethics, and facility policies.
- b. Applies time-management principles to supervision and patient care.
- c. Informs the patient of the rationale for and decision to direct aspects of physical therapy services to support personnel (eg, secretary, volunteers, PT Aides, Physical Therapist Assistants).
- d. Determines the amount of instruction necessary for personnel to perform directed tasks.
- e. Provides instruction to personnel in the performance of directed tasks.
- f. Supervises those physical therapy services directed to physical therapist assistants* and other support personnel according to jurisdictional law, practice guidelines, policies, codes of ethics, and facility policies.
- g. Monitors the outcomes of patients receiving physical therapy services delivered by other support personnel.
- h. Demonstrates effective interpersonal skills including regular feedback in supervising directed support personnel.
- i. Demonstrates respect for the contributions of other support personnel.
- j. Directs documentation to physical therapist assistants that is based on the plan of care that is within the physical therapist assistant's ability and consistent with jurisdictional law, practice guidelines, policies, codes of ethics, and facility policies.
- k. Reviews, in conjunction with the clinical instructor, physical therapist assistant documentation for clarity and accuracy.

MIDTERM COMMENTS: (Provide comments based on the performance dimensions including supervision/guidance*, quality*, complexity*, consistency*, and efficiency*.)

FINAL COMMENTS: (Provide comments based on the performance dimensions including supervision/guidance*, quality*, complexity*, consistency*, and efficiency*.)

Rate this student's clinical performance based on the sample behaviors and comments above:

Beginning Performance	Advanced Beginner Performance	Intermediate Performance	Advanced Intermediate Performance	Entry-level Performance	Beyond Entry-level Performance

Significant Concerns: If performance on this criterion is unacceptable, check the box and call the ACCE/DCE.



Midterm

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SUMMATIVE COMMENTS

Given this student's level of academic and clinical preparation and the objectives for this clinical experience, identify strengths and areas for further development. If this is the student's final clinical experience, comment on the student's readiness to practice as a physical therapist.

AREAS OF STRENGTH

Midterm:

Final:

AREAS FOR FURTHER DEVELOPMENT

Midterm:

Final:

OTHER COMMENTS**Midterm:****Final:****RECOMMENDATIONS****Midterm:****Final:**

EVALUATION SIGNATURES

MIDTERM EVALUATION

For the Student

I, the student, have read and understood the disclaimer (page 4) and directions (pages 5-13) for the PT CPI. I have completed the on-line training (website) prior to using this instrument and completed the PT CPI midterm self-assessment according to the training and directions. I have also read, reviewed, and discussed my completed performance evaluation with the clinical instructor(s) who evaluated my performance.

Signature of Student

Date

Name of Academic Institution

For the Evaluator(s)

I/We, the evaluator(s), have read and understood the disclaimer (page 4) and directions (pages 5-13) for the PT CPI. I/We have completed the on-line training (website) prior to using this instrument. I/We have completed this instrument, as the evaluator(s) according to the training and directions for the PT CPI. I/We have prepared, reviewed, and discussed the midterm completed PT CPI with the student with respect to his/her clinical performance.

Evaluator Name (1) (Print)

Position/title

Signature of Evaluator (1)

Date

Evaluator Name (2) (Print)

Position/Title

Signature of Evaluator (2)

Date

CCCE Signature

Date

FINAL EVALUATION

For the Student

I, the student, have read and understood the disclaimer (page 4) and directions (pages 5-13) for the PT CPI. I have completed the on-line training (website) prior to using this instrument and completed the PT CPI final self-assessment according to the training and directions. I have also read, reviewed, and discussed my completed performance evaluation with the clinical instructor(s) who evaluated my performance.

Signature of Student

Date

Name of Academic Institution

For the Evaluator(s)

I/We, the evaluator(s), have read and understood the disclaimer (page 4) and directions (pages 5-13) for the PT CPI. I/We have completed the on-line training (website) prior to using this instrument. I/We have completed this instrument, as the evaluator(s) according to the training and directions for the PT CPI. I/We have prepared, reviewed, and discussed the final completed PT CPI with the student with respect to his/her clinical performance.

Evaluator Name (1) (Print)

Position/title

Signature of Evaluator (1)

Date

Evaluator Name (2) (Print)

Position/Title

Signature of Evaluator (2)

Date

CCCE Signature

Date

GLOSSARY

Academic coordinator/Director of clinical education (ACCE/DCE): Individual who is responsible for managing and coordinating the clinical education program at the academic institution, including facilitating clinical site and clinical faculty development. This person also is responsible for the academic program and student performance, and maintaining current information on clinical sites.

Accountability: Active acceptance of responsibility for the diverse roles, obligations, and actions of the physical therapist including self-regulation and other behaviors that positively influence patient/client outcomes, the profession, and the health needs of society. ([Professionalism in Physical Therapy: Core Values](#), August 2003.)

Adaptive devices: A variety of implements or equipment used to aid patients/clients in performing movements, tasks, or activities. Adaptive devices include raised toilet seats, seating systems, environmental controls, and other devices.

Advanced beginner performance: A student who requires clinical supervision 75% – 90% of the time with simple patients, and 100% of the time with complex patients. At this level, the student demonstrates developing proficiency with simple tasks (eg, medical record review, goniometry, muscle testing, and simple interventions) but is unable to perform skilled examinations, interventions, and clinical reasoning skills. The student may begin to share a caseload with the clinical instructor.

Advanced intermediate performance: A student who requires clinical supervision less than 25% of the time with new or complex patients and is independent with simple patients. At this level, the student is proficient in simple tasks and requires only occasional cueing for skilled examinations, interventions, and clinical reasoning. The student is able to maintain 75% of a full-time physical therapist's caseload.

Altruism: The primary regard for or devotion to the interest of patients/clients, thus assuming the fiduciary responsibility of placing the needs of the patient/client ahead of the physical therapist's self interest. ([Professionalism in Physical Therapy: Core Values](#), August 2003.)

Assessment: The measurement or quantification of a variable or the placement of a value on something. Assessment should not be confused with [examination](#) or [evaluation](#).

Beginning performance: A student who requires close clinical supervision 100% of the time with constant monitoring and feedback, even with simple patients. At this level, performance is inconsistent and clinical reasoning is performed in an inefficient manner. Performance reflects little or no experience. The student does not carry a caseload.

Beyond entry-level performance: A student who requires no clinical supervision with simple, highly complex patients, and is able to function in unfamiliar or ambiguous situations. Student is capable of supervising others. At this level, the student is consistently proficient at highly skilled examinations, interventions, and clinical reasoning, and is capable of serving as a consultant or resource for others. Student is able to maintain 100% of a full-time physical therapist's caseload, seeks to assist others where needed. The student willingly assumes a leadership role for managing more difficult or complex cases. Actively contributes to the enhancement of the clinical facility with an expansive view of physical therapy practice and the profession.

Caring: The concern, empathy, and consideration for the needs and values of others. ([Professionalism in Physical Therapy: Core Values](#), August 2003.)

Caregiver: One who provides care, often used to describe a person other than a health care professional.

Case management: The coordination of patient care or client activities.

Center Coordinator of Clinical Education: Individual who administers, manages, and coordinates CE assignments and learning activities for students during their clinical education experiences. In addition, this person determines the readiness of persons to serve as clinical instructors for students, supervises clinical instructors in the delivery of clinical education experiences, communicates with the academic program regarding student performance, and provides essential information about the clinical education program to physical therapy programs.

Client: An individual who is not necessarily sick or injured but who can benefit from a physical therapist's consultation, professional advice, or services. A client also is a business, a school system, or other entity that may benefit from specific recommendations from a physical therapist.

Clinical decision making (CDM): Interactive model in which hypotheses are generated early in an encounter based on initial cues drawn from observation of the patient or client, a letter of referral, the medical record, or other resources.

Clinical education experiences: These experiences comprise all of the formal and practical "real-life" learning experiences provided for students to apply classroom knowledge and skills in the clinical environment. Experiences would include those of short and long duration (eg, part-time, full-time, internships) and those that provide a variety of learning experiences (eg, rotations on different units within the same practice setting, rotations between different practice settings within the same health care system) to include comprehensive care of patients across the life span and related activities.

Clinical indications: The patient factors (eg, symptoms, impairments, deficits) that suggest that a particular kind of care (examination, intervention) would be appropriate.

Clinical instructor (CI): Individual at the clinical education site who directly instructs and supervises students during their clinical learning experiences. CIs are responsible for facilitating clinical learning experiences and assessing students' performance in cognitive, psychomotor, and affective domains as related to entry-level clinical practice and academic and clinical performance expectations. (Syn: *clinical teacher, clinical tutor, and clinical supervisor*.)

Clinical reasoning: A systematic process used to assist students and practitioners in inferring or drawing conclusions about patient/client care under various situations and conditions.

Cognitive: Characterized by awareness, reasoning, and judgment.

Communication: A process by which information is exchanged between individuals through a common system of symbols, signs, or behavior.

Compassion: The desire to identify with or sense something of another's experience; a precursor of caring. ([*Professionalism in Physical Therapy: Core Values*](#), August 2003.)

Competence: The possession, application, and evaluation of requisite professional knowledge, skills, and abilities to meet or exceed the performance standards, based on the physical therapist's roles and responsibilities, within the context of public health, welfare, and safety.

Competency: A significant, skillful, work-related activity that is performed efficiently, effectively, fluidly, and in a coordinated manner.

Complexity: Multiple requirements of the tasks or environment (eg, simple, complex), or patient (see Complex patient). The complexity of the tasks or environment can be altered by controlling the number and types of elements to be considered in the performance, including patients, equipment, issues, etc. As a student progresses through clinical education experiences, the complexity of tasks/environment should increase, with fewer elements controlled by the CI.

Complex patient: Refers to patients presenting with multiple co-morbidities, multi-system involvement, needs for extensive equipment, multiple lines, cognitive impairments, and multifaceted psychosocial needs. As a student progresses through clinical education experiences, the student should be able to manage patients with increasingly more complex conditions with fewer elements or interventions controlled by the CI.

Conflict management: The act, manner, or practice of handling or controlling the impact of disagreement, controversy, or opposition; may or may not involve resolution of the conflict.

Consistency: The frequency of occurrences of desired behaviors related to the performance criterion (eg, infrequently, occasionally, and routinely). As a student progresses through clinical education experiences, consistency of quality performance is expected to progress from infrequently to routinely.

Consultation: The rendering of professional or expert opinion or advice by a physical therapist. The consulting physical therapist applies highly specialized knowledge and skills to identify problems, recommend solutions, or produce a specified outcome or product in a given amount of time. ([Guide to Physical Therapist Practice](#). Rev 2nd Ed. Alexandria, Va: American Physical Therapy Association; 2003.)

Consumer: One who acquires, uses, or purchases goods or services; any actual or potential recipient of health care.

Cost-effectiveness: Economically worthwhile in terms of what is achieved for the amount of money spent; tangible benefits in relation to expenditures.

Critical inquiry: The process of applying the principles of scientific methods to read and interpret professional literature, participate in research activities, and analyze patient care outcomes, new concepts, and findings.

Cultural awareness: Refers to the basic idea that behavior and ways of thinking and perceiving are culturally conditioned rather than universal aspects of human nature. (Pusch MD, ed. *Multicultural Education*. Yarmouth, Maine: Intercultural Press Inc; 1999.)

Cultural competence: Cultural and linguistic competence is a set of congruent behaviors, attitudes and policies that come together in a system, agency or among professionals that enables effective work in cross-cultural situations. "Culture" refers to integrated patterns of human behavior that include the language, thoughts, communications, actions, customs, beliefs, values, and institutions of racial, ethnic, religious or social groups. "Competence" implies having the capacity to function effectively as an individual and an organization within the context of the cultural beliefs, behaviors and needs presented by consumers and their communities. (Working definition adapted from *Assuring Cultural Competence in Health Care: Recommendations for National Standards and an Outcomes-Focused Research Agenda*, Office of Minority Health, Public Health Service, U S Department of Health and Human Services; 1999.)

Cultural sensitivity: Awareness of cultural variables that may affect assessment and treatment. (Paniagua FA. *Assessing and Treating Culturally Diverse Clients*. Thousand Oaks, Calif: Sage Publications; 1994.)

Diagnosis: Diagnosis is both a process and a label. The diagnostic process performed by the physical therapist includes integrating and evaluating data that are obtained during the examination to describe the patient/client condition in terms that will guide the prognosis, the plan of care, and intervention strategies. Physical therapists use diagnostic labels that identify the impact of a condition on function at the level of the system (especially the movement system) and at the level of the whole person. ([Guide to Physical Therapist Practice](#). Rev 2nd Ed. Alexandria, Va: American Physical Therapy Association; 2003.)

Diagnostic process: The evaluation of information obtained from the patient examination organized into clusters, syndromes, or categories.

Differential diagnosis: The determination of which one of two or more different disorders or conditions is applicable to a patient or client.

Direct access: Practice mode in which physical therapists examine, evaluate, diagnose, and provide interventions to patients/clients without a referral from a gatekeeper, usually the physician.

Disability: The inability to perform or a limitation in the performance of actions, tasks, and activities usually expected in specific social roles that are customary for the individual or expected for the person's status or role in a specific sociocultural context and physical environment. ([Guide to Physical Therapist Practice](#). Rev 2nd Ed. Alexandria, Va: American Physical Therapy Association; 2003.)

Disease: A pathological condition or abnormal entity with a characteristic group of signs and symptoms affecting the body and with known or unknown etiology. ([Guide to Physical Therapist Practice](#). Rev 2nd Ed. Alexandria, Va: American Physical Therapy Association; 2003.)

Discharge: The process of ending physical therapy services that have been provided during a single episode of care, when the anticipated goals and expected outcomes have been achieved. Discharge does not occur with a transfer (that is, when the patient is moved from one site to another site within the same setting or across setting during a single episode of care). ([Guide to Physical Therapist Practice](#). Rev 2nd Ed. Alexandria, Va: American Physical Therapy Association; 2003.)

Documentation: All written forms of communication provided related to the delivery of patient care, to include written correspondence, electronic record keeping, and word processing.

Dysfunction: Disturbance, impairment, or abnormality of function of an organ. ([Guide to Physical Therapist Practice](#). Rev 2nd Ed. Alexandria, Va: American Physical Therapy Association; 2003.)

Education: Knowledge or skill obtained or developed by a learning process; a process designed to change behavior by formal instruction and/or supervised practice, which includes teaching, training, information sharing, and specific instructions.

Efficiency: The ability to perform in a cost-effective and timely manner (eg, inefficient/slow, efficient/timely). As the student progresses through clinical education experiences, efficiency should progress from a high expenditure of time and effort to economical and timely.

Empathy: The action of understanding, being aware of, being sensitive to, and vicariously experiencing the feelings, thoughts, and experience of another of either the past or present without having the feelings, thoughts, and experience fully communicated in an objectively explicit manner.

Entry-level performance: A student who requires no guidance or clinical supervision with simple or complex patients. Consults with others and resolves unfamiliar or ambiguous situations. At this level, the student is consistently proficient and skilled in simple and complex tasks for skilled examinations, interventions, and clinical reasoning. The student is able to maintain 100% of a full-time physical therapist's caseload in a cost effective manner.

Episode of physical therapy prevention: A series of occasional, clinical, educational, and administrative services related to primary prevention, wellness, health promotion, and to the preservation of optimal function. Prevention services and programs that promote health, wellness, and fitness are a vital part of the practice of physical therapy. No defined number or range of number of visits is established for this type of episode. ([Guide to Physical Therapist Practice](#). Rev 2nd Ed. Alexandria, Va: American Physical Therapy Association; 2003.)

Evaluation: A dynamic process in which the physical therapist makes clinical judgments based on data gathered during the examination. No defined number or range of number of visits is established for this type of episode. ([Guide to Physical Therapist Practice](#). Rev 2nd Ed. Alexandria, Va: American Physical Therapy Association; 2003.)

Evidenced-based practice: Integration of the best possible research evidence with clinical expertise and patient values, to optimize patient/client outcomes and quality of life to achieve the highest level of excellence in clinical practice. (Sackett DL, Haynes RB, Guyatt GH, Tugwell P. *Clinical Epidemiology: A Basic Science for Clinical Medicine*. 2nd ed. Boston: Little, Brown and Company; 1991:1.) Evidence includes randomized or nonrandomized controlled trials, testimony or theory, meta-analysis, case reports and anecdotes, observational studies, narrative review articles, case series in decision making for clinical practice and policy, effectiveness research for guidelines development, patient outcomes research, and coverage decisions by health care plans.

Examination: A comprehensive and specific testing process performed by a physical therapist that leads to diagnostic classification or, as appropriate, to a referral to another practitioner. The examination has three components: the patient/client history, the systems reviews, and tests and measures. ([Guide to Physical Therapist Practice](#). Rev 2nd Ed. Alexandria, Va: American Physical Therapy Association; 2003.)

Excellence: Excellence is physical therapy practice that consistently uses current knowledge and theory while understanding personal limits, integrates judgment and the patient/client perspective, embraces advancement, challenges mediocrity, and works toward development of new knowledge. ([Professionalism in Physical Therapy: Core Values](#), August 2003.)

Fiscal management: An ability to identify the fiscal needs of a unit and to manage available fiscal resources to maximize the benefits and minimize constraints.

Fitness: A dynamic physical state—comprising cardiovascular/pulmonary endurance; muscle strength, power, endurance, and flexibility; relaxation; and body composition—that allows optimal and efficient performance of daily and leisure activities. ([Guide to Physical Therapist Practice](#). Rev 2nd Ed. Alexandria, Va: American Physical Therapy Association; 2003.)

Function: The special, normal, or proper action of any part or organ; an activity identified by an individual as essential to support physical and psychological well-being as well as to create a personal sense of meaningful living; the action specifically for which a person or thing is fitted or employed; an act, process, or series of processes that serve a purpose; to perform an activity or to work properly or normally.

Functional limitation: A restriction of the ability to perform a physical action, activity, or task in a typically expected, efficient, or competent manner. ([Guide to Physical Therapist Practice](#). Rev 2nd Ed. Alexandria, Va: American Physical Therapy Association; 2003.)

Functional outcomes: The desired result of an act, process, or intervention that serves a purpose (eg, improvement in a patient's ability to engage in activities identified by the individual as essential to support physical or psychological well-being).

Goals: The intended results of patient/client management. Goals indicate changes in impairment, functional limitations, and disabilities and changes in health, wellness, and fitness needs that are expected as a result of implementing the plan of care. Goals should be measurable and time limited (if required, goals may be expressed as short-term and long-term goals.) ([Guide to Physical Therapist Practice](#). Rev 2nd Ed. Alexandria, Va: American Physical Therapy Association; 2003.)

