



Physical Therapy Board of California

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

# Physical Therapy Board of California

2005 Evergreen St. Suite 1350, Sacramento, California 95815

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

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



## **Board Members**

### **President**

Alicia Rabena-Amen, PT, DPT

### **Vice-President**

Katarina Eleby, M.A.

### **Members**

Jesus Dominguez, PT, PhD

Daniel Drummer, PT, DPT

Tonia McMillian

Vacant, Professional Member

Vacant, Public Member

## **Physical Therapy Board of California Adopted Meeting Minutes**

December 12, 2019 9:00 a.m.

December 13, 2019 9:00 a.m.

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

## **Board Staff**

Jason Kaiser, Executive Officer

Sarah Conley, Manager

Liz Constancio, Manager

Elsa Ybarra, Manager

Brooke Arneson, Executive

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, December 12<sup>th</sup>, 2019**

### **1. Call to Order**

The Physical Therapy Board of California (Board) meeting was called to order by President Dr. Rabena-Amen at 9:00 a.m. and recessed at 5:45 p.m. on December 12, 2019. The Board reconvened at 9:00 a.m. and adjourned at 12:16 p.m. on December 13, 2019.

### **2. Roll Call and Establishment of Quorum**

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

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

Dr. Drummer 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. 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 on day one, December 12, 2019, at 9:04 a.m. and reconvened into open session at 11:15 a.m. The Board re-entered closed session at 4 p.m. and reconvened into open session to recess at 5:45 p.m.

**4. Reconvene Open Session**

The Board reconvened into open session to recess at 5:45 p.m. on day one, December 12, 2019.

**5. Review and Approval of June 20-21, 2019 Meeting Minutes – Brooke Arneson**

Ms. Arneson presented the draft June 2019 meeting minutes. Dr. Dominguez asked that on page 9, line 55 of the meeting minutes that University of California San Francisco be added. Ms. Eleby asked for clarification on page 10 of the Legislation Report if Assembly member Blanco Rubio was one or two authors and Ms. Arneson stated that she would confirm and edit the meeting minutes accordingly. Ms. Eleby asked that page 12, line 164 be reworded for clarity and Dr. Rabena-Amen asked for the first sentence on page 23 be reworded as well. Dr. Drummer asked on page 28, line 826 that the minutes accurately reflect the answer to the question Ms. Ybarra was asked and Ms. Arneson stated she would make the edit to the meeting minutes.

**MOTION:** Adopt the proposed June 20-21, 2019, Meeting Minutes as amended.

**M/S:** Eleby/Dominguez

**VOTE:** Dominguez- Aye

Drummer – Aye  
Eleby – Aye  
McMillian – Aye  
Rabena-Amen - Aye  
5-0 Motion carried

## **6. President's Report**

### **(A) 2020 Proposed Meeting Calendar**

Ms. Eleby stated she had a conflict for the March 2020 meeting and would only be able to attend one day of the scheduled meeting, March 25<sup>th</sup>, 2020. Mr. Kaiser added that his only concern with Ms. Eleby missing a day of the March meeting was making sure that the Board had a quorum. Dr. Rabena-Amen asked what would happen if the Board lacked a quorum at a Board meeting and Mr. Kanotz, Board legal counsel, responded that the Board could hear informational items however would not be able to take any action without a quorum. Mr. Kaiser added that the location for the March meeting has already been secured and that moving the March meeting date was not a recommendation by staff at this time.

**MOTION:** Adopt the proposed 2020 Meeting Calendar

**M/S:** McMillian/Eleby

**VOTE:** Dominguez- Aye  
Drummer – Aye  
Eleby – Aye  
McMillian – Aye  
Rabena-Amen - Aye  
5-0 Motion carried

### **(B) 2021 Proposed Meeting Calendar**

Mr. Kaiser stated that the 2021 proposed meeting calendar was provided for informational purposes and no adoption of the 2021 calendar was necessary at this time.

## **7. Executive Officer's Report**

### **(A) Administrative Services**

Mr. Kaiser reported that the Board's budget analyst, Mr. Carl Nelson, will be retiring in March 2020 and the Board is currently recruiting for his replacement. Mr. Kaiser added that Mr. Nelson has been with the Board for the better part of two decades, worked with every unit of the Board, and has been an integral part of the Board's fiscal operations. Board members thanked Mr. Nelson for his dedication and service to the Board and wished him well in his retirement.

