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Board Members

President

Alicia Rabena-Amen, PT, DPT

Vice-President

Tonia McMillian

Members

Dayle C. Armstrong, Ph.D., P.T., MS, DPT

Jesus Dominguez, PT, PhD

Daniel Drummer, PT, DPT

Katarina Eleby, M.A

Johnathon Ervin

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

September 21-22, 2022 9:00 a.m.

San Diego Mesa College
7250 Mesa College Dr, Room MC211A
San Diego, CA 92111

Board Staff

Jason Kaiser, Executive Officer

Elsa Ybarra, Assistant Executive Officer

Erika Calderon, Manager

Sarah Conley, Manager

Liz Constancio, Manager

Brooke Arneson, Specialist

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

5

6

Wednesday, September 21, 2022

7

8

1. Call to Order

9

10 The Physical Therapy Board of California (Board) meeting was called to order by
11 President Dr. Rabena-Amen at 9:13 a.m. and recessed at 5:29 p.m. on September
12 21, 2022.

13

14

2. Roll Call and Establishment of Quorum

15

16

Armstrong - Present

17

Dominguez- Present

18

Drummer - Present

19

Eleby - Present

20

Ervin – Present

21

McMillian - Present

22

Rabena-Amen - Present

23

24

25 All members were present, and a quorum was established. Also present at the
26 meeting were: Michael Kanotz, PTBC Legal Counsel; Jason Kaiser, Executive
27 Officer; Erika Calderon, Manager; Sarah Conley, Manager; Liz Constancio,
28 Manager; Brooke Arneson, Regulation Specialist; April Beauchamps; Kim Rozakis
29 and Valerie Kearney, Board staff.

30

31

32
33 **3. Reading of the Board's Mission Statement**
34

35 Mr. Ervin read the Board's mission statement: To advance and protect the
36 interests of the people of California by the effective administration of the
37 Physical Therapy Practice Act.
38

39 **4. Special Order of Business – 9:05 a.m.**

40 **(A) Petition for Termination of Probation – Eric Ryan Jones, PT**

41 *After submission of the matters, the Board will convene in CLOSED SESSION*
42 *to deliberate on the petitions pursuant to Government Code section 11126(c)(3)*
43

44 **5. Closed Session**

45 (A) Pursuant to Government Code section 11126(c)(3), the Board will convene
46 to Deliberate on Disciplinary Actions and Decisions to be Reached in
47 Administrative Procedure Act Proceedings

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

50 (C) Pursuant to Government Code section 11126, subdivisions (e)(1) and (2)(A),
51 the Board will convene to confer with, or receive legal counsel regarding the
52 following litigation: Alan Kun-Sien Kyo v. Physical Therapy Board of California
53 (Superior Court of California, County of Sacramento, Case number 34-2021-
54 80003743)
55

56 The Board entered into closed session at 11:12 a.m. and reconvened into open
57 session to break for lunch at 12:13 p.m. The Board entered back into closed
58 session at 4:19 p.m. and recessed at 5:29 p.m. on September 21, 2022.
59

60 **6. Review and Approval of December 10, 2021, Meeting Minutes – Brooke**
61 **Arneson**
62

63 Ms. Arneson presented the draft December 10, 2021, meeting minutes. Dr.
64 Armstrong requested that on page 20, line 424 needs to be edited so it reads
65 "to elect Ms. McMillian as Board Vice-President."
66

67 **MOTION:** Adopt the proposed December 10, 2021, Meeting
68 Minutes as amended.
69

70 **M/S:** Rabena-Amen/Armstrong
71

VOTE: Armstrong - Abstain
Dominguez- Aye
Drummer - Aye
Eleby - Abstain
Ervin – Abstain
McMillian - Aye
Rabena-Amen – Aye
4 Ayes, 3 Abstentions, Motion Carried

7. Review and Approval of March 24, 2022, Meeting Minutes – Brooke Arneson

Ms. Arneson presented the draft March 24, 2022, meeting minutes.

Ms. Eleby stated that page 29, line 228, “FSBPT” has a typo. Dr. Armstrong stated that on page 40, line 654 it should read “update” instead of “updated.” Dr. Rabena-Amen added that on page 40 it should read “2022” for the Disciplinary Guidelines effective date. Dr. Drummer also stated that Ms. Beauchamps name was spelled incorrectly on page 43.

MOTION: Adopt the proposed March 24, 2022, Meeting Minutes as amended.

M/S: Rabena-Amen/Eleby

VOTE: Armstrong - Aye
Dominguez- Aye
Drummer - Aye
Eleby - Aye
Ervin – Aye
McMillian - Aye
Rabena-Amen – Aye
7-0 Motion Carried

8. Review and Approval of August 15, 2022, Meeting Minutes – Brooke Arneson

Ms. Arneson presented the draft August 15, 2022, meeting minutes.

MOTION: Adopt the proposed August 15, 2022, Meeting Minutes

M/S: Rabena-Amen/Eleby

114
115 **VOTE:** Armstrong - Aye
116 Dominguez- Aye
117 Drummer - Aye
118 Eleby - Aye
119 Ervin – Aye
120 McMillian - Aye
121 Rabena-Amen – Aye
122 7-0 Motion Carried
123

124 **9. Update of Sunset Review Report Pursuant to BPC Section 2602**
125

126 Mr. Kaiser reported that he was hopeful that he would be able to report that
127 PTBC's Sunrise bill, SB 1438 was signed by the Governor, however it has not
128 been signed yet. He stated that there were many bills that moved through the
129 legislature due to COVID and there were a record number of bills moving to the
130 Governor's desk this year. Mr. Kaiser thanked Dr. Dominguez and Ms.
131 McMillian for their help and guidance on the Sunset Report and to Dr. Rabena-
132 Amen and Ms. McMillian for joining him on the Sunset Hearing.
133

134 Mr. Kaiser reported that with SB 1438, PTBC's authority will be extended until
135 January 1, 2027, and we were successful in getting the direct access exemption
136 of the in-person evaluation by a physician or surgeon that was granted by the
137 Director of the Department during the pandemic and will now be in the practice
138 act moving forward.
139

140 **10. Presidents Report**

141 (A) 2022 Adopted Meeting Calendar
142

143 Dr. Rabena-Amen stated that the FSBPT Delegate Assembly is coming up at
144 the end of October and she encouraged members to attend.
145

146 Dr. Rabena-Amen solicited the Board for their availability on the December 8-9
147 scheduled meeting for 2022. Dr. Dominguez stated that he was not able to
148 attend December 9th however, he would be able to attend December 7-8th if the
149 meeting was moved.
150

151 **MOTION:** Move the December 8-9, 2022, Meeting Dates to
152 December 7-8, 2022

153
154 **M/S:** Rabena-Amen/McMillian
155

156 **VOTE:** Armstrong - Aye
157 Dominguez- Aye
158 Drummer - Aye
159 Eleby - Aye
160 Ervin – Aye
161 McMillian - Aye
162 Rabena-Amen – Aye
163 7-0 Motion Carried
164