Guide to Physical Therapist Practice: Document that describes the scope of practice of physical therapy and assists physical therapists in patient/client management. Specifically, the *Guide* is designed to help physical therapists: 1) enhance quality of care, 2) improve patient/client satisfaction, 3) promote appropriate utilization of health care services, 4) increase efficiency and reduce unwarranted variation in the provision of services, and 5) promote cost reduction through prevention and wellness initiatives. The *Guide* also provides a framework for physical therapist clinicians and researchers as they refine outcomes data collection and analysis and develop questions for clinical research. ([Guide to Physical Therapist Practice](#). Rev 2nd Ed. Alexandria, Va: American Physical Therapy Association; 2003.)

Health care provider: A person or organization offering health services directly to patients or clients.

Health promotion: The combination of educational and environmental supports for actions and conditions of living conducive to health. The purpose of health promotion is to enable people to gain greater control over the determinants of their own health. (Green LW, Kreuter MW. *Health Promotion Planning*. 2nd ed. Mountain View, Calif: Mayfield Publishers; 1991:4.)

Health status: The level of an individual's physical, mental, affective, and social function: health status is an element of well-being.

History: An account of past and present health status that includes the identification of complaints and provides the initial source of information about the patient. The history also suggests the patient's ability to benefit from physical therapy services.

Personnel management: Selection, training, supervision, and deployment of appropriately qualified persons for specific tasks/functions.

Impairment: A loss or abnormality of physiological, psychological, or anatomical structure or function. ([Guide to Physical Therapist Practice](#). Rev 2nd Ed. Alexandria, Va: American Physical Therapy Association; 2003.)

Integrity: Steadfast adherence to high ethical principles or professional standards; truthfulness, fairness, doing what you say you will do, and "speaking forth" about why you do what you do. ([Professionalism in Physical Therapy: Core Values](#), August 2003.)

Intermediate clinical performance: A student who requires clinical supervision less than 50% of the time with simple patients, and 75% of the time with complex patients. At this level, the student is proficient with simple tasks and is developing the ability to perform skilled examinations, interventions, and clinical reasoning. The student is able to maintain 50% of a full-time physical therapist's caseload.

Intervention: The purposeful interaction of the physical therapist with the patient/client, and, when appropriate, with other individuals involved in patient/client care, using various physical therapy procedures and techniques to produce changes in the condition. ([Guide to Physical Therapist Practice](#). Rev 2nd Ed. Alexandria, Va: American Physical Therapy Association; 2003.)

Manual therapy techniques: Skilled hand movements intended to improve tissue extensibility; increase range of motion; induce relaxation; mobilize or manipulate soft tissue and joints; modulate pain; and reduce soft tissue swelling, inflammation, or restriction. ([Guide to Physical Therapist Practice](#). Rev 2nd Ed. Alexandria, Va: American Physical Therapy Association; 2003.)

Mobilization/manipulation: A manual therapy technique comprising a continuum of skilled passive movements to the joints and/or related soft tissues that are applied at varying speeds and amplitudes, including a small amplitude/high velocity therapeutic movement. ([Guide to Physical Therapist Practice](#). Rev 2nd Ed. Alexandria, Va: American Physical Therapy Association; 2003.)

Multicultural/multilingual: Characteristics of populations defined by changes in the demographic patterns of consumers.

Negotiation: The act or procedure of treating another or others in order to come to terms or reach an agreement.

Objective: A measurable behavioral statement of an expected response or outcome; something worked toward or striven for; a statement of direction or desired achievement that guides actions and activities.

Outcomes assessment of the individual: Performed by the physical therapist and is a measure (or measures) of the intended results of patient/client management, including changes in impairments, functional limitations, and disabilities and the changes in health, wellness, and fitness needs that are

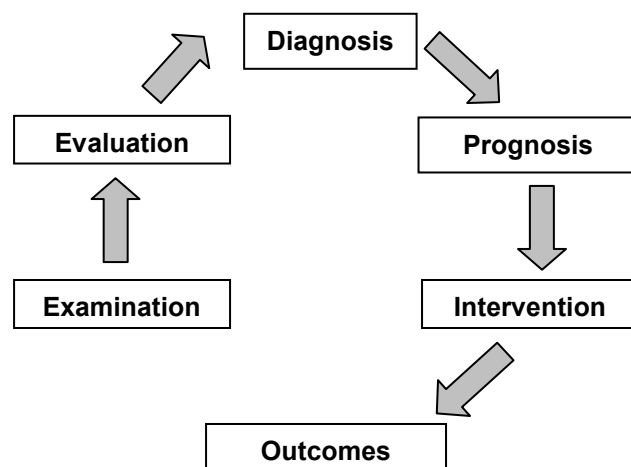
expected as the results of implementing the plan of care. The expected outcomes in the plan should be measurable and time limited.

Outcomes assessment of groups of patients/clients: Performed by the physical therapist and is a measure [or measures] of physical therapy care to groups of patients/clients including changes in impairments, functional limitations, and disabilities and the changes in health, wellness, and fitness needs that are expected as the results of that physical therapy.

Outcomes analysis: A systematic examination of patient/client outcomes in relation to selected patient/client variables (eg, age, sex, diagnosis, interventions performed); outcomes analysis may be used in quality assessment, economic analysis of practice, and other processes.

Patients: Individuals who are the recipients of physical therapy and direct interventions.

Patient/client management model:



(Adapted from the [Guide to Physical Therapist Practice](#). Rev 2nd Ed. Alexandria, Va: American Physical Therapy Association; 2003.)

Performance criterion: A description of outcome knowledge, skills, and behaviors that define the expected performance of students. When criteria are taken in aggregate, they describe the expected performance of the graduate upon entry into the practice of physical therapy.

Physical function: Fundamental components of health status describing the state of those sensory and motor skills necessary for mobility, work, and recreation.

Physical therapist: A licensed health care professional who offers services designed to preserve, develop, and restore maximum physical function.

Physical therapist assistant: An educated health care provider who performs physical therapy procedures and related tasks that have been selected and delegated by the supervising physical therapist.

Plan of care: (Statements that specify the anticipated goals and the expected outcomes, predicted level of optimal improvement, specific interventions to be used, and proposed duration and frequency of the interventions that are required to reach the goals and outcomes. The plan of care includes the anticipated discharge plans. ([Guide to Physical Therapist Practice](#). Rev 2nd Ed. Alexandria, Va: American Physical Therapy Association; 2003.)

Practice management: The coordination, promotion, and resource (financial and human) management of practice that follows regulatory and legal guidelines.

Practitioner of choice: Consumers choose the most appropriate health care provider for the diagnosis, intervention, or prevention of an impairment, functional limitation, or disability.

Presenting problem: The specific dysfunction that causes an individual to seek attention or intervention (ie, chief complaint).

Prevention: Activities that are directed toward 1) achieving and restoring optimal functional capacity, 2) minimizing impairments, functional limitations, and disabilities, 3) maintaining health (thereby preventing further deterioration or future illness), 4) creating appropriate environmental adaptations to enhance independent function. *Primary prevention:* Prevention of disease in a susceptible or potentially susceptible population through such specific measures as general health promotion efforts. *Secondary prevention:* Efforts to decrease the duration of illness, severity of diseases, and sequelae through early diagnosis and prompt intervention. *Tertiary prevention:* Efforts to limit the degree of disability and promote rehabilitation and restoration of function in patients/clients with chronic and irreversible diseases. ([Guide to Physical Therapist Practice](#). Rev 2nd Ed. Alexandria, Va: American Physical Therapy Association; 2003.)

Professional duty: Professional duty is the commitment to meeting one's obligations to provide effective physical therapy services to individual patients/clients, to serve the profession, and to positively influence the health of society. ([Professionalism in Physical Therapy: Core Values](#), August 2003.)

Professionalism: The conduct, aims, or qualities that characterize or mark a profession or a professional person; A systematic and integrated set of core values that through assessment, critical reflection, and change, guides the judgment, decisions, behaviors, and attitudes of the physical therapist, in relation to patients/ clients, other professionals, the public, and the profession. (APTA Consensus Conference to Develop Core Values in Physical Therapy, July 2002, Alexandria, Va)

Prognosis: The determination by the physical therapist of the predicted optimal level of improvement in function and the amount of time needed to reach that level. ([Guide to Physical Therapist Practice](#). Rev 2nd Ed. Alexandria, Va: American Physical Therapy Association; 2003.)

Quality: The degree of skill or competence demonstrated (eg, limited skill, high skill), the relative effectiveness of the performance (eg, ineffective, highly effective), and the extent to which outcomes meet the desired goals. A continuum of quality might range from demonstration of limited skill and effectiveness to a highly skilled and highly effective performance.

Quality improvement (QI): A management technique to assess and improve internal operations. Quality improvement focuses on organizational systems rather than individual performance and seeks to continuously improve quality rather than reacting when certain baseline statistical thresholds are crossed. The process involves setting goals, implementing systematic changes, measuring outcomes, and making subsequent appropriate improvements. (www.tmc.org/other_resources/glossaryquality.html#quality)

Role: A behavior pattern that defines a person's social obligations and relationships with others (eg, father, husband, son).

Reexamination: The process of performing selected tests and measures after the initial examination to evaluate progress and to modify or redirect interventions. ([Guide to Physical Therapist Practice](#). Rev 2nd Ed. Alexandria, Va: American Physical Therapy Association; 2003.)

Screening: Determining the need for further examination or consultation by a physical therapist or for referral to another health professional. ([Guide to Physical Therapist Practice](#). Rev 2nd Ed. Alexandria, Va: American Physical Therapy Association; 2003.) (See also: [Cognitive screening](#).)

Social responsibility: The promotion of a mutual trust between the physical therapist as a part of the profession and the larger public that necessitates responding to societal needs for health and wellness. ([Professionalism in Physical Therapy: Core Values](#), August 2003.)

Supervision/guidance: Level and extent of assistance required by the student to achieve clinical performance at entry-level. As a student progresses through clinical education experiences, the degree of monitoring needed is expected to progress from full-time monitoring/direct supervision or cuing for assistance to initiate, to independent performance with consultation. The degree of supervision and guidance may vary with the complexity of the patient or environment.

Technically competent: Correct performance of a skill.

Tests and measures: Specific standardized methods and techniques used to gather data about the patient/client after the history and systems review have been performed. ([Guide to Physical Therapist Practice](#). Rev 2nd Ed. Alexandria, Va: American Physical Therapy Association; 2003.)

Treatment: The sum of all interventions provided by the physical therapist to a patient/client during an episode of care. ([Guide to Physical Therapist Practice](#). Rev 2nd Ed. Alexandria, Va: American Physical Therapy Association; 2003.)

Wellness: An active process of becoming aware of and making choices toward a more successful existence. (National Wellness Organization. *A Definition of Wellness*. Stevens Point, Wis: National Wellness Institute Inc; 2003.)

APPENDIX A

EXAMPLE: COMPLETED ITEM FOR FINAL EXPERIENCE (Competent)

EXAMINATION*

9. Performs a physical therapy patient examination* using evidenced-based* tests and measures.

SAMPLE BEHAVIORS

- a) Obtains a history from patients and other sources as part of the examination.*
- b) Utilizes information from history and other data (eg, laboratory, diagnostic tests and pharmacological information) to formulate initial hypothesis and prioritize selection of test and measures.
- c) Performs systems review.
- d) Selects evidence-based tests and measures* that are relevant to the history, chief complaint, and screening.
 Tests and measures* (listed alphabetically) include, but are not limited to, the following: a) aerobic capacity, b) anthropometric characteristics, c) arousal, mentation, and cognition, d) assistive and adaptive devices*, e) community and work (job, school, or play) reintegration, f) cranial nerve integrity, g) environmental, home, and work barriers, h) ergonomics and body mechanics, i) gait, assisted locomotion, and balance, j) integumentary integrity, k) joint integrity and mobility, l) motor function*, m) muscle performance (including strength, power, and endurance), n) neuromotor development and sensory integration, o) orthotic, protective, and supportive devices, p) pain, q) posture, r) prosthetic requirements, s) range of motion, t) reflex integrity, u) self-care and home management (including activities of daily living and instrumental activities of daily living), v) sensory integration (including proprioception and kinesthesia), and w) ventilation, respiration, and circulation.
- e) Conducts tests and measures accurately and proficiently.
- f) Sequences tests and measures in a logical manner to optimize efficiency*.
- g) Adjusts tests and measures according to patient's response.
- h) Performs regular re-examinations of patient status.
- i) Performs an examination using evidence based test and measures.

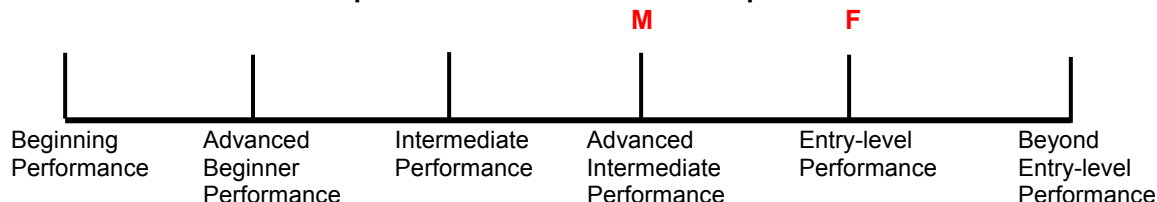
MIDTERM COMMENTS: (Provide comments based on the performance dimensions including *supervision/ guidance, quality, complexity, consistency, and efficiency*.)

This student requires guidance 25% of the time in selecting appropriate examination methods based on the patient's history and initial screening. Examinations are performed consistently, accurately, thoroughly, and skillfully. She almost always is able to complete examinations in the time allotted, except for patients with the most complex conditions. She manages a 75% caseload of the PT with some difficulty and requires assistance in completing the examination for a patient with a complex condition of dementia and multiple diagnoses. Overall she has achieved a level of performance consistent with advanced intermediate performance for this criterion and continues to improve in all areas.

FINAL COMMENTS: (Provide comments based on the performance dimensions including *supervision/ guidance, quality, complexity, consistency, and efficiency*.)

This student requires no guidance in selecting appropriate examination methods for patients with complex conditions and with multiple diagnoses. Examinations are performed consistently and skillfully. She consistently selects all appropriate examination methods based on the patient's history and initial screening. She consistently completes examinations in the time allotted and manages a 100% caseload of the PT. She is able to examine a number of patients with complex conditions and with multiple diagnoses with only minimal input from the CI. Overall this student has improved across all performance dimensions to achieve entry-level clinical performance.

Rate this student's clinical performance based on the sample behaviors and comments above:



Significant Concerns: If performance on this criterion is unacceptable, check the box and call the ACCE/DCE.



Midterm

☐


Final

☐

APPENDIX A

EXAMPLE: COMPLETED ITEM FOR FINAL EXPERIENCE (Not Competent)

EXAMINATION*

9. Performs a physical therapy patient examination* using evidenced-based* tests and measures.

SAMPLE BEHAVIORS

- e) Obtains a history from patients and other sources as part of the examination.
- f) Utilizes information from history and other data (eg, laboratory, diagnostic tests and pharmacological information) to formulate initial hypothesis and prioritize selection of test and measures.
- g) Performs systems review.
- h) Selects evidence-based tests and measures that are relevant to the history, chief complaint, and screening.
 Tests and measures (listed alphabetically) include, but are not limited to, the following: a) aerobic capacity, b) anthropometric characteristics, c) arousal, mentation, and cognition, d) assistive and adaptive devices*, e) community and work (job, school, or play) reintegration, f) cranial nerve integrity, g) environmental, home, and work barriers, h) ergonomics and body mechanics, i) gait, assisted locomotion, and balance, j) integumentary integrity, k) joint integrity and mobility, l) motor function*, m) muscle performance (including strength, power, and endurance), n) neuromotor development and sensory integration, o) orthotic, protective, and supportive devices, p) pain, q) posture, r) prosthetic requirements, s) range of motion, t) reflex integrity, u) self-care and home management (including activities of daily living and instrumental activities of daily living), v) sensory integration (including proprioception and kinesthesia), and w) ventilation, respiration, and circulation.
- j) Conducts tests and measures accurately and proficiently.
- k) Sequences tests and measures in a logical manner to optimize efficiency*.
- l) Adjusts tests and measures according to patient's response.
- m) Performs regular re-examinations of patient status.
- n) Performs an examination using evidence based test and measures.

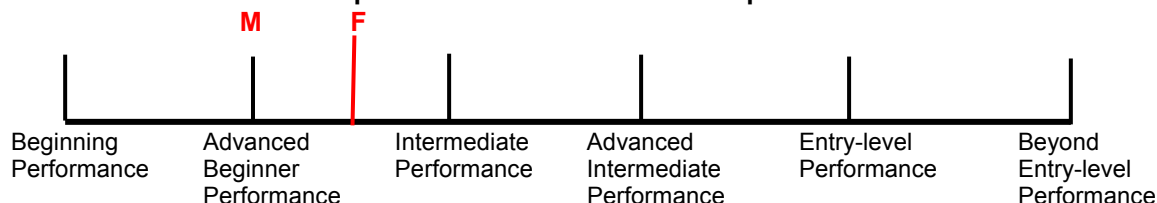
MIDTERM COMMENTS: (Provide comments based on the performance dimensions including *supervision/guidance, quality, complexity, consistency, and efficiency**.)

This student requires guidance 75% of the time to select relevant tests and measures and does not ask relevant background questions to identify tests and measures needed. Tests and measures selected are inappropriate for the patient's diagnosis and condition. When questioned, he is unable to explain why specific tests and measures were selected. He is not accurate in performing examination techniques (eg, fails to correctly align the goniometer, places patients in uncomfortable examination positions) and requires assistance when completing exams on all patients with complex conditions and with 75% of patients with simple conditions. He is unable to complete 60% of the exams in the time allotted and demonstrates difficulty across all performance dimensions for the final clinical experience.

FINAL COMMENTS: (Provide comments based on the performance dimensions including *supervision/guidance, quality, complexity, consistency, and efficiency**.)

This student requires guidance 50% of the time to select relevant tests and measures. He selects tests and measures that are appropriate for patients with simple conditions 50% of the time, however 50% of the time is unable to explain the tests and measures selected. Likewise, 50% of the time, he selects tests and measures that are inappropriate for the patient's diagnosis. He demonstrates 50% accuracy in performing the required examination techniques, including goniometry and requires assistance to complete examinations on 95% of patients with complex conditions and 50% of patients with simple conditions. He is unable to complete 50% of the exams in the time allotted. Although some limited improvement has been shown, performance across all performance dimensions for the final clinical experience is still in the advanced beginner performance interval, which is below expected performance of entry-level on this criterion for a final clinical experience.

Rate this student's clinical performance based on the sample behaviors and comments above:



Significant Concerns: If performance on this criterion is unacceptable, check the box and call the ACCE/DCE.

