

EDMUND G. BROWN JR.  
GOVERNOR

*State and  
Consumer Services Agency*

ANNA M. CABALLERO  
SECRETARY

African American Museum  
Building Standards Commission  
Consumer Affairs  
Expo Park  
Fair Employment & Housing  
Fair Employment & Housing Commission  
Franchise Tax Board  
General Services  
Privacy Protection  
Science Center  
Seismic Safety Commission  
Personnel Board  
Public Employees' Retirement System  
Teachers' Retirement System  
Victim Compensation &  
Government Claims Board



September 6, 2012

Elaine Howle  
California State Auditor  
Bureau of State Audits  
555 Capitol Mall, Suite 300  
Sacramento, CA 95814

**Re: Bureau of State Audit's 2011-119– Department of Consumer Affairs, Physical Therapy Board**

Pursuant to the Bureau of State Audit's (BSA) Report No. 2011-119, enclosed is the sixty-day status report prepared by the Department of Consumer Affairs, Physical Therapy Board.

The State and Consumer Services Agency would like to thank the BSA for its comprehensive review. The results provide us with the opportunity to better serve our clients and protect the public.

Sincerely,

Anna M. Caballero  
Secretary of State and Consumer Services Agency

Enc.

## California Bureau of State Audits Report 2011-119; 60-day Update

The following responses are indicative of the progress made by the Department of Consumer Affairs and the Physical Therapy Board of California after 60 days from release of the report by the Bureau of State Audits.

### **Finding:**

**The Physical Therapy Board could achieve significant savings if it can hire a state employee to perform the function of its in-house consultant.**

### **Recommendation:**

**The Physical Therapy Board should explore the feasibility of establishing a state position to perform the duties of its current in-house consultant at a reduced cost.**

### **Response:**

Liz Constancio, Staff Manager with the Physical Therapy Board of California (Board) and the Department of Consumer Affairs (DCA) Human Resources Office are scheduled to meet on September 17, 2012 to discuss the following:

- Creating a new civil service classification to perform the duties of the in-house consultant.
- Contacting the Department of Health Care Services about the possibility of utilizing their existing Physical Therapy Consultant classification.

Contact: Liz Constancio, Manager, Physical Therapy Board of California  
Telephone: (916) 561-8274      Email: [Liz.Constancio@dca.ca.gov](mailto:Liz.Constancio@dca.ca.gov)

**Finding:**

**The Physical Therapy Board lacks a formal process to evaluate the work of its in-house consultant and other expert consultants.**

**Recommendation:**

**To make certain that it provides effective services to consumers; the Physical Therapy Board should develop a means of formally evaluating its expert consultant's against performance measures and benchmarks. Furthermore, the Physical Therapy Board should conduct these evaluations on an ongoing basis and document them fully.**

**Response:**

The Board implemented written performance standards for its physical therapy expert reviewers on July 1, 2012. Upon completion of services, an expert reviewer evaluation shall be completed by the Board's Consumer Protection Services (CPS) analysts, Program Consultant, Deputy Attorneys General (DAG) and is reviewed by the CPS Manager and/or Executive Officer.

The Expert Performance-ER-1 tool, completed by CPS analysts and the CPS Program Consultant, measures performance on the following:

- Productivity,
- Quality of work product,
- Case analysis,
- Decision making,
- Relations with people; and,
- Overall performance.

The Expert Performance-ER-2 tool, completed by the Deputy Attorney General measures performance on the following:

- Written report,
- Knowledge of case,
- Preparation for hearing; and,
- Testimony at a hearing.

Removal of an expert reviewer for substandard or negative performance(s) is considered and determined by the CPS Manager and/or Executive Officer after consultation with the case analyst and the Board's Program Consultant. This will be done on a case by case basis. The next response to the audit findings will include data on the effectiveness of the tool.

Contact: Jason Kaiser, Manager, Physical Therapy Board of California  
Telephone: (916) 561-8278      Email: [Jason.Kaiser@dca.ca.gov](mailto:Jason.Kaiser@dca.ca.gov)

**Finding:**

**Consumer Affairs does not ensure that members of boards and other designated employees receive all required training.**

**Recommendation:**

**The Department of Consumer Affairs should establish procedures for ensuring that board members attend board member orientation and that those individuals and other designated employees receive all required ethics training. In addition, Consumer Affairs should adhere to the record retention period of five years specified by law for the certificates documenting that designated employees received ethics training**

**Response:**

The Department of Consumer Affairs (DCA) Executive Office has met with its management team from our training program and human resources department and has begun to update board member and designated employees files with the following information:

1. Confirmation of the member's Oath of Office
2. Confirmation of the member or designated employee's Form 700 filing
3. Confirmation of the member or designated employee's participation in sexual harassment prevention training
4. Confirmation of the member's participation in DCA's Board Member Orientation Training. The training consists of eight hours of instruction and interactive participation on the Brown Open Meeting Act, ethics, parliamentary procedure, consumer protection, legal issues, and what it means to be a board member
5. Confirmation of the member or designated employee's ethics training

This will be an on-going process, as new board members are appointed or termed out and employees are hired or leave employment. DCA's Deputy Director for Board Relations has begun to update the board member files and contacting those members who are missing pertinent information. Additionally, the Deputy Director is working with Human Resources to track designated employees.

Contact: Reichel Everhart, Deputy Director, Board Relations  
Telephone: (916) 574-8200 Email: Reichel.Everhart@dca.ca.gov

**Finding:**

**Two former board members were very late in submitting their statements of economic interests.**

**Recommendation:**

**To ensure that board members disclose in a timely manner potential conflicts of interest on their Form 700's. The Physical Therapy Board should implement a process to notify Consumer Affairs' filing officer promptly when board members are appointed or when they indicate that they intend to leave office.**

In December 2011, the Board developed a written process identified as "*Board Member Reporting, Assuming and Separating from Office*" in its Administrative Procedure Manual. While there has been no change in the appointment status of the Board's current members to date, the Board will be diligent in ensuring members submit timely Form 700's, in accordance with the Board's process.

Contact: Liz Constancio, Manager, Physical Therapy Board of California  
Telephone: (916) 561-8278 Email: Liz.Constancio@dca.ca.gov