Mr. Kaiser reported that the recruitment process for the Office Technician position in Administrative Services has commenced and the Board would like to welcome Julie Thao to the Board. Ms. Thao will be serving as the Board's receptionist and administrative support for the Board.

Mr. Kaiser added that the Board will be recruiting for an Assistant Executive Officer in February 2020 and will also be recruiting for a position within the Continuing Competency Unit. Mr. Kaiser stated that the Board is also awaiting decisions on pending budget change proposals that were submitted for an additional probation monitor and an outreach coordinator.

#### **(B) Applications**

Please see Agenda Item 23 for the Application Services update.

#### **(C) Licensing/Continuing Competency**

Please see Agenda Item 24 and 25 for Licensing and Continuing Competency Services update.

#### **(D) Consumer Protection Services**

Please see Agenda Item 26 for a Consumer Protection Services update.

#### **(E) Outreach**

Mr. Kaiser reported that outreach has been focusing on increasing stakeholder communication with external stakeholders, such as the California Physical Therapy Association (CPTA), other DCA Boards and Bureaus, healthcare networks, and other regulators as well.

#### **(F) PTBC Relocation**

Mr. Kaiser reported that a great deal of progress has been made regarding the Board's relocation, and the Board is in the final stages of planning and working on the logistics of the move. Mr. Kaiser thanked Board staff for their patience on the Board's relocation and advised the Board that he would be taking them on a tour of the office space during the break of the meeting.

## **8. Consumer and Professional Associations and Intergovernmental Relations Reports**

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

Ms. Eleby reported that the Board was not able to attend the delegate assembly in October at Oklahoma City, Oklahoma due a prohibition against state sponsored travel or state representative travel to any states that have discriminatory laws. Ms. Eleby stated that the event was well attended, and the Board looks forward to attending the annual conference in 2020.

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

Mr. Kaiser read a written update on behalf of DCA's new Director, Kimberly Kirchmeyer.

Ms. Kirchmeyer reported that her initial focus as Director is to concentrate on client services and satisfaction; working smarter and together; and data transparency and action. Ms. Kirchmeyer stated that as Director, she will additionally address the time frame for processing regulations, obtaining Fi\$cal reports, decreasing the time frame to perform investigations, ADA compliance and ensuring all legislation is implemented by the Boards and Bureaus within the Department.

Ms. Kirchmeyer reported that a Director's Quarterly meeting will be instituted between the Director and the DCA Executive Team and DCA Executive Officers and Bureau Chiefs. The next meeting is scheduled for Monday, December 16, 2019.

Ms. Kirchmeyer updated the board on the changes to DCA's Executive Team and reported that Chief Deputy Director Chris Shultz was appointed by Governor Newsom to serve as Chief Deputy Commissioner at the California Department of Business and Oversight and Mr. Shultz's last day at DCA was Friday, November 1, 2019. Ms. Kirchmeyer added that Deputy Director Chris Castrillo's last day with the department was November 22, 2019. Ms. Kirchmeyer reported that Deputy Director Dennis Cuevas-Romero's last day with DCA was November 15, 2019 and he accepted a

position with the American Civil Liberties Union. Ms. Kirchmeyer also stated that Assistant Deputy Director Karen Nelson's last day with the department was October 31, 2019 and that Ms. Nelson accepted a position as Chief Impact Officer with the American Leadership Forum, the Mountain Valley Chapter.

Ms. Kirchmeyer reported that the DCA Board Members Resource Center has been revamped and relocated to the DCA public website. The Resource Center is an online tool designed to provide information and resources to current Board and Committee members and to those who are interested in becoming appointed to serve as a Board or Committee member.

Ms. Kirchmeyer informed the Board that DCA's Communication Division put together a new publication called "DCA We Are Listening" which is a visual how-to guide for Californians to interact with DCA and its Boards and Bureaus. This publication is available in both brochure and poster format.

Dr. Rabena-Amen questioned whether the Board needed to ask Ms. Kirchmeyer for help in filling the Board's vacant Board member positions and Mr. Kaiser responded that Ms. Kirchmeyer has already been informed of the vacancies on the Board as well as the Appointment Secretary at the Governor's Office.