Midterm ☒
 Final ☒

APPENDIX A COMPLETED FOR INTERMEDIATE EXPERIENCE (COMPETENT)

EXAMINATION*

9. Performs a physical therapy patient examination* using evidenced-based* tests and measures.

SAMPLE BEHAVIORS

- i) Obtains a history from patients and other sources as part of the examination.
- j) Utilizes information from history and other data (eg, laboratory, diagnostic tests and pharmacological information) to formulate initial hypothesis and prioritize selection of test and measures.
- k) Performs systems review.
- l) Selects evidence-based tests and measures that are relevant to the history, chief complaint, and screening.
 Tests and measures (listed alphabetically) include, but are not limited to, the following: a) aerobic capacity, b) anthropometric characteristics, c) arousal, mentation, and cognition, d) assistive and adaptive devices*, e) community and work (job, school, or play) reintegration, f) cranial nerve integrity, g) environmental, home, and work barriers, h) ergonomics and body mechanics, i) gait, assisted locomotion, and balance, j) integumentary integrity, k) joint integrity and mobility, l) motor function*, m) muscle performance (including strength, power, and endurance), n) neuromotor development and sensory integration, o) orthotic, protective, and supportive devices, p) pain, q) posture, r) prosthetic requirements, s) range of motion, t) reflex integrity, u) self-care and home management (including activities of daily living and instrumental activities of daily living), v) sensory integration (including proprioception and kinesthesia), and w) ventilation, respiration, and circulation.
- o) Conducts tests and measures accurately and proficiently.
- p) Sequences tests and measures in a logical manner to optimize efficiency*.
- q) Adjusts tests and measures according to patient's response.
- r) Performs regular re-examinations of patient status.
- s) Performs an examination using evidence based test and measures.

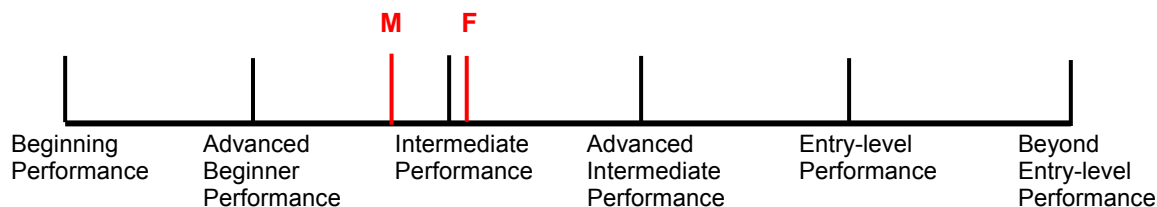
MIDTERM COMMENTS: (Provide comments based on the performance dimensions including *supervision/guidance, quality, complexity, consistency, and efficiency**)

This student requires supervision for managing patients with simple conditions 50% of the time and managing patients with complex neurological conditions 95% of the time. He selects relevant examination methods for patients with simple conditions 85% of the time, however sometimes over tires patients during the examination. He requires limited assistance to perform examination methods accurately (sensory testing) and completes examinations in the time allotted most of the time. He carries a 25% caseload of the PT and is able to use good judgment in the selection and implementation of examinations for this level of clinical experience.

FINAL COMMENTS: (Provide comments based on the performance dimensions including *supervision/guidance, quality, complexity, consistency, and efficiency**)

The student requires supervision for managing patients with simple conditions 25% of the time and managing patients with complex conditions 75% of the time. He selects relevant examination methods for patients with simple conditions 100% of the time and consistently monitors the patient's fatigue level during the examination. He performs complete and accurate examinations of patients with simple orthopedic conditions and is beginning to describe movement patterns in patients with complex neurological conditions. However, he continues to require frequent input to complete a neurological examination and is unable to consistently complete examinations in the time allotted. He carries a 50% caseload of the PT and has shown improvement in advancing from advanced beginner performance to intermediate performance for this second clinical experience.

Rate this student's clinical performance based on the sample behaviors and comments above:



Significant Concerns: If performance on this criterion is unacceptable, check the box and call the ACCE/DCE.



Midterm

☐


Final

☐

APPENDIX B

PT CPI Performance Criteria Matched with Evaluative Criteria for PT Programs

This table provides the physical therapist academic program with a mechanism to relate the performance criteria from the *Physical Therapist Clinical Performance Instrument* with the *Evaluative Criteria for Accreditation of Education Programs for the Preparation of Physical Therapists*.¹

Evaluative Criteria for Accreditation of Physical Therapist Programs	Physical Therapist Clinical Performance Instrument Performance Criteria (PC)
Accountability (5.1-5.5)	Accountability (PC #3; 5.1-5.3) Professional Development (PC #6; 5.4, 5.5)
Altruism (5.6, 5.7)	Accountability (PC #3; 5.6 and 5.7)
Compassion/Caring (5.8, 5.9)	Professional Behavior (PC #2; 5.8) Plan of Care (PC #12; 5.9)
Integrity (5.10)	Professional Behavior (PC #2; 5.10)
Professional Duty (5.11-5.16)	Professional Behavior (PC #2; 5.11, 5.15, 5.16) Professional Development (PC #6, 5.12, 5.13, 5.14, 5.15)
Communication (5.17)	Communication (PC #4; 5.17)
Cultural Competence (5.18)	Cultural Competence (PC #5, 5.18)
Clinical Reasoning (5.19, 5.20)	Clinical Reasoning (PC #7; 5.19, 5.20)
Evidenced-Based Practice (5.21-5.25)	Clinical Reasoning (PC #7; 5.21, 5.22, 5.23) Professional Development (PC #6; 5.24, 5.25)
Education (5.26)	Educational Interventions (PC #14; 5.26)
Screening (5.27)	Screening (PC #8; 5.27)
Examination (5.28-5.30)	Examination (PC #9; 5.28, 5.29, 5.30)
Evaluation (5.31)	Evaluation (PC #10; 5.31)
Diagnosis (5.32)	Diagnosis and Prognosis (PC #11; 5.32)
Prognosis (5.33)	Diagnosis and Prognosis (PC #11; 5.33)
Plan of Care (5.34-5.38)	Plan of Care (PC #12; 5.34, 5.35, 5.36, 5.37, 5.38) Safety (PC #1; 5.35)
Intervention (5.39-5.44)	Procedural Interventions (PC #13; 5.39) Direction and Supervision of Personnel (PC #18; 5.40) Educational Interventions (PC #14; 5.41) Documentation (PC #15; 5.42) Financial Resources (PC #17; 5.43) Safety (PC #1; 5.44)
Outcomes Assessment (5.45-5.49)	Outcomes Assessment (PC #16; 5.45, 5.46, 5.47, 5.48, 5.49)
Prevention, Health Promotion, Fitness, and Wellness (5.50-5.52)	Procedural Interventions (PC #13; 5.50, 5.52) Educational Interventions (PC #14; 5.51, 5.52)
Management in Care Delivery (5.53-5.56)	Screening (PC #8; 5.53; 5.54, 5.55) Plan of Care (PC #12; 5.55, 5.56 [however not specifically stated as case management*]) Financial Resources (PC #17; 5.55)
Practice Management (5.57-5.61)	Financial Resources (PC #17; 5.58, 5.60, 5.61) Direction and Supervision of Personnel (PC #18; 5.57) Not included: 5.59
Consultation (5.62)	Screening (PC #8; 5.62) Educational Interventions (PC #14; 5.62)
Social Responsibility and Advocacy (5.63-5.66)	Accountability (PC #2; 5.63-5.66)

¹ *Evaluative Criteria for Accreditation of Education Programs for the Preparation of Physical Therapists (Draft 3)*. Commission on Accreditation in Physical Therapy Education, APTA: Alexandria, VA; 2004:7-10.

APPENDIX C

DEFINITIONS OF PERFORMANCE DIMENSIONS AND RATING SCALE ANCHORS

CATEGORY	DEFINITIONS
Performance Dimensions	
Supervision/ Guidance	<p>Level and extent of assistance required by the student to achieve entry-level performance.</p> <ul style="list-style-type: none"> As a student progresses through clinical education experiences, the degree of supervision/guidance needed is expected to progress from 100% supervision to being capable of independent performance with consultation and may vary with the complexity of the patient or environment.
Quality	<p>Degree of knowledge and skill proficiency demonstrated.</p> <ul style="list-style-type: none"> As a student progresses through clinical education experiences, quality should range from demonstration of limited skill to a skilled performance.
Complexity	<p>Number of elements that must be considered relative to the task, patient, and/or environment.</p> <ul style="list-style-type: none"> As a student progresses through clinical education experiences, the level of complexity of tasks, patient management, and the environment should increase, with fewer elements being controlled by the CI.
Consistency	<p>Frequency of occurrences of desired behaviors related to the performance criterion.</p> <ul style="list-style-type: none"> As a student progresses through clinical education experiences, consistency of quality performance is expected to progress from infrequently to routinely.
Efficiency	<p>Ability to perform in a cost-effective and timely manner.</p> <ul style="list-style-type: none"> As the student progresses through clinical education experiences, efficiency should progress from a high expenditure of time and effort to economical and timely performance.
Rating Scale Anchors	
Beginning performance	<ul style="list-style-type: none"> A student who requires close clinical supervision 100% of the time managing patients with constant monitoring and feedback, even with patients with simple conditions. At this level, performance is inconsistent and clinical reasoning* is performed in an inefficient manner. Performance reflects little or no experience. The student does not carry a caseload.
Advanced beginner performance	<ul style="list-style-type: none"> A student who requires clinical supervision 75% – 90% of the time managing patients with simple conditions, and 100% of the time managing patients with complex conditions. At this level, the student demonstrates consistency in developing proficiency with simple tasks (eg, medical record review, goniometry, muscle testing, and simple interventions), but is unable to perform skilled examinations, interventions, and clinical reasoning skills. The student may begin to share a caseload with the clinical instructor.
Intermediate performance	<ul style="list-style-type: none"> A student who requires clinical supervision less than 50% of the time managing patients with simple conditions, and 75% of the time managing patients with complex conditions. At this level, the student is proficient with simple tasks and is developing the ability to consistently perform skilled examinations, interventions, and clinical reasoning. The student is capable of maintaining 50% of a full-time physical therapist's caseload.
Advanced intermediate performance	<ul style="list-style-type: none"> A student who requires clinical supervision less than 25% of the time managing new patients or patients with complex conditions and is independent managing patients with simple conditions. At this level, the student is consistent and proficient in simple tasks and requires only occasional cueing for skilled examinations, interventions, and clinical reasoning. The student is capable of maintaining 75% of a full-time physical therapist's caseload.
Entry-level performance	<ul style="list-style-type: none"> A student who is capable of functioning without guidance or clinical supervision managing patients with simple or complex conditions. At this level, the student is consistently proficient and skilled in simple and complex tasks for skilled examinations, interventions, and clinical reasoning. Consults with others and resolves unfamiliar or ambiguous situations. The student is capable of maintaining 100% of a full-time physical therapist's caseload in a cost effective manner.
Beyond entry-level performance	<ul style="list-style-type: none"> A student who is capable of functioning without clinical supervision or guidance in managing patients with simple or highly complex conditions, and is able to function in unfamiliar or ambiguous situations. At this level, the student is consistently proficient at highly skilled examinations, interventions, and clinical reasoning, and is capable of serving as a consultant or resource for others. The student is capable of maintaining 100% of a full-time physical therapist's caseload and seeks to assist others where needed. The student is capable of supervising others. The student willingly assumes a leadership role* for managing patients with more difficult or complex conditions.

CLINICAL SITE INFORMATION FORM (CSIF)

APTA Department of Physical Therapy Education

Revised January 2006

INTRODUCTION:

The primary purpose of the Clinical Site Information Form (CSIF) is for Physical Therapist (PT) and Physical Therapist Assistant (PTA) academic programs to collect information from clinical education sites to:

- Facilitate clinical site selection,
- Assist in student placements,
- Assess the learning experiences and clinical practice opportunities available to students; and
- Provide assistance with completion of documentation required for accreditation.

The CSIF is divided into two sections:

- Part I: Information for Academic Programs (pages 4-16)
 - Information About the Clinical Site (pages 4-6)
 - Information About the Clinical Teaching Faculty (pages 7-10)
 - Information About the Physical Therapy Service (pages 10-12)
 - Information About the Clinical Education Experience (pages 13-16)
- Part II: Information for Students (pages 17-20)

Duplication of requested information is kept to a minimum except when separation of Part I and Part II of the CSIF would omit critical information needed by both students and the academic program. The CSIF is also designed using a check-off format wherever possible to reduce the amount of time required for completion.



American Physical Therapy Association

**Department of Physical Therapy Education
1111 North Fairfax Street
Alexandria, Virginia 22314**

DIRECTIONS FOR COMPLETION:

To complete the CSIF go to APTA's website at under "Education Programs," click on "Clinical" and choose "Clinical Site Information Form." This document is available as a Word document.

1. **Save the CSIF on your computer** before entering your facility's information. The title should be the clinical site's zip code, clinical site's name, and the date (eg, 90210BevHillsRehab10-26-2005). Using this format for titling the document allows the users to quickly identify the facility and most recent version of the CSIF from a folder. Saving the document will preserve the original copy on the disk or hard drive, allowing for ease in updating the document as changes in the clinical site information occurs.
2. **Complete the CSIF thoroughly and accurately.** Use the tab key or arrow keys to move to the desired blank space. The form is comprised of a series of tables to enable use of the tab key for quicker data entry. Use the Comment section to provide addition information as needed. If you need additional space please attach a separate sheet of paper.
3. **Save the completed CSIF.**
4. **E-mail** the completed CSIF to each academic program with whom the clinic affiliates (accepts students).
5. In addition, to develop and maintain an accurate and comprehensive national database of clinical education sites, **e-mail** a copy of the completed CSIF to the Department of Physical Therapy Education at angelaboyd@apta.org.
6. **Update the CSIF on an annual basis** to assist in maintaining accurate and relevant information about your physical therapy service for academic programs, students, and the national database.

What should I do if my physical therapy service is associated with multiple satellite sites that also provide clinical learning experiences?

If your physical therapy service is associated with multiple satellite sites that offer a variety of clinical learning experiences, such as an acute care hospital that also provides clinical rotations at associated sports medicine and long-term care facilities, provide information regarding the primary clinical site for the clinical experience on **page 4**. Complete **page 4**, to provide essential information on all additional clinical sites or satellites associated with the primary clinical site. *Please note that if the satellite site(s) offering a clinical experience differs from the primary clinical site, a separate CSIF must be completed for each satellite site. Additionally, if any of the satellite sites have a different CCCE, an abbreviated resume must be completed for each individual serving as CCCE.*

What should I do if specific items are not applicable to my clinical site or I need to further clarify a response?

If specific items on the CSIF do not apply to your clinical education site at the time you are completing the form, please leave the item(s) blank. Provide additional information and/or comments in the Comment box associated with the item.

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CLINICAL SITE INFORMATION FORM

Part I: Information For the Academic Program
Information About the Clinical Site – Primary

Initial Date

Revision Date

Person Completing CSIF					
E-mail address of person completing CSIF					
Name of Clinical Center					
Street Address					
City		State		Zip	
Facility Phone		Ext.			
PT Department Phone		Ext.			
PT Department Fax					
PT Department E-mail					
Clinical Center Web Address					
Director of Physical Therapy					
Director of Physical Therapy E-mail					
Center Coordinator of Clinical Education (CCCE) / Contact Person					
CCCE / Contact Person Phone					
CCCE / Contact Person E-mail					
APTA Credentialed Clinical Instructors (CI) (List name and credentials)					
Other Credentialed CIs (List name and credentials)					
Indicate which of the following are required by your facility prior to the clinical education experience:		<input type="checkbox"/> Proof of student health clearance <input type="checkbox"/> Criminal background check <input type="checkbox"/> Child clearance <input type="checkbox"/> Drug screening <input type="checkbox"/> First Aid and CPR <input type="checkbox"/> HIPAA education <input type="checkbox"/> OSHA education <input type="checkbox"/> Other: Please list			

Information About Multi-Center Facilities

If your health care system or practice has multiple sites or clinical centers, complete the following table(s) for each of the sites. Where information is the same as the primary clinical site, indicate "SAME." If more than three sites, copy, and paste additional sections of this table before entering the requested information. Note that you must complete an abbreviated resume for each CCCE.

Name of Clinical Site					
Street Address					
City		State		Zip	
Facility Phone			Ext.		
PT Department Phone			Ext.		
Fax Number			Facility E-mail		
Director of Physical Therapy			E-mail		
CCCE			E-mail		

Name of Clinical Site					
Street Address					
City		State		Zip	
Facility Phone			Ext.		
PT Department Phone			Ext.		
Fax Number			Facility E-mail		
Director of Physical Therapy			E-mail		
CCCE			E-mail		

Name of Clinical Site					
Street Address					
City		State		Zip	
Facility Phone			Ext.		
PT Department Phone			Ext.		
Fax Number			Facility E-mail		
Director of Physical Therapy			E-mail		
CCCE			E-mail		

Clinical Site Accreditation/Ownership

Yes	No		Date of Last Accreditation/Certification
<input type="checkbox"/>	<input type="checkbox"/>	Is your clinical site certified/ accredited? If no, go to #3.	
		If yes, has your clinical site been certified/accredited by:	
<input type="checkbox"/>	<input type="checkbox"/>	JCAHO	
<input type="checkbox"/>	<input type="checkbox"/>	CARF	
<input type="checkbox"/>	<input type="checkbox"/>	Government Agency (eg, CORF, PTIP, rehab agency, state, etc.)	
<input type="checkbox"/>	<input type="checkbox"/>	Other	
		Which of the following best describes the ownership category for your clinical site? (check all that apply)	
		<input type="checkbox"/> Corporate/Private Owned <input type="checkbox"/> Government Agency <input type="checkbox"/> Hospital/Medical Center Owned <input type="checkbox"/> Nonprofit Agency <input type="checkbox"/> Physician/Physician Group Owned <input type="checkbox"/> PT Owned <input type="checkbox"/> PT/PTA Owned <input type="checkbox"/> Other (please specify)	

Clinical Site Primary Classification

To complete this section, please:

- A. Place the number 1 (1) beside the category that best describes how your facility functions the majority ($\geq 50\%$) of the time. Click on the drop down box to the left to select the number 1.
- B. Next, if appropriate, check (\checkmark) up to four additional categories that describe the other clinical centers associated with your facility.

<input type="checkbox"/>	Acute Care/Inpatient Hospital Facility	<input type="checkbox"/>	Industrial/Occupational Health Facility	<input type="checkbox"/>	School/Preschool Program
<input type="checkbox"/>	Ambulatory Care/Outpatient	<input type="checkbox"/>	Multiple Level Medical Center	<input type="checkbox"/>	Wellness/Prevention/Fitness Program
<input type="checkbox"/>	ECF/Nursing Home/SNF	<input type="checkbox"/>	Private Practice	<input type="checkbox"/>	Other: Specify
<input type="checkbox"/>	Federal/State/County Health	<input type="checkbox"/>	Rehabilitation/Sub-acute Rehabilitation		

Clinical Site Location

Which of the following best describes your clinical site's location?