165 (B) 2023 Proposed Meeting Calendar
166

167 Mr. Kaiser stated that staff are still looking for a school to host PTBC for the
168 March 2023 meeting in the Bay Area and those dates and location will be
169 updated on the calendar at the December 2022 meeting.
170

171 Ms. Eleby asked why there were three dates on the schedule for the June 2022
172 meeting, and Mr. Kaiser responded that it was to include a day to address the
173 new Strategic Plan. Dr. Rabena-Amen solicited the Board for their feedback on
174 whether they would prefer to do the strategic plan as a third day of a meeting or
175 if they would prefer to break it up as a separate meeting. The members were
176 open to both, and Mr. Kaiser stated that we will adopt the 2023 meeting calendar
177 at the December 2022 meeting and discuss the schedule for the strategic plan.
178

179 **11. Executive Officer's Report**

180 (A) Administrative Services

181 i. Staffing
182

183 Mr. Kaiser reported that, sadly, PTBC is saying farewell to it's Assistant
184 Executive Officer, Elsa Ybarra who is retiring after over 30 years of service
185 to the Board and the physical therapy consumers of California. Mr. Kaiser
186 added that she would be retiring in October and will be greatly missed.
187 Members congratulated and thanked Ms. Ybarra on her many years of
188 service and agreed that she will be very much missed.
189

190 Mr. Kaiser reported that the recruitment to fill the Assistant Executive Officer
191 position has begun and he is hopeful it will be filled in the upcoming weeks.

192
193 Mr. Kaiser added that PTBC recently finished recruiting for the Staff
194 Services Manager I over the Consumer Protection Services Unit. He
195 introduced and welcomed Ms. Erika Calderon to the PTBC.

196
197 Mr. Kaiser reported that staff have started the recruitment for two full-time
198 analysts in the Application Services Unit, and those positions are expected
199 to be filled shortly.

200
201 Mr. Kaiser reported that for this fiscal year, (FY) PTBC projected that it
202 would be a very tight year and would be close to expending our budget. He
203 added that PTBC is very fiscally responsible and typically reverts a portion
204 of our budget back in the physical therapy fund every year. He stated that
205 this year, we were able to revert almost \$240,000. Mr. Kaiser added going
206 forward, as always, PTBC will look at ways to save costs and stay within
207 budget.

208 209 (B) Applications

210
211 Mr. Kaiser referred members to Agenda Item 25 for a detailed Applications
212 Services report. He added that we are starting to see an increase in PTA
213 applications because of new PTA programs in the state of California and we will
214 monitor them closely and Ms. Beauchamps will be scheduling outreach
215 presentations with these new programs as soon as possible.

216 217 (C) Licensing/Continuing Competency

218
219 Mr. Kaiser referred members to Agenda Item 26 and 27 for a detailed Licensing
220 and Continuing Competency report. He added that while Continuing
221 Competency staff had been on loan to the Application and Licensing Units
222 during the pandemic, that has now changed, and they have returned to
223 Continuing Competency and have been conducting audits of licensees as well
224 as recognized approval agencies.

225 226 (D) Consumer Protection Services

227
228 Mr. Kaiser referred members to Agenda Item 28 for a detailed Consumer
229 Protection Services report. He added that under Ms. Calderon's leadership,

staff have been working like they are old colleagues, and it has been impressive to watch.

(E) Outreach

Mr. Kaiser reported that PTBC recently made its first video for Tik Tok, and we have gotten positive feedback and are committed to it. He added that stakeholders can expect to see new content for Tic Tok and broadcast on Twitter, Facebook and Instagram.

(F) Strategic Plan

Mr. Kaiser reported at the December 2022 meeting, PTBC would address the strategic plan and give the Board a final close out report for our previous strategic plan. He added that staff have already started preparation for the new strategic plan which will be brought to the Board at the June 2023 meeting.

12. Consumer and Professional Associations and Intergovernmental Relations Reports

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

There was no representative on behalf of FSBPT.

Mr. Kaiser thanked Mr. Ervin for joining him at FSBPT's Leadership Issues Forum in July and FSBPT has invited Mr. Ervin to speak on a panel about public members at their Education Meeting in October.

Mr. Kaiser added that California will be hosting the next FSBPT 2022 Annual Education Meeting in Anaheim, October 28-29, 2022. He stated that he and Ms. McMillian will be doing an opening presentation to welcome everyone to California and kick the meeting off. Mr. Kaiser encouraged all members to attend.

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

Mr. Kaiser provided an update on behalf of DCA; and they were apologetic they could not be there in person.

DCA reported that as it pertains to the pandemic and in-person meetings, guidelines and safety measures, legislation has passed allowing remote meetings and DCA is reminding all Boards, Bureau Members and staff that they are expected to follow the state and local public health guidelines that apply in the area where those meetings are being held.

DCA reported that there was a social media brown bag held on August 10th and the presentation included an overview of social media, best practices, content examples, security and more.

DCA reported that they would be holding their Fall Board Leadership meeting on October 11, 2022, and these quarterly meetings are attended by Board Presidents, Vice-Presidents, Executive Officers and DCA Executive Leaders and provides an opportunity to discuss important and emerging issues as a group. If members have any suggested agenda items for this upcoming meeting, please send them to the DCA member relations email.

DCA reported that they take a proactive and strategic approach to the recruitment and training of its skilled and diverse Workforce. To achieve this approach, DCA is updating its annual Workforce and Succession Plan and as part of this process, DCA recently requested Board and Bureau Leaders complete a Workforce survey and these responses will be used with other information about DCA's Workforce to inform decisions that align and support DCA's Strategic Plan.

DCA was pleased to announce that Nicole Le was hired on June 24, 2022, as the Deputy Director of DCA's Office of Administrative Services. In addition, DCA announced that Olivia Trejo has been appointed as DCA's Chief of Office of Human Resources as of August 1, 2022. DCA also announced that Taylor Schick was appointed to DCA's Chief Fiscal Officer in July 2022, and he will lead the dedicated Accounting and Budget teams.

DCA reported that recently, the Governor appointed a new Director of Board and Bureau Relations, Melissa Gear and she will be joining DCA in October.

DCA reminded Board members that they are required to complete Board Member Orientation Training within one year of appointment and reappointment

and the final training of 2022 will be offered on October 12, 2022, and members can register through DCA's Learning Management System (LMS).

(C) California Physical Therapy Association (CPTA)

Mr. Kaiser reported that CPTA was not able to join the meeting as they are in transit and travel for their Annual Convention in Anaheim, CA and PTBC staff will be attending the convention and will be manning a PTBC booth in the vendors area both Saturday and Sunday and he encouraged members to come and stop by the PTBC booth.

