



Physical Therapy Board of California

BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY - GOVERNOR GAVIN NEWSOM

Physical Therapy Board of California

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Board Members

President

Alicia Rabena-Amen, PT, DPT

Vice-President

TJ Watkins

Members

Jesus Dominguez, PT, PhD

Daniel Drummer, PT, DPT

Katarina Eleby, M.A.

Tonia McMillian

Physical Therapy Board of California Adopted Meeting Minutes

June 20, 2019 9:00 a.m.

June 21, 2019 9:00 a.m.

California State University, Long Beach,
The Barrett Athletic Conference Center,
Room 223
1250 Bellflower Blvd.
Long Beach, CA 90840

Board Staff

Jason Kaiser, Executive Officer

Sarah Conley, Manager

Liz Constancio, Manager

Elsa Ybarra, 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 though some agenda items may have been taken out of order during the meeting.

Thursday, June 20, 2019

1. Call to Order

The Physical Therapy Board of California (Board) meeting was called to order by President Dr. Rabena-Amen at 9:03 a.m. and recessed at 6:26 p.m. on June 20, 2019. The Board reconvened at 8:59 a.m. and adjourned at 3:06 p.m. on June 21, 2019.

2. Roll Call and Establishment of Quorum

Dominguez- Present
Drummer – Present
Eleby – Present
McMillian – Present
Rabena-Amen - Present
Watkins – Present

All members were present, and a quorum was established. Also present at the meeting were: Michael Kanotz, Legal Counsel; Jason Kaiser, Executive Officer; Elsa Ybarra, Sarah Conley, Brooke Arneson, Monny Martin, April Beauchamps, Kim Rozakis and Timothy Davis.

Mr. Watkins read the Board's mission statement: To advance and protect the interests of the people of California by the effective administration of the Physical Therapy Practice Act.

3. Special Order of Business – 9:05 a.m.

(A) Petition for Modification of Probation/Termination of Probation – Matthew Isenberg, PT

This matter was heard before a quorum of the Board. Eileen Cohn, Administrative Law Judge (ALJ), Office of Administrative Hearings, sat with the Board and presided over the hearing. Christine Friar, Deputy Attorney General, represented the Attorney General of the State of California, under Government Code section 11522. Petitioner Matthew Isenberg, PT was present and represented himself. Evidence was received, the record was closed, and the matter was submitted for decision.

(B) Petition for Modification of Probation/Termination of Probation – Kelly Hosking, PT

This matter was heard before a quorum of the Board. Eileen Cohn, Administrative Law Judge (ALJ), Office of Administrative Hearings, sat with the Board and presided over the hearing. Christine Friar, Deputy Attorney General, represented the Attorney General of the State of California, under Government Code section 11522. Petitioner Kelly Hosking, PT was present and represented herself. Evidence was received, the record was closed, and the matter was submitted for decision.

(C) Petition for Modification of Probation/Termination of Probation – Michael Maga, PT

This matter was heard before a quorum of the Board. Eileen Cohn, Administrative Law Judge (ALJ), Office of Administrative Hearings, sat with the Board and presided over the hearing. Christine Friar, Deputy Attorney General, represented the Attorney General of the State of California, under Government Code section 11522. Petitioner Michael Maga, PT was present and represented herself. Evidence was received, the record was closed, and the matter was submitted for decision.

After submission of the matters, the Board convened 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), the Board will convene to Deliberate on Disciplinary Actions and Decisions to be Reached in Administrative Procedure Act Proceedings

(B) Pursuant to Government code section 11126(a)(1), the Board will convene to Consider the Evaluation of Performance of the Executive Officer.

(C) Pursuant to Government Code section 11126, subdivisions (e)(1) and (2)(A), the Board will convene to confer with, or receive legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the state body in the litigation.

The Board entered closed session at on day one, June 20, 2019, at 1:35 p.m. to deliberate on Agenda Item 3(A), 3(B) and 3(C). The Board reconvened open session at on 5:07 p.m. day one, June 20, 2019.

5. Reconvene Open Session

The Board reconvened into open session at 5:07 p.m. on day one, June 20, 2019.

6. Review and Approval of March 21-22, 2019 Meeting Minutes – Brooke Arneson

Mr. Kaiser presented the draft March 2019, meeting minutes on day two, June 21, 2019 of the meeting. Dr. Rabena-Amen complimented staff on the meeting minutes.

MOTION: Adopt the proposed March 21-22, 2019, Meeting Minutes.

M/S: Eleby/Watkins

VOTE: Dominguez- Aye
Drummer – Aye
Eleby – Aye
McMillian – Aye
Rabena-Amen - Aye
Watkins – Aye
6-0 Motion carried

7. Legislation Report – Brooke Arneson

(A) 2019/20 Legislative Session Summary

Mr. Kaiser presented the legislative report on behalf of Ms. Arneson. He provided the members with important dates from the legislative calendar and stated that the format of the legislative report was changed to provide a better visual on the process and progress of each bill during the legislative session.

i. AB 5 (Gonzalez) Worker Status: Independent Contractors

Mr. Kaiser did not provide an update on AB 5.

ii. AB 71 (Melendez & Kiley) Employment Standards: Independent Contractors and Employees

Mr. Kaiser did not provide an update on AB 71.

iii. AB 193 (Patterson) Professions and Vocations

Mr. Kaiser stated that AB 193 died in Committee.

iv. AB 476 (Blanca Rubio) Department of Consumer Affairs: Task Force: Foreign Trained Professionals