- ☐ Rural
☐ Suburban
☐ Urban

Information About the Clinical Teaching Faculty

ABBREVIATED RESUME FOR CENTER COORDINATORS OF CLINICAL EDUCATION

Please update as each new CCCE assumes this position.

NAME:		Length of time as the CCCE:	
DATE: (mm/dd/yy)		Length of time as a CI:	
PRESENT POSITION: (Title, Name of Facility)		Mark (X) all that apply: <input type="checkbox"/> PT <input type="checkbox"/> PTA <input type="checkbox"/> Other, specify	Length of time in clinical practice:
LICENSURE: (State/Numbers)	APTA Credentialed CI Yes <input type="checkbox"/> No <input type="checkbox"/>	Other CI Credentialing Yes <input type="checkbox"/> No <input type="checkbox"/>	
Eligible for Licensure: Yes <input type="checkbox"/> No <input type="checkbox"/>		Certified Clinical Specialist: Yes <input type="checkbox"/> No <input type="checkbox"/>	
Area of Clinical Specialization:			
Other credentials:			

SUMMARY OF COLLEGE AND UNIVERSITY EDUCATION (Start with most current): Tab to add additional rows.

INSTITUTION	PERIOD OF STUDY		MAJOR	DEGREE
	FROM	TO		

SUMMARY OF PRIMARY EMPLOYMENT (For current and previous four positions since graduation from college; start with most current): Tab to add additional rows.

EMPLOYER	POSITION	PERIOD OF EMPLOYMENT	
		FROM	TO

[illegible]

Provide the following information on all PTs or PTAs employed at your clinical site who are CIs. For clinical sites with multiple locations, use one form for each location and identify the location here. Tab to add additional rows.

6

Clinical Instructors

What criteria do you use to select clinical instructors? (Mark (X) all that apply):

<input type="checkbox"/>	APTA Clinical Instructor Credentialing	<input type="checkbox"/>	No criteria
<input type="checkbox"/>	Career ladder opportunity	<input type="checkbox"/>	Other (not APTA) clinical instructor credentialing
<input type="checkbox"/>	Certification/training course	<input type="checkbox"/>	Therapist initiative/volunteer
<input type="checkbox"/>	Clinical competence	<input type="checkbox"/>	Years of experience: Number:
<input type="checkbox"/>	Delegated in job description	<input type="checkbox"/>	Other (please specify):
<input type="checkbox"/>	Demonstrated strength in clinical teaching		

How are clinical instructors trained? (Mark (X) all that apply)

<input type="checkbox"/>	1:1 individual training (CCCE:CI)	<input type="checkbox"/>	Continuing education by consortia
<input type="checkbox"/>	Academic for-credit coursework	<input type="checkbox"/>	No training
<input type="checkbox"/>	APTA Clinical Instructor Education and Credentialing Program	<input type="checkbox"/>	Other (not APTA) clinical instructor credentialing program
<input type="checkbox"/>	Clinical center inservices	<input type="checkbox"/>	Professional continuing education (eg, chapter, CEU course)
<input type="checkbox"/>	Continuing education by academic program	<input type="checkbox"/>	Other (please specify):

Information About the Physical Therapy Service

Number of Inpatient Beds

For clinical sites with inpatient care, please provide the number of beds available in each of the subcategories listed below: (If this does not apply to your facility, please skip and move to the next table.)

Acute care		Psychiatric center	
Intensive care		Rehabilitation center	
Step down		Other specialty centers: Specify	
Subacute/transitional care unit			
Extended care		Total Number of Beds	

Number of Patients/Clients

Estimate the average number of patient/client visits per day:

INPATIENT		OUTPATIENT	
	Individual PT		Individual PT
	Student PT		Student PT
	Individual PTA		Individual PTA
	Student PTA		Student PTA
	PT/PTA Team		PT/PTA Team
	Total patient/client visits per day		Total patient/client visits per day

Patient/Client Lifespan and Continuum of Care

Indicate the frequency of time typically spent with patients/clients in each of the categories using the key below:

1=(0%) 2=(1-25%) 3=(26-50%) 4=(51-75%) 5=(76-100%)

Click on the gray bar under rating to select from the drop down box.

Rating	Patient Lifespan	Rating	Continuum of Care
	0-12 years		Critical care, ICU, acute
	13-21 years		SNF/ECF/sub-acute
	22-65 years		Rehabilitation
	Over 65 years		Ambulatory/outpatient
			Home health/hospice
			Wellness/fitness/industry

Patient/Client Diagnoses

- Indicate the frequency of time typically spent with patients/clients in the primary diagnostic groups (bolded) using the key below:

1 = (0%) 2 = (1-25%) 3 = (26-50%) 4 = (51-75%) 5 = (76-100%)

- Check (✓) those patient/client diagnostic sub-categories available to the student.

Click on the gray bar under rating to select from the drop down box.

(1-5)	Musculoskeletal	
<input type="checkbox"/>	Acute injury	<input type="checkbox"/> Muscle disease/dysfunction
<input type="checkbox"/>	Amputation	<input type="checkbox"/> Musculoskeletal degenerative disease
<input type="checkbox"/>	Arthritis	<input type="checkbox"/> Orthopedic surgery
<input type="checkbox"/>	Bone disease/dysfunction	<input type="checkbox"/> Other: (Specify)
<input type="checkbox"/>	Connective tissue disease/dysfunction	
(1-5)	Neuro-muscular	
<input type="checkbox"/>	Brain injury	<input type="checkbox"/> Peripheral nerve injury
<input type="checkbox"/>	Cerebral vascular accident	<input type="checkbox"/> Spinal cord injury
<input type="checkbox"/>	Chronic pain	<input type="checkbox"/> Vestibular disorder
<input type="checkbox"/>	Congenital/developmental	<input type="checkbox"/> Other: (Specify)
<input type="checkbox"/>	Neuromuscular degenerative disease	
(1-5)	Cardiovascular-pulmonary	
<input type="checkbox"/>	Cardiac dysfunction/disease	<input type="checkbox"/> Peripheral vascular dysfunction/disease
<input type="checkbox"/>	Fitness	<input type="checkbox"/> Other: (Specify)
<input type="checkbox"/>	Lymphedema	
<input type="checkbox"/>	Pulmonary dysfunction/disease	
(1-5)	Integumentary	
<input type="checkbox"/>	Burns	<input type="checkbox"/> Other: (Specify)
<input type="checkbox"/>	Open wounds	
<input type="checkbox"/>	Scar formation	
(1-5)	Other (May cross a number of diagnostic groups)	
<input type="checkbox"/>	Cognitive impairment	<input type="checkbox"/> Organ transplant
<input type="checkbox"/>	General medical conditions	<input type="checkbox"/> Wellness/Prevention
<input type="checkbox"/>	General surgery	<input type="checkbox"/> Other: (Specify)
<input type="checkbox"/>	Oncologic conditions	

Hours of Operation

Facilities with multiple sites with different hours must complete this section for each clinical center.

Days of the Week	From: (a.m.)	To: (p.m.)	Comments
Monday			
Tuesday			
Wednesday			
Thursday			
Friday			
Saturday			
Sunday			

Student Schedule

Indicate which of the following best describes the typical student work schedule:

- ☐ Standard 8 hour day
☐ Varied schedules

Describe the schedule(s) the student is expected to follow during the clinical experience:

Staffing

Indicate the number of full-time and part-time budgeted and filled positions:

	Full-time budgeted	Part-time budgeted	Current Staffing
PTs			
PTAs			
Aides/Techs			
Others: Specify			

Information About the Clinical Education Experience

Special Programs/Activities/Learning Opportunities

Please mark (X) all special programs/activities/learning opportunities available to students.

<input type="checkbox"/>	Administration	<input type="checkbox"/>	Industrial/ergonomic PT	<input type="checkbox"/>	Quality Assurance/CQI/TQM
<input type="checkbox"/>	Aquatic therapy	<input type="checkbox"/>	Inservice training/lectures	<input type="checkbox"/>	Radiology
<input type="checkbox"/>	Athletic venue coverage	<input type="checkbox"/>	Neonatal care	<input type="checkbox"/>	Research experience
<input type="checkbox"/>	Back school	<input type="checkbox"/>	Nursing home/ECF/SNF	<input type="checkbox"/>	Screening/prevention
<input type="checkbox"/>	Biomechanics lab	<input type="checkbox"/>	Orthotic/Prosthetic fabrication	<input type="checkbox"/>	Sports physical therapy
<input type="checkbox"/>	Cardiac rehabilitation	<input type="checkbox"/>	Pain management program	<input type="checkbox"/>	Surgery (observation)
<input type="checkbox"/>	Community/re-entry activities	<input type="checkbox"/>	Pediatric-general (emphasis on):	<input type="checkbox"/>	Team meetings/rounds
<input type="checkbox"/>	Critical care/intensive care	<input type="checkbox"/>	Classroom consultation	<input type="checkbox"/>	Vestibular rehab
<input type="checkbox"/>	Departmental administration	<input type="checkbox"/>	Developmental program	<input type="checkbox"/>	Women's Health/OB-GYN
<input type="checkbox"/>	Early intervention	<input type="checkbox"/>	Cognitive impairment	<input type="checkbox"/>	Work Hardening/conditioning
<input type="checkbox"/>	Employee intervention	<input type="checkbox"/>	Musculoskeletal	<input type="checkbox"/>	Wound care
<input type="checkbox"/>	Employee wellness program	<input type="checkbox"/>	Neurological	<input type="checkbox"/>	Other (specify below)
<input type="checkbox"/>	Group programs/classes	<input type="checkbox"/>	Prevention/wellness		
<input type="checkbox"/>	Home health program	<input type="checkbox"/>	Pulmonary rehabilitation		

Specialty Clinics

Please mark (X) all specialty clinics available as student learning experiences.

<input type="checkbox"/>	Arthritis	<input type="checkbox"/>	Orthopedic clinic	<input type="checkbox"/>	Screening clinics
<input type="checkbox"/>	Balance	<input type="checkbox"/>	Pain clinic	<input type="checkbox"/>	Developmental
<input type="checkbox"/>	Feeding clinic	<input type="checkbox"/>	Prosthetic/orthotic clinic	<input type="checkbox"/>	Scoliosis
<input type="checkbox"/>	Hand clinic	<input type="checkbox"/>	Seating/mobility clinic	<input type="checkbox"/>	Preparticipation sports
<input type="checkbox"/>	Hemophilia clinic	<input type="checkbox"/>	Sports medicine clinic	<input type="checkbox"/>	Wellness
<input type="checkbox"/>	Industry	<input type="checkbox"/>	Women's health	<input type="checkbox"/>	Other (specify below)
<input type="checkbox"/>	Neurology clinic				

Health and Educational Providers at the Clinical Site

Please mark (X) all health care and educational providers at your clinical site students typically observe and/or with whom they interact.

<input type="checkbox"/>	Administrators	<input type="checkbox"/>	Massage therapists	<input type="checkbox"/>	Speech/language pathologists
<input type="checkbox"/>	Alternative therapies: List:	<input type="checkbox"/>	Nurses	<input type="checkbox"/>	Social workers
<input type="checkbox"/>	Athletic trainers	<input type="checkbox"/>	Occupational therapists	<input type="checkbox"/>	Special education teachers
<input type="checkbox"/>	Audiologists	<input type="checkbox"/>	Physicians (list specialties)	<input type="checkbox"/>	Students from other disciplines
<input type="checkbox"/>	Dietitians	<input type="checkbox"/>	Physician assistants	<input type="checkbox"/>	Students from other physical therapy education programs
<input type="checkbox"/>	Enterostomal /wound specialists	<input type="checkbox"/>	Podiatrists	<input type="checkbox"/>	Therapeutic recreation therapists
<input type="checkbox"/>	Exercise physiologists	<input type="checkbox"/>	Prosthetists /orthotists	<input type="checkbox"/>	Vocational rehabilitation counselors
<input type="checkbox"/>	Fitness professionals	<input type="checkbox"/>	Psychologists	<input type="checkbox"/>	Others (specify below)
<input type="checkbox"/>	Health information technologists	<input type="checkbox"/>	Respiratory therapists		

Affiliated PT and PTA Educational Programs

List all PT and PTA education programs with which you currently affiliate. Tab to add additional rows.

[illegible]

Availability of the Clinical Education Experience

Indicate educational levels at which you accept PT and PTA students for clinical experiences (Mark (X) all that apply).

Physical Therapist		Physical Therapist Assistant	
First experience: Check all that apply. <input type="checkbox"/> Half days <input type="checkbox"/> Full days <input type="checkbox"/> Other: (Specify)		First experience: Check all that apply. <input type="checkbox"/> Half days <input type="checkbox"/> Full days <input type="checkbox"/> Other: (Specify)	
Intermediate experiences: Check all that apply. <input type="checkbox"/> Half days <input type="checkbox"/> Full days <input type="checkbox"/> Other: (Specify)		Intermediate experiences: Check all that apply. <input type="checkbox"/> Half days <input type="checkbox"/> Full days <input type="checkbox"/> Other: (Specify)	
<input type="checkbox"/> Final experience		<input type="checkbox"/> Final experience	
<input type="checkbox"/> Internship (6 months or longer)			
<input type="checkbox"/> Specialty experience			

	PT		PTA	
	From	To	From	To
Indicate the range of weeks you will accept students for any single full-time (36 hrs/wk) clinical experience.				
Indicate the range of weeks you will accept students for any one part-time (< 36 hrs/wk) clinical experience.				

	PT	PTA
Average number of PT and PTA students affiliating <u>per year</u> . Clarify if multiple sites.		

Yes	No	Comments
<input type="checkbox"/>	<input type="checkbox"/>	Is your clinical site willing to offer reasonable accommodations for students under ADA?

What is the procedure for managing students whose performance is below expectations or unsafe?
--

Box will expand to accommodate response.

Answer if the clinical center employs only one PT or PTA.

Explain what provisions are made for students if the clinical instructor is ill or away from the clinical site.

Box will expand to accommodate response.

Clinical Site's Learning Objectives and Assessment

Yes	No	
<input type="checkbox"/>	<input type="checkbox"/>	1. Does your clinical site provide written clinical education objectives to students? If no, go to # 3.
<input type="checkbox"/>	<input type="checkbox"/>	2. Do these objectives accommodate:
<input type="checkbox"/>	<input type="checkbox"/>	• The student's objectives?
<input type="checkbox"/>	<input type="checkbox"/>	• Students prepared at different levels within the academic curriculum?
<input type="checkbox"/>	<input type="checkbox"/>	• The academic program's objectives for specific learning experiences?
<input type="checkbox"/>	<input type="checkbox"/>	• Students with disabilities?
<input type="checkbox"/>	<input type="checkbox"/>	3. Are all professional staff members who provide physical therapy services acquainted with the clinical site's learning objectives?

When do the CCCE and/or CI typically discuss the clinical site's learning objectives with students? (Mark (X) all that apply)

<input type="checkbox"/>	Beginning of the clinical experience	<input type="checkbox"/>	At mid-clinical experience
<input type="checkbox"/>	Daily	<input type="checkbox"/>	At end of clinical experience
<input type="checkbox"/>	Weekly	<input type="checkbox"/>	Other

Indicate which of the following methods are typically utilized to inform students about their clinical performance? (Mark (X) all that apply)

<input type="checkbox"/>	Written and oral mid-evaluation	<input type="checkbox"/>	Ongoing feedback throughout the clinical
<input type="checkbox"/>	Written and oral summative final evaluation	<input type="checkbox"/>	As per student request in addition to formal and ongoing written & oral feedback
<input type="checkbox"/>	Student self-assessment throughout the clinical	<input type="checkbox"/>	

OPTIONAL: Please feel free to use the space provided below to share additional information about your clinical site (eg, strengths, special learning opportunities, clinical supervision, organizational structure, clinical philosophies of treatment, pacing expectations of students [early, final]).

Box will expand to accommodate response.

Part II. Information for Students

Use the check (✓) boxes provided for Yes/No responses. **For all other responses or to provide additional detail, please use the Comment box.**

Arranging the Experience

Yes	No		Comments
<input type="checkbox"/>	<input type="checkbox"/>	1. Do students need to contact the clinical site for specific work hours related to the clinical experience?	
<input type="checkbox"/>	<input type="checkbox"/>	2. Do students receive the same official holidays as staff?	
<input type="checkbox"/>	<input type="checkbox"/>	3. Does your clinical site require a student interview?	
		4. Indicate the time the student should report to the clinical site on the first day of the experience.	
<input type="checkbox"/>	<input type="checkbox"/>	5. Is a Mantoux TB test (PPD) required? a) one step _____ (✓ check) b) two step _____ (✓ check) If yes, within what time frame?	
<input type="checkbox"/>	<input type="checkbox"/>	6. Is a Rubella Titer Test or immunization required?	
<input type="checkbox"/>	<input type="checkbox"/>	7. Are any other health tests/immunizations required prior to the clinical experience? If yes, please specify:	
		8. How is this information communicated to the clinic? Provide fax number if required.	
		9. How current are student physical exam records required to be?	
<input type="checkbox"/>	<input type="checkbox"/>	10. Are any other health tests or immunizations required on-site? If yes, please specify:	
<input type="checkbox"/>	<input type="checkbox"/>	11. Is the student required to provide proof of OSHA training?	
<input type="checkbox"/>	<input type="checkbox"/>	12. Is the student required to provide proof of HIPAA training?	
<input type="checkbox"/>	<input type="checkbox"/>	13. Is the student required to provide proof of any other training prior to orientation at your facility? If yes, please list.	
<input type="checkbox"/>	<input type="checkbox"/>	14. Is the student required to attest to an understanding of the benefits and risks of Hepatitis-B immunization?	
<input type="checkbox"/>	<input type="checkbox"/>	15. Is the student required to have proof of health insurance?	
<input type="checkbox"/>	<input type="checkbox"/>	16. Is emergency health care available for students?	
<input type="checkbox"/>	<input type="checkbox"/>	a) Is the student responsible for emergency health care costs?	
<input type="checkbox"/>	<input type="checkbox"/>	17. Is other non-emergency medical care available to students?	
<input type="checkbox"/>	<input type="checkbox"/>	18. Is the student required to be CPR certified? (Please note if a specific course is required).	

Yes	No		Comments
<input type="checkbox"/>	<input type="checkbox"/>	a) Can the student receive CPR certification while on-site?	
<input type="checkbox"/>	<input type="checkbox"/>	19. Is the student required to be certified in First Aid?	
<input type="checkbox"/>	<input type="checkbox"/>	a) Can the student receive First Aid certification on-site?	
<input type="checkbox"/>	<input type="checkbox"/>	20. Is a criminal background check required (eg, Criminal Offender Record Information)? If yes, please indicate which background check is required and time frame.	
<input type="checkbox"/>	<input type="checkbox"/>	21. Is a child abuse clearance required?	
<input type="checkbox"/>	<input type="checkbox"/>	22. Is the student responsible for the cost or required clearances?	
<input type="checkbox"/>	<input type="checkbox"/>	23. Is the student required to submit to a drug test? If yes, please describe parameters.	
<input type="checkbox"/>	<input type="checkbox"/>	24. Is medical testing available on-site for students?	
		25. Other requirements: (On-site orientation, sign an ethics statement, sign a confidentiality statement.)	

