

MARCH
21 & 22, 2019
BOARD MEETING

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



Physical Therapy Board of California

THE PHYSICAL THERAPY BOARD OF CALIFORNIA

2005 Evergreen St. Suite 1350, Sacramento, California 95815

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

www.ptbc.ca.gov

PHYSICAL THERAPY BOARD OF CALIFORNIA NOTICE OF PUBLIC MEETING

March 21, 2019 9 a.m.

March 22, 2019 9 a.m.

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

Action may be taken on any agenda item.
Agenda items may be taken out of order.

Unless otherwise indicated, all agenda items
will be held in **OPEN SESSION. THE PUBLIC
IS ENCOURAGED TO ATTEND.** Please refer
to the informational notes at the end of
the agenda.

BOARD MEMBERS

Alicia K. Rabena-Amen, PT, DPT, *President*

TJ Watkins, *Vice President*

Jesus Dominguez, PT, Ph.D., *Member*

Daniel Drummer, PT, DPT, *Member*

Katarina Eleby, M.A., *Member*

Tonia McMillian, *Member*

Vacant, *Physical Therapist Member*

BOARD STAFF

Jason Kaiser, *Executive Officer*

Elsa Ybarra, *Manager*

Liz Constancio, *Manager*

Sarah Conley, *Manager*

Brooke Arneson, *Associate Analyst*



Physical Therapy Board of California



Agenda – Thursday, March 21st

Action may be taken on any agenda item. Agenda items may be taken out of order.

- 1. Call to Order - 9:00 a.m.**
- 2. Roll Call and Establishment of Quorum**
- 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
- 4. Reconvene Open Session**
- 5. Review and Approval of December 5-6, 2018 Meeting Minutes – Brooke Arneson**
- 6. Review and Approval of February 13, 2019 Teleconference Meeting Minutes – Brooke Arneson**
- 7. President's Report – Alicia Rabena-Amen**
 - (A) 2019 Adopted Meeting Calendar
 - (B) 2020 Proposed Meeting Calendar
- 8. Executive Officer's Report – Jason Kaiser**
 - (A) Administrative Services
 - (B) Applications
 - (C) Licensing/Continuing Competency
 - (D) Consumer Protection Services
 - (E) Outreach
 - (F) PTBC Relocation
 - (G) Strategic Plan
- 9. Discussion and Possible Board Action for the Increase in the Exempt Level of the Executive Officer – Alicia Rabena-Amen**
 - (A) Report from the Exempt Level Increase Committee – Katarina Eleby and TJ Watkins
 - (B) PTBC's Executive Officer Exempt Level/Organizational Structure Overview
 - (C) DCA Exempt Level Comparison
 - (D) Exempt Salary Schedule
 - (E) PTBC Organization Chart
 - (F) Executive Officer Exempt Level Increase (Previous Package)
 - (G) Draft Request for Exempt Position Level Change
- 10. Consumer and Professional Associations and Intergovernmental Relations Reports**
 - (A) Federation of State Boards of Physical Therapy (FSBPT)

- (B) Department of Consumer Affairs (DCA) – Executive Office
- (C) California Physical Therapy Association (CPTA)

11. Legislation Report – Brooke Arneson

- (A) 2019/20 Legislative Session Summary
 - i. AB 5 (Gonzalez) Worker Status: Independent Contractors
 - ii. AB 71 (Melendez & Kiley) Employment Standards: Independent Contractors and Employees
 - iii. AB 193 (Patterson) Professions and Vocations
 - iv. AB 496 (Low) Business and Professions
 - v. AB 613 (Low) Professions and Vocations: Regulatory Fees
 - vi. AB 1592 (Bonta) Athletic Trainers
 - vii. SB 53 (Wilk & Lackey) Open Meetings
 - viii. SB 425 (Hill) Health Practitioners: Licensee’s File: Probationary Physician’s and Surgeons Certificate: Unprofessional Conduct
 - ix. SB 537 (Hill) Workers Compensation: Independent Bill Review