### **(C) California Physical Therapy Association (CPTA)**

Ms. Tameka Island, CPTA Executive Associate, invited the Board members to participate in CPTA's 2020 Student Conclave Meeting at Azusa Pacific University on March 28, 2020 and CPTA's Annual Conference which is scheduled October 2-4, 2020 in Anaheim, CA.

Dr. Drummer asked Ms. Island how the 2019 Tri-State PT Conference was attended and received. Ms. Island responded that it was very well attended and was CPTA's second most well attended conference with a little over 1,200 attendees and positive feedback was received from attendees on the programming and national speakers during the conference.

## **9. Legislation Report – Brooke Arneson**

### **(A) 2019/20 Legislative Session Summary**

Ms. Arneson presented the legislative report and provided the members with important dates from the legislative calendar. Ms. Arneson referred the members to the legislative

summary in the meeting materials and discussed the current status and changes to each bill since the last Board meeting as follows:

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

Ms. Arneson stated that AB 5 was chaptered on September 18, 2019.

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

Ms. Arneson reported that AB 476 was vetoed on October 12, 2019 and read the Governor's veto message: *"I am returning Assembly Bill 476 without my signature. This bill would require the Department of Consumer Affairs to create a task force to study the licensing of foreign-trained professionals and create a report for the Legislature. Integrating foreign-trained professionals into California workforce is an admirable goal. However, creating a new task force and a legislative report to accomplish that goal is unnecessary."* – Gavin Newsom

Mr. Kaiser added that each Board and Bureau within DCA is unique and a task force to look at foreign trained professionals could potentially be too broad to address each entity within DCA, and he agreed with Governor Newsom's assessment of the proposed bill.

iii. AB 496 (Low) Business and Professions

Ms. Arneson reported that AB 496 was chaptered on September 27, 2019.

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

Ms. Arneson reported that AB 1076 was chaptered on October 8, 2019.

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

Ms. Arneson reported that SB 425 was chaptered on October 12, 2019.

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

Ms. Arneson reported that SB 537 was chaptered on October 8, 2019, the Board sent a letter of support to the Governor, and this bill will take effect January 1, 2020.

## **10. Rulemaking Report – Brooke Arneson**

### **(A) 2019 Rulemaking Update**

Mr. Kanotz, DCA Legal Counsel, introduced Mr. Clay Jackson, the Board's newly appointed attorney in DCA's Legal Regulations unit, who will be working on the Board's rulemaking packages.

Ms. Arneson presented an overview of the newly updated rulemaking report and referred the members to the rulemaking update in the meeting materials and discussed the current status of each rulemaking item.

#### **i. Examination Passing Standard/Setting Examination Score**

Ms. Arneson reported that in June 2019, PTBC staff forwarded the pre-review regulation documents (the Initial Statement of Reasons, Notice and Proposed Language) to DCA Legal for review. Mr. Kanotz, legal counsel, added that with the Board's newly appointed regulatory attorney, Mr. Jackson, regulations will move forward at a quicker pace to address the recent backlog.

#### **ii. Guidelines for Issuing Citations and Imposing Discipline, 6<sup>th</sup> Edition**

Ms. Arneson reported that with the passage of AB 2138 (Chapter 995, Statutes of 2018) it was determined that the Disciplinary Guidelines needed to be amended further and modified proposed language was presented and adopted at the June 2019 meeting and in June 2019 PTBC staff forwarded the initial rulemaking package to DCA Legal for review.

#### **iii. Satisfactory Documentary Evidence of Equivalent Degree for Licensure as a Physical Therapist or Physical Therapist Assistant/Coursework Tool**

Ms. Arneson reported that in November 2019, PTBC staff forwarded the pre-review regulation documents (Initial Statement of Reasons, Notice and Proposed Language) to DCA Legal for review.

#### **iv. FSBPT's Performance Evaluation Tool for Foreign Educated Physical Therapists Completing a Supervised Clinical Practice in the United States**



Ms. Arneson reported that in November 2019, PTBC staff forwarded the pre-review regulation documents (Initial Statement of Reasons, Notice and Proposed Language) to DCA Legal for review.