13. Discussion and Possible Board Action for the Increase in the Exempt Level of the Executive Officer

Dr. Rabena-Amen stated that for over 5 years, PTBC has been trying to get the Board classified at the level that corresponds to its operations and budget and PTBC has submitted several requests. She added that at the December 2021 meeting, the Board decided to move forward again and resubmit the package in April. Dr. Rabena-Amen reported that she did receive a response from DCA Director Kimberly Kirchmeyer on Friday, September 9th and PTBC was successful in moving the exempt level from Level L to Level M. Dr. Rabena-Amen thanked DCA for their help and support.

Mr. Kaiser reported that there was a committee established for the Exempt Level Increase and there is currently a vacancy and solicited the Board for their feedback on what to do with the existence of that Committee. Dr. Rabena-Amen suggested that PTBC abolish the Committee and can reassess at any time in the future and members agreed.

14. Legislation Report

(A) 2021/22 Legislative Session Summary

Ms. Arneson presented the legislative report and 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 225 (Gray) DCA: Boards: Veterans: Military Spouses: Licenses

342 Ms. Arneson reported that AB 225 is dead as it didn't pass out of the Senate
343 Appropriations Committee. She added that this bill would have expanded
344 the provisions of the military spouse temporary licensure program to apply
345 to military veterans who have been other-than dishonorably discharged,
346 and active-duty military members with orders for separation in 90 days.

347
348 ii. AB 646 (Low) DCA: Boards: Expunged Convictions

349
350 Ms. Arneson reported that AB 646 is dead as it did not pass out of the
351 Senate Appropriations Committee. She added that this bill would have
352 required Boards under DCA that post information on their online licensure
353 search system about a revoked license, when the revocation is due to a
354 criminal conviction, to update or remove information about the revoked
355 license should the Board receive an expungement order related to the
356 conviction.

357
358 iii. AB 1604 (Holden) The Upward Mobility Act of 2022: Boards and
359 Commissions: Civil Service: Examinations: Classifications

360
361 Ms. Arneson reported that AB 1604 was chaptered on September 13th and
362 will take effect January 1st, 2023. She added that this bill will require all
363 state boards and commissions consisting of one or more volunteer
364 members or commissioners, to have at least one volunteer board member
365 or commissioner from an underrepresented community, as defined, on or
366 after January 1, 2023. She stated that this bill also further clarifies that new
367 board or commission members should be replaced, under these
368 parameters, as vacancies occur and that this bill also requires all state
369 agencies who collect demographic information to use separate collection
370 categories and tabulations for specified black and African American groups.

371
372 iv. AB 1662 (Gipson) Licensing Boards: Disqualification from Licensure:
373 Criminal Conviction

374
375 Ms. Arneson reported that AB 1662 Licensing Boards is dead as it did not
376 pass out of the Senate Appropriations Committee, and that PTBC had an
377 oppose position on this bill. She added that this bill would have allowed a
378 prospective applicant that has been convicted of a crime to submit a request

379 to a Board for a preapplication determination on whether they would be
380 disqualified for licensure.

381
382 v. AB 1733 (Quirk) State Bodies: Open Meetings

383
384 Ms. Arneson reported that AB 1733 is dead as it failed the legislative
385 deadline on August 31st. She added that PTBC had a support position on
386 this bill and that this urgency bill would have specified that a meeting held
387 under the Bagley Keene Open Meetings Act includes a meeting held
388 entirely by teleconference as defined by the provisions of the bill. Ms.
389 Arneson stated that SB 189 was chaptered earlier this session in June,
390 which addressed allowing remote meetings; and will be addressed later in
391 the legislative report.

392
393 vi. AB 2104 (Flora) Professions and Vocations

394
395 Ms. Arneson reported that AB 2104 is dead as it did not pass out of the
396 Assembly B&P Committee. She added that this bill would have authorized
397 DCA and each Board in DCA to charge a fee not to exceed \$2 for the
398 certification of a copy of any record, document, or paper in its custody. Ms.
399 Arneson reported that this bill would have also required the delinquency,
400 penalty, or late fee for any license within the DCA to be 50% of the renewal
401 fee, but not to exceed \$150.

402
403 vii. AB 2600 (Dahle) State Agencies: Letters and Notices: Requirements

404
405 Ms. Arneson reported that AB 2600 is dead as it did not pass out of the
406 Assembly Accountability and Administrative Review Committee. She
407 added that this bill would have required that every state agency when
408 sending any communication state in bolded font at the beginning of the
409 communication whether it requires action on the part of the recipient or
410 serves as notice requiring no action.

411
412 viii. SB 189 (Committee on Budget and Fiscal Review) State Government

413
414 Ms. Arneson reported that SB 189 was chaptered on June 30th. She added
415 that this bill among additional provisions, authorizes state entities to hold
416 public meetings, subject to specified notice and accessibility requirements

417 through teleconferencing and making public meetings accessible
418 telephonically or electronically to the public. She added that these
419 provisions would sunset on July 1, 2023.

420
421 ix. SB 250 (Pan) Health Care Coverage

422
423 Ms. Arneson reported that SB 250 is dead as it did not pass out of the
424 Assembly Appropriations Committee. She added that this bill would have
425 granted a physician and surgeon the right to have an appeal of a prior
426 authorization decision conducted by a physician and surgeon of the same
427 or similar specialty and would have prohibited a plan or insurer from
428 requiring an appeal of an adverse prior authorization request result to be
429 filed before filing an independent medical review.

430
431 x. SB 731 (Durazo and Bradford) Criminal Records: Relief

432
433 Ms. Arneson reported that SB 731 was enrolled and presented to the
434 Governor on August 26th. She added that this bill would expand felonies
435 that are eligible for automatic record sealing to include convictions for
436 certain felonies that resulted in incarceration, as long as the individual had
437 completed their sentence and has not been convicted of a new felony
438 offense for four years.

439
440 xi. SB 1031 (Ochoa Bogh) Healing Arts Boards: Inactive License Fees

441
442 Ms. Arneson reported that SB 1031 is dead as it did not pass out of the
443 Senate Appropriations Committee. She added that this bill would have
444 required the renewal fee for an inactive license to be one half of the fee for
445 a renewal of an active license unless the Board established a lower fee.

446
447 xii. SB 1237 (Newman) Licenses: Military Service

448
449 Ms. Arneson reported that SB 1237 was chaptered on September 17th.
450 She stated that this bill will require the Boards within DCA to waive the
451 renewal fee for any licensee or registrant who is called to active duty as a
452 member of the United States Armed Forces or the California National Guard
453 if the licensee or registrant is stationed outside of California.
454

xiii. SB 1365 (Jones) Licensing Boards: Procedures

Ms. Arneson reported that SB 1365 is dead as it did not pass out of the Senate Appropriations Committee. She stated that this bill would have required all boards to post a list of criteria used to evaluate applicants with criminal convictions on their websites.

xiv. SB 1438 (Roth) Physical Therapy Board of California

Ms. Arneson reported that SB 1438 is the Boards Sunset bill and PTBC has a support position on this bill. Ms. Arneson stated that this bill was enrolled and presented to the Governor on September 9th and that it would extend the operations of the PTBC until January 1, 2027, and would also extend the Board's authority to appoint an Executive Officer until January 1, 2027. She added that this bill would authorize physicians and surgeons to conduct an in-person or telehealth patient examination and evaluation of the patient's condition in connection with their approval of the PT's plan of care.

xv. SB 1495 (Committee on Business, Professions and Economic Development) Professions and Vocations

Ms. Arneson reported that SB 1495 was enrolled and presented to the Governor on September 9th. She added that this is the omnibus bill for the Senate B&P Committee, and it makes numerous technical and clarifying provisions related to programs within DCA and deletes an obsolete cross reference in B&P code as well.