12. Rulemaking Report

- (A) 2019 Rulemaking Update – Brooke Arneson
 - i. Examination Passing Standard/Setting Examination Score
 - ii. Guidelines for Issuing Citations and Imposing Discipline, 6th Edition
 - iii. Satisfactory Documentary Evidence of Equivalent Degree for Licensure as a Physical Therapist or Physical Therapist Assistant/Coursework Tool
 - iv. Federation of State Boards of Physical Therapy’s (FSBPT) Performance Evaluation Tool for Foreign Educated Physical Therapists Completing a Supervised Clinical Practice in the United States
 - v. Substantial Relationship Criteria
 - vi. Rehabilitation Criteria for Denial and Reinstatement of Licensure
 - vii. Rehabilitation Criteria for Suspensions and Revocations
- (B) Discussion and Possible Board Action to Initiate a Rulemaking to Amend Title 16, California Code of Regulations Section 1399.20 Substantial Relationship Criteria – Salwa Bojack
- (C) Discussion and Possible Board Action to Initiate a Rulemaking to Amend Title 16, California Code of Regulations Section 1399.21 Rehabilitation Criteria for Denial and Reinstatement of Licensure – Salwa Bojack
- (D) Discussion and Possible Board Action to Initiate a Rulemaking to Amend Section 1399.22 Rehabilitation Criteria for Suspension and Revocations – Salwa Bojack

13. Administrative Services - Discussion and Possible Board Action

- (A) Budget Report – Carl Nelson
- (B) Outreach Report – April Beauchamps

14. DCA Budget Unit - Presentation of Services– Robert de Los Reyes, DCA Budget Manager

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

16. 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).)

17. Recess

Agenda – Friday, March 22nd

Action may be taken on any agenda item. Agenda items may be taken out of order.

18. Call to Order - 9:00 a.m.

19. Roll Call and Establishment of Quorum

20. 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

21. Reconvene Open Session

22. Application Services - Discussion and Possible Board Action – Valerie Kearney

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

23. Licensing Services - Discussion and Possible Board Action – Justin Silva

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

24. Continuing Competency Services - Discussion and Possible Board Action

–Veronica Gutierrez

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

25. Consumer Protection Services - Discussion and Possible Board Action – Marney Kincaid

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

26. Probation Monitoring Services - Discussion and Possible Board Action – Monny Martin

- (A) Program Updates
- (B) Statistical Reports
- (C) Presentation on the Overview of the Probation Monitoring Program

27. Board Member Training – Presentation on the Legislative Process

28. 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).)

29. Agenda Items for Future Meeting – June 19-20, 2019
California State University Long Beach
Long Beach, CA

30. Adjournment

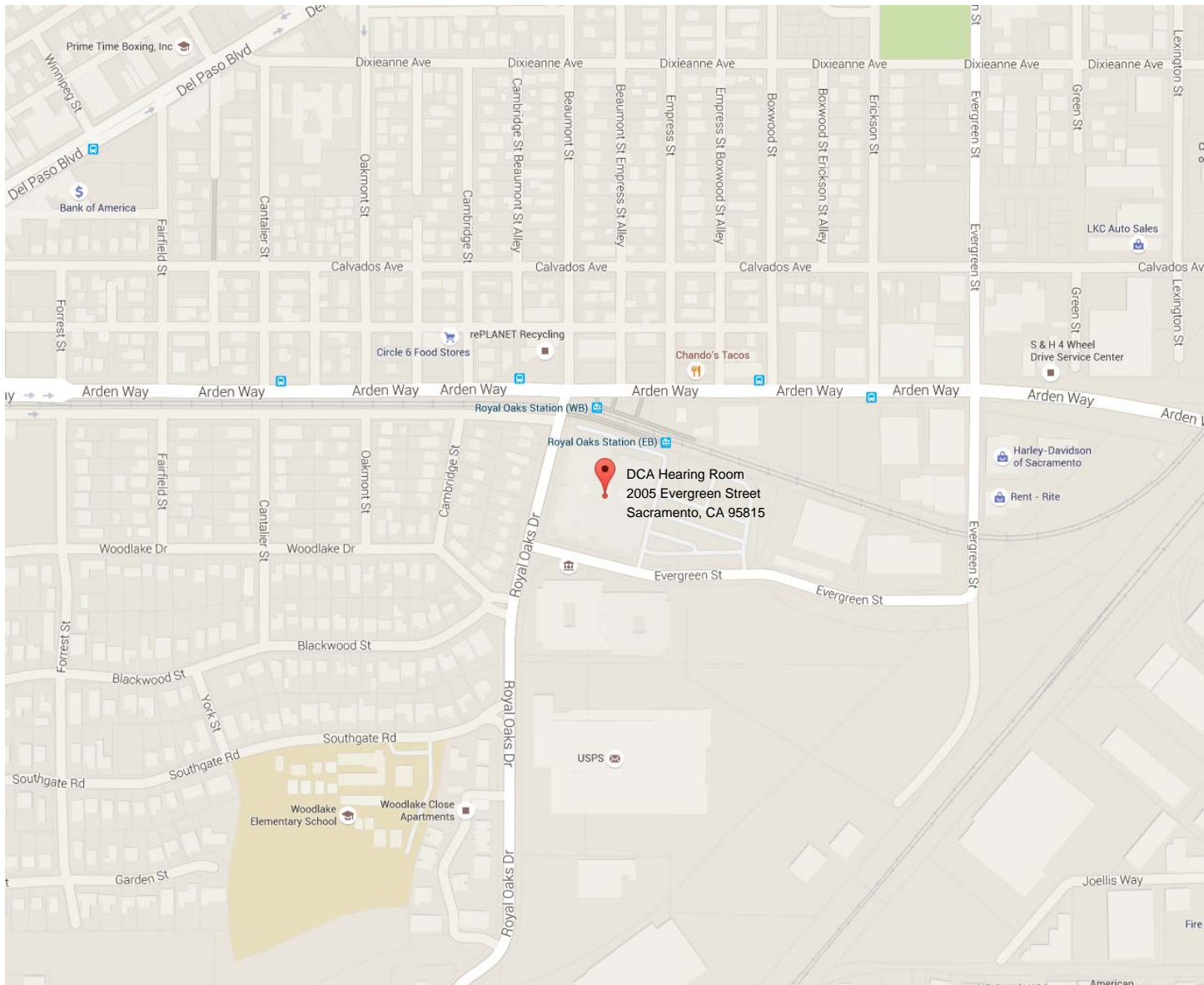
Informational Notes:

Action may be taken on any agenda item. Agenda items may be taken out of order. Times stated are approximate and subject to change. Agenda order is tentative and subject to change at the discretion of the Board; agenda items may be taken out of order and items scheduled for a particular day may be moved or continued to an earlier or later day to facilitate the effective transaction of business.

In accordance with the Bagley-Keene Open Meeting Act, all Board meetings are open to the public. Pursuant to Government Code section 11125.7, the Board provides the opportunity for the public to address each agenda item during discussion or consideration by the Board prior to the Board taking any action on said item. Total time allocated for public comment on particular issues may be limited. Individuals may appear before the Board to discuss items not on the agenda; however, the Board can neither discuss nor take official action on any matter not included in this agenda, except to decide to place the matter on the agenda of a future meeting. (Government Code sections 11125, 11125.7(a)).

The Board plans to webcast this meeting on its website at www.ptbc.ca.gov. Webcast availability cannot, however, be guaranteed due to limited resources or technical difficulties. The meeting will not be cancelled if webcast is not available. If you wish to participate or to have a guaranteed opportunity to observe, please plan to attend at a physical location. Adjournment, if it is the only item that occurs after a closed session, may not be webcast.

The meeting is accessible to the physically disabled. A person who needs disability-related accommodation or modification to participate in the meeting may make a request by contacting Brooke Arneson at (916) 561-8260, e-mail: brooke.arneson@dca.ca.gov, or send a written request to the Physical Therapy Board of California, 2005 Evergreen Street, Suite 1350, Sacramento, CA 95815. Providing your request at least five (5) business days before the meeting will help to ensure availability of the requested accommodations. TDD Line: (916) 322-1700.



Roll Call
DCA Evergreen Hearing Room, Sacramento CA

March 21, 2019

	Present	Absent
Alicia Rabena-Amen, PT, DPT, President		
TJ Watkins, Vice-President		
Jesus Dominguez, PT, Ph.D.		
Daniel Drummer, PT, DPT		
Katarina Eleby		
Tonia McMillian		

March 22, 2019

	Present	Absent
Alicia Rabena-Amen, PT, DPT, President		
TJ Watkins, Vice-President		
Jesus Dominguez, PT, Ph.D.		
Daniel Drummer, PT, DPT		
Katarina Eleby		
Tonia McMillian		

Agenda Item 2 – Roll Call



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Board Members

President

Alicia Rabena-Amen, PT, DPT

Vice-President

TJ Watkins

Members

Jesus Dominguez, PT, PhD

Daniel Drummer, PT, DPT

Katarina Eleby

Tonia McMillian

Physical Therapy Board of California

DRAFT Meeting Minutes

December 5, 2018 9:00 a.m.

December 6, 2018 9:00 a.m.

University of the Pacific

Day One: Room PHS201

Day Two: Room PHS112

757 Brookside Road,

Stockton, CA 95211

Board Staff

Jason Kaiser, Executive Officer

Sarah Conley, Manager

Liz Constancio, Manager

Elsa Ybarra, Manager

Brooke Arneson, Associate

Analyst

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

5

6

Wednesday, December 5, 2018

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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 8:59 a.m. and recessed at 5:02 p.m. on December 5,
12 2018. The Board reconvened at 9:00 a.m. and adjourned at 3:55 p.m. on December 6,
13 2018.