- v. Substantial Relationship Criteria
- vi. Rehabilitation Criteria for Denial and Reinstatement of Licensure
- vii. Rehabilitation Criteria for Suspensions and Revocations

Ms. Arneson reported that in June 2019 PTBC staff forwarded the initial rulemaking package to DCA Legal for review. DCA Legal provided Board staff with their suggested amendments to the rulemaking package on September 3, 2019 and in October 2019, PTBC staff forwarded the initial rulemaking package to DCA Legal for review.

Ms. Arneson reported that the two additional items on the rulemaking update, Retired License Status and Continuing Competency will be addressed during presentation of Agenda Item 11, the 2020 Proposed Rulemaking Calendar.

Dr. Rabena-Amen complimented staff on the new rulemaking report format and asked if there was a timeframe for each step reflected in the rulemaking report. Mr. Kaiser responded that for the initial phase, there is not a set timeline, however with the addition of the Board's regulatory attorney Mr. Jackson, the timelines should establish themselves as an expectation going forward. Mr. Kaiser added that once the regulation packages go into final phase, there are legislatively mandated timelines for public notice, and review.

## **11. Discussion and Possible Board on the 2020 Rulemaking Calendar**

Ms. Arneson reported that all rulemaking items that were adopted on the 2019 Rulemaking Calendar were carried over to the 2020 proposed rulemaking calendar except for the continuing competency regulations and explained that those regulations will be addressed at a future date in 2021 since the Board currently has quite a few rulemaking packages they are already working on. Mr. Kaiser added that the retired license regulation was kept on the 2020 calendar due to it being a higher priority than the continuing competency regulations.

**MOTION:** Adopt the proposed 2020 Rulemaking Calendar

**M/S:** Eleby/Dominguez

**VOTE:** Dominguez- Aye  
Drummer – Aye  
Eleby – Aye  
McMillian – Aye  
Rabena-Amen - Aye  
5-0 Motion carried

**12. Maximus Presentation – Virginia Matthews, RN, BSN, MBA, Project Manager, Maximus**

Ms. Matthews provided a presentation on the services Maximus provides for the Board.

**13. Physical Therapy Student Question and Answer Forum**

Physical Therapy and Physical Therapy Assistant students from California State University, Sacramento, and Sacramento City College participated in a question and answer forum with the Board regarding the regulation and practice of physical therapy in California.

**14. Elimination of the Printed Pocket License – Discussion and Possible Board Action – Sarah Conley**

Ms. Conley provided a presentation on the online verification process for the proposed consideration of eliminating the printed pocket license.

Dr. Drummer added that he was able to attend the Tri State Conference in October and was able to talk to a large audience during the conference and there was overwhelming support for the digital pocket license and no opposition to the elimination of the printed pocket license. Dr. Rabena-Amen thanked Dr. Drummer for his feedback.

**MOTION:** Move forward with the digital pocket license based on staff's recommendation and direct staff to take the necessary steps to launch on July 1, 2020

**M/S:** Eleby/Dominguez

**VOTE:** Dominguez- Aye  
Drummer – Aye  
Eleby – Aye  
McMillian – Aye

Rabena-Amen - Aye  
5-0 Motion carried

**15. 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.

**16. Recess**

The Board recessed at 5:45 p.m. on the first day of the meeting, Friday, December 13, 2019.

**Friday, December 13<sup>th</sup>, 2019**

**17. Call to Order**

The Board reconvened at 9:00 a.m. and adjourned at 12:16 p.m. on day two, December 13, 2019.

**18. Roll Call and Establishment of Quorum**

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

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

Ms. Eleby 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.

**19. Board Member Training – Adjudication Process – Michael Kanotz**

Mr. Kanotz provided a presentation on the adjudication process to the Board.

**20. 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 closed session on Day Two, December 13, 2019 of the Meeting.

**21. Reconvene Open Session**

The Board did not enter closed session on Day Two, December 13, 2019 of the Meeting.

**22. Administrative Services – Discussion and Possible Board Action**

(A) Budget Report – *Carl Nelson*

Mr. Nelson updated the Board that, according to the Budget Office, the quarter 1 final budget adjustments in the budget building process have not yet been completed. There will be some additional adjustments to the Board's budget, such as the 3.5% merit salary increases staff received in July as well as corresponding increases to retirement and employee benefits.