Mr. Kaiser stated that this bill may impact the Board if passed as the Board would participate in the task force regarding foreign trained professionals to determine if there are any unnecessary barriers to licensure for those that are foreign trained.

v. AB 496 (Low) Business and Professions

Mr. Kaiser reported that AB 496 would affect the Board as it opens up the Board's Practice Act to make minor edits to gendered base terms and other basic terms such as "licentiate" would be replaced with "licensee."

vi. AB 544 (Brough) Professions and Vocations: Inactive Licenses Fees and Accrued and Unpaid Renewal Fees

Mr. Kaiser reported that this bill failed the deadline and died in Committee.

vii. AB 613 (Low) Professions and Vocations: Regulatory Fees

Mr. Kaiser reported that AB 613 is authored by Assembly Member Evan Low and it is designed to allow Boards to look at their fees and Boards would be able to increase fees based on the cost book of California; mainly this would be attributed to inflation or other overhead costs. Mr. Kaiser stated that the legislature has heard from many Boards during the Sunset Process regarding the difficulties of justifying and raising fees and this bill would provide another avenue for Boards to pursue.

Dr. Drummer questioned how this bill affects Boards, such as ours, when fees are already at the statutory cap. Mr. Kaiser stated that a great deal of discussion has occurred regarding this issue and because the language in the bill is a separate vehicle for fee increases and separate statutory authority, the statutory language outlined in this bill would supersede the fee cap in statutory language which would allow the Board to increase its fees over the statutory cap based on the price book of California percentage. Mr. Kanotz, legal counsel, added that the fee increase addressed in AB 613 would not be subject to the regulatory process.

Mr. Kaiser stated that there is a great deal of ambiguity regarding the proposed bill text and how it will conflict with existing statutes which has not been addressed yet during the legislative session.

Dr. Drummer clarified that the fee increase would likely be incremental based on the California Price Index which is usually only a few percent. Mr. Kaiser responded that Dr. Drummer was correct and added that this bill would not change the normal regulatory process to increase fees; it would just be adding an additional vehicle for the Board to pursue a fee increase.

viii. AB 1076 (Ting) Criminal Records: Automatic Relief

Mr. Kaiser stated that AB 1076 primarily affects the Department of Justice (DOJ) and specifically the criminal background information that the Board receives from DOJ. This bill would automate DOJ's criminal records relief process and would remove criminal information from the record if an applicant meets the criteria for expungement, it would happen automatically and as a result the Board would not be made aware of a good portion of convictions that currently would be disclosed in the criminal record.

Dr. Rabena-Amen asked what the specified exceptions were as written in the bill text. Mr. Kaiser responded that right now it is a broad term as they will need to determine with all the different Boards, Bureaus, Professions and entities outside of the Department what exceptions will need to be made in the future. Mr. Kaiser further clarified that the exceptions would be professions that would be excluded from this as it would be deemed a danger to the public.

ix. AB 1592 (Bonta) Athletic Trainers

Mr. Kaiser did not provide an update on AB 1592.

x. SB 53 (Wilk & Lackey) Open Meetings

Mr. Kaiser stated that SB 53 looks at the Open Meetings Act and it would require that any committees that the Board would form with two people or more be subject to the Open Meetings Act. This requirement could affect the Board and could create a difficulty in logistics, extended calendar timelines and increase in costs for meetings.

Mitch Kay, physical therapist with the California Physical Therapy Association (CPTA) asked what the costs associated with sending out a notice for a meeting would be and what other expenses would be incurred by the Board. Mr. Kaiser responded that the cost of noticing the meeting is not much since that can be done electronically, however logistically planning the meeting; including securing venues to hold the meetings and webcasting and broadcasting services for public accessibility would be an issue.

Ms. Eleby added that she was concerned with the Board's ability to be nimble and handle Board business in between Board meetings and utilize the smaller Committee to bring issues back to the Board for a decision.

Dr. Rabena-Amen stated she would be comfortable with opposing this bill. Ms. Eleby agreed that she also agreed with opposing the bill. Dr. Drummer added that the Board discussed this bill at the March 2019, meeting and in the past few years, and of note, Governor Brown did veto two separate versions, stating that there is adequate public protection. Dr. Dominguez was not comfortable opposing the bill without the Board suggesting specific amendments. Dr. Drummer stated that the only amendment he would be comfortable suggesting is amending the word "advisory" to action committee or amending it to imply that the committee would have more power than just being advisory to the full Board. Mr. Kaiser added that the Board has not taken a position on this bill when it was introduced in previous legislative sessions.

Dr. Drummer asked that PTBC staff keep the Board apprised of the status of SB 53 and if necessary, the Board could call an emergency meeting or teleconference in August to take a position on the bill and the Board agreed with Dr. Drummer's suggestion.

xi. SB 425 (Hill) Health Practitioners: Licensee's File: Probationary Physicians and Surgeons Certificate: Unprofessional Conduct

Mr. Kaiser did not provide an update on SB 425.

xii. SB 537 (Hill) Workers Compensation: Independent Bill Review

Mr. Mitch Kay, PT and CPTA member spoke on behalf of SB 537 as CPTA introduced this bill. Mr. Kay provided the Board with a summary of SB 537 and stated that in mid-July this bill would be heard by the Assembly Insurance Committee. Mr. Kaiser stated that the bill would be going to the Assembly Appropriations Committee soon. Mr. Kay stated that CPTA will be meeting the last week of June 2019, to discuss potential amendments to SB 537 that will be brought forward by insurance companies. Dr. Rabena-Amen stated that she supported the Board taking a support position on SB 537.