14

15

2. Roll Call and Establishment of Quorum

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Dominguez- Present

18

Drummer – Present

19

Eleby – Present

20

McMillian – Present

21

Rabena-Amen - Present

22

Watkins – Present

23

24

All members were present, and a quorum was established. Also present at the meeting
25 were: Salwa Bojack, Legal Counsel; Jason Kaiser, Executive Officer; Elsa Ybarra,
26 Sarah Conley, Brooke Arneson, Monny Martin and April Beauchamps.

27

28

Dr. Dominguez read the Board’s mission statement: To advance and protect the
29 interests of the people of California by the effective administration of the Physical
30 Therapy Practice Act.

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

32 (A) Petition for Termination of Probation – Vivian Eisenstadt, PT

33
34 This matter was heard before a quorum of the Board. Marcie Larson, Administrative
35 Law Judge (ALJ), Office of Administrative Hearings, sat with the Board and presided
36 over the hearing. John Gatschet, Deputy Attorney General, represented the Attorney
37 General of the State of California, under Government Code section 11522. Petitioner
38 Vivian Eisenstadt, PT was present and was represented by legal counsel, Adam
39 Richards. Evidence was received, the record was closed, and the matter was
40 submitted for decision.

41
42 (B) Petition for Termination of Probation – Shannon Hill, PT

43
44 This matter was heard before a quorum of the Board. Marcie Larson, ALJ, Office of
45 Administrative Hearings, sat with the Board and presided over the hearing. John
46 Gatschet, Deputy Attorney General, represented the Attorney General of the State of
47 California, under Government Code section 11522. Petitioner, Shannon Hill, PT was
48 present and represented herself. Evidence was received, the record was closed, and
49 the matter was submitted for decision.

50
51 *After submission of the matters, the Board will convene in CLOSED SESSION to*
52 *deliberate on the petitions pursuant to Government Code section 11126(c)(3).*

53
54 **4. Closed Session**

55 (A) Pursuant to Government code section 11126(c)(3), the Board will convene to
56 Deliberate on Disciplinary Actions and Decisions to be Reached in Administrative
57 Procedure Act Proceedings

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

60
61 The Board went into closed session at 12:15 p.m. and reconvened at 1:58 p.m. on day
62 one, December 5, 2018 to deliberate on Agenda Item 3. The Board went back into
63 closed session at 3:40 p.m. and adjourned at 5:02 p.m. on day one, December 5, 2018
64 to deliberate on Agenda Item 4(A).

65
66 **5. Reconvene Open Session**

67
68 The Board reconvened at 1:58 p.m. after going into closed session at 12:15 p.m. on day
69 one, December 5, 2018. The Board went back into closed session at 3:40 p.m. and

70 adjourned at 5:02 p.m. on day one, December 5, 2018 to deliberate on Agenda Item
71 4(A).
72

73 **6. Review and Approval of June 20-21, 2018 Meeting Minutes – Brooke Arneson**
74

75 Ms. Arneson presented the draft June 2018 meeting minutes. Dr. Drummer
76 recommended that the Board’s mission statement be added to the meeting minutes.
77 Ms. Eleby corrected the date under Agenda Item 6 from 2017 to 2018. Dr. Rabena-
78 Amen under Agenda Item 16(C), added the year, 2019, to the CPTA Annual
79 Conference. Dr. Drummer requested to add the date and which day of the meeting to
80 adjournment and recess times in the meeting minutes for clarity. Dr. Drummer
81 requested that the motions for removing the approval agency recognition under Agenda
82 Item 21(B) be consistent. Ms. Bojack, legal counsel, recommended that wording of
83 motions be addressed as they occur, as the notetaker’s responsibility is to capture the
84 motions verbatim. Dr. Drummer stated he would like the editorial language to be
85 consistent for the motions.
86

87 **MOTION:** Move that the motion language be consistent across all of
88 the motions in Item 21(B) of the June 2018 meeting minutes
89 that remove approval agency recognition to state “Remove
90 recognition from [insert program name] as a continuing
91 competency approval agency.”
92

93 **M/S:** Drummer/Dominguez
94

95 **VOTE:** Dominguez- Aye
96 Drummer – Aye
97 Eleby – Aye
98 McMillian – Aye
99 Rabena-Amen - Aye
100 Watkins – Aye
101 6-0 Motion carried
102