15. Rulemaking Report

(A) 2022 Rulemaking Update for Pending or Proposed Regulations (Title 16, California Code of Regulations (16 CCR)):

Ms. Arneson reported that there were 4 rulemaking packages in progress and that there has been a great deal of progress with PTBC's regulations.

i. Proposed Amendments to 16 CCR section 1398.26.1 – Satisfactory Documentary Evidence of Equivalent Degree for Licensure as a Physical Therapist or Physical Therapist Assistant/Coursework Tool

ii. Proposed Amendments to 16 CCR sections 1398.26.5, – Clinical Service Requirements for Foreign Educated Applicants Completing a

Supervised Clinical Practice in the United States

Ms. Arneson reported that both the Coursework Tool and Performance Evaluation Tool initial rulemaking packages were approved by Agency and were filed with OAL and published on August 5th for a 45-day public comment period which commenced on September 20th. She stated that PTBC staff will be working closely with DCA's regulation unit on submitting the final rulemaking packages to DCA very soon. Ms. Arneson added that PTBC has not received any adverse comments.

iii. Proposed Amendments to 16 CCR 1399.18, 1399.50 and 1399.52 – Retired License Status and Physical Therapist and Physical Therapist Assistant Fees

Ms. Arneson reported that the retired license status regulation was approved by Agency on June 6th and was filed with OAL and published on June 17th and the 45-day comment period ended on August 2nd. She added that PTBC did receive comments on this rulemaking package and that the comments received will be presented for Board consideration under Agenda Item 16.

iv. Update Regarding the Development of Possible Amendments to the Board's Continuing Competency Regulations

Ms. Arneson reported that the staff are still in the concept phase for the continuing competency regulations and anticipate bringing proposed language for Board consideration at a future meeting.

16. Consideration of Public Comments, Discussion, and Possible Adoption of Proposed Regulatory Text to Amend Title 16, California Code of Regulations, Sections 1399.18, 1399.50 and 1399.52 – Retired License Status and Physical Therapist and Physical Therapist Assistant Fees

Ms. Arneson reported that the Retired License Status Regulation's 45-day public comment period commenced on August 5th and a number of comments were received which were provided in the meeting materials for the Board's consideration. She added that according to the Administrative Procedure Act's requirements for enacting regulations, the Board must consider each comment and in the final rulemaking package a final statement of reasons is prepared, wherein comments are summarized and responded to.

Ms. Arneson stated that the Board received two categories of comments: the first was dissatisfaction with paying a \$100 fee for retired status; and the second was expressing confusion if current licensees in retired status, would need to pay the fee to remain retired. Ms. Arneson referred members to the prepared potential responses by staff and DCA's regulatory attorney for each of the categories of comments for the Board's consideration and approval. Ms. Arneson added that both of the draft responses provided were from the Initial Statement of Reasons, which is part of the rulemaking package. Ms. Arneson stated that also included in the meeting materials was a potential motion to continue this rulemaking package onto the final phase of the regulatory process which includes filing with OAL for approval.

Dr. Rabena-Amen suggested that the Board address the second category of comments received during the public comment period first, which was individuals expressing confusion if current licensees in retired status would need to pay the \$100 fee to remain in retired license status.

Ms. Arneson read the potential response to these comments from the meeting materials: "The Initial Statement of Reasons, page 1, stated that by the end of FY 2020/21, the Board had issued retired status to 537 of its 43,570 licensees. Those 537 licenses have already been processed as retired; therefore, those licensees would be exempt from the provisions of this regulatory proposal and no additional form or fee would be required. Because those licenses need nothing further, the Board has determined that no text changes are required in response to these comments. To the extent that the comment implies that the regulatory text is vague, the Board notes that the regulation, once enacted, is prospective only, so would not affect any status already in effect."

Dr. Rabena-Amen solicited the Board for their feedback on the potential response to the grandfather comments received. Dr. Drummer stated that one of the biggest challenges with this regulation is a licensee's lack of understanding of what license status means. Dr. Drummer added that delinquent status has a negative connotation, however it simply means that the licensee has not paid or renewed and/or is done practicing. Mr. Kaiser added that if a licensee chooses, they can stay in delinquent status for up to 5 years and if not renewed within that time, the license would change to cancelled status.

Dr. Drummer added that many licensees do not understand what retired license status means as it has its own definition and that is a piece of the challenge. He stated that we need to address educating the licensee population so that licensees understand the different license status terms,

574 potentially in the next newsletter, or provide a license status table on the
575 website.

576
577 Dr. Armstrong asked what happens to continuing education requirements
578 when a license is in delinquent status for up to 5 years. Mr. Kaiser responded
579 that when a license is in delinquent status and they go to renew their license,
580 they attest under penalty of perjury, that they are in compliance with the
581 continuing education regulations.

582
583 Mr. Kaiser clarified that retired license status is not new to PTBC and that
584 previously PTBC did have its own statutory language regarding retired license,
585 however, it was decided by the Board to utilize the department-wide statute of
586 BPC 484. Mr. Kaiser added that this regulation affects a small number of
587 licensees (around 500) and that licensees can apply for retired license status
588 during the promulgation of this regulation. He stated that no further action is
589 required for those that are currently in retired license status and that they do
590 not need to pay a fee.

591
592 Mr. Kaiser stated that in the Final Statement of Reasons, staff will clarify that
593 once this regulation is promulgated, for licensees in retired license status, a 5-
594 year clock starts, and they will have 5 years of retired license status once the
595 regulation goes into effect, and after 5 years' time, the license will switch to
596 retired cancelled status. Mr. Kaiser added that retired license status is an
597 option, however it is not something that licensees are mandated to use.

598
599 Dr. Alicia Rabena-Amen asked how inactive license status fits into this
600 discussion. Mr. Kaiser responded that when a licensee receives their renewal
601 notice and they must complete continuing education under penalty of perjury,
602 they are saying they are in compliance. Mr. Kaiser stated that if the licensee
603 does not have the 30 hours of continuing competency, they can choose
604 inactive status, they would have to pay the \$300 renewal fee, however they
605 are prohibited from practicing and they are exempt from the continuing
606 education requirements. He added that if a licensee wanted to return to
607 practice, they would have to file an application going from inactive to active
608 status and they would have to attest to having the 30 hours of continuing
609 competency in the previous two years.