Dr. Drummer questioned if the issues outlined in the bill could potentially create a problem with limiting access to quality and convenient physical therapy care for patients with a worker's compensation case. Mr. Kaiser agreed that it could potentially over time create limited access to physical therapy services. Dr. Rabena-Amen added that she believes that workers compensation consumers do not always get timely care because of this issue.

Mr. Watkins stated he had concerns the Board is not addressing the Board's mandate of protecting the public and this bill could potentially be infringing on advocating for the profession when speaking about compensation and the issues addressed in the bill and asked how the public will be impacted in the short and long term. Mr. Kay responded that wait times have increased for workers compensation consumers and they are at a disadvantage with striving to find local coverage and quality care.

Ms. McMillian stated that she supported SB 537 and Ms. Eleby agreed. Mr. Watkins stated that the Board's mandate is public protection, so he felt a neutral position is better for the Board. Ms. Eleby stated that she felt it was a unique situation where the Board could protect the public and protect its licensees. Ms. McMillian added that consumers would be affected by availability and quality care which directly pertains to the patient. Dr. Drummer added that the author of the bill, Senator Hill, and those supporting the bill would not endorse this cause if it was about financial gain for providers and physical therapists. Dr. Drummer stated that

the author is intently focused on support of the workers compensation system and adequate, proficient and accessible care for consumers of California.

MOTION: To adopt a position of support for SB 537 and authorize the Executive Officer to draft a letter of support to be submitted to the bill's author, the chair of the assembly business and professions committee and the governor should the bill in its current status be enrolled

M/S: McMillian/Eleby

VOTE: Dominguez- Aye
Drummer – Aye
Eleby – Aye
McMillian – Aye
Rabena-Amen - Aye
Watkins – No
5-1 Motion carried

8. Rulemaking Report

(A) 2019 Rulemaking Update – *Brooke Arneson*

- i. Examination Passing Standard/Setting Examination Score
- ii. Guidelines for Issuing Citations and Imposing Discipline, 6th Edition
- iii. Satisfactory Documentary Evidence of Equivalent Degree for Licensure as a Physical Therapist or Physical Therapist Assistant/Coursework Tool
- iv. Federation of State Boards of Physical Therapy's (FSBPT) Performance Evaluation Tool for Foreign Educated Physical Therapists Completing a Supervised Clinical Practice in the United States
- v. Substantial Relationship Criteria
- vi. Rehabilitation Criteria for Denial and Reinstatement of Licensure
- vii. Rehabilitation Criteria for Suspensions and Revocations

Mr. Kaiser highlighted that since the previous Board meeting the three rulemaking files regarding the AB 2138 regulations are now with DCA legal counsel for review and we will be working with legal counsel on the Initial Statement of Reasons and will bring this regulation back to the Board for a hearing date.

(B) Discussion and Possible Board Action to Amend Title 16, California Code of Regulations Section 1399.15 Guidelines for Issuing Citations and Imposing Discipline – *Elsa Ybarra*

Ms. Ybarra presented the proposed changes on the Disciplinary Guidelines rulemaking package. Ms. Ybarra referred members to the handout of proposed changes provided. Ms. Ybarra stated that the Board already adopted the Disciplinary Guidelines, however the changes necessitated from the passage of AB 2138 warranted revisions to the Disciplinary Guidelines presented on the handout for Board consideration to avoid having to do another rulemaking package in the future.

Ms. Ybarra stated that the changes were very minor, including updating the Board members and reflecting the new Governor of California. In addition, Ms. Ybarra stated that on the second page of the handout the Denial of Licensure and Issuance of an Initial Probationary License, also needed to be amended to reflect AB 2138 changes. The existing language (four bullets) was deleted and added the bill language from AB 2138 regarding the applicants with criminal convictions.

Mr. Kaiser added that the major changes warranted from the passage of AB 2138 was the time duration for history of criminal convictions of 7 years and also the types of violations that are not listed as substantial crimes within the Penal Code so there will be crimes the Board cannot consider during their deliberation and determination.

Dr. Rabena-Amen asked if those crimes the Board cannot consider were considered by the Board now and Mr. Kaiser responded yes. Dr. Rabena-Amen asked Mr. Kaiser for an example and Mr. Kaiser stated a DUI would be an example; as it is not listed nor defined in the Penal Code as being a significant crime; therefore, a DUI that was over 7 years old would not be able to be considered by the Board in their determination. Dr. Drummer asked in the case where there is a pattern of DUI's how is that affected by the passage of AB 2138. Mr. Kaiser responded that the Board would lose evidentiary pattern as they would only be able to view the convictions that occurred during the 7-year period as evidence of a violation.

Mr. Kaiser stated some additional examples would be domestic disturbances, drunk in public, disturbing the peace etc. which can help the Board in establishing patterns of behavior. Mr. Kaiser stated that sexual misconduct and grand theft is on the list of significant crimes within the Penal Code, so the Board would be able to look at those crimes.

Mr. Kaiser stated that the Board did write a letter of opposition to AB 2138 and the changes proposed to the Disciplinary Guidelines is to plug in the language from AB 2138 into the Disciplinary Guidelines. Mr. Kanotz, legal counsel stated that one thing to note is that AB 2138 only applies to the initial granting of a license; when the Board is

considering discipline all those previous acts are available for the Board's consideration. Mr. Kanotz also clarified that the law doesn't take effect until July 1, 2020 and DUI convictions are still substantially related; however, the 7-year timeframe limits the Board's ability to consider those convictions for an applicant only, not for current licensees.

Ms. Ybarra directed members to page 170-171 which is the new BPC 480 grounds for denial to conform to AB 2138.