Housing

Yes	No		Comments		
<input type="checkbox"/>	<input type="checkbox"/>	26. Is housing provided for male students? (If no, go to #32)			
<input type="checkbox"/>	<input type="checkbox"/>	27. Is housing provided for female students? (If no, go to #32)			
		28. What is the average cost of housing?			
		29. Description of the type of housing provided:			
		30. How far is the housing from the facility?			
		31. Person to contact to obtain/confirm housing:			
		Name:			
		Address:			
		City:		State:	Zip:
		Phone:		E-mail:	

Yes	No		Comments
		32. If housing is not provided for either gender:	
<input type="checkbox"/>	<input type="checkbox"/>	a) Is there a contact person for information on housing in the area of the clinic? Please list contact person and phone #.	
<input type="checkbox"/>	<input type="checkbox"/>	b) Is there a list available concerning housing in the area of the clinic? If yes, please attach to the end of this form.	

Transportation

Yes	No		Comments
<input type="checkbox"/>	<input type="checkbox"/>	33. Will a student need a car to complete the clinical experience?	
<input type="checkbox"/>	<input type="checkbox"/>	34. Is parking available at the clinical center?	
		a) What is the cost for parking?	
<input type="checkbox"/>	<input type="checkbox"/>	35. Is public transportation available?	
		36. How close is the nearest transportation (in miles) to your site?	
		a) Train station?	miles
		b) Subway station?	miles
		c) Bus station?	miles
		d) Airport?	miles
		37. Briefly describe the area, population density, and any safety issues regarding where the clinical center is located.	
		38. Please enclose a map of your facility, specifically the location of the department and parking. Travel directions can be obtained from several travel directories on the internet. (eg, <u>Delorme</u> , <u>Microsoft</u> , <u>Yahoo</u> , <u>Mapquest</u>).	

Meals

Yes	No		Comments
<input type="checkbox"/>	<input type="checkbox"/>	39. Are meals available for students on-site? (If no, go to #40)	
		Breakfast (if yes, indicate approximate cost)	
		Lunch (if yes, indicate approximate cost)	
		Dinner (if yes, indicate approximate cost)	
<input type="checkbox"/>	<input type="checkbox"/>	40. Are facilities available for the storage and preparation of food?	

Stipend/Scholarship

Yes	No		Comments
<input type="checkbox"/>	<input type="checkbox"/>	41. Is a stipend/salary provided for students? If no, go to #43.	
		a) How much is the stipend/salary? (\$ / week)	
<input type="checkbox"/>	<input type="checkbox"/>	42. Is this stipend/salary in lieu of meals or housing?	
		43. What is the minimum length of time the student needs to be on the clinical experience to be eligible for a stipend/salary?	

Special Information

Yes	No		Comments
<input type="checkbox"/>	<input type="checkbox"/>	44. Is there a facility/student dress code? If no, go to # 45. If yes, please describe or attach.	
		a) Specify dress code for men:	
		b) Specify dress code for women:	
<input type="checkbox"/>	<input type="checkbox"/>	45. Do you require a case study or inservice from all students (part-time and full-time)?	
<input type="checkbox"/>	<input type="checkbox"/>	46. Do you require any additional written or verbal work from the student (eg, article critiques, journal review, patient/client education handout/brochure)?	
<input type="checkbox"/>	<input type="checkbox"/>	47. Does your site have a written policy for missed days due to illness, emergency situations, other? If yes, please summarize.	
<input type="checkbox"/>	<input type="checkbox"/>	48. Will the student have access to the Internet at the clinical site?	

Other Student Information

Yes	No		
<input type="checkbox"/>	<input type="checkbox"/>	49. Do you provide the student with an on-site orientation to your clinical site?	
		a) Please indicate the typical orientation content by marking an X by all items that are included.	
<input type="checkbox"/>		Documentation/billing	<input type="checkbox"/> Review of goals/objectives of clinical experience
<input type="checkbox"/>		Facility-wide or volunteer orientation	<input type="checkbox"/> Student expectations
<input type="checkbox"/>		Learning style inventory	<input type="checkbox"/> Supplemental readings
<input type="checkbox"/>		Patient information/assignments	<input type="checkbox"/> Tour of facility/department
<input type="checkbox"/>		Policies and procedures (specifically outlined plan for emergency responses)	<input type="checkbox"/> Other (specify below - eg, bloodborne pathogens, hazardous materials, etc.)
<input type="checkbox"/>		Quality assurance	
<input type="checkbox"/>		Reimbursement issues	
<input type="checkbox"/>		Required assignments (eg, case study, diary/log, inservice)	

In appreciation...

Many thanks for your time and cooperation in completing the CSIF and continuing to serve the physical therapy profession as clinical mentors and role models. Your contributions to learners' professional growth and development ensure that patients/clients today and tomorrow receive high-quality patient/client care services.



Physical Therapy Board of California

BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY - GOVERNOR EDMUND G. BROWN JR.

Physical Therapy Board of California

2005 Evergreen St. Suite 1350, Sacramento, California 95815

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Briefing Paper

Date: May 8, 2017

Prepared for: PTBC Members

Prepared by: Becky Marco

Subject: 1398.28 Written Examination

Purpose: To consider the proposed amendments to section 1398.28 of the California Code of Regulations Uniform Licensing Examinations and California Law Examination Minimum Passing Scores; Proposal to Amend Section 1398.28 of Article 2, Division 13.2, Title 16 of the California Code of Regulations

Attachments: - [Proposed Language](#)

Background:

SB 198 amended Business and Professions Code (BPC) § 2605 (b) of the Physical Therapy Practice Act (Act) to read:

The board shall do all of the following:

- (a) ...
- (b) Provide for the examinations of physical therapists and physical therapist assistants and establish a passing score for each examination.

The proposed amendment defers the passing score for the National Physical Therapy Examination (NPTE) as determined by the Federation of State Boards of Physical Therapy (FSBPT). The proposed deferral would ensure the examination score is always current and consistent with the score as set by the FSBPT and the rest of the member jurisdictions. This is especially critical since the rulemaking process has become increasingly laborious and timelines excessive which could result in delaying amendments to the regulation necessitated by a change in the score.

Additionally, the FSBPT relies on criterion-referenced methods for setting passing scores particularly the modified-Angoff method. The modified-Angoff technique is probably the most widely used method in health professions today, and it probably has the largest research base. Because of its ease of use and large research base, this method also is considered best practice. The modified-Angoff method is consistent with the technique used by the Department of Consumer Affairs' Office of Professional Examination Services (OPES). The OPES used this method when setting the passing score for the California Law Examination prior to its transfer to the FSBPT.

The proposed amendments to the language currently only address a passing score for the NPTE and not the CLE since it is uncertain whether the CLE will remain under the administration of the

FSBPT. However, it is opined that the legislature intended for the Board to set passing scores in regulation for both the NPTE and the CLE.

Action Requested:

1) Should the California Law Examination be included in the proposed amendment? If so, direct staff to include language that the board shall accept the passing score for the California Law Examination (CLE) as determined by the Federation of State Boards of Physical Therapy (FSBPT).

2) Consideration of the following motion:

“I move that we approve the proposed text for noticing a 45-day comment period, and direct staff to take all steps necessary to initiate the formal rulemaking process. If no adverse comments are received during the 45-day comment period and no hearing is requested, delegate to the Executive Officer the authority to adopt the proposed regulatory changes as modified and make any technical or non-substantive changes that may be required in completing the rulemaking file.”

The Physical Therapy Board of California proposes to amend section 1398.28 in Article 2 of Division 13.2, Title 16 of the California Code of Regulations, as follows:

1398.28. Written Examination.

(a) The uniform examination utilized by the board for the licensure of physical therapists is the Federation of State Boards of Physical Therapy's examination for physical therapists. The board shall accept the passing score for the National Physical Therapy Examination (NPTE) as determined by the Federation of State Boards of Physical Therapy (FSBPT).

(b) The uniform examination utilized by the board for the licensure of physical therapist assistants is the Federation of State Boards of Physical Therapy's examination for physical therapist assistants. The board shall accept the passing score for the National Physical Therapy Examination (NPTE) as determined by the Federation of State Boards of Physical Therapy (FSBPT).

Note: Authority cited: Sections 851, 2605 and 2615, Business and Professions Code.
Reference: Sections 851, 2605, ~~and 2636,~~ and 2638 ~~2636.1 and 2655.4,~~ Business and Professions Code.



Physical Therapy Board of California

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Briefing Paper

Date: May 4, 2017
Prepared for: PTBC Members
Prepared by: Carl Nelson
Subject: Budget Report

Purpose:

To provide an update on the PTBC's Budget activities for CY 2016-17 (Jan-Mar 2017).

Attachments:

1. [Revenue Report](#)
2. [Revenue Measures](#)
3. [Expenditure Report](#)
4. [Expenditure Measures](#)
5. [Revenue Definition Key](#)
6. [Expenditure Definition Key](#)

Background:

The PTBC Budget Report is a quarterly review of the expenditures and revenues, including budget activities and analysis for the current year. The data is collected from the DCA, CalStars Financial Monthly Reports and generated by staff quarterly: Jul -Sep (Q1), Oct-Dec (Q2), Jan-Mar (Q3) and Apr- Jun (Q4).

This CY 2016-17, the PTBC is authorized a budget of \$5,108,000 to support all operational costs, which includes personnel services, operating expenses and equipment.

Analysis:

In reviewing revenues and expenditures in Quarter three (Q3) CY 2016-17, the staff identified the following:

The PTBC collected \$1,436,116 in revenues during Q3. Revenues for the same period in FY 2015/16 were \$884,188, increasing revenues by \$551,928 or 62%. The primary source of revenue for Q3 was license renewal fees at \$1,140,600, followed by application and licensure fees at \$184,846. The increase in revenue is due to new application and licensing fees.

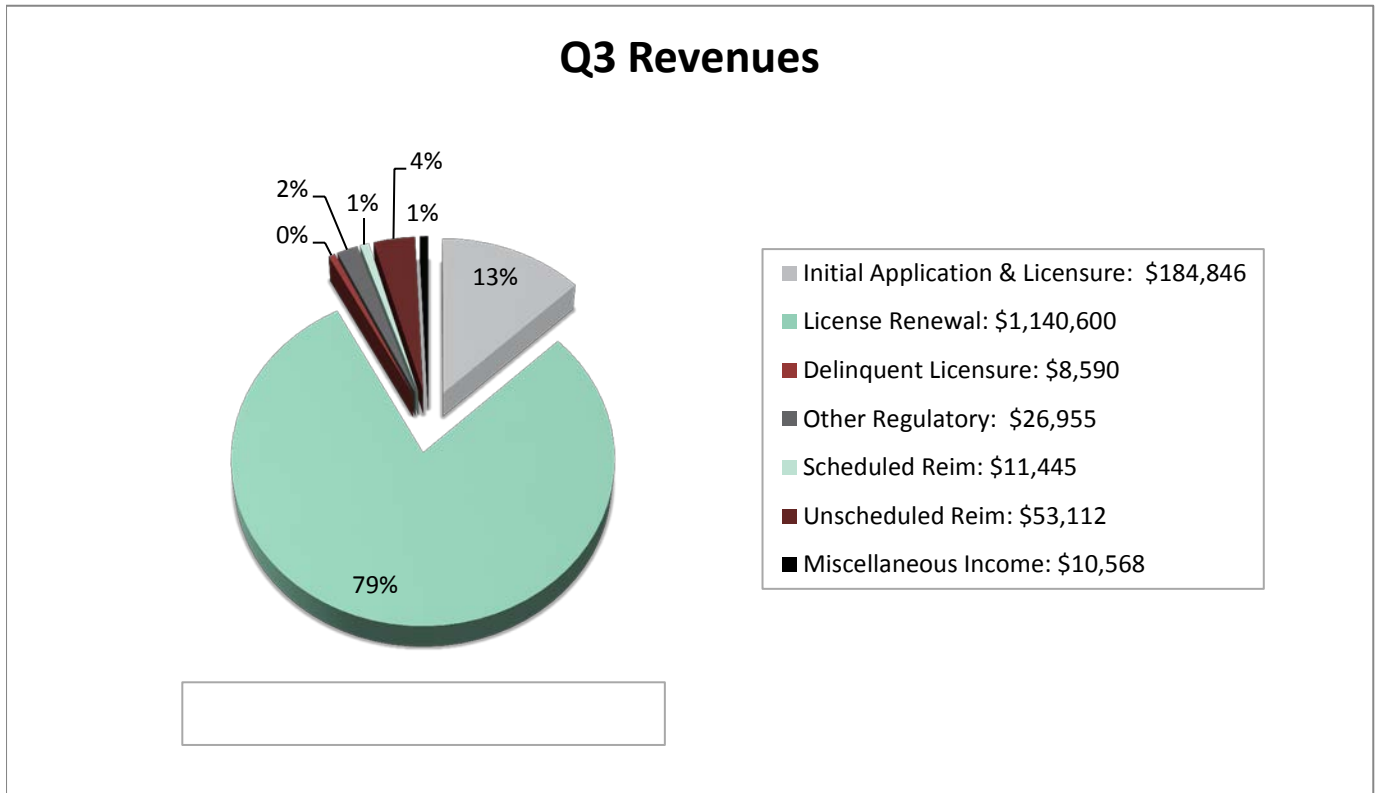
The PTBC spent \$509,359 in Personnel Services (PERS SVS) and \$730,585 in Operating Expenses & Equipment (OE&E), a total of \$1,239,944 (not including reimbursements). Expenditures for the same period in FY15/16 were \$1,056,495, increasing expenditures by \$183,449 or 17%.

Action Requested: No action being requested at this time.

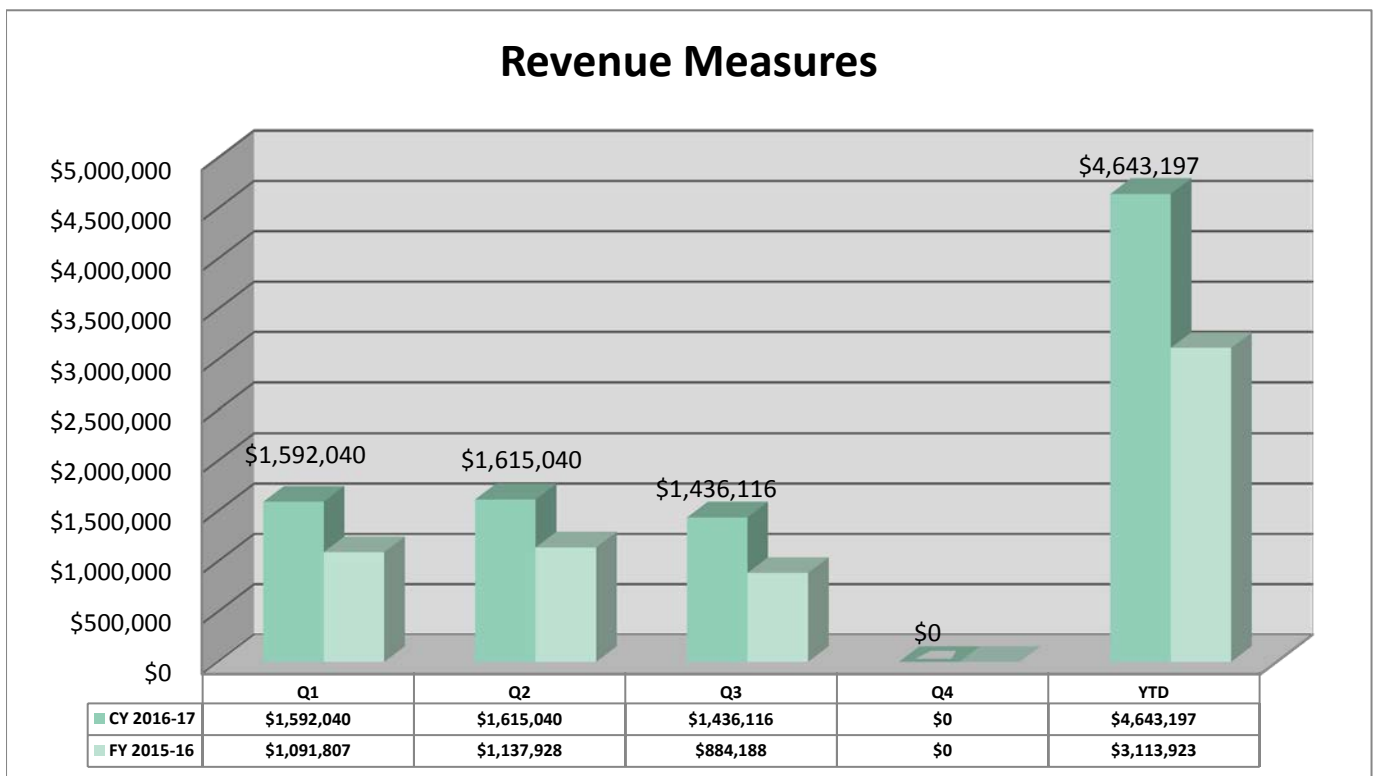
Physical Therapy Board of California
Revenue Statistics Report
CY 2016-17 Q3 (As of 3/31/17)

Revenue Statistics Report						
Budget Line Items	FY 2015-16		CY 2016-17			
	Q3		YTD		Q3	
	Jan	Mar	As of 3/31/16	Jan	Mar	% Of Revenue
OTHER REGULATORY						
Cite and Fine (Citations)	6,500	57,941		4,375	0.3%	10,975
Endorsement (License Verification)	16,320	43,740		18,180	1.3%	50,820
Duplicate License / Certificate	3,800	9,650		4,400	0.3%	10,900
TOTALS	26,620	111,331		26,955	1.9%	72,695
INITIAL APPLICATION & LICENSE						
FPTA Application & Initial License Fee	3,725	9,925		6,300	0.4%	14,250
FPT Application Fee	11,125	33,725		16,650	1.2%	57,499
ENMG Exam Fee	0	500		0	0.0%	0
ENMG Application Fee	0	100		0	0.0%	0
KEMG Exam Fee	0	0		0	0.0%	500
KEMG Application Fee	0	0		0	0.0%	0
PTA Application & Initial License Fee	20,094	52,719		38,275	2.7%	128,026
PT Application Fee	25,066	114,566		76,746	5.3%	291,594
PT Initial License Fee	3,275	80,075		46,409	3.2%	164,459
Refunded Reimbursements	0	0		0	0.0%	0
Overt/Short Fees	15,503	15,610		-150	0.0%	700
Suspended Revenue	9,676	10,826		1,991	0.1%	11,526
Prior Year Revenue Adjustment	-2,774	-11,559		-1,375	-0.1%	-8,656
TOTALS	85,690	306,487		184,846	12.9%	659,898
LICENSE RENEWAL						
PTA Renewal Fee	149,000	505,000		220,000	15.3%	731,300
PT Renewal Fee	566,608	2,040,788		919,750	64.0%	2,995,175
ENMG	300	600		150	0.0%	450
KEMG	100	550		250	0.0%	500
Automated Revenue Refund Claim	-150	1,550		450	0.0%	450
Overt/Short Fees	0	2		0	0.0%	0
TOTALS	715,858	2,548,490		1,140,600	79.4%	3,727,875
DELINQUENT LICENSE RENEWAL						
PTA Delinquent Fee	2,400	5,100		1,140	0.1%	3,390
PT Delinquent Fee	4,100	9,800		7,450	0.5%	22,000
EN Delinquent Fee	0	0		0	0.0%	25
EK Delinquent Fee	0	0		0	0.0%	25
TOTALS	6,500	14,900		8,590	0.6%	25,440
MISCELLANEOUS						
Public Sales (142500)	50	50		0	0.0%	10
Surplus Money Investments (150300)	2,400	4,231		9,369	0.7%	13,317
Attorney General Proceeds (160100)	0	0		0	0.0%	0
Unclaimed/Cancelled Warrants (161000)	-456	1,699		1,149	0.1%	3,608
Miscellaneous Income (161400)	1,931	3,155		50	0.0%	126
TOTALS	3,925	9,135		10,568	0.7%	17,061
SCHEDULED REIMBURSEMENTS						
Fingerprint Reports	8,771	24,440		9,800	0.7%	28,371
External/Private/Grant	705	5,640		1,645	0.1%	3,290
TOTALS	9,476	30,080		11,445	0.8%	31,661
UNSCHEDULED REIMBURSEMENTS						
Investigative Cost Recovery - Investigations	34,481	84,527		48,126	3.4%	96,042
Investigative Cost Recovery - Probation Monitoring	1,638	8,973		4,987	0.3%	12,524
TOTALS	36,119	93,500		53,112	3.7%	108,566
TOTAL REVENUES	884,188	3,113,923		1,436,116		4,643,197

Physical Therapy Board of California
Q3 Revenues Chart
CY 2016-17



1. Chart shows Q3 revenues and % contributed to the quarterly revenue total.
2. Chart reveals, license renewals was the highest contributing revenue, followed by application and initial licensure.