610
611 Mr. Kaiser added that PTBC would educate licensees and stakeholders via the
612 newsletter, Board's website, and social media channels to help educate the
613 licensing population and consumers of this new regulation. Dr. Dominguez
614 agreed that it is important to educate the public. He stated that there is not a
615 place on the DCA or the Board's website where one can go and figure out all
616 the different license statuses. Mr. Kaiser stated that this would be added to

PTBC's website and PTBC could possibly include a FAQ to help licensees. He added that a definition is provided on the DCA license verification website by hovering over the license status.

Board members were comfortable with the response provided by staff regarding the grandfather comment for those that hold a license in retired status and have inquired if they would need to pay a fee and complete the new application form and had no changes to the response language provided.

Ms. Arneson provided the members with the proposed response to the commenters that expressed dissatisfaction at a \$100 fee for a retired license:

"At the September 2021 Board meeting, the Board approved the \$100 fee based upon the time spent processing such applications. After conducting a desk audit and based upon prior experience in processing prior retirement applications, the time to process was determined to be 95 minutes. This number was listed in the Initial Statement of Reasons, page 5. While, based on current costs, this results in a charge of \$101, the Board set the fee at a rounded-down \$100." Ms. Arneson referred members to the Retired License Workload for an Office Technician, provided in the materials.

Ms. Arneson continued reading the proposed response: "according to the State Administrative Manual (SAM), the state must recover costs unless those costs are otherwise limited by statute. SAM section 8752 was renumbered to 9210 in January 2022, but the onus on state to recover "all costs attributable directly to the activity plus a fair share of indirect costs which can be ascribed reasonably to the good or service provided" remains unchanged. BPC 464, subdivision (b)(4) states that a board "shall establish an appropriate application fee for a retired license to cover the reasonable regulatory cost of issuing a retired license." The Board does not receive General Fund money from the state; it collects fees to offset the costs of its activities. Therefore, not charging for work done from licensees in one category would require licensees in another category to shoulder that burden, such as through increased renewal fees. To be equitable, only those who are requesting a specific work product, such as a retired license, should bear the burden of that specific cost. Assembly Bill (AB) 2859 (Low, Ch. 473, Stats. 2016), which provided for retired status under BPC 464, recognized that many licensees disfavor becoming simply "inactive" or delinquent. However, as the Board noted in its Initial Statement of Reasons, choosing to request a retired license is an option for licensees. If a licensee does not want to pay for and receive a retired status, they could simply not renew their license and show as "inactive" until the license automatically cancels after five years."

Mr. Kaiser and members agreed to amend the last paragraph of the suggested response to the comments received regarding the \$100 fee, they agreed to strike inactive from the first sentence to read “delinquent” and change the last line of the paragraph from “inactive” to “delinquent.” The last paragraph amended would read: “Assembly Bill (AB) 2859 (Low, Ch. 473, Stats. 2016), which provided for retired status under BPC 464, recognized that many licensees disfavor becoming simply ~~“inactive”~~ or delinquent. However, as the Board noted in its Initial Statement of Reasons, choosing to request a retired license is an option for licensees. If a licensee does not want to pay for and receive a retired status, they could simply not renew their license and show as ~~“inactive”~~ delinquent” until the license automatically cancels after five years.”

Dr. Drummer added that for some of the comments concerning the fee, it is important to educate licensees that they are not required to pay anything to retire, and that retired license status is a choice.

Mr. Kaiser stated that establishing any fee has some pushback from the licensee population and the retired license fee workload audit was provided to members, is part of the rulemaking package and DCA Budgets reviewed and approved it. He added that retired license status is still a renewable license, within 5 years and can save a licensee money should they change their mind on retirement and want to return to practice.

Dr. Rabena-Amen stated that a licensee in retired license status is still under the oversight of the PTBC and that burden cannot lie on the licensees that are renewing or joining the profession, therefore she felt that the retired license fee is justified.

MOTION: Adopt the regulatory text as noticed, approve the proposed responses to the retired license status regulatory comments with the edits made in the meeting today, and direct PTBC staff to take all steps necessary to complete the rulemaking process. Authorize the Executive Officer to make any technical or non-substantive changes to the rulemaking package and delegate authority to the Executive Officer to finalize the regulatory package.

M/S: Drummer/Rabena-Amen

698
699 **VOTE:** Armstrong - Aye
700 Dominguez- Aye
701 Drummer - Aye
702 Eleby - Aye
703 Ervin - Aye
704 McMillian - Aye
705 Rabena-Amen – Aye
706 7-0 Motion Carried
707

708 **17. Public Comment on Items Not on the Agenda**

709 The Board requested public comment on items not on the agenda, and there
710 was no public comment.
711

712 **18. Recess**
713

714 The meeting recessed at 5:29 p.m. from closed session on September 21,
715 2022.

716 **Thursday, September 22, 2022**
717

718 **19. Call to Order**
719

720 The Physical Therapy Board of California (Board) meeting was called to order by
721 President Dr. Rabena-Amen at 9:02 a.m. and adjourned at 1:12 p.m. on
722 September 22, 2022.
723

724 **20. Roll Call and Establishment of Quorum**
725

726 Armstrong - Present
727 Dominguez- Present
728 Drummer - Present
729 Eleby - Present
730 Ervin – Present
731 McMillian - Present
732 Rabena-Amen - Present
733

734 All members were present, and a quorum was established. Also present at the
735 meeting were: Michael Kanotz, PTBC Legal Counsel; Jason Kaiser, Executive
736 Officer; Erika Calderon, Manager; Sarah Conley, Manager; Liz Constancio,
737 Manager; Brooke Arneson, Regulation Specialist; April Beauchamps; Kim Rozakis

and Valerie Kearney, Board staff.

21. Reading of the Board's Mission Statement

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.

22. Overview of the Attorney General's Legal Process for Disciplinary Actions *– John Gatschet, Deputy Attorney General*

Mr. Gatschet presented an overview of the Attorney General's Legal Process for Disciplinary Actions.

23. Physical Therapy Student Question and Answer Forum

Physical Therapy Assistant students from San Diego Mesa College, San Diego, CA, participated in a question-and-answer forum with the Board regarding the regulation and practice of physical therapy in California.

24. Administrative Services Update **(A) Budget Report**

Ms. Constancio reported on the budget report and thanked DCA's Budget Office, Sarah Hinkle and Kenneth Meiss for their support to the PTBC.

Ms. Constancio reported that the Governor's authorized budget for the PTBC is \$6,637,000 which includes personnel services, operating expenses, and equipment, and 27.4 positions to support program requirements. She added that PTBC had a total expenditure for fiscal year 21/22 of \$6,397,992 which was 96% of PTBC's total budget. Ms. Constancio reported that PTBC was able to revert \$239,008 back to the Physical Therapy Fund.

Ms. Constancio reported that DCA's Budget Office confirmed that the Board will be reimbursed \$94,000 for contract tracer reimbursement for prior year (PY)20-21 costs and this reimbursement was deposited into the Board's fund beginning current year (CY) 2022-23.