103 Dr. Rabena-Amen amended Agenda Item 23, to read Consumer Protection Services
104 Report. Ms. McMillian amended Agenda Item 24, line 678 to remove a duplicate
105 statement and amended Agenda Item 25 page 675 to add counsel in front of legal.
106

107 **MOTION:** Approve the proposed June 20-21, 2018 Meeting Minutes,
108 as amended.
109

110 **M/S:** Eleby/Rabena-Amen
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VOTE: Dominguez- Aye
Drummer – Aye
Eleby – Aye
McMillian – Aye
Rabena-Amen - Aye
Watkins – Aye
6-0 Motion carried

7. Review and Approval of September 13-14, 2018 Meeting Minutes – Brooke Arneson

Ms. Arneson presented the draft September 2018 meeting minutes. Dr. Rabena-Amen questioned whether the request to place the increase of the exempt level of the Executive Officer on the agenda was for annually or at every meeting. Ms. Arneson confirmed the request was made for it to be placed on the agenda annually. Ms. Bojack recommended to add the subsections noticed on the agenda in the Executive Officer’s Report meeting minutes. Mr. Kaiser stated that if all subsections in the Executive Officers report are discussed, they can be added to the meeting minutes in the future. Dr. Drummer amended Agenda Item 18 to state that dry needling was performed in the Veteran’s Administration Palo, Alto Clinic to provide clarity that they are not performing dry needling under the jurisdiction of this Board. Ms. Ybarra, during public comment amended Agenda Item 26, Probation Monitoring Report, page 22, line 852 to better capture what was reported. Mr. Kaiser solicited the Board for their feedback on the meeting minutes. Dr. Drummer responded that he would be in favor of less detail as the webcast is available to add clarity to the discussion. Ms. Bojack, legal counsel, recommended that some agenda items include more detail, for example, rulemaking discussions as detailed minutes are helpful for the rulemaking file.

MOTION: Approve the proposed September 13-14, 2018 Meeting Minutes, as amended.

M/S: Eleby/Watkins

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

8. President’s Report – Alicia Rabena-Amen

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(A) 2019 Proposed Meeting Calendar

Mr. Kaiser stated that staff have two recommendations for the 2019 calendar. He explained that Thursday and Friday meetings are difficult logistically and incur increased travel expenses and suggested reverting back to Wednesday and Thursday meetings. In addition, he encouraged that the March and December meetings be held in Sacramento and the June and September meetings on the road to due to scheduling logistics during the holidays and to increase student participation and outreach when the Board visits campuses. The Board responded that Thursday and Friday meetings worked better for their schedules. Mr. Kaiser suggested having the March and December meetings in Sacramento on Thursday and Friday and the June and September meetings on the road on Wednesday and Thursday. The Board agreed with Mr. Kaiser’s suggestion. Dr. Drummer asked if the June meeting dates could be moved to Thursday, Friday, June 20-21, 2019 so that he, and Dr. Dominguez could attend BMOT training on Wednesday, June 19, 2019 before the meeting. Mr. Kaiser stated that he would connect with CSU Long Beach to see if they had availability to host on Thursday and Friday instead.

- MOTION:** Approve the proposed 2019 Meeting Calendar as amended.
- M/S:** Drummer/Eleby
- VOTE:** Dominguez- Aye
Drummer – Aye
Eleby – Aye
McMillian – Aye
Rabena-Amen - Aye
Watkins – Aye
6-0 Motion carried

(B) 2020 Proposed Meeting Calendar

Mr. Kaiser suggested that the Board implement the changes made to the 2019 calendar to the 2020 calendar. The Board agreed with the amendments to the 2020 calendar. Dr. Drummer asked that Board members receive meeting materials as early as possible to allow for adequate review before the Board meeting.

9. Executive Officer’s Report – Jason Kaiser

- Mr. Kaiser presented the Executive Officer’s Report.
- (A) Administrative Services

194 Mr. Kaiser reported that the Administrative Services Program is recruiting for an
195 Office Technician to serve as the receptionist and provide administrative support
196 to the programs. He reported that staff have arranged for temporary staffing from
197 ACC Senior Services, which assists with job training and finding employment.
198 The Board welcomes Wanda Hoggard who has been tremendously helpful.