Mr. Nelson reported that budget change proposals that were approved for July have already been included into the budget and these adjustments will increase the overall bottom line when looking at budget reversions for the year.

(B) Outreach Report – *April Beauchamps*

Ms. Beauchamps reported that the Board's website had an 20% decrease for quarter 1 over last fiscal year with the most significant decrease being the "Applicants" and "Forms" pages which is due to some forms being taken down from the website, and outreach efforts with the schools and social media directing applicants and licensees to utilize BreEZe.

Ms. Beauchamps reported that Facebook traffic increased 13% with the most significant increase being "Reached" showing an overall increase of 18% over prior fiscal year.

Ms. Beachamps reported that the Board went to the University of California, San Francisco on August 5<sup>th</sup>, Carrington College on August 9<sup>th</sup> and Concorde Career College North Hollywood on August 28<sup>th</sup>. Ms. Beachamps stated that the Board had a Question and Answer session with licensees at the University of California, Los Angeles on August 29<sup>th</sup>, University of the Pacific on September 3<sup>rd</sup>, Gurnick Academy on September 9<sup>th</sup>, and California State University, Sacramento on September 27<sup>th</sup>. Ms. Beauchamps added that the Board has been to ten of the sixteen physical therapy programs and six of the sixteen physical therapy assistant programs in California. Ms. Beauchamps stated that the Board is focusing on additional outreach to external stakeholders and consumers.

Ms. Beachamps reported that the Fall Progress Notes were released in November 2019 and the Board has received positive feedback.

Dr. Drummer suggested having a Board member attend outreach events and presentations. Dr. Drummer also asked if other Boards within DCA have outreach programs similar to our Board and Mr. Kaiser responded that other Boards do have outreach programs. Mr. Kaiser stated larger Boards such as the Board of Barbering and Cosmetology have a greater outreach need since they collaborate with schools and approve the school's credentials, which greater reinforces that outreach connection. Mr. Kaiser added that this Board has a very focused outreach campaign to reach out to every California school before the end of the strategic plan, which he has not seen done by the other Boards and Bureau's.

(C) Presentation of Services – *Carl Nelson, Brooke Arneson, Kim Rozakis, April Beauchamps, Timothy Davis and Julie Thao*

Ms. Constancio, Administrative Services Program Manager introduced the Administrative staff and each staff member provided a presentation of their roles and responsibilities within the Administrative unit.

**23. Application Services – Discussion and Possible Board Action – Valerie Kearney, Paul Harrison, Teresa Gutierrez, Angel Ottley and Eura Trent**

- (A) Program Updates
- (B) Statistical Reports
- (C) Presentation of Services

Ms. Trent, lead analyst for the Application Services Program and License Maintenance Services Program gave a synopsis of her roles and responsibilities at the Board. She informed the Board that we are now accepting Certificate of Completion Forms (P1E's) electronically received directly from programs Registrar's Office or Program Directors to streamline the application process and meet the goals outlined in the Board's Strategic Plan. Ms. Trent reported that the Board currently has received 35 electronic P1E's from the University of the Pacific and expects at least two other programs to submit their P1E's electronically soon.

Dr. Rabena-Amen asked how this new process will allow a license to be issued more efficiently and Ms. Trent responded that assuming the application is submitted with no deficiencies, the P1E is received electronically, and the applicant passed their exams, they would be issued a license automatically. Ms. Trent added that this new process will reduce paperwork, back and forth communication that can slow down the application for licensure and streamline the application process.

Ms. Kearney gave a synopsis of her roles and responsibilities as the physical therapist application analyst in the Application Services Program. Ms. Kearney reported that since the outreach program has been in place, her job has been a great deal easier with fewer application deficiencies and quicker processing time. She thanked the BreEZe team for their help in streamlining the application process.

Ms. Gutierrez gave a synopsis of her roles and responsibilities as the foreign educated applications analyst and she reported that she is currently receiving electronic certificates of credentialed evaluation from two out of the Board's three evaluation agencies. Staff are currently working on adding the third evaluation agency soon. Dr. Rabena-Amen asked if new licenses for foreign trained individuals get printed in our newsletter and Mr. Kaiser confirmed that they are printed in our newsletter and that there is no distinction on whether they are US or foreign trained.

Ms. Ottley gave a synopsis on her roles and responsibilities within the Applications Services Program and stated she is assisting Ms. Gutierrez with foreign educated applicants.