Ms. Eleby suggested some minor edits including the following: on page 1 of the proposed language the last bullet point should begin with "the applicant" to be consistent with the other bullet points and the inconsistencies with the use of capitalization on the word "Section" throughout the language should be corrected to be uniform throughout.

MOTION: To approve the proposed regulatory changes as modified and direct the Executive Officer to take all steps necessary to initiate the rulemaking process, authorize the Executive Officer to make any technical or non-substantive changes to the rulemaking package, notice the proposed text for a 45-day comment period and if no hearing is requested, adopt the proposed regulatory changes as modified.

M/S: Watkins/Eleby

VOTE: Dominguez- Aye
Drummer – Aye
Eleby – Aye
McMillian – Aye
Rabena-Amen - Aye
Watkins – Aye
6-0 Motion carried

(C) Discussion and Possible Board Action to Amend Title 16, California Code of Regulations Section 1398.26.1 Satisfactory Documentary Evidence of Equivalent Degree for Licensure as a Physical Therapist or Physical Therapist Assistant – *Brooke Arneson*

Mr. Kaiser presented the proposed language for CCR 1398.26.1 and thanked Mr. Kanotz, legal counsel, for his help in rewriting the proposed language to make it easier to understand. Mr. Kaiser reported that in the process of amending the language, staff

discovered, with the help with Dr. Drummer, that FSBPT is providing a new product, a coursework tool that is updated for Physical Therapy Assistants so the new language for Board consideration includes both PTA Tools 1 and 2. Mr. Kaiser directed the Board to a handout which reflected the addition of both PTA tools.

Dr. Drummer stated that the proposed language is to address foreign trained PT's and PTA's and the beginning and title of this section as written, doesn't fully clarify that this is about foreign trained applicants in programs that are not yet accredited, applying for licensure. Dr. Drummer also stated that not all programs are degree programs, so he suggested that "education" should be used in lieu of "degree." Dr. Rabena-Amen agreed with Dr. Drummer's suggested amendments. Mr. Kanotz, legal counsel, provided the Board with suggested amendments to the language replacing Degree with "Foreign Education" in the title, and in subdivision (a) inserting after "physical therapy educational programs" adding "that are not located in the United States."

Ms. Eleby suggested inserting "FSBPT" before Course Work Tool in subdivision e(7) and e(8) for consistency.

Dr. Drummer questioned whether it was necessary to include the number of coursework tools incorporated by reference in subdivision (e) because it does not take into consideration FSBPT creating new coursework tools in the future which would mean if that occurred the Board would have to amend the regulation again. Mr. Kanotz, legal counsel, stated referencing the number of publications incorporated by reference was not necessary; it was historical language and the Board decided to strike the number "eight" from the proposed language.

Dr. Drummer suggested using that word "appropriate" in lieu of the word "corresponding" in subdivision (b) and to also add at the end of the sentence in subdivision (b) "in accordance with subdivision (e)" to better clarify the publications incorporated by reference. Mr. Kanotz agreed with Dr. Drummer's amendments to subdivision (b).

Ms. Eleby also suggested adding the acronym "(FSBPT)" into subdivision (b) after "Federation of State Boards of Physical Therapy's" to be consistent with the rest of the proposed language.

MOTION: To approve the proposed amended 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.”

M/S: Drummer/Eleby

VOTE: Dominguez- Aye
Drummer – Aye
Eleby – Aye
McMillian – Aye
Rabena-Amen - Aye
Watkins – Aye
6-0 Motion carried

9. 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).]

The Board requested public comment on items not on the agenda, and there was no public comment.

Dr. Rabena-Amen welcomed and thanked Mr. Michael Kanotz, the Board’s newly appointed legal counsel.

10. Recess

The Board recessed at 6:26 p.m. on the first day of the meeting, Thursday, June 20, 2019.

Friday, June 21, 2019

11. Call to Order

The Board reconvened at 8:59 a.m. and adjourned at 3:06 p.m. on day two, June 21, 2019.

12. Roll Call and Establishment of Quorum

Dominguez- Present
Drummer – Present
Eleby – Present
McMillian – Present
Rabena-Amen - Present
Watkins – Present

All members were present, and a quorum was established. Also present at the meeting were: Michael Kanotz, Legal Counsel; Jason Kaiser, Executive Officer; Elsa Ybarra, Sarah Conley, Monny Martin, April Beauchamps, Kim Rozakis and Timothy Davis.

Mr. Watkins read the Board's mission statement: To advance and protect the interests of the people of California by the effective administration of the Physical Therapy Practice Act.

13. Closed Session

(A) Pursuant to Government Code section 11126(c)(3), Deliberation on Disciplinary Actions and Decisions to be Reached in Administrative Procedure Act Proceeding

(B) Pursuant to Government Code section 11126(a)(1), the Board will convene to Consider the Evaluation of Performance of the Executive Officer.

(C) Pursuant to Government Code section 11126, subdivisions (e)(1) and (2)(A), the Board will convene to confer with, or receive legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the state body in the litigation.

The Board did not enter into closed session on Day Two, June 21, 2019, of the Meeting.

14. Reconvene Open Session

The Board did not enter into closed session on Day Two, June 21, 2019, of the Meeting.

15. President's Report – *Alicia Rabena-Amen*

(A) 2019 Adopted Meeting Calendar

Dr. Rabena-Amen questioned the location for the September 18-19, 2019, meeting and Mr. Kaiser stated that the location is still being finalized; however, the meeting would take place in the Bay Area. Mr. Kaiser also stated that the December 12-13, 2019, meeting would take place in Sacramento, at the DCA Hearing Room on Evergreen Street. Ms. Eleby asked that the FSBPT Leadership Issues Forum on July 13-14, 2019, be highlighted on the calendar.