199 (B) Applications

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

201 (C) Licensing/Continuing Competency

202 The Board was referred to Agenda Item 23 and 24 for a detailed report.

203 (D) Consumer Protection Services

204 The Board was referred to Agenda Item 25 for a detailed report.

205 (E) Outreach

206 The Board was referred to Agenda Item 21(B) for a detailed report.

207 (F) PTBC Relocation

208 Mr. Kaiser reported that there has been progress in planning and evaluating the
209 Board's space needs for the move upstairs and staff have been working with
210 DCA and DGS in finalizing the numbers and continuing with the space planning.
211 The square footage numbers have been recalculated several times to project for
212 future growth incorporating legislative and budget change proposals. Mr. Kaiser
213 informed the Board that that the estimates for square footage have changed from
214 4400 sq. feet to 8500 sq. feet. Mr. Kaiser stated that they started demo this week
215 and staff are hopeful that possibly at this time next year the Board may be in its
216 new space. Dr. Rabena-Amen questioned what will happen when the lease
217 expires in March 2019? Mr. Kaiser responded that the Board will enter a month
218 to month lease until it is able to move upstairs and that the landlord is very
219 amendable to keeping the Board as tenants in the building.

220 (G) Strategic Plan

221 Mr. Kaiser reported that staff have been working with DCA's Publishing Design
222 and Editing unit and the strategic plan was published and distributed on
223 September 26, 2018. He stated that staff have already met with SOLID to create
224 an action plan to guide completion of the strategic objectives by establishing
225 timelines, identifying major tasks and assigning responsible parties. Dr. Rabena-
226 Amen stated that she liked having an update on the strategic plan in the
227 Executive Officer's Report. Dr. Drummer added that he shared the Board's
228 strategic plan at the FSBPT annual meeting and everyone was impressed. Mr.
229 Kaiser stated that only 4 states out of the 53 jurisdictions do strategic planning,
230 so it is an unfamiliar concept to the other jurisdictions that attended the FSBPT
231 meeting.

232

233 **10. Discussion and Possible Board Action for the Increase in the Exempt Level of the**
234 **Executive Officer – *Alicia Rabena-Amen***
235

236 Dr. Rabena-Amen stated that the Board asked for the increase in the exempt level of
237 the Executive Officer be placed on the agenda each year to revisit to look at the
238 growth of the Board and provide a status update of the request. Dr. Rabena-Amen
239 added that the Board formed a committee at the previous meeting to draft a letter and
240 prepare and draft supporting documentation for presentation at the December
241 meeting.

242
243 Ms. Eleby reported on behalf of the committee. She stated that she met with Mr.
244 Watkins and they drafted a letter which they sent to Board staff for feedback. Mr.
245 Kaiser provided the letter to the Board which included staff's feedback. Mr. Watkins
246 reported that the committee suggested a face to face meeting with Business,
247 Consumer Services and Housing Agency (Agency) Secretary, Alexis Podesta to hear
248 the reasons why the requested level of the Executive Officer was not approved. Dr.
249 Drummer thanked the Committee on their hard work on crafting the letter. The Board
250 reviewed and made edits to the letter provided by the committee. Dr. Drummer
251 suggested to revise the signature of the letter and proposed that the Board President
252 sign the letter on behalf of the Board and list the names of the Board members. The
253 Board agreed with this edit. Mr. Watkins clarified that this letter would be the first
254 step for the Board to get information on why the level increase of the Executive
255 Officer was not approved and therefore the letter should stand alone, and request a
256 meeting with Agency, and not be a cover for the entire exempt level increase
257 package.

258
259 Ms. Bojack, legal counsel, advised that where the letter was not identified on the
260 agenda or included in the meeting materials that the Board might wish to consider
261 taking up the letter at the next Board meeting for a motion. Dr. Drummer responded
262 that the minutes from the September meeting show that the intent of the committee
263 and letter was clear; that at the December meeting action would be taken on the
264 letter. Dr. Rabena-Amen asked counsel for clarification on what the agenda should
265 look like in the future to address this agenda item for the Board to take a motion. Ms.
266 McMillian stated that discussion and possible board action should suffice, and Ms.
267 Eleby agreed. The Board further reviewed and made edits to the letter drafted by the
268 committee. Dr. Rabena-Amen thanked the committee for their hard work on the
269 letter.
270

271 **MOTION:** Adopt the letter as amended, from the committee, and
272 authorize the Board President to present the letter to Alexis
273 Podesta with the Business, Consumer Services and Housing
274 Agency and grant the Board President the authority to make
275 non-substantive changes should any be required.
276
277 **M/S:** Drummer/McMillian
278
279 **VOTE:** Dominguez- Aye
280 Drummer – Aye
281 Eleby – Aye
282 McMillian – Aye
283 Rabena-Amen - Aye
284 Watkins – Aye
285 6-0 Motion carried
286

287 **11. Consumer and Professional Associations and Intergovernmental Relation**
288 **Reports**
289