**24. Licensing Services – Discussion and Possible Board Action – *Justin Silva and Eura Trent***

- (A) Program Updates
- (B) Statistical Reports
- (C) Presentation of Services

Mr. Silva gave a synopsis of his roles and responsibilities within the Licensing Maintenance Program. Mr. Silva reported that there has been a significant increase in online renewals and online transactions processed in the first quarter have increased by an average of 50%.

**25. Continuing Competency Services – Discussion and Possible Board Action – *Veronica Gutierrez and Yasha Crutcher***

- (A) Program Updates
- (B) Statistical Reports
- (C) Presentation of Services

Ms. Gutierrez and Ms. Crutcher, analysts for the Continuing Competency Services Program, introduced themselves and presented audit statistics and common occurrences during the audit process. Ms. Crutcher reported that 117 physical therapists were audited with a passing rate of 94%, and 39 physical therapist assistants were audited with a passing rate of 90% for FY 2018/19 Quarter 4 (May-July).

Ms. Gutierrez informed the Board that staff have been collecting data for Quarter 1 (July-September) on how licensees are accumulating their continuing competency hours and have found that most licensees are obtaining their hours through the traditional pathway, which is through recognized approval agencies and not through alternate pathways.

Ms. Gutierrez reported on the most frequent used alternate pathways and the issues staff are encountering while auditing licensees. Ms. Gutierrez stated that licensees commonly use the alternate pathway E) performing in the role of a clinical instructor where the student's clinical experience is full time and lasts at least 4 weeks. But there is a cap of 12 hours with this pathway and many licensees submit up to 24 hours of continuing competency hours which is a common occurrence found during the audit process, and the Board has received feedback that the cap is too low.

Ms. Crutcher added that other common alternate pathways to obtain continuing competency hours is G) attending a conference related to the practice of physical therapy where proof of attendance is provided by the conference sponsor and F)

attending a conference offered by FSBPT, APTA or a component thereof. Ms. Crutcher added that many licensees do not realize that while attending a conference, they can obtain additional hours just for attending the conference and they can receive four hours per conference if the conference is offered by FSBPT, APTA or some other component thereof, and two hours if the conference is related to physical therapy. Ms. Crutcher stated that courses taken while at these conferences are often approved by a PTBC recognized approval agency, and therefore, the licensees can obtain additional continuing competency credits. Ms. Crutcher added that if these courses are not approved by a recognized agency, licensees will only receive continuing competency credit for the conference related to physical therapy. Ms. Crutcher stated that often licensees can complete their elective just by attending a conference if its by an approved agency. Mr. Kaiser added that attending a Board meeting also provides licensees with continuing competency hours.

Ms. Eleby asked when the next expert consultant training would be held, and Mr. Kaiser responded that the next training the Board will be conducting is a training component involving the Attorney General's Office and the Division of Investigations. Once that is completed, the Board will be scheduling the expert consultant training in late 2020 or early 2021.

Ms. McMillian asked whether licensees obtaining continuing competency credit for attending a Board meeting receive 2 hours per day of a two-day meeting or 2 hours per meeting. Mr. Kaiser confirmed it is 2 hours per Board meeting.

Dr. Drummer asked if licensees have utilized any other alternate pathways to obtain their continuing competency hours and Ms. Crutcher stated that licensees have used other pathways however, they are not common. Dr. Drummer asked if the Board should address the alternate pathways list in the future and asked if there are any alternate pathways on the list that have not been used. Ms. Gutierrez responded that D) serving on a Board-appointed task force has not been used. Mr. Kaiser further clarified that since the implementation of the continuing competency regulations, there has not been a Board appointed task force. Mr. Kaiser stated that receiving continuing competency credit for any alternate pathways must be done after licensure and not during the application process, so for example, passing the California Law Exam during the application process does not count toward the continuing competency credit.

Ms. Eleby asked if the Board offers any continuing competency credits if a licensee serves on a FSBPT committee or taskforce, and Mr. Kaiser responded that continuing competency credits could be received by taskforce members attending conferences that were necessary for them to attend as a taskforce member.