Ms. Constancio reported that the expenditures in Q2 (FY21-22) are \$1,662,337, a 20.63% increase over previous year's Q2 expenditures of \$1,377,953 (PY20-21).

Ms. Constancio stated that PTBC collected \$1,796,000 during Q1 (FY21-22) a 10.12% increase over Q1 revenue from last fiscal year and PTBC's revenues for Q2 of prior year (21-22) were \$2,099,683, a 1.36% increase from Q2 last fiscal year. She added that PTBC collected \$1,565,695 during Q3 (FY21-22), a 1.96% decrease over Q3 revenue from last fiscal year. In addition, PTBC collected \$1,081,401 during Q4 (FY21-22), a 0.67% decrease over Q4 revenue from last fiscal year (PY20-21). Ms. Constancio reported that historically, the PTBC revenues increase by at least 1-2%.

Ms. Constancio reported that with the projections, workload, and revenue data collection, PTBC anticipates a fund condition of 2.0 months in reserve in budget year 2024/25.

(B) Outreach Report

Ms. Beauchamps reported that PTBC's website in FY 2021-22 had 561,085 web hits which was an 8% decrease from last fiscal year and in looking at the three-year milestones, website traffic has decreased by 13%. She stated that this is attributed to efforts to go paperless and directing applicants and licensees to use BreEZe.

Ms. Beauchamps reported that in FY 2021-22, 44,581 accessed the PTBC's Facebook page which resulted in a 32% decrease in traffic from last fiscal year and in looking at the three-year milestone, Facebook traffic has decreased 53% which is attributed to the trends and changes in social media platforms. She stated that amongst the various social media platforms, in 2020 and 2021, Tik Tok was the most downloaded app and most visited site on the internet. She added that data shows that the younger demographics are moving towards Tik Tok and Instagram and statistics also show that users spend more time on Tik Tok than any other platform. Ms. Beauchamps stated that Tik Tok users spend an average of 52 minutes per day and Facebook users spend an average of 34 minutes a day, in addition, Tik Tok has the highest engagement rate.

Ms. Beauchamps reported that PTBC has 3,900 followers on Facebook and only 14 followers on Tik Tok, however, since posting it's first Tik Tok video, it has already received 45 likes and was viewed 594 times and on Facebook it had only received 5 likes and 473 views. She added that PTBC is excited to utilize Tik Tok as an additional platform alongside other social media platforms as another method to reach our stakeholders and consumers.

Ms. Beauchamps reported that during fiscal year 2021/22, the PTBC provided virtual outreach workshops to 31 PT and PTA programs which was a 24% increase from last fiscal year. She added that PTBC provided webinars to CPTA and FSBPT as well.

Dr. Rabena-Amen asked about the new website development. Ms. Beauchamps responded that the new home page has been approved and the other tabs are being worked on and PTBC is hopeful it will be coming before the end of this fiscal year.

25. Application Services Update

(A) Program Updates

(B) Statistical Reports

Ms. Conley reported that initial license applications received increased 3% from FY 2020/21 Q4 to FY 2021/22 Q4 and most of those applications were received online. She added that the composition of initial license applications was as follows: Endorsement 34%; Exam 66%; U.S. Educated 92%; Foreign Educated 8% and Military 4%.

Ms. Conley reported that the three-year data comparison from FY 2019/20 to FY 2021/22 shows a 2% decrease in physical therapist initial license applications received and a 12% increase in physical therapist assistant initial license applications received as well as an 11% increase in physical therapist licenses issued and an 8% increase in physical therapist assistant licenses issued. She added that there is an increase in PTA programs, currently there are 20 accredited PTA programs, and 5 of those were accredited since 2019 and there are 7 PTA programs seeking accreditation in the very near future.

Ms. Conley reported that outreach has been an invaluable tool and has helped applicants be more informed of the application process which makes it easier

for PTBC to process their applications. Ms. Conley added that internal process updates help increase efficiencies as well.

Ms. Conley reported that there have been a few staffing changes and that Ms. Valerie Kearney was appointed as the lead analyst in the Application and Licensing Program.

Ms. Eleby asked what outreach looks like for people in the military or military spouses. Ms. Conley responded that PTBC is working with DCA as it is a department-wide effort and DCA has a team dedicated to working with members of the military and military spouses. She added that PTBC has implemented an expedited licensure process for military applicants and PTBC has a direct contact for military applicants and military spouses as well as a page on our website dedicated to helpful military applicant information.

26. Licensing Services Update

(A) Program Updates

(B) Statistical Reports

Ms. Conley reported that the License Maintenance program continues to see most license maintenance requests submitted online and that PTBC staff are working to increase efficiency in responding to licensee inquiries, specifically for complex license maintenance issues and law and regulation questions; progress in this area is reliant, in part, on staffing resources.

27. Continuing Competency Services Update

(A) Program Updates

(B) Statistical Reports

Ms. Conley reported that effective July 1, 2022, licensee audits resumed; and that audit data and results will be reported at the December meeting.

Ms. Conley also stated that PTBC staff are in the process of working on the continuing competency regulations and proposed language will be presented for Board consideration soon.

Ms. Conley reported that as a result of the recent Approval Agency outreach effort, staff have identified several Approval Agencies as candidates for

recognition withdrawal. She referred members to the individual issue papers included in the meeting materials for each Approval Agency recognition withdraw recommendation.

1. Discussion and Possible Board Action on Removal of Continuing Competency Approval Agency Recognition

i. ACIC Physical Therapy

MOTION: Withdraw Approval Agency recognition from ACIC Physical Therapy.

M/S: Eleby/Dominguez

VOTE: Armstrong - Aye
Dominguez- Aye
Drummer - Aye
Eleby - Aye
Ervin - Aye
McMillian - Aye
Rabena-Amen – Aye
7-0 Motion Carried

ii. California Chiropractic Association

MOTION: Withdraw Approval Agency recognition from California Chiropractic Association

M/S: Drummer/Eleby

VOTE: Armstrong - Aye
Dominguez- Aye
Drummer - Aye
Eleby - Aye
Ervin - Aye
McMillian - Aye
Rabena-Amen – Aye
7-0 Motion Carried

iii. California State University Sacramento

MOTION: Withdraw Approval Agency recognition from California State University Sacramento

M/S: Dominguez/Armstrong

VOTE: Armstrong - Aye
Dominguez- Aye
Drummer - Aye
Eleby - Aye
Ervin - Aye
McMillian - Aye
Rabena-Amen – Aye
7-0 Motion Carried

iv. Community Medical Centers

MOTION: Withdraw Approval Agency recognition from Community Medical Centers

M/S: Drummer/McMillian

VOTE: Armstrong - Aye
Dominguez- Aye
Drummer - Aye
Eleby - Aye
Ervin - Aye
McMillian - Aye
Rabena-Amen – Aye
7-0 Motion Carried

v. Del Norte Seminars

MOTION: Withdraw Approval Agency recognition from Del Norte Seminars

M/S: McMillian/Drummer

VOTE: Armstrong - Aye
Dominguez- Aye
Drummer - Aye
Eleby - Aye
Ervin - Aye

972 McMillian - Aye
973 Rabena-Amen – Aye
974 7-0 Motion Carried
975

976 **vi. Edlantis Seminars, Inc.**
977

978 **MOTION:** Withdraw Approval Agency recognition from
979 Edlantis Seminars, Inc.
980