290 (A) Federation of State Boards of Physical Therapy (FSBPT)
291

292 No representatives were present. Mr. Kaiser reported that there is potential for
293 Board members to attend regulatory training at FSBPT in June 2019, and that
294 staff are waiting to hear back from FSBPT on additional information and how
295 many members per jurisdiction may attend. Mr. Kaiser informed the Board that
296 once we know more about the training, staff will reach out to members to see
297 who is interested and available to participate in the regulatory training. Dr.
298 Rabena-Amen added that the last email she received from FSBPT regarding the
299 regulatory training was soliciting for feedback on availability.
300

301 Dr. Rabena-Amen stated that because the Foreign Educated Standards
302 Committee did such great work in the past, there aren't any pressing issues to
303 continue the committee, so the committee has been dissolved and if there is a
304 need in the future they will form a taskforce.
305

306 (B) Department of Consumer Affairs (DCA) – Executive Office
307

308 Karen Nelson, Assistant Deputy Director of Board and Bureau Services provided
309 an update to the Board on behalf of DCA. Ms. Nelson reported that the
310 Director's Quarterly Meeting was held on October 29, 2018 and the Director
311 provided an update on the Division of Investigation's (DOI) Client Survey, the
312 Executive Officer's salary study and shared draft plans to assist the Boards and
313 Bureau's with implementing AB 2138 by 2020.
314

315 Ms. Nelson reported that DCA's Public Affairs Office previewed a new video
316 which provides an overview of DCA. She stated that December 7th is the second
317 Board member and advisory leadership call and look forward to having Mr.
318 Watkins on the call.

319
320 Ms. Nelson thanked the Board for being active in the licensing enforcement
321 workgroups which continue to occur monthly and in October and November OIS
322 previewed an interactive data tool to show performance metrics and performance
323 measures and allow programs to customize that data to look at trends and any
324 other analysis of that data. Ms. Nelson thanked Mr. Azar from the Board for
325 being so helpful in these workgroups.

326
327 Ms. Nelson reported that the Future Leadership Program in September had its
328 second cohort and thanked Mr. Kaiser for his active participation in the steering
329 committee. Ms. Nelson stated that the Executive Officer's salary study is
330 expected to take about 6 months and is anticipated to conclude Spring of 2020
331 and the consulting firm will be sending out a survey for completion to the
332 Executive Officer's. Ms. Nelson reported that Board Member Orientation
333 Training (BMOT), which is required within one year of appointment or
334 reappointment to the Board, will be held March 27, 2019, June 19, 2019 and
335 October 23, 2019.

336
337 Dr. Drummer asked where the BMOT training will be held in June and Ms.
338 Nelson responded in the Southern California area, a location has not been
339 finalized yet.

340
341 Mr. Watkins asked Ms. Nelson what the primary objective of the Executive
342 Officer's Salary study is, and Ms. Nelson responded that it will look at the
343 complexity, size and different responsibilities of the Executive Officer's within
344 DCA.

345
346 Dr. Rabena Amen asked Ms. Nelson to provide additional information regarding
347 DOI's Client Survey. Ms. Nelson responded that DOI partnered with SOLID to
348 provide a survey to DCA's Board's and Bureau's to rate the level of service. Ms.
349 Nelson stated she would be happy to share the results of the survey with the
350 Board upon completion.

351
352 Dr. Rabena-Amen asked Ms. Nelson if there were plans to have a joint meeting
353 the Director with Board leadership and the Executive Officer in attendance. Ms.
354 Nelson responded that last year one of the four scheduled meetings included a
355 joint attendance of Board President and Executive Officer and it will be the same
356 this year.

357
358 (C) California Physical Therapy Association (CPTA)
359

360 Stacy DeFoe, Executive Director of the California Physical Therapy Association
361 (CPTA), informed the Board that in April, CPTA will be holding student conclave
362 at University of Pacific, Stockton and that the Board will be in attendance and
363 covering one of the sessions. Ms. DeFoe reminded the Board that CPTA's
364 annual conference this year is a joint conference and will be held in Las Vegas,
365 NV and that she is aware there may be logistical issues with travel for the Board,
366 however would love to see the Board attend the conference and if there was
367 anything CPTA could do to help facilitate the Board's attendance CPTA would be
368 happy to do so.

369
370 Ms. DeFoe updated the Board that AB 2423, Physical Therapists: Direct Access
371 to Services: Plan of Care Approval was signed by the Governor and will go into
372 effect January 1, 2019.