(B) 2020 Proposed Meeting Calendar

Dr. Rabena-Amen presented the 2020 meeting calendar. Dr. Drummer questioned the dates that were scheduled in the Bay Area and the Southern California for the June and September meetings. Mr. Kaiser responded that staff try to consider the legislative calendar, educational programs, graduating classes timeframes when picking dates and locations for the Board meetings in hopes to get more student participation from the programs.

Dr. Drummer informed the Board that CPTA's Annual Conference will be held on October 2-4, 2020 in Anaheim, CA and he would like that added to the 2020 proposed calendar.

Dr. Rabena-Amen stated the Board would take action on this calendar at the December 2019, meeting.

16. Executive Officer's Report – *Jason Kaiser*

Mr. Kaiser presented the Executive Officer's Report.

(A) Administrative Services

Mr. Kaiser welcomed Timothy Davis to the Board who will be serving as a liaison for the PTBC Board members. Mr. Kaiser stated the Board currently has multiple vacancies and a few more that the Board will be recruiting for in July. Mr. Kaiser stated that the Board will be recruiting for an Assistant Executive Officer. Dr. Rabena Amen asked Mr. Kaiser when PTBC anticipates hiring the additional staff and Mr. Kaiser responded that most of the positions go into effect July 1, 2020; however, there is not room at our current location to accommodate additional staff above the few positions the Board is already recruiting for.

(B) Applications

The Board was referred to Agenda Item 20 for a detailed report.

(C) Licensing/Continuing Competency

The Board was referred to Agenda Item 21 and 22 for a detailed report.

(D) Consumer Protection Services

The Board was referred to Agenda Item 23 for a detailed report.

(E) Outreach

The Board was referred to Agenda Item 18(B) for a detailed report.

(F) PTBC Relocation

Mr. Kaiser reported that the Board is on track for relocation upstairs and is currently in the planning phase and transitioning to negotiations phase and staff will be preparing the floor plan, selecting and approving new equipment and furniture. Dr. Rabena-Amen asked if there was a timeline for the move upstairs and Mr. Kaiser responded that he anticipated that the Board would be in the new location by June 2020. Dr. Rabena-Amen asked if there was additional information on DCA moving to a central location. Mr. Kaiser responded that the plan to move all the DCA Boards and Bureaus to a centralized location has been cancelled because of logistical issues.

Ms. McMillian requested that when staff are choosing furniture and equipment to also take into consideration employees who are breastfeeding and need additional resources to facilitate those needs. Mr. Kaiser responded that the Board has a designated lactation room in the building.

(G) Strategic Plan

Mr. Kaiser reported that staff are working on the objectives and goals outlined in the Strategic Plan as well as with the facilitator from SOLID. He stated that as part of the PTBC's action plan, staff satisfaction surveys were sent to staff to complete and will establish a baseline measurement of employee satisfaction and SOLID facilitated a focus group to address solutions and tie them into the existing strategic plan.

Dr. Rabena-Amen stated that this meeting will be Vice-President Watkins last meeting on the Board and expressed her concern with having two vacancies on the Board which could potentially put the Board in jeopardy of having a quorum. Mr. Kaiser added that Mr. Watkins position is appointed by the Speaker of the Assembly, so staff will be reaching out to them to fill the vacancy.

17. Consumer and Professional Associations and Intergovernmental Relation Reports

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

No representatives were present. Ms. Eleby, the Board's FSBPT delegate reported on behalf of FSBPT. She stated that FSBPT will be holding its Leadership Issues Forum on July 13-14, 2019, in Alexandria, Virginia. Ms. Eleby reported that additionally, FSBPT would be holding Regulatory Training for

Members and Board Staff including legal counsel on August 16-18, 2019, also in Alexandria, Virginia. Ms. Eleby stated FSBPT would also be holding their 2019 Annual Meeting and Delegate Assembly on October 24-26, 2019, in Oklahoma City, Oklahoma.

Ms. Eleby asked if the other members of the Board who sit on taskforces or committees had any updates for the Board. Dr. Rabena-Amen stated that the member survey task force survey results would be presented during the Leadership Issues Forum (LIF) meeting in July 2019. Dr. Dominguez stated that the education committee is finalizing programming and the committee is working on a theme for next year. Mr. Kaiser stated that the Board assessment taskforce meets on Monday, June 25, 2019, to finalize their presentation for LIF and the endorsement or taskforce geared toward license verification/endorsement has finalized their recommendations and will be presenting those also at the LIF meeting.

Ms. Eleby stated that FSBPT recently participated in the International Network of Physiotherapy Regulatory Authorities conference in Geneva, Switzerland in May 2019.

Ms. Eleby reported that Colorado is now accepting compact privileges as part of the PT compact, Delaware recently introduced compact legislation and Maryland's Governor signed the PT compact bill making Maryland the 25th state to issue licensure compact privileges. Ms. Eleby stated she can share with staff an updated licensure compact map. Mr. Kaiser clarified that 25 states are in the licensure compact; however only 4 or 5 states are issuing the privileges which changes on a quarterly basis as states promulgate regulation.

Ms. Eleby stated that a NPTE workshop is now available on the west coast and FSBPT is preparing to host the NPTE workshop for educators on Saturday and Sunday, October 5-6, 2019, in Los Angeles at the Hyatt Regency. She reported that educators should expect to receive insight on how the NPTE is developed and how to prepare students for the NPTE as well as hands on assistance on writing tests similar to the NPTE.