981 **M/S:** McMillian/Armstrong
982

983 **VOTE:** Armstrong - Aye
984 Dominguez- Aye
985 Drummer - Aye
986 Eleby - Aye
987 Ervin - Aye
988 McMillian - Aye
989 Rabena-Amen – Aye
990 7-0 Motion Carried
991

992 **vii. Medical Sciences Foundation**
993

994 **MOTION:** Withdraw Approval Agency recognition from
995 Medical Sciences Foundation
996

997 **M/S:** Armstrong/McMillian
998

999 **VOTE:** Armstrong - Aye
1000 Dominguez- Aye
1001 Drummer - Aye
1002 Eleby - Aye
1003 Ervin - Aye
1004 McMillian - Aye
1005 Rabena-Amen – Aye
1006 7-0 Motion Carried
1007

1008 **viii. Net Education Design Inc.**
1009

1010 **MOTION:** Withdraw Approval Agency recognition from Net
1011 Education Design Inc.
1012

1013 **M/S:** McMillian/Drummer

1014
1015 **VOTE:** Armstrong - Aye
1016 Dominguez- Aye
1017 Drummer - Aye
1018 Eleby - Aye
1019 Ervin - Aye
1020 McMillian - Aye
1021 Rabena-Amen – Aye
1022 7-0 Motion Carried
1023

1024 **ix. OnCourse Learning**
1025

1026 **MOTION:** Withdraw Approval Agency recognition from
1027 OnCourse Learning
1028

1029 **M/S:** McMillian/Drummer
1030

1031 **VOTE:** Armstrong - Aye
1032 Dominguez- Aye
1033 Drummer - Aye
1034 Eleby - Aye
1035 Ervin - Aye
1036 McMillian - Aye
1037 Rabena-Amen – Aye
1038 7-0 Motion Carried
1039

1040 **x. Orange County Global Medical Center**
1041

1042 **MOTION:** Withdraw Approval Agency recognition from
1043 Orange County Global Medical Center
1044

1045 **M/S:** McMillian/Drummer
1046

1047 **VOTE:** Armstrong - Aye
1048 Dominguez- Aye
1049 Drummer - Aye
1050 Eleby - Aye
1051 Ervin - Aye
1052 McMillian - Aye
1053 Rabena-Amen – Aye
1054 7-0 Motion Carried
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xi. Progressus Therapy, LLC

MOTION: Withdraw Approval Agency recognition from Progressus Therapy, LLC

M/S: Armstrong/Ervin

VOTE: Armstrong - Aye
Dominguez- Aye
Drummer - Aye
Eleby - Aye
Ervin - Aye
McMillian - Aye
Rabena-Amen – Aye
7-0 Motion Carried

xii. UE Seminars

MOTION: Withdraw Approval Agency recognition from UE Seminars

M/S: Drummer/Ervin

VOTE: Armstrong - Aye
Dominguez- Aye
Drummer - Aye
Eleby - Aye
Ervin - Aye
McMillian - Aye
Rabena-Amen – Aye
7-0 Motion Carried

xiii. Video Continuing Education, LLC

MOTION: Withdraw Approval Agency recognition from Video Continuing Education LLC

M/S: McMillian/Drummer

VOTE: Armstrong - Aye
Dominguez- Aye
Drummer - Aye

1098 Eleby - Aye
1099 Ervin - Aye
1100 McMillian - Aye
1101 Rabena-Amen – Aye
1102 7-0 Motion Carried
1103

1104 **28. Consumer Protection Services Update**

1105 **(A) Program Updates**

1106 **(B) Statistical Reports**
1107

1108 Ms. Erika Calderon reported that 2022 has been another year of adjustments
1109 and challenges, but it has been extremely successful and productive for
1110 Consumer Protection Services (CPS). She stated that CPS has onboarded an
1111 in-house consultant, Dr. Alexandra Jones, P.T., to assist with the cursory review
1112 of cases involving patient care and will be available to staff by phone, email and
1113 eventually hopefully in person at least once a month for direct staff interaction.
1114

1115 Ms. Calderon reported that CPS recently updated the PTBC's consumer
1116 complaint form (now available on PTBC's webpage), making it easier to read,
1117 fill out, and gather upfront investigative documents. She stated that instructions
1118 were added to the front page to have complainants attach a copy of any
1119 supporting documents they may have in their possession such as patient
1120 records, photographs, audio or video recordings, correspondence (e.g., letters,
1121 emails, texts), billing statements, proof of payments, police reports, court
1122 documents, or internal employment administrative investigations. Ms. Calderon
1123 reported that in addition, the Authorization for Release of Patient Health
1124 Information Forms have been attached to the complaint and by doing all of this,
1125 CPS staff hopes to save intake processing time, allowing staff to obtain much
1126 more information upfront from the complainant instead of spending a couple of
1127 weeks of back and- forth communication to gather all the necessary information
1128 to conduct the initial review.
1129

1130 Ms. Calderon reported that in terms of PTBC's Investigation Cycle time also
1131 knows as our performance measure 3 (PM3), PTBC conducted a 4-year
1132 analysis of our target measure and found that PTBC's average has been 171.25
1133 days for the past 4 years, our previous target was 90 days. PTBC staff have
1134 looked at other Boards and realized quickly that PTBC previously established a

1135 very ambitious goal in comparison to others, so our new target measure for PM3
1136 is now 180 days.

1137
1138 Ms. Calderon stated to help with case aging, CPS has implemented monthly
1139 case reviews that are conducted on the last week of every month as well as also
1140 working on getting CPS staff access to LexisNexis, a public records database,
1141 which will allow CPS staff to look up information such as addresses and phone
1142 numbers. She explained that this becomes extremely helpful in those instances
1143 where our licensees have failed to update their address of record and staff are
1144 unable to reach them.

1145
1146 Ms. Calderon reported that monthly meetings with the Division of Investigation
1147 (DOI) have been established and these meeting will be conducted on the last
1148 Thursday of each month between the CPS manager and the Supervising
1149 Special Investigator over DOI's enforcement support unit. She added that the
1150 goal is to establish an open line of communication between the Board and the
1151 Investigative staff to discuss enforcement related matters that may impact both
1152 departments, case ageing, and also use this as an opportunity to discuss
1153 urgent or high-profile cases to keep them moving along and worked efficiently.