Ms. Crutcher stated that another way to receive continuing competency credit that is not included as an alternate pathway is the basic life support (BLS) for health care provider course. Ms. Crutcher added that often, licensees will take a BLS course, however, a continuing competency audit will find the course is not a health care provider course



comparable to, or more advanced than, the American Heart Association's BLS health Care Provider Course. This is something licensees need to pay close attention to when they are selecting BLS courses for continuing competency credit.

Dr. Drummer pointed out that the other requirement for continuing competency is 2 hours in the field of ethics or law and regulations or the combination thereof.

Dr. Rabena-Amen asked what percentage of licensees use the traditional pathway and Ms. Crutcher responded over 90% of licensees are using the traditional pathway with 10% using the alternate pathway. Ms. Gutierrez and Ms. Crutcher added that a very high percentage of licensees use online continuing education to fulfill their elective; however, BLS does require a hands-on component.

## **26. Consumer Protection Services – Discussion and Possible Board Action– *Carole Phelps***

- (A) Program Updates
- (B) Statistical Reports
- (C) Presentation of Services

Ms. Phelps, an analyst in the Consumer Protection Services, gave a synopsis on her roles and responsibilities and referred members to the CPS report in the meeting materials.

Ms. Phelps reported that for Quarter 1 (July-September) there has been an increase in the total number of complaints received, all being conviction/arrest reports with consumer complaint decreasing slightly. Ms. Phelps added that investigative aging days have increased which is a result of general fluctuations that occur due to the complexity of each case.

Ms. Phelps reported that PM3, the average days to close citations, increased slightly due to the investigation process which is similar to cases that are sent for discipline. Ms. Phelps stated that for PM4 Discipline, there was a 5% increase in the number of cases transmitted to the Attorney General's Office for discipline and there was a 50% increase in the number of cases closed after transmission, meaning for this quarter 15 cases were finalized. Ms. Phelps added that these cases were finalized by placing 3 licensees on probation; one application was granted through the statement of issues process; 4 cases were closed with a stipulated disciplinary surrender of license; two cases were closed with license revocation; one citation was issued and paid; and 4 cases were closed and consolidated with the primary.

Ms. Phelps stated that for Q1 the PM4b (number of days from the date the complaint was assigned for investigation to the date the investigation was completed) jumped up from 146 days to 308 days and she went over two cases to demonstrate sample case

time-frames to show what can cause a case to age beyond the averages and performance measure. Ms. Phelps added that cases can be complex and possibly have a new component and take longer to close.

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

(A) Program Updates

(B) Statistical Reports

Mr. Martin, the Board's probation monitor, gave a synopsis on his roles and responsibilities within the Consumer Protection Program and referred members to the Probation Monitoring report in the meeting materials.

Mr. Martin reported that there are currently 93 licensees on probation, 75 of these licensees are in California and there are an additional 18 tolling (out of state) and not receiving credit toward the completion of probation. Mr. Martin added that there were 4 licensees placed on probation this quarter. No licensees have completed probation during this quarter, and there were no surrenders. Mr. Martin reported that of the 75 licensees that are not currently tolling, 18 are enrolled and participating in the Board's Drug and Alcohol Recovery Monitoring Program, which equals about 24% of licensees on probation that are not tolling.

Mr. Martin stated that one person was non-compliant with their probation during the quarter and they are in the process of having their probation revoked.

Mr. Martin addressed a question he heard during the Maximus Presentation from day one of the meeting; it was asked how many people surrendered their license due to the costs of the Maximus Program. Mr. Martin responded that this issue has occurred only once during the last year and the Board did not accept the surrender and ended up accepting a stipulated surrender from that same licensee for a different violation that occurred while they were on probation.

Mr. Martin added that Maximus was awarded the new probation monitoring contract for the Department which will go into effect January 1, 2020, and the contract is for 5 years.

Ms. Eleby asked for probationers that are tolling, does Mr. Martin contact them periodically or is it up to them to contact the Board. Mr. Martin responded that for out of state probationers they are not contacted until they come back to California and the responsibility is on the probationer to notify the Board that they are back in California. Mr. Martin added that for probationers in California that are not working and not receiving credit toward completion of probation, he does continue to contact them periodically throughout the year to ensure their situation has not changed.

Dr. Drummer asked how long probationers are tolling and Mr. Martin stated that it is rare for probationers to come back from another state unless their personal situation has changed to make coming back to California necessary.