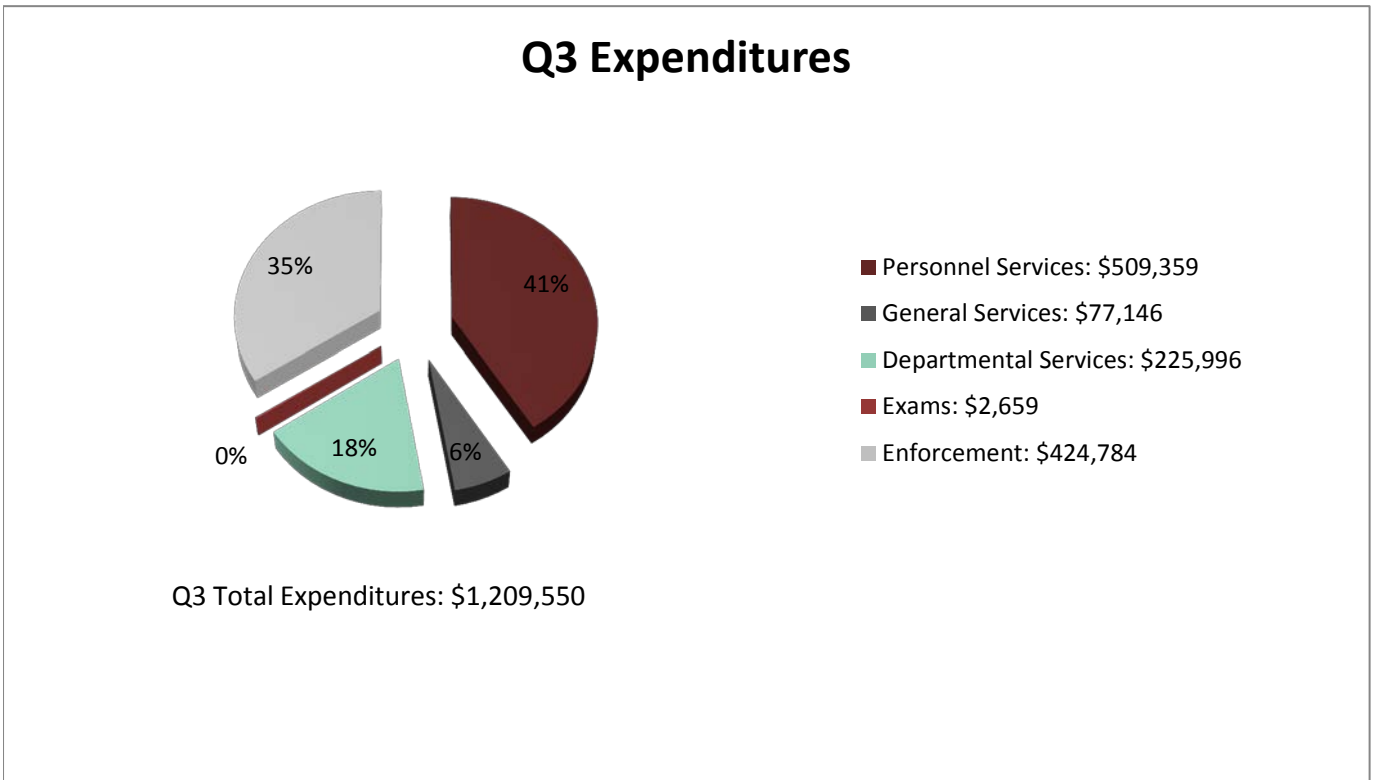
1. Chart shows Q3 and year-to-date revenues for both CY2016-17 and FY2015-16.
2. Chart reveals, revenues increased by 46% Q2 over FY 2015-16.

Physical Therapy Board of California
Expenditure Statistics Report
CY 2016-17 Q3 (As of 3/31/17)

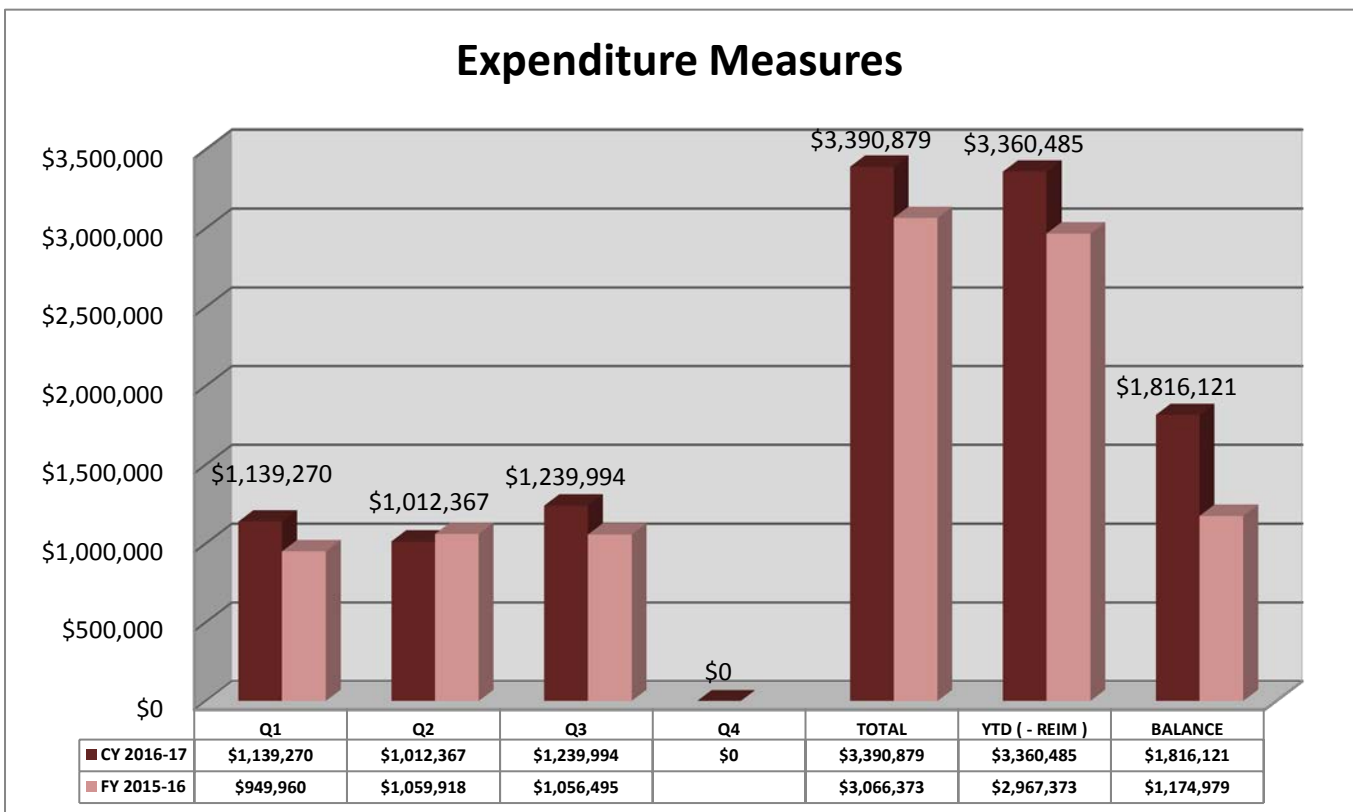
Expenditure Statistics Report								
Budget Line Items	FY 2015-16		CY 2016-17					
	Q3		YTD	Authorized		Q3	YTD	% of
	Jan	Mar	As of 3/31/16	Budget		Jan	Mar	Budget Spent
PERSONNEL SERVICES								
Civil Services Permanent	234893		688094	1,142,000		254871	746,002	65%
Temp help	28232		77034	0		40685	83,647	-
Statutory Exempt	21258		62964	77,000		21897	65,052	84%
Board Members	9200		19900	25,000		9800	33,600	134%
Overtime	0		0	0		1658	43,021	-
Staff Benefits	153758		430678	689,000		180448	515,788	75%
TOTAL PERS SVS	447,341		1,278,670	1,933,000		509,359	1,487,110	77%
OPERATING EXPENSES & EQUIPMENT								
General Services Totals	68,946		185,484	451,500		77,146	211,311	47%
Fingerprints	6,846		20,905	99,000		8,525	25,303	26%
General Expense	3,890		10,980	17,000		4,130	13,606	80%
Minor Equipment	9,223		11,175	1,000		1,623	2,717	272%
Major Equipment	0		0	32,000		0	0	0%
Printing	5,850		9,008	20,000		6,629	14,754	74%
Communications	2,596		6,761	13,000		2,633	6,141	47%
Postage	3,503		17,845	24,000		2,157	6,154	26%
Travel in State	2,699		8,571	18,000		9,660	19,391	108%
Training	0		0	1,000		420	670	67%
Facilities Operations	28,102		84,292	118,000		28,355	83,442	71%
C&P Services Interdepartmental	0		0	500		0	0	0%
C&P Services External	6,237		15,947	108,000		13,014	39,133	36%
Departmental Services Totals	244,864		716,489	905,500		225,996	671,083	74%
OIS Pro Rata	141,250		413,250	597,000		150,750	447,750	75%
Indirect Distributed Cost	62,500		178,500	258,000		64,245	189,747	74%
Interagency Services	0		0	500		0	0	0%
DOI Pro Rata	1,250		3,750	7,000		1,749	5,247	75%
Communications Pro Rata	7,500		10,500	35,000		8,751	26,253	75%
PPRD Pro Rata	-4,000		0	2,000		501	1,503	75%
Consolidated Data Center	356		1,857	2,000		0	377	19%
Data Processing	0		606	4,000		0	206	5%
Central Admin Services Pro Rata	36,008		108,026	0		0	0	0%
Exams Totals	726		2,858	8,000		2,659	4,008	50%
Exam Administrative External	726		2,858	8,000		2,659	4,008	50%
Enforcement Totals	294,619		882,872	1,909,000		424,784	1,017,367	53%
Attorney General	91,149		336,404	655,000		90,973	183,982	28%
Office of Admin Hearings	20,985		43,005	110,000		18,145	18,145	2%
Evidence/Witness	19,203		41,402	100,000		16,832	31,652	32%
Court Reporters	782		1,561	0		334	588	-
DOI Investigation	162,500		460,500	1,044,000		298,500	783,000	75%
TOTAL OE & E	609,155		1,787,703	3,274,000		730,585	1,903,769	58%
TOTALS, PERS SVS/OE&E	1,056,495		3,066,372	5,207,000		1,239,944	3,390,879	65%
Scheduled Reimbursements	(10,112)		(10,112)	(99,000)		(10,956)	(10,956)	
Non-Scheduled Reimbursements	(40,446)		(40,446)	0		(19,438)	(19,438)	
TOTALS, PERS SVS/OE&E (-REIM)	1,005,937		3,015,814	5,108,000		1,209,550	3,360,485	66%

*The PTBC is authorized to allocate \$99k of its revenues collected from scheduled/unscheduled reimbursements towards CY expenditures. Revenues over 99k are transferred to fund.

Physical Therapy Board of California
Q3 Expenditures Chart
CY 2016-17



1. Chart shows Q3 expenditures and % contributed to the quarterly total expenses.
2. Chart reveals, personnel services was the highest contributing expense, followed by enforcement.



1. Chart shows total expenditures for Q2 for both CY2016-17 and FY2015-16.
2. Chart reveals, expenditures increased by 15% Q2 over FY 2015-16.

Physical Therapy Board of California
Budget Report - Q3
CY 2016-17

Revenue Source - Definition Key

Other Regulatory Fees

Citation/Fine FTB Collection	Fines collected by the Franchise Tax Board on behalf of PTBC for fines past due.
Admin Citation Fines-Various	Fines collected from administrative citations issued.
Endorsement Fee	Processing fee for endorsement (license verifications).
Duplicate License/Certification Fee	Processing fee for duplicate license or wall certificate.

Initial Application & License Fees

FPTA Application & Initial License	Application & Initial License processing fees for foreign educated Physical Therapist Assistants.
FPT Application	Application processing fee for foreign educated Physical Therapists.
FPT Initial License	Initial License processing fee for foreign educated Physical Therapists.
PTA Application & Initial License	Application and Initial License processing fee for U.S educated Physical Therapist Assistants.
PT Application	Application processing fee for U..S educated Physical Therapists.
PT Initial License	Initial License processing fee for U.S. educated Physical Therapists.
Refunded Reimbursements	Used for cashiering errors, i.e., fingerprint fee cashiered with application fee.
Over/Short	Application or Initial License Fees paid over or short of established fee.
Suspended Revenue	Fee unable to identify/allocate -temporarily cashiered in suspense (reconciled year-end).
Prior Year Revenue Adjustment	Correction of prior year revenue reported.

License Renewal Fees

Renewal - ENMG	Renewal Fees for Renewal ENMG Certification.
Renewal - KEMG	Renewal Fees for Renewal KEMG Certification.
Biennial Renewal - PTA	Renewal Fees for PTA license.
Biennial Renewal - PT	Renewal Fees for PT license.
Automated Revenue Refund Claim	Renewal Fees refunded to licensees (e.g., duplicate payments, etc.).
Over/Short Fee	Renewal Fees paid/collected over or short of established fee.

Miscellaneous Income

Public Sales	Services to Public - e.g., DCA sales of PT/PTA mailing list.
Surplus Money Investments	Shared Revenues by State Controllers Office of earned interest from investment.
Unclaimed Checks / Warrants	Cancelled warrant (check) paid to applicant/licensee/agency-uncashed for 1 year.
Miscellaneous Income (General)	Revenues collected, i.e., Franchise Tax Board collections, dishonored check fees, etc.

Scheduled Reimbursements

Fingerprint Cards	Scheduled Reimbursements - applicants/licensees fingerprint processing fees collected.
External/Private Grant	Scheduled Reimbursements - received for OIS Public Sales

Unscheduled Reimbursements

Investigative Cost Recovery	Money received from individuals for reimbursement of the investigative cost incurred by PTBC.
Probation Monitoring Cost Recovery	Money received from Probationers for their probation monitoring.

Physical Therapy Board of California
Budget Report - Q3
CY 2016-17

Expenditure Source - Definition Key	
Personnel Services	
Civil Services Permanent	Salary / Wages of civil service - permanent employees (authorized positions).
Statutory Exempt	Salary / Wages of employees appointed/elected to state (Executive Officer).
Temp help	Salary / Wages of employees in blanket (permanent-intermittent/retired annuitant).
Board Commission	Per Diem reimbursement (Board Members).
Overtime	Ordered work time in excess of employee regular scheduled workweek.
Staff Benefits	Employer contributions for health, dental, vision, etc. (permanent, exempt and temp).
General Services	
Fingerprints	Criminal and background checks by DOJ (new employees, applicants and licensees).
General Expense	Office supplies, freight (FedEx), subscriptions, admin overhead (DGS charge: purchase orders, contracts, etc.).
Minor Equipment	Replacement/additional equipment - less than \$5k per unit (copier, fax, etc.).
Major Equipment	Replacement/additional equipment - over \$5k per unit (copier, printer, etc.).
Printing	Publications, i.e., strategic plan, newsletter, etc. printed by State Printing and DCA.
Communication	Office and staff land lines, fax line, etc.
Postage	Standard U.S. mail, certified mail, wall certificate, pocket license, renewal notice, etc.
Travel In-State and Out-of-State	Travel reimbursements, i.e., per diem, lodging, transportation, business expense, and CalAters.
Training	Tuition/registration fees for training classes/conferences through External Vendors.
Facilities Ops	Rent - Building and Grounds (Non-State Owned), includes, self storage and utility charges.
C&P Services Internal	Consultant/Professional services provided by other state agencies or DCA interagency agreement.
C&P Services External	Consultant/Professional Services provided by external agency, i.e., online credit card payments.
Departmental Services	
*OIS Pro Rata	DCA- Office of Information Services, i.e., PC Support, Telecom, etc.
*Indirect Distributed Cost Pro Rata	DCA - Office of Administrative Services, i.e., Personnel, Budgets, etc.
*DOI Pro Rata	DCA Special Operations Unit Services i.e., criminal background checks on employees.
*Communications Pro Rata	DCA Media Services, i.e., responses, creation/execution of marketing plans and outreach.
*PPRD Pro Rata	Conveys boards message to public through publications, i.e., outreach, correspondence, etc.
*Central Admin Services Pro Rata	Administrative Services conducted by CalHR, DOF, SCO, State Treasurer, Legislature, Agency, etc.
<i>*DCA Pro-Rata is based on annual assessment of program size, workload, and overall operational need of services. Adjustments are made annually.</i>	
Interagency Services	Services provided by another DCA-Board/Bureau to PTBC (inter-agency agreement).
Consolidated Data Center	TEALE data center i.e., costs for maintaining records on Consumer Affairs System (CAS).
Data Processing	Technology maintenance, copier/printer paper, software, hardware, electronic waste recycling and disposal.
Exams	
C/P Administrative	External -Consultant/Professional Services (i.e. FSBPT service contract).
C/P Exam Subject Matter Experts	External -Consultant/Professional Services: Wages for services provided by Subject Matter Experts in the oral/written exam process, including travel.
Enforcement	
Attorney General	Services provided for enforcement case process initiated to the Attorney General Office.
Office of Admin Hearings	Services provided for hearing officer, administrative law judges, and filing fees, etc.
Evidence/Witness	Services provided by witness, i.e., witness fee, hourly wages, travel expenses, undercover operative fees; and, cost of film, including medical services for use as evidence, etc.
Court Reporters	Services provided by Court Reporter, including transcriptions (i.e. hearing transcripts, etc.).
DOI Investigation	Services provided by Division of Investigations (DOI) for investigative services.