1154
1155 Ms. Calderon shared that on September 27, 2022, CPS staff will be attending
1156 the NCIT Basic Training which is an in person training course hosted by DCA
1157 covering topics such as the Principles of Administrative Law and the Regulatory
1158 Process, the Investigative Process, Investigator Safety, Principles of Evidence,
1159 Evidence Collection, Tagging and Storage, Interviewing Techniques, Overview
1160 of Inspections and Inspection Procedures, Report Writing, Testifying in
1161 Administrative and Criminal Proceedings. She added that in November, PTBC
1162 staff will be attending the NCIT Specialized program, where staff will learn all
1163 about Advanced Interviewing Techniques, Advanced Investigative Analysis, and
1164 Investigative Report Development. She added that the last time CPS attended
1165 this training was back 2011, so CPS is looking forward to a refresher course.

1166
1167 Ms. Calderon reported that on October 4, 2022, CPS with the help of the
1168 Attorney General's Office, will be conducting an expert reviewer training. This
1169 training will be conducted via WebEx, and its goal is to onboard experts that are
1170 needed with certain expertise and in certain counties where we don't have
1171 enough experts. In addition, some of our current experts will be attending the
1172 training as a refresher.

Ms. Calderon reported that CPS was extremely busy this fiscal year and that staff continue to meet each challenge each step of the way, they remain very flexible when needed and have been extremely supportive of their new manager and continue to efficiently and effectively investigate PTBC's consumer complaints.

Ms. Calderon referred members to Attachment A & B and stated that the number of consumer complaints and arrest/conviction reports received are reported in Performance Measure 1 (Complaint Intake) and these have increased by 13% compared to FY 2020/21. She explained that these numbers fluctuate regularly, and the increase is expected as the nation is heading towards normalcy after a national pandemic.

Ms. Calderon stated that the target for Performance Measure 2 (Complaint Initiation) is 10 days, and this is the average number of days it takes for PTBC to initiate a complaint and acknowledge receipt of the complaint. She added that PTBC's average this past year was 3 days, which means that we are excelling in meeting this mandate by 7 days.

Ms. Calderon reported that for Performance Measures 3 (Investigation Cycle Time) and Performance Measure 4 (AG Case Cycle Time) case aging was a bit higher in comparison to last year. She added that many times these numbers are known to fluctuate from year to year and as previously reported in past Board meetings one or two very complicated cases can increase these numbers substantially; however, with PTBC's monthly meetings with DOI and with our newly established LexisNexis contract staff hope to target this area significantly this year.

Ms. Calderon stated that CPS had an increase of 104% in the issuance of citations this past year; and CPS issued 53 citations YTD, compared to 26 issued last fiscal year. She added that citations are being utilized for lower-level violations and used as an educational tool for isolated record keeping matters, or in an instance where there was a failure to update an address of record.

Ms. Calderon stated that as previously reported in past recent quarters, pandemic-related issues continue to cause delays in many investigations, however we are seeing things slowly returning back to normal.

Ms. Calderon reported that for the 3-year milestone statistics PTBC is seeing an increase in total number of complaints received from a slight decline in FY 2019-2020; again, as previously mentioned we account the drop in FY2019-2020 as being related to the impact that COVID had to the practice.

Ms. Calderon stated that convictions have declined the past two years, however, there continues to be an increase in the average number of days to complete an investigation. She added that staff are seeing a decline in the average number of days from the date the case is transmitted to the AG, to the date of the case outcome or formal discipline effective date.

29. Probation Monitoring Services Update

(A) Program Updates

(B) Statistical Reports

Ms. Calderon reported that there was a high of 72 licensees on probation at one time or another for various causes; besides the 67 licensees on probation and in the state of California, there were an additional 5 probationers tolling (out of state) and not receiving credit toward the completion of probation. She added that there were 9 licensees placed on probation in the quarter, and 2 licensees completed probation in the quarter.

Ms. Calderon reported that of the 67 licensees that were not tolling, 11 were enrolled and participating in the Board's Drug and Alcohol Recovery Monitoring Program at the end of the quarter, equaling about 16% of all licensees on probation that weren't tolling. She added that 2 licensees enrolled in the Alcohol Recovery Monitoring Program in the quarter and 3 licensees completed the program. She stated that there was one instance of Non-Compliance with probation when a licensee failed to check-in to find out if they needed to provide a biological fluid sample for testing that day and that the licensee was sent a Non-Compliance Letter and warned that further instances of non-compliance may lead to further consequences and/or discipline of their license.

Ms. Calderon stated that over the last 3 years, there have been some fluctuations regarding the number of licensees on probation which is probably due to COVID-19, some clean-up of PTBC's Breeze records, and the fact that some of our tolling licensees out of state let their licenses cancel. She added that this has resulted in an overall decrease in licensees tolling out of state; however, the number of licensees that were placed on probation rose from 9 licensees in 2019/20 to 12 licensees in 2020/21 and jumped again to twenty-23

licensees in fiscal year 2021/22, resulting in an overall increase in licensees on probation.

30. Public Comment on Items Not on the Agenda

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

31. Agenda for Future Meeting- December 7-8, 2022

Department of Consumer Affairs

Ms. Eleby stated that recently, Gavin Newsom passed a law where if cannabis use is happening after work, employers cannot terminate an employee, and that she would be interested in discussing that further with the Board and how cannabis interacts with the practice of physical therapy. She added that there are products that are non-psychoactive like topicals and tinctures where there could be a medicinal benefit and asked if that information is in curriculum. She asked that since we are in a state where it is legal medicinally and recreationally, is there a responsibility to educate our students on how to recommend cannabis products to patients or direct them towards where they can get more medicinal products. Dr. Drummer added that there have been continuing education presentations on cannabis products and their relevance to physical therapy that can be helpful. Dr. Dominguez stated that from an academic perspective, he has not seen it covered in foundational coursework, but it is being covered in courses that address emerging topics. Mr. Kaiser stated that we can reach out to FSBPT and APTA for presentations they may offer and also invite our colleagues from the Department of Cannabis Control.

Dr. Rabena-Amen asked about the Kinesiological Electromyography (KEMG) and Electroneuromyography (ENMG) certification and licenses. Mr. Kaiser stated that he has had conversations with CPTA as of late where we did bring in a few of ENMG and KEMG license holders to talk about where the board is with these specialty certifications. He added that it is a very small licensing population, and that dry needling will also need to be a part of this conversation. Mr. Kaiser stated we have only received one application in the past few years and that the examination for both specialty licenses is rather old and establishing a new exam is very costly and the demand is extremely low. He stated that PTBC will need to look to the future to consider these specialties when it comes to our Practice Act, tissue penetration and the conflict of the Medical Practice Act.

Dr. Rabena-Amen asked about any recommendations on regulations to work on for the next year, Mr. Kaiser added that staff would like to address the continuing competency regulations and that staff will be presenting the 2023 Rulemaking Calendar at the December meeting for board consideration.

32. 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 the following litigation: *Alan Kun-Sien Kyo v. Physical Therapy Board of California* (Superior Court of California, County of Sacramento, Case number 34-2021-80003743)

The Board did not enter into closed session on September 22, 2022, day two of the meeting.

33. Adjournment

The meeting adjourned at 1:12 p.m. on September 22, 2022.