## **28. Board Member Elections**

### **(A) President**

**NOMINATION:** Ms. Eleby nominated Dr. Rabena-Amen as Board President.  
**NOMINEE:** Dr. Rabena-Amen  
**MOTION:** To elect Dr. Rabena-Amen as Board President.  
**M/S:** Eleby/Drummer  
Dr. Rabena-Amen accepted the nomination.

**VOTE:** Dominguez- Aye  
Drummer – Aye  
Eleby – Aye  
McMillian – Aye  
Rabena-Amen - Aye  
5-0 Motion carried  
Dr. Alicia Rabena-Amen elected President for 2020.

### **(B) Vice-President**

**NOMINATION:** Ms. McMillian nominated Ms. Eleby as Board Vice-President.  
**NOMINEE:** Eleby  
**MOTION:** To elect Ms. Eleby as Board Vice-President.  
**M/S:** McMillian/Drummer  
Ms. Eleby accepted the nomination.

**VOTE:** Dominguez- Aye  
Drummer – Aye  
Eleby – Aye  
McMillian – Aye  
Rabena-Amen - Aye  
5-0 Motion carried  
Ms. Eleby elected Vice-President for 2020.

### **(C) FSBPT Delegate**

**NOMINATION:** Ms. McMillian nominated Dr. Drummer as Board FSBPT Delegate.  
**NOMINEE:** Drummer

**MOTION:** To elect Dr. Drummer as Board's FSBPT Delegate.  
**M/S:** McMillian/Eleby  
Dr. Drummer accepted the nomination.

**NOMINATION:** Dr. Drummer nominated Dr. Dominguez as Board FSBPT Delegate.

**NOMINEES:** Dominguez

**MOTION:** To elect Dr. Dominguez as Board FSBPT Delegate

**M/S:** Drummer  
Dr. Dominguez declined the nomination.

**VOTE:** Dominguez- Aye  
Drummer – Aye  
Eleby – Aye  
McMillian – Aye  
Rabena-Amen - Aye  
5-0 Motion carried  
Dr. Drummer elected FSBPT Delegate for 2020.

**(D) FSBPT Alternate Delegate**

**NOMINATION:** Ms. McMillian nominated Dr. Dominguez as Board FSBPT Alternate Delegate

**NOMINEE:** Dominguez

**MOTION:** To elect Dr. Dominguez as Board FSBPT Alternate Delegate.

**M/S:** McMillian/Drummer  
Dr. Dominguez declined the nomination

**NOMINATION:** Dr. Rabena-Amen nominated Ms. McMillian as Board FSBPT Alternate Delegate

**NOMINEE:** McMillian

**MOTION:** To elect Ms. McMillian as Board FSBPT Alternate Delegate.

**M/S:** Rabena-Amen/Drummer  
Ms. McMillian accepted the nomination

**VOTE:** Dominguez- Aye  
Drummer – Aye  
Eleby – Aye  
McMillian – Aye  
Rabena-Amen - Aye  
5-0 Motion carried  
Ms. McMillian elected FSBPT Alternate Delegate for 2020.

### **(E) FSBPT Back-up Alternate Delegate**

The Board determined to use the procedure of establishing back-up alternate delegates in alphabetical order by last name of Board members.

Backup Alternate Delegates for 2020 are:

Dr. Dominguez  
Dr. Drummer  
Ms. Eleby  
Dr. Rabena-Amen  
Ms. McMillian

### **29. 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.

### **30. Agenda Items for Future Meeting –**

March 25-26, 2020  
University of St. Augustine  
700 Windy Point Dr., Building A, Room 209A  
San Marcos, CA 92069

Ms. Eleby requested an agenda item to further discuss the Board possibly absorbing some of the costs for Maximus as the Board of Registered Nursing and other professions have done.

Ms. Eleby also asked to revisit the Continuing Education Alternate Pathways chart to include some other options to licensees. Mr. Kaiser added that this could be addressed in 2021 as it would be a regulatory change.

Dr. Rabena-Amen asked for the Increase of Exempt Level of the Executive Officer be placed on the agenda for the next meeting.

Ms. Eleby asked that the Student Question and Answer Forum be included at the next meeting at St. Augustine.

### **31. Adjournment**

The meeting adjourned at 12:16 p.m.