Physical Therapy Board of California

BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY - GOVERNOR EDMUND G. BROWN JR.

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Briefing Paper

Date: 5/10/17
Prepared for: PTBC Members
Prepared by: Sarah Conley
Subject: Application Services Report

Purpose:

To provide an update on the most recent activities of the Application Services program

Attachments: 1. [Application Services Program Statistics](#)
2. [Examination Statistics](#)

Update:

The applications received data reflects a consistent increase of approximately 30% for each application type and qualification method with the exception of physical therapist assistant equivalency applications which has increased 67% from Quarter 3 last fiscal year. Although 67% appears to be a significant increase, it is not in regards to workload. The number of physical therapist assistant equivalency applications is so low that even a minor increase or decrease in the number of applications received greatly impacts the percentage of change.

The license issuance data shows a substantial increase in the number of physical therapist assistant licenses issued. This notable increase can be attributed to an increase in the number of physical therapist assistant applications received but also to a change in resource distribution which has allowed the program to address a backlog in processing physical therapist assistant applications.

Action Requested:

None

Applications Statistics Report

Applications Received

	Fiscal Year 2015/16										Fiscal Year 2016/17										Year → Year Change
	Q1		Q2		Q3		Q4		YTD	Q1		Q2		Q3		Q4		YTD			
	Jul	Sep	Oct	Dec	Jan	Mar	Apr	Jun		Jul	Sep	Oct	Dec	Jan	Mar	Apr	Jun				
PT	455		261		199				915	484		422		319				1225	↑ 34%		
FPT	63		50		50				163	75		72		67				214	↑ 31%		
PTA	94		167		122				383	139		234		137				510	↑ 33%		
FPTA	15		16		14				45	18		18		23				59	↑ 31%		
E-PTA	3		0		3				6	2		4		4				10	↑ 67%		
Total	630		494		388				1512	718		750		550				2018	↑ 33%		

Licenses Issued

	Fiscal Year 2015/16										Fiscal Year 2016/17										Year → Year Change
	Q1		Q2		Q3		Q4		YTD	Q1		Q2		Q3		Q4		YTD			
	Jul	Sep	Oct	Dec	Jan	Mar	Apr	Jun		Jul	Sep	Oct	Dec	Jan	Mar	Apr	Jun				
PT	523		436		271				1230	630		480		317				1427	↑ 16%		
PTA	161		116		102				379	184		159		198				541	↑ 43%		
Total	684		552		373				1609	814		639		515				1968	↑ 22%		

Examination Statistics Report

National PT and PTA Examination - California Statistics

Accredited PT Program

	Fiscal Year 2015/16						Fiscal Year 2016/17						Year → Year Change						
	Q1		Q2		Q3		Q4		YTD	Q1		Q2		Q3		Q4		YTD	
	Jul	Sep	Oct	Dec	Jan	Mar	Apr	Jun		Jul	Sep	Oct		Dec	Jan	Mar	Apr		Jun
Pass	271		268		157				696	371		246		117				734	↑5%
Fail	29		61		39				129	29		44		22				95	↓-26%
Total	300		329		196				825	400		290		139				829	↑0%
Pass Rate	90%		81%		80%				84%	93%		85%		84%				87%	↑4%

Non-Accredited PT Program

	Fiscal Year 2015/16										Fiscal Year 2016/17										Year → Year Change
	Q1		Q2		Q3		Q4		YTD	Q1		Q2		Q3		Q4		YTD			
	Jul	Sep	Oct	Dec	Jan	Mar	Apr	Jun		Jul	Sep	Oct	Dec	Jan	Mar	Apr	Jun				
Pass	7		9		5				21	9		15		5				29	↑38%		
Fail	39		49		16				104	24		35		24				83	↓-20%		
Total	46		58		21				125	33		50		29				112	↓-10%		
Pass Rate	15%		16%		24%				18%	27%		30%		17%				25%	↑6%		

Accredited PTA Program

	Fiscal Year 2015/16										Fiscal Year 2016/17										Year → Year Change
	Q1		Q2		Q3		Q4		YTD	Q1		Q2		Q3		Q4		YTD			
	Jul	Sep	Oct	Dec	Jan	Mar	Apr	Jun		Jul	Sep	Oct	Dec	Jan	Mar	Apr	Jun				
Pass	116		83		86				285	181		71		138				390	↑37%		
Fail	53		30		26				109	48		36		31				115	↑6%		
Total	169		113		112				394	229		107		169				505	↑28%		
Pass Rate	69%		73%		77%				73%	79%		66%		82%				76%	↑3%		

Non-Accredited PTA Program

	Fiscal Year 2015/16								YTD	Fiscal Year 2016/17								YTD	Year → Year Change
	Q1		Q2		Q3		Q4			Q1		Q2		Q3		Q4			
	Jul	Sep	Oct	Dec	Jan	Mar	Apr	Jun		Jul	Sep	Oct	Dec	Jan	Mar	Apr	Jun		
Pass	4		13		8				25	2		8		5				15	↓-40%
Fail	9		15		9				33	11		15		10				36	↑9%
Total	13		28		17				58	13		23		15				51	↓-12%
Pass Rate	31%		46%		47%				41%	15%		35%		33%				28%	↓-14%

California Law Examination (CLE)

Accredited Program

	Fiscal Year 2015/16									Fiscal Year 2016/17									Year → Year Change
	Q1		Q2		Q3		Q4		YTD	Q1		Q2		Q3		Q4		YTD	
	Jul	Sep	Oct	Dec	Jan	Mar	Apr	Jun		Jul	Sep	Oct	Dec	Jan	Mar	Apr	Jun		
Pass	648		502		335				1,485	893		503		399				1,795	↑21%
Fail	271		233		165				669	433		270		243				946	↑41%
Total	919		735		500				2,154	1,326		773		642				2,741	↑27%
Pass Rate	71%		68%		67%				69%	67%		65%		62%				65%	↓-4%

Physical Therapy Board of California

Examinations Report - Q3

Fiscal Year 2016-17

Non-Accredited Program																			
	Fiscal Year 2015/16									Fiscal Year 2016/17									Year → Year Change
	Q1		Q2		Q3		Q4		YTD	Q1		Q2		Q3		Q4		YTD	
	Jul	Sep	Oct	Dec	Jan	Mar	Apr	Jun		Jul	Sep	Oct	Dec	Jan	Mar	Apr	Jun		
Pass	51		40		43				134	71		55		49				175	↑31%
Fail	34		36		28				98	48		53		41				142	↑45%
Total	85		76		71				232	119		108		90				317	↑37%
Pass Rate	60%		53%		61%				58%	60%		51%		54%				55%	↓-3%

National PT and PTA Examination - National Statistics

Accredited PT Program																			
	Fiscal Year 2015/16								YTD	Fiscal Year 2016/17								YTD	Year → Year Change
	Q1		Q2		Q3		Q4			Q1		Q2		Q3		Q4			
	Jul	Sep	Oct	Dec	Jan	Mar	Apr	Jun		Jul	Sep	Oct	Dec	Jan	Mar	Apr	Jun		
Pass	4,613		1,416		1,170				7,199	4,980		1,452		1,137				7,569	↑5%
Fail	635		641		281				1,557	451		398		226				1,075	↓-31%
Total	5,248		2,057		1,451				8,756	5,431		1,850		1,363				8,644	↓-1%
Pass Rate	88%		69%		81%				79%	92%		78%		83%				84%	↑5%

Non-Accredited PT Program																			
	Fiscal Year 2015/16										Fiscal Year 2016/17					Year → Year Change			
	Q1		Q2		Q3		Q4		YTD	Q1		Q2		Q3			Q4		YTD
	Jul	Sep	Oct	Dec	Jan	Mar	Apr	Jun		Jul	Sep	Oct	Dec	Jan	Mar		Apr	Jun	
Pass	324		316		218				858	346		301		215				862	↑0%
Fail	888		1,111		361				2,360	548		676		498				1,722	↓-27%
Total	1,212		1,427		579				3,218	894		977		713				2,584	↓-20%
Pass Rate	27%		22%		38%				29%	39%		31%		30%				33%	↑4%

Accredited PTA Program																			
	Fiscal Year 2015/16								Fiscal Year 2016/17								Year → Year Change		
	Q1		Q2		Q3		Q4		YTD	Q1		Q2		Q3		Q4		YTD	
	Jul	Sep	Oct	Dec	Jan	Mar	Apr	Jun		Jul	Sep	Oct	Dec	Jan	Mar	Apr			Jun
Pass	3,167		1,523		903				5,593	3,252		1,444		989				5,685	↑ 2%
Fail	755		687		404				1,846	681		606		414				1,701	↓ -8%
Total	3,922		2,210		1,307				7,439	3,933		2,050		1,403				7,386	↓ -1%
Pass Rate	81%		69%		69%				73%	83%		70%		70%				74%	↑ 1%

Non-Accredited PTA Program																				
	Fiscal Year 2015/16									Fiscal Year 2016/17								Year → Year Change		
	Q1		Q2		Q3		Q4			YTD	Q1		Q2		Q3		Q4		YTD	
	Jul	Sep	Oct	Dec	Jan	Mar	Apr	Jun			Jul	Sep	Oct	Dec	Jan	Mar	Apr			Jun
Pass	67		104		76				247	75		102		63				240	↓-3%	
Fail	86		113		56				255	75		82		63				220	↓-14%	
Total	153		217		132				502	150		184		126				460	↓-8%	
Pass Rate	44%		48%		58%				50%	50%		55%		50%				52%	↑2%	

Jurisprudence Examination - National Statistics**Accredited Program**

	Fiscal Year 2015/16										Fiscal Year 2016/17										Year → Year Change
	Q1		Q2		Q3		Q4		YTD	Q1		Q2		Q3		Q4		YTD			
	Jul	Sep	Oct	Dec	Jan	Mar	Apr	Jun		Jul	Sep	Oct	Dec	Jan	Mar	Apr	Jun				
Pass	2,091		1,478		1,076				4,645	2,262		1,290		1,063				4,615	↓ -1%		
Fail	556		515		357				1,428	697		450		378				1,525	↑ 7%		
Total	2,647		1,993		1,433				6,073	2,959		1,740		1,441				6,140	↑ 1%		
Pass Rate	79%		74%		75%				76%	76%		74%		74%				75%	↓ -1%		

Non-Accredited Program

	Fiscal Year 2015/16										Fiscal Year 2016/17										Year → Year Change
	Q1		Q2		Q3		Q4		YTD	Q1		Q2		Q3		Q4		YTD			
	Jul	Sep	Oct	Dec	Jan	Mar	Apr	Jun		Jul	Sep	Oct	Dec	Jan	Mar	Apr	Jun				
Pass	117		126		117				360	145		120		121				386	↑7%		
Fail	51		69		56				176	74		82		76				232	↑32%		
Total	168		195		173				536	219		202		197				618	↑15%		
Pass Rate	70%		65%		68%				68%	66%		59%		61%				62%	↓-6%		



Physical Therapy Board of California

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Briefing Paper

Date: 5/10/17

Prepared for: PTBC Members

Prepared by: Sarah Conley

Subject: License Maintenance Services Report

Purpose:

To provide an update on the most recent activities of the License Maintenance Services program

Attachments:

1. [License Maintenance Services Program Statistics](#)
2. Requests to Withdraw Approval Agency Recognition for:
 - i. [ABC Pilates](#)
 - ii. [Advanced Training Specialists](#)
 - iii. [Color Seven Education LLC](#)
 - iv. [Global Augmentative Communication Innovators](#)

Update:

The License Maintenance Services data reflects expected growth in license population as well as licensees in Retired status. The address change transactions processed data only reflects address changes processed using the designated address change transaction. Licensees may change their address through other transactions, such as renewals. If an address change is done through another transaction, the data is not captured and therefore unavailable to report. As reported at the last meeting, the significant decrease in name change transactions is due to a change in processing as well as the transition to Breeze which allows a more accurate capture of this data.

Staff is currently conducting Continuing Competency audits for Quarter 3 of Fiscal Year 2016/2017. The results of the audits conducted will be reported at the August 2017 meeting. Staff is wrapping up the last round of Approval Agency record updates. Staff initiated contact with Approval Agencies on record requesting updated provider and course information. This information assists staff in providing a more efficient audit process by lessening the burden on licensees in obtaining information. In the process of obtaining updated Approval Agency information, staff identified the Approval Agencies that either requested to withdraw Recognition or were unresponsive to requests. Staff is recommending withdrawal of Recognition for these Approval Agencies.

Action Requested:

Withdraw Recognition of Approval Agencies identified by staff. See individual issue papers.

Licensing Statistics Report

Active License Status

	FY 2015/16	Fiscal Year 2016/17										Year → Year Change
	YTD	Q1		Q2		Q3		Q4		YTD		
		Jul	Sep	Oct	Dec	Jan	Mar	Apr	Jun			
PT	23406	23728		24216		24261				24261	↑ 4%	
PTA	5960	6055		6231		6402				6402	↑ 7%	
Total	29366	29783		30447		30663				30663	↑ 4%	

Inactive License Status

	FY 2015/16	Fiscal Year 2016/17										Year → Year Change
	YTD	Q1		Q2		Q3		Q4		YTD		
		Jul	Sep	Oct	Dec	Jan	Mar	Apr	Jun			
PT	1345	1298		1320		1271				1271	↓-6%	
PTA	363	349		360		338				338	↓-7%	
Total	1708	1647		1680		1609				1609	↓-6%	

Retired License Status

	FY 2015/16	Fiscal Year 2016/17										Year → Year Change
	YTD	Q1		Q2		Q3		Q4		YTD		
		Jul	Sep	Oct	Dec	Jan	Mar	Apr	Jun			
PT/PTA	101	140		149		181				181	↑ 79%	

Active Specialty Certifications

	FY 2015/16	Fiscal Year 2016/17										Year → Year Change
	YTD	Q1		Q2		Q3		Q4		YTD		
		Jul	Sep	Oct	Dec	Jan	Mar	Apr	Jun			
KEMG	26	26		28		27				27	↑ 4%	
ENMG	18	22		22		21				21	↑ 17%	
Total	44	48		50		48				48	↑ 9%	

Transactions Processed

	FY 2015/16	Fiscal Year 2016/17										Year → Year Change
	YTD	Q1		Q2		Q3		Q4		YTD		
		Jul	Sep	Oct	Dec	Jan	Mar	Apr	Jun			
Renewals	12079	3695		3570		3741				11006	↓-9%	
Addresses	3201	1453		1117		1159				3729	↑16%	
Names	795	120		84		117				321	↓-60%	
Duplicates	197	96		102		129				327	↑66%	
Verifications	723	292		246		276				814	↑13%	
Total	16995	5656		5119		5422				16197	↓-5%	

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**Issue Paper**

Date: May 8, 2017

Prepared for: PTBC Board Members

Prepared by: Continuing Competency Services (CCS) Staff

Subject: Withdrawal of ABC Pilates Approval Agency Recognition

Purpose:

To advise the Board that ABC Pilates failed to comply with PTBC staff's request for information, and to request Board action.

Background:

ABC Pilates received PTBC Approval Agency Recognition on July 14, 2011. In an effort to update the PTBC's Continuing Competency Recognized Approval Agency records, staff sent a request for information to all Recognized Approval Agencies via email on October 27, 2016. Pursuant to California Code of Regulations (CCR) section 1399.95, subdivisions (i) and (j), a Recognized Approval Agency is obligated to respond to requests for information from the PTBC. ABC Pilates failed to respond to staff's first request so additional communication was initiated. Below is a list of all communication attempts with ABC Pilates:

Date Sent	Delivery Method	Result
October 27, 2016	Emailed to contact info on file	No response
January 10, 2017	Emailed to contact info on file	No response
February 1, 2017	Emailed to contact info on file	Email returned/rejected
May 2, 2017	Called	Received updated information and was advised ABC Pilates wanted its Recognition withdrawn
May 2, 2017	Emailed to follow-up on verbal notice requesting withdraw of Recognition using updated contact information	No response
May 9, 2017	Called	Received verbal and emailed response requesting for Recognition to be withdrawn from PTBC's Approval Agency list.

Analysis:

ABC Pilates is now under new ownership and has opened a sister company, Rausch Physical Therapy. ABC Pilates advised that it no longer offers CEU courses and requested its Approval Agency Recognition be withdrawn.

Action Requested:

Staff recommends the Board move to withdraw Approval Agency Recognition from ABC Pilates.

**Physical Therapy Board of California**

2005 Evergreen Street, Suite 1350, Sacramento, California 95815

Phone: (916) 561-8200 Fax: (916) 263-2560

www.ptbc.ca.gov

**Issue Paper**

Date: May 8, 2017

Prepared for: PTBC Board Members

Prepared by: Continuing Competency Services (CCS) Staff

Subject: Withdrawal of Advanced Training Specialists Approval Agency Recognition

Purpose:

To advise the Board that Advanced Training Specialists failed to comply with PTBC staff's request for information, and to request Board action.