373
374 Ms. DeFoe reported that physical therapists (PT's) and occupational therapists
375 (OT's) who are providing contract services to Nonpublic, Nonsectarian Agency
376 (NPA) and Nonpublic, Nonsectarian School (NCS) were being required by the
377 California Department of Education (DOE) to submit to an audit. She stated this
378 was causing a hardship to those providing these services as clear language on
379 what the audit would entail was not provided and it could be very costly. CPTA
380 worked with DOE and was able to get clarification that PT's and OT's providing
381 these services were not required to participate in the audit. Dr. Rabena-Amen
382 asked Ms. DeFoe to provide an example of an NPA. Ms. DeFoe stated that
383 there are agencies working with children that are set up as private agencies and
384 contract with PT's to provide services; they usually work with the school; but are
385 not a public agency or school, they are private.

386
387 Ms. DeFoe informed the Board that CPTA believes that the Athletic Trainer bill
388 will be back during the next legislative session and reported that CPTA is not in
389 opposition to regulation of athletic trainers however wanted to make sure that it is
390 in line with their education and training.

391
392 Ms. DeFoe reported that an issue with third party payers especially in the areas
393 of workers compensation; she stated that there are third party entities that come
394 in and work with payers and provide discounts to the payers at the expense to
395 PTs providing the services. She stated that CPTA has been looking at this over
396 the past few years and is working with other organizations to put together
397 strategies to resolve this issue.
398

399 Dr. Rabena-Amen shared that the Board had a great presentation at the
400 September meeting on dry needling and asked CPTA if they had any comment.
401 Ms. DeFoe responded that CPTA does not currently have any comment and that
402 dry needling is an issue that they are watching very closely as it is a topic that is
403 drawing a lot of interest across the country. Ms. DeFoe shared that the same
404 individuals who presented to the Board in September presented to CPTA's
405 Governor's Affairs Committee in October, however CPTA is not planning any
406 immediate action in 2019 regarding dry needling.
407

408 **12. Legislation Report – Brooke Arneson**

409 (A) Discussion and Possible Board Action Regarding the 2017/18 Legislative Session 410 Summary 411

412 Ms. Arneson referred Board members to the legislative summary report included in the
413 agenda book.
414

415 i. Discussion and Possible Board Action Regarding AB 2078 (Daly) Sex 416 Offenses: Professional Services 417

418 Ms. Arneson reported that AB 2078 was held under submission on August 16,
419 2018.
420

421 ii. Discussion and Possible Board Action Regarding AB 2138 (Chiu & Low) 422 Licensing Boards: Denial of Application: Criminal Conviction 423

424 Ms. Arneson reported that AB 2138 was chaptered and has a delayed
425 implementation date of 2020 which allows the Board to pursue regulatory change
426 before it goes into effect. Ms. Arneson added that these regulatory proposals are
427 included in the 2019 Rulemaking Calendar which will be presented under agenda
428 item 14.
429

430 iii. Discussion and Possible Board Action Regarding AB 2221 (Bloom) 431 Occupational Therapy Practice Act 432

433 Ms. Arneson reported that AB 2221 was chaptered and will go into effect January
434 1, 2019.
435

436 iv. Discussion and Possible Board Action Regarding AB 2423 (Holden) Physical 437 Therapists: Direct Access to Services: Plan of Care Approval 438 439

440 Ms. Arneson reported that AB 2423 was chaptered on September 26, 2018 and
441 will go into effect January 1, 2019.

442
443 v. Discussion and Possible Board Action Regarding AB 2958 (Quik) State
444 Bodies: Meetings: Teleconference

445
446 Ms. Arneson reported that AB 2958 was chaptered on September 28, 2019 and
447 will go into effect January 1, 2019.

448
449 vi. Discussion and Possible Board Action Regarding AB 3110 (Mullin) Athletic
450 Trainers

451
452 Ms. Arneson reported that AB 3110 was held under submission in the Senate
453 Appropriations Committee on August 16, 2018.

454
455 vii. Discussion and Possible Board Action Regarding SB 1448 (Hill) Healing Arts
456 Licensees: Probation Status: Disclosure

457
458 Ms. Arneson reported that SB 1448 was chaptered on September 19, 2019 and
459 will go into effect January 1, 2019.

460
461 Dr. Rabena-Amen asked if Mr. Kaiser had anything to add to the legislation
462 report regarding AB 2138 and he stated that further discussion on AB 2138
463 would be discussed under agenda item 14, the 2019 Rulemaking Calendar.

464
465 **13. Rulemaking Report – Brooke Arneson**

466
467 (A) Discussion and Possible Board Action Regarding the 2018 Rulemaking