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

Karen Nelson, Assistant Deputy Director of Board and Bureau Services provided an update to the Board on behalf of DCA. Ms. Nelson reported that Director Dean Graffilo left his post as Director of DCA on April 19, 2019, and the Governor's office is currently working toward finding a new successor. Ms. Nelson stated that during the transition, Chief Deputy Director, Chris Shultz hosted the June 3rd Director's Quarterly Meeting.

Ms. Nelson reported that in January DCA launched a publicly accessible page where the public can view licensing statistics for all of DCA's Boards and Bureaus and in April they incorporated the enforcement and application data into the portal which will be helpful to Boards and Bureau's in providing data and statistics.

Ms. Nelson stated that on May 22nd the Future Development Leadership individuals graduated, and Ms. Nelson thanked Mr. Kaiser for his participation in the steering committee. Ms. Nelson also thanked Mr. Watkins for coming to the Board panel for one of the sessions and the participants expressed their appreciation for his presentation.

Ms. Nelson reported that DCA retained KH Consulting to conduct the Executive Officer Salary Study and there was a slight delay due to challenges from receiving information from other states to compare with DCA Boards. Ms. Nelson stated that the study is currently being reviewed by Agency and DCA is aiming to release the final report in the next few weeks and as soon as it is released, DCA will convene a teleconference with the Executive Officers as well as Board Presidents so they can provide an overview of the findings. Ms. Nelson stated that DCA will be meeting individually with the programs to go over the findings in detail.

Ms. Nelson reminded the Board that all Board members and DCA employees are required to complete the sexual harassment prevention training this year. Ms. Nelson also informed the Board that DCA is working very closely with Agency and the Governor's Office in making sure that appointments and vacancies are addressed, and she stated that she would inform them that there could be a quorum issue with the Board's two current vacancies.

(C) California Physical Therapy Association (CPTA)

No presentation was made on behalf of CPTA.

18. Administrative Services – Discussion and Possible Board Action

(A) Budget Report – *Kim Rozakis*

Ms. Rozakis presented the Budget Report on behalf of budget staff. She reported that for fiscal year 2018/19, there is a projected reversion of \$150,000 to the fund streamlining the cost savings.

Ms. Rozakis informed the Board that the Spring Finance Letter was approved by the Department of Finance which will provide for funds for the Board's location move. Mr. Kaiser added that the Spring Finance Letter (SFL) will allow for the Board to use

the money already set aside in the Architecture Revolving Fund (ARF) to assist the Board with the move. Mr. Kaiser also stated that the authority for those funds are only available for a certain amount of time, so it creates a sense of urgency for the move to be done timely.

Ms. Eleby asked how much money was set aside in the ARF and Mr. Kaiser answered that \$550,000 has been saved. Ms. Eleby asked how much the total move would cost the Board and Mr. Kaiser responded that the Board is still in the estimates phase of the move; however, since the Board is moving into undeveloped space the costs could be higher than the money set aside in the ARF.

Mr. Kaiser added that an SFL is a budget change proposal that is off calendar; its for emergency situations that cannot wait for the regular budget change proposal process. Dr. Rabena-Amen asked how many times the Board has used a Spring Finance Letter in the past and Mr. Kaiser responded that this is the second time the Board has considered an SFL; and the first time the Board found other means and did not pursue an SFL. Mr. Kaiser added that this SFL applies to all the Boards, and Commissions within DCA that are moving from the Evergreen Street Location.

Ms. Eleby asked when the traditional budget change proposal season was, and Mr. Kaiser responded that it is a year long process and budget change proposal concept papers are being prepared now and they go along with the governor's budget timeline. Mr. Kaiser added that the budget change proposals are done in August and approval is heard usually around March.

Dr. Rabena-Amen asked what the \$99,000 scheduled reimbursement was for and Mr. Kaiser responded that it is a placeholder for fingerprint processing costs. Mr. Kaiser clarified that scheduled reimbursements are for things that we know of and then there are also unscheduled reimbursements, such as cost recovery that are unknown.

Dr. Drummer questioned why the general expense line item is at 123% of the budget spent. Mr. Kaiser responded that there are a few line items where the Board is exceeding their authorized budget and that budget staff throughout the year will continue to readjust the line items.

Dr. Drummer asked why the Board Member line item is over expended and Mr. Kaiser responded that historically, the Board usually over expends that line item and those costs are attributed to travel and per diem expenses which can include case

review etc. Dr. Rabena- Amen asked if that line item was unusual from previous fiscal years and Mr. Kaiser responded no and that it would be readjusted in the next fiscal year or two. Ms. Eleby thanked the Board's budget analyst, Carl Nelson for his diligence in monitoring the Board's budget.

(B) Outreach Report – *April Beauchamps*

Ms. Beauchamps reported that the Board's website had a 6% decrease with the laws section having the most significant decrease at 17% compared to prior fiscal year. Ms. Beauchamps stated that the reason for the decrease on the laws section is due to more outreach being done at schools where the laws and regulation books are being handed out and QR codes are being given to the students, so they access the laws and regulations through downloading the pdf instead of using the website page.

Ms. Beauchamps stated that the forms page had the second largest decrease of 16% and this is due to the Board going green and removing the forms and directing users to use BreZE. Ms. Beauchamps reported that the "About Us" section of the website has also increased due to social media directing people to that tab for meeting agendas locations etc.