Background:

Advanced Training Specialists received PTBC Approval Agency Recognition on September 1, 2010. In an effort to update the PTBC's Continuing Competency Recognized Approval Agency records, staff sent a request for information to all Recognized Approval Agencies via email on October 27, 2016. Pursuant to California Code of Regulations (CCR) section 1399.95, subdivisions (i) and (j), a Recognized Approval Agency is obligated to respond to requests for information from the PTBC. Advanced Training Specialists failed to respond to staff's first request so additional communication was initiated. Below is a list of all communication attempts with Advanced Training Specialists:

Date Sent	Delivery Method	Result
October 27, 2016	Emailed to contact info on file	No response
January 10, 2017	Emailed to contact info on file	No response
February 1, 2017	Emailed to contact info on file	Email returned/rejected
April 10, 2017	Called	Received updated information and was advised Advanced Training Specialists wanted its Recognition withdrawn
April 10, 2017	Emailed to follow-up on verbal notice requesting withdraw of Recognition using updated contact information	No response
May 2, 2017	Mailed Withdrawal Notice	No response
May 8, 2017	Mailed Withdrawal Notice via certified mail	No response

Please note Advanced Training Specialists' website is no longer active.

Analysis:

Advanced Training Specialists failed to report updated information to the PTBC. After several attempts to contact Advanced Training Specialists directly, staff initiated online research. After thorough investigation, staff concluded that Advanced Training Specialists no longer exists and an Approval Agency.

Action Requested:

Staff recommends the Board move to withdraw Approval Agency Recognition from Advance Training Specialists.

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**Issue Paper**

Date: May 8, 2017

Prepared for: PTBC Board Members

Prepared by: Continuing Competency Services (CCS) Staff

Subject: Withdrawal of Color Seven Education, LLC Approval Agency Recognition

Purpose:

To advise the Board that Color Seven Education, LLC failed to comply with PTBC staff's request for information and to request Board action.

Background:

Color Seven Education, LLC received PTBC Approval Agency Recognition on November 16, 2011. In an effort to update the PTBC's Continuing Competency Recognized Approval Agency records, staff sent a request for information to all Recognized Approval Agencies via email on October 27, 2016. Pursuant to California Code of Regulations (CCR) section 1399.95, subdivisions (i) and (j), a Recognized Approval Agency is obligated to respond to requests for information from the PTBC. Color Seven Education, LLC failed to respond to staff's first request so additional communication was initiated. Below is a list of all communication attempts with Color Seven Education, LLC.

Date Sent	Delivery Method	Result
October 27, 2016	Emailed to contact info on file	No response
January 10, 2017	Emailed to contact info on file	No response
February 1, 2017	Emailed to contact info on file	Email returned/rejected
May 2, 2017	Mailed Withdrawal Notice	No response
May 8, 2017	Mailed Withdrawal Notice via certified mail	No response

Please note Color Seven Education, LLC's website is no longer active.

Analysis:

Color Seven Education, LLC failed to report updated information to the PTBC. After several attempts to contact Color Seven Education, LLC directly, staff initiated online research. After thorough investigation, staff concluded that Color Seven Education, LLC no longer exists.

Action Requested:

Staff recommends the Board move to withdraw Approval Agency Recognition from Color Seven Education, LLC.

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**Issue Paper**

Date: May 8, 2017

Prepared for: PTBC Board Members

Prepared by: Continuing Competency Services (CCS) Staff

Subject: Global Augmentative Communication Innovators Approval Agency Recognition Termination

Purpose:

To advise the Board that Global Augmentative Communication Innovators failed to comply with PTBC staff's request for information, and to request Board action.

Background:

Global Augmentative Communication Innovators received PTBC Approval Agency Recognition on September 20, 2011. In an effort to update the PTBC's Continuing Competency Recognized Approval Agency records, staff sent a request for information to all Recognized Approval Agencies via email on October 27, 2016. Pursuant to California Code of Regulations (CCR) section 1399.95, subdivisions (i) and (j), a Recognized Approval Agency is obligated to respond to requests for information from the PTBC. Global Augmentative Communication Innovators failed to respond to staff's first request so additional communication was initiated. Below is a list of all communication attempts with Global Augmentative Communication Innovators:

Date Sent	Delivery Method	Result
October 27, 2016	Emailed to contact info on file	No response
January 10, 2017	Emailed to contact info on file	No response
February 1, 2017	Emailed to contact info on file	Email returned/rejected
May 2, 2017	Mailed Withdrawal Notice	No response
May 8, 2017	Mailed Withdrawal Notice via certified mail	No response

Please note Global Augmentative Communication Innovators' website is no longer active.

Analysis:

Global Augmentative Communication Innovators failed to report updated information to the PTBC. After several attempts to contact Global Augmentative Communication Innovators directly, staff initiated online research. After thorough investigation, staff concluded that Global Augmentative Communication Innovators no longer exists.

Action Requested:

Staff recommends the Board move to withdraw Approval Agency Recognition from Global Augmentative Communication Innovators.



Physical Therapy Board of California

BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY - GOVERNOR EDMUND G. BROWN JR.

Physical Therapy Board of California

Consumer Protection Services Program

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Phone: (916) 561-8200, Ext. 8215 Fax: (916) 263-2560 TOLL FREE 1-800-832-2251

Internet: www.ptbc.ca.gov EMAIL cps@dca.ca.gov



Briefing Paper

Date: May 10, 2017

Prepared for: PTBC Members

Prepared by: Carole Phelps

Subject: Consumer Protection Services Program (CPS)

Purpose: Consumer Protection Services Program and Update on CPS Performance Measures

Attachments: [A-1: Quarter 3 – Enforcement Performance Measures \(PM\)](#)
[A-2: Consumer Protection Services Report](#)
[A-3: Quarter 3 Disciplinary Summary](#)

I'd like to give a warm welcome to the new member of our team, Marney Kincaid. Ms. Kincaid was recruited February 13, 2017 as a permanent/full time, Associated Government Program Analyst with CPS. Ms. Kincaid previously served the Board of Accountancy, with a background in enforcement. Her background in enforcement has made this an easy transition.

Also, as of March 6, 2017, David Laxton filled the Limited Term position within the PTBC/CPS program as an Associated Government Program Analyst. Mr. Laxton previously served as a Staff Services Analyst within the PTBC/CPS since June 2015. This Limited Term position will give him the opportunity to enhance his experience in the enforcement program.

Attachment A-1: The Enforcement Performance Measures report is reported on the DCA's public website on a quarterly basis and is used by all DCA organizations to provide the public its Performance Measures.

As reported at the last Board meeting, the performance measures report was revised to include additional cycle times involved throughout the enforcement process by breaking down the PMs into sub-PMs.

Attachment A-2:

The CPS report provides detailed data of the enforcement program. We have received 25% more complaints so far this fiscal year than we did by this time last year; however Intake Average Days was reduced to three (3) days. Additionally, all Investigation times have gone down by 27-60%. In Q3, we continue to focus our primary efforts on completing investigations and administrative actions on the most egregious cases, and on aged cases, while still bringing investigation times down overall by working all cases timely. Less egregious cases that result in no action or in administrative citations are being closed relatively quickly, while cases that are sent to the AG's office understandably take

longer to investigate and come to a final outcome. Analysts communicate often with the Division of Investigation and with the AG's Office on aging cases to see what can be done to complete them.

Attachment A-3: The Disciplinary Summary reports formal discipline and citations issued for FY 2016-2017, Quarter 3 (January – March 2017). Disciplinary actions are of public record and are available through the BreEZe online license lookup.

Action Requested:

No Action Required.

Revised Enforcement Performance Measures

VOLUME		
PM1	VOLUME	Number of complaints and convictions received.
INTAKE		
PM2	CYCLE TIME - INTAKE	Average number of days from the date the complaint was received, to the date the complaint was closed or assigned for investigation.
INVESTIGATIONS		
PM3	CYCLE TIME - NO AG TRANSMITTAL	Average Number of Days to complete the entire enforcement process for complaints investigated and not transmitted to the AG for formal discipline (Includes intake, investigation, and case outcome or non-AG formal discipline.
PM3a	INTAKE ONLY	Of the cases included in PM3, the average number of days from the date the complaint was received, to the date the complaint was assigned for investigation.
PM3b	INVESTIGATION ONLY	Of the cases included in PM3, the average number of days from the date the complaint was assigned for investigation, to the date the investigation was completed.
PM3c	POST-INVESTIGATION ONLY	Of the cases included in PM3, the average number of days from the date the investigation was completed, to the date of the case outcome or non-AG formal discipline effective date.
TRANSMITTAL TO ATTORNEY GENERAL (AG)		
PM4	AG Cases	Average Number of Days to close cases transmitted to the AG for formal disciplinary action. This includes formal discipline, and closures without formal discipline. (e.g., withdrawals, dismissals, etc.)
PM4a	INTAKE ONLY	Of the cases included in PM4, the average number of days from the date the complaint was received, to the date the complaint was assigned for investigation.
PM4b	INVESTIGATION ONLY	Of the cases in PM4, the average number of days from the date the complaint was assigned for investigation, to the date the investigation was completed.
PM4c	PRE-AG TRANSMITTAL	Of the cases included in PM4, the average number of days from the date the investigation was completed, to the date the case was transmitted to the AG.
PM4d	POST-AG TRANSMITTAL	Of the cases included in PM4, the average number of days from the date the case is transmitted to the AG, to the date of the case outcome or formal discipline effective date.
PROBATION		
PM7	PROBATION INTAKE	Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.
PM8	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.

Revised 2/2017

Consumer Protection Services Statistics Report

Complaint Intake

	FY 2015/16	Fiscal Year 2016/17					
	YTD						
PM1: Complaints Received	301	81	207	78			↑
PM1: Convictions/Arrest Received	196	124	81	48			↑
PM1: Total Received	497	205	288	126			↑

PM2: Intake/Avg. Days		3	2	3			↓

PM3: Cycle Time-Investigation		126	91	96		104	↓
PM3a: Intake Only		2	2	2		2	↓
PM3b: Investigation Only		114	90	86		97	↓
PM3c: Post Investigation Only		8	0	4		4	↓

		Q1		Q2		Q3		Q4		YTD		
		Jul	Sep	Oct	Dec	Jan	Mar	Apr	Jun			
Up to 90 Days		126		117		167						↑
91 - 180 Days		17		17		41						↓
181 Days - 1 Year (364)		15		14		14						↑
1 to 2 Years (365-730)		14		4		7						↓
2 to 3 Years (731- 1092)		2		3		3						↓
Over 3 Years (1093 +)		1		1		0						↓

Citations

	FY 2015/16	Fiscal Year 2016/17										Year → Year Change
	YTD	Q1		Q2		Q3		Q4		YTD		
		Jul	Sep	Oct	Dec	Jan	Mar	Apr	Jun			
Final Citations	70	10		9		10				29	<div>↓</div> -59%	
Average Days to Close	312	542		327		280				383	<div>↑</div> 23%	

Transmittals to Attorney General (AG)

	FY 2015/16	Fiscal Year 2016/17					Year → Year
	YTD	Q1	Q2	Q3	Q4	YTD	Change
PM4: AG Cases	792	715	379	782			<div>↓</div> -21%
PM4a: Intake Only	3	2	1	1			<div>↓</div> -56%
PM4b: Investigation Only	305	251	132	450			<div>↓</div> -9%
PM4c: Pre-AG Transmittal	3	2	0	0			<div>↓</div> -78%
PM4d: Post-AG Transmittal	481	460	246	331			<div>↓</div> -28%

Physical Therapy Board of California
Consumer Protection Services Report
Fiscal Year 2016/17

		Fiscal Year 2016/17					Year → Year Change
		Q1	Q2	Q3	Q4	YTD	
AG Cases Initiated		9	9	15		33	↑ 200%
AG Cases Pending		15	14	23		23	↓ -28%
SOIs Filed		2	0	1		3	↑ 50%
Accusations Filed		6	4	6		16	↑ 23%

AG Transmittals							
	FY 2015/16	Fiscal Year 2016/17					Year → Year Change
	YTD	Q1 Jul Sep	Q2 Oct Dec	Q3 Jan Mar	Q4 Apr Jun	YTD	
Total Closed After Transmission	55	10	5	7		22	↓ -60%
Total Average Days to Complete	613	715	379	677		590	↓ -4%

Total Orders Aging/Final Decision							
	FY 2015/16	Fiscal Year 2016/17					Year → Year Change
	YTD	Q1 Jul Sep	Q2 Oct Dec	Q3 Jan Mar	Q4 Apr Jun	YTD	
Up to 90 Days	0%	0	0	0		0	→ 0%
91 - 180 Days	0%	0	1	0		5%	↑ 100%
181 Days - 1 Year (364)	2%	1	2	0		14%	↑ 12%
1 to 2 Years (365-730)	4%	5	2	5		55%	↑ 51%
2 to 3 Years (731- 1092)	25%	2	0	1		14%	↓ -11%
Over 3 Years (1093 +)	33%	2	0	1		14%	↓ -19%

Other Legal Actions							
	FY 2015/16	Fiscal Year 2016/17					Year → Year Change
	YTD	Q1 Jul Sep	Q2 Oct Dec	Q3 Jan Mar	Q4 Apr Jun	YTD	
Interim Suspension & PC 23 Ordered	3	1	0	2		3	→ 0%

Disciplinary Summary

The following is a list of disciplinary actions taken by the Physical Therapy Board of California for the months of January, February, & March 2017. The Decisions become operative on the Effective Date, with the exception of situations where the licensee has obtained a court ordered stay. Stay orders do not occur in stipulated decisions, which are negotiated settlements waiving court appeals.

Copies of Accusations, Decisions, or Citations may be obtained by visiting our website at www.ptbc.ca.gov. In addition to obtaining this information from our website, you may also request it by telephone, fax, or mail. Please address your request to:

Physical Therapy Board of California
2005 Evergreen Street, Suite 1350
Sacramento, CA 95815
(916) 561-8200/ FAX (916) 263-2560

.....
January 2017

HOSKING, KELLY MARIE (PT 19504)

Violation of B & P Codes: 490, 493, 2239, 2660, 2660(a), 2660(e), 2660(w), and 2661. Violation of CCR: 1399.20, 1399.24(b), 1399.24(d)(2), 1399.24(d)(3). Stipulated Settlement and Disciplinary Order Effective 01/16/17, 3 Yrs. Prob., or until completion of the substance abuse rehabilitation program plus one (1) year.

February 2017

ARIETA, NOLAN JOHN (PT 33235)

Decision Denying the Petition and Modifying Probation Condition Effective 02/06/17, Probation shall end with the Board is notified that Arieta has completed the Drug & Alcohol Recovery Program (Maximus); and sixty (60) days have elapsed after the Board's receipt of such notice.

CARROLL, RONALD BRUCE (PT 19670)

Violation of B & P Code: 2660. Ex Parte Interim Suspension Order Issued 02/15/17

JUMP, COURTNEY (PT 35117)

Decision Granting Petition for Termination of Probation Effective 02/06/17, Probation Term Completed.

March 2017

ARECHIGA, GREGORY (PTA 2995)

Violation of B & P Codes: 2608.5, 2620.7, 2630, 2630.3, 2660, and 2660(g). Violations of CCR: 1398.13, 1398.44, 1399.24(b). Stipulated Surrender of License and Order Effective 03/13/17, License Surrendered.

BATES, AMY (PT 35310)

Violation of B & P Codes: 490, 2239, 2660(a), 2660(e), and 2661. Violation of CCR: 1399.20. Stipulated Settlement and Disciplinary Order Effective 03/03/17, 3 Yrs. Prob., or one (1) year after completion of the Substance Abuse Rehabilitation Program, whichever is longer.

CARROLL, RONALD BRUCE (PT 19670)

Violation of B & P Code: 2660. Ex Parte Interim Suspension Order Issued 02/15/17. Decision Upholding Interim Suspension Order Effective 03/06/17.

MERCILL, BRIAN EDWARD (PT 26166)

Violation of B & P Codes: 490, 493, 2239(a), 2660(a), 2660(e), and 2661. Violation of CCR: 1399.24(d)(3). Stipulated Settlement and Disciplinary Order Effective 03/02/17, 5 Yrs. Prob., or completion of the substance abuse rehabilitation program plus one (1) year, whichever period of time is longer.

Initial Probationary Licenses (IPL) Issued

January through March 2017

(NONE)

Licenses Denied

January

MANZANO, MIGUEL ADRIAN WIJANGCO (APPLICANT)

Application Denied 01/27/17. Violation of B & P Code: 480 Grounds for Denial of License.

February & March 2017

(NONE)

Glossary of Terms

B & P Code – Business and Professions Code
H & S Code – Health and Safety Code
R & R – Rules and Regulations
CCR – California Code of Regulations

Accusations: Charges and allegations, which still must undergo rigorous tests of proof at later administrative hearings.

Petition to Revoke Probation: A Petition to Revoke Probation is filed when a licensee is charged with violation of a prior disciplinary decision.

Probationary License: Where good cause exists to deny a license, the licensing agency has the option to issue a conditional license subject to probationary terms and conditions.

Statement of Issues Filed: When an applicant for licensure is informed the license will be denied for cause, the applicant has a right to demand a formal hearing, usually before an Administrative Law Judge. The process is initiated by the filing of a Statement of Issues, which is similar to an accusation.

Surrender of License: License surrender as part of a disciplinary order.

Statement of Issues Decision: These are decisions rendered after the filing of a Statement of Issues.

Stipulated Decision: Negotiated settlements waiving court appeals.



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Briefing Paper

Date: May 10, 2017
Prepared for: PTBC Members
Prepared by: Monny Martin, PTBC Probation Monitor
Subject: Probation Monitoring Program

Purpose: Update on Probation Monitoring Program for FY 2016-2017

Attachments: [Probation Monitoring Report \(A-1\)](#)

Background:

This is a report on the Board's Probation Monitoring Program through the third quarter of FY 2016-2017. Please refer to attachment A-1 which contains the probation statistics for FY 2016-2017.

Currently there are 93 licensees on probation for various causes from Driving Under the Influence to Sexual Misconduct. Of those 93 licensees on probation, 25 probationers are tolling and not receiving credit toward the completion of probation. Of the 25 probationers currently tolling, 7 probationers are residing out of state.

Of the 68 licensees that are not currently tolling, 20 are currently enrolled and participating in the Board's Drug and Alcohol Recovery Monitoring Program, equaling 29% of all licensees on probation.

Action Requested:

No Action Required.

Probation Statistics Report

Probation											
	FY 2015/16							Year → Year Change			
	YTD										
Entered Probationer	39	4	3	3	0		↓	-74%			
Completed Probation	22	4*	4	6	0		↓	-55%			
Probation Terminated/Surrendered	0	0	0	1	1		↑	100%			
Non-Compliant w/Probation	1	0	0	0	0		↓	-100%			
Total Probationers	104	104	97	93			↓	-11%			

* 1 Participant Deceased

Maximus												
	FY 2015/16	Fiscal Year 2016/17										Year → Year Change
	YTD	Q1		Q2		Q3		Q4		YTD		
		Jul	Sep	Oct	Dec	Jan	Mar	Apr	Jun			
Entered Maximus	22	4		2		3		0		9	<div>↓</div> -59%	
Completed Maximus	2	0		1		1		0		2	<div>→</div> 0%	
Total Maximus Participants	23	19		19		20		0		20	<div>↓</div> -13%	
Determined To Be Clinically Inappropriate						2						