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

1. **Call to Order**

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

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

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

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

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

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

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

   Once issued, disciplinary decisions can be found on the Board’s website at www.ptbc.ca.gov.
4. Closed Session

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

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

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

5. Reconvene Open Session – 2:05 p.m.

6. Presentation of Certificates of Appreciation – Katarina Eleby

(A) James Turner
(B) Carol Wallisch

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

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

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

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

M/S: Eleby/Alviso

VOTE: 7-0 Motion carried.

Mr. DeLaCruz asked the Board whether they had decided on the level of which to increase the Executive Officer’s position. President Eleby asked the Board if level “L” is
what they deemed appropriate and the Board concurred.

**MOTION:** To increase the level of the Executive Officer position to exempt level “L.”

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

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

8. **Review and Approval of May 18<sup>th</sup> & 19<sup>th</sup> Meeting Minutes – Brooke Arneson**

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

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

**M/S:** Alviso/Eleby

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

9. **President’s Report – Katarina Eleby**

**(A) 2016 Adopted Meeting Calendar**

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

**MOTION:** To move the November meeting to the 16<sup>th</sup> and 17<sup>th</sup>.

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

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

**(B) 2017 Proposed Meeting Calendar**

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

**MOTION:** To move the February meeting to Southern California and the May 17 and 18, 2017 meeting to May 24 and 25, 2017.
10. Executive Officer’s Report – Jason Kaiser
Mr. Kaiser referred the members to his report included in the agenda materials. He highlighted the appointment of Sarah Conley to an out-of-class Staff Services Manager position and expressed appreciation of her expertise. Additionally, Mr. Kaiser explained the Internal Audit of the Board by DCA is not random and is on a rotating schedule.

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

(A) Example Letters of Termination of Network Participation

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

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

(A) Sunset Process and Timelines
(B) Schedule Future Meeting(s) to Develop Sunset Review Report
(C) Discussion of Issues to Include in the Board’s Sunset Review Report
(D) Potential Appointment of Sunset Review Subcommittee

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

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

13. Recess – 4:02 p.m.
14. Call to Order – 9:00 a.m.

15. Roll Call and Establishment of Quorum
   All members were present and a quorum was established.

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

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

17. Consumer and Professional Associations and Intergovernmental Relations Reports

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

   No representative was present.

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

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

   (C) California Physical Therapy Association (CPTA)

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

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

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

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

19. Rulemaking Report – Brooke Arneson

(A) 2016 Rulemaking Update

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

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

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

AB 2859 and this agenda item were discussed as a potential new issue for the Sunset Report.
(C) Discussion of Issues Regarding TOEFL Regulatory Language and Possible Action Regarding Modified Text on English Proficiency Requirements; Proposed Language to Amend Section 1398.25 and Add Section 1398.26.3 to Article 2, Division 13.2, Title 16 of the California Code of Regulations

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

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

**M/S:** Drummer/Eleby

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

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

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

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

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

20. Administrative Services Report – *Liz Constancio*

(A) **Budget**

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

21. **Application Report – Sarah Conley**

Ms. Conley summarized her written report included in the agenda materials and advised the Board she had conducted a survey of all the PT and PTA programs soliciting feedback for service improvement. She relayed there were valuable comments received
indicating the programs found the Board’s website to be user friendly and a valuable source for information and they appreciated the attempt to provide quality customer service given the hindrance of limited resources, but improvements could be made in accessibility to staff, process clarity and timelines.

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

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

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

22. Licensing Services Report – Sarah Conley

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


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

24. Probation Monitoring Report – Monny Martin

Mr. Martin reported there were 104 probationers, 12 are tolled and 23 are in the Board’s Drug and Alcohol Recovery Program. He explained he monitors the probationers via a comprehensive initial interview with quarterly follow up and communication with the probationer’s supervisor. Concerns about compliance will elicit a personal interview.
25. Public Comment on Items Not on the Agenda

26. Agenda Items for Future Meetings

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

27. Closed Session

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

28. Adjournment

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