Ms. Beauchamps reported a 43% increase in the traffic for Facebook and stated that she added FaceBook Definitions to the outreach briefing paper. Ms. Beauchamps stated that the post with the most activity this quarter was the Skate MD video which reached 6.9 thousand people and there were 580 clicks, and 483 engagements (which includes likes, hearts, wows, comments and shares).

Ms. Beauchamps reported that the Board conducted four outreach events this quarter: University of the Pacific on January 16th, California State University, Fresno on January 22nd, University of California, San Francisco /San Francisco State University on February 5th and University of the Pacific again on February 13th.

Ms. Beauchamps stated that the Spring 2019 Progress Notes were released in May and the Board has gotten a lot of great feedback on the publication. Ms. Beauchamps informed the Board that the progress notes contained an article about hosting a board meeting and two schools have already contacted the Board wanting to host a meeting. In addition, Ms. Beauchamps reported schools that the Board has yet to visit, have contacted the Board requesting outreach presentations.

19. Discussion and Possible Board Action on the Board Member Administrative Manual – April Beauchamps

Ms. Beauchamps presented the Board Member Administrative Manual for Board consideration. The Board made additional edits to the proposed Board Member Administrative Manual.

MOTION: To approve the Board Administrative Manual as amended and grant the Executive Officer and his staff to make any non-substantive changes

M/S: Eleby/Watkins

VOTE: Dominguez- Aye
Drummer – Aye
Eleby – Aye
McMillian – Aye
Rabena-Amen - Aye
Watkins – Aye
6-0 Motion carried

20. Application Services – Discussion and Possible Board Action – Sarah Conley

- (A) Program Updates
- (B) Statistical Reports

Ms. Conley reported that applications have increased 20%, (approximately 100 applications) which is a significant impact to workload. Ms. Conley stated that there are strategies to mitigate the negative impact to the increased workload which include external strategies such as increased outreach and having applicants apply online and internal strategies such as system changes and processes. Ms. Conley stated that the Board's outreach strategies have been successful in disseminating information which is reflected in the statistical reports that show the online PT and PTA applications have increased significantly. Ms. Conley stated that staff remain focused on increasing the use of the online application as BreEZe accounts are further developed with increased functionality.

Ms. Conley reported that the percentage of military applications increased significantly, and the number of licensees and exam statistics remain consistent in comparison to last fiscal year.

Mr. Kaiser added there may be two more PTA programs in Northern California soon and an additional three PTA programs have applied with the Commission on Accreditation in Physical Therapy Education (CAPTE) and are at various stages in the development process.

Dr. Drummer noted the lack of variability in the passing score statistics between the previous fiscal year and year-to-date this fiscal year.

Dr. Rabena-Amen stated that she would like to see the pass rates go up for the California Law Exam and questioned whether there is an emphasis on the laws and regulations in the school programs. Dr. Rabena-Amen added that she does not want the emphasis to be on just studying to pass the exam but rather on knowing the California practice act.

21. Licensing Services – Discussion and Possible Board Action – Sarah Conley

- (A) Program Updates
- (B) Statistical Reports

Ms. Conley reported that there is an increase in the number of address changes submitted online from last year and additionally, the number of renewal and name change transactions processed has increased. Ms. Conley also stated that the number of address changes, duplicate and verification requests have decreased which is attributed to licensees being encouraged to utilize online transactions through BreEZe in lieu of using paper forms.

Ms. Conley added that staff workload is more reconciling reports vs. data entry because licensees have more control (through BreEZe) over their own information and they can go into their account and update their information and many requests can be processed instantaneously once done online.

Ms. Eleby asked that a chart be added to the materials that shows the number of total licensees by license type.

Dr. Rabena-Amen questioned what a verification request is, and Ms. Conley responded that it is also referred to as an endorsement and is certifying a California license when the licensee is applying in another state.

22. Continuing Competency Services – Discussion and Possible Board Action – Sarah Conley

- (A) Program Updates
- (B) Statistical Reports

Ms. Conley reported that there was an update to the materials for the quarter 2 PT pass rate of 93% as a pending audit was resolved. Ms. Conley stated that the PTA audit pass rate is 81%.

Dr. Rabena-Amen asked how quickly approval agencies who have lost continuing competency recognition are reflected on the Board's website and Ms. Conley responded that the website reflects this information within a few weeks from the date recognition was removed by the Board. Mr. Kaiser added that the Board's website shows when recognition was removed from an approval agency which provides a history record for the agency.

Ms. Conley added that the strategic plan developed with the help of DCA's SOLID has been extremely helpful with streamlining the Board's goals and objectives and tracking the Board's progress in meeting the goals identified in the Board's strategic plan.

23. Consumer Protection Services – Discussion and Possible Board Action– *Elsa Ybarra*

- (A) Program Updates
- (B) Statistical Reports

Ms. Ybarra referred members to the CPS report and stated that the quarter 3 statistics look great and gave thanks to her staff for their continued hard work.

Mr. Kaiser stated that the statistic for the year-to-date transmittals to Attorney General (total average days to complete) is only 518.3 which is under the Consumer Protection Enforcement Initiative (CPEI) performance measures which is difficult to accomplish. The Board thanked Ms. Ybarra and staff for their hard work.

24. Probation Monitoring Services – Discussion and Possible Board Action – *Monny Martin*

- (A) Program Updates
- (B) Statistical Reports

Mr. Martin reported that the Board currently has 88 licensees on probation for various causes with 16 tolling out of state. Mr. Martin stated that 16 licensees are currently participating in the Board's Drug and Alcohol Recovery Monitoring Program, equaling 22%.

Mr. Martin reported that 4 licensees entered probation and 5 licensees completed probation in quarter 3. Mr. Martin added that 3 licensees entered, and 3 licensees completed Maximus, the Board's Drug and Alcohol Recovery Monitoring Program.

Mr. Martin stated that he has been working on a new contract for the Board's Drug and Alcohol Recovery Monitoring Program along with other Drug and Rehabilitation Program Managers and DCA's contract unit and the contract should go out to bid soon and those bids will be scored in September, so a vendor is anticipated to be in place by the end of this year.

Ms. Eleby asked what the contract term length is for the Board's Drug and Alcohol Recovery Monitoring Program and Mr. Martin responded that the contract the Board is currently in with Maximus was for 5 years with two extension years built into the contract and the Board is currently in the last of the two extension years. Mr. Kaiser added that a great deal goes into the contract negotiation and it can be a very lengthy process.

Ms. Eleby asked if the Board could receive the probation monitoring report that is included in the evidence to review, for petitioners, prior to the hearing. Mr. Kaiser stated he would consult with the Attorney General on the discovery process because defense counsel should be privy to that as well, so there may be a timing issue with that. Ms. Ybarra added that the probation report is usually provided by the petitioner and they are aware of it, and it is part of the discovery process and it is kept back until the Attorney General presents it as part of the evidence. Mr. Kanotz, legal counsel stated that he will research this issue and see how the probation monitoring report could be provided in advance to the Board if possible.

Dr. Drummer asked how many probationers are in Northern California vs. Southern California and Mr. Martin responded that he groups probationers into two groups: the Los Angeles greater area and everywhere else in California and that the Los Angeles greater area has about half of the Board's probationers. Dr. Rabena-Amen asked Mr. Martin how long the visits with probationers are and he responded they are about 45 minutes to an hour which makes it a challenge to fit too many in one day. Mr. Kaiser added that the potential for probationers is about 100 at any given time; and that the Board would want a face to face visit with every probationer every quarter or as needed which is hard for one probation monitor to accomplish which is why the Board is trying to provide justification to increase the probation monitoring program to increase the level of its effectiveness.

25. Board Member Training – Travel Procedures – Kim Rozakis and Timothy Davis

Due to time constraints, no presentation was made on the Travel Procedures and it will be moved to the September 2019, meeting.

26. 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).]

Davit Shambazyan, a first-year physical therapy student at California State University, Long Beach, approached the Board with some questions. Mr. Shambazyan asked how many times a year the Board meets in Long Beach and Mr. Kaiser responded that the Board meets quarterly, and one of those 4 meetings is designated to be held in Southern California. Mr. Shambazyan stated that he looked forward to attending meetings in the future and would speak with his cohorts on attending meetings of the Board. Mr. Kaiser added that Board staff would be back at CSU, Long Beach in a few weeks to give a presentation to the students on the application process and the role and history of the Board. Dr. Drummer also informed Mr. Shambazyan that the first day of the meeting included hearings of licensees under probation and that those archived webcasts could be found on the Board's website or YouTube. Ms. McMillian added that the Board is made up of both professional members and public members.

Joan Van Natta, licensed physical therapist, stated that the Board meeting process was much more complex than she expected and thanked the Board for their hard work and the opportunity to be a part of the process.

27. Agenda Items for Future Meeting –

September 18-19, 2019
TBD, Bay Area, CA

Ms. Eleby and Dr. Drummer requested that there be an election for vice-president to account for Mr. Watkins vacant Board position.

Ms. Eleby requested a presentation or handout from Maximus on what the clinical diagnostic exam entails to get a better understanding of how an individual is deemed appropriate or not appropriate and how that is measured. Ms. Eleby also asked for a course outline or syllabus for the diversion program and what Maximus uses to determine when someone can be released from the program. Ms. Eleby stated that this could wait until the Board is back in Sacramento.

Dr. Drummer requested an agenda item to discuss modifying the current pocket license or potentially dispensing with the pocket license because this information is immediately available and accurate and current online.

Dr. Dominguez asked for a presentation on the mechanics of the adjudication process and how to go through a case and extract the pertinent information and formulate an opinion. Dr. Drummer added in this presentation he would like to have a refresher on the role of the DAG and Counsel, the overlap and separation of the Board and how the pieces play together in the process. Mr. Kanotz stated he would be happy to help work on this presentation and stated that this might be better suited for when the Board is back in Sacramento for a Board meeting.

Mr. Watkins requested that once a year a presentation should be provided to delineate when the Board is in the public protection mandate vs. discussing the profession and that it is an important boundary to observe and Mr. Watkins felt that the Board could never get enough training on the importance of that separation.

Mr. Kaiser asked if the Board would be interested in the services that the Office of Administrative Hearings (OAH) provides by a representative from OAH or an Administrative Law Judge. The Board stated they would like a presentation by OAH. Mr. Kanotz stated this could be included in the adjudication process presentation.

Dr. Rabena-Amen stated that she would like to revisit the Board's California Law Exam (CLE) to discuss the law exam and continue the discussion about future licensee's knowing the law vs. passing an exam.

Dr. Rabena-Amen requested that the Exempt Status of the Executive Officer issue be placed back on the agenda for the September meeting and that the Board needed to continue to discuss this issue until there is some resolution. Ms. Eleby added that she would like the Exempt Level Increase Committee to continue as it has not yet reached its goal and that it would be helpful to have another committee member who is local to Sacramento. Ms. McMillian volunteered to be appointed to the Exempt Level Increase Committee.

28. Adjournment

The meeting adjourned at 3:06 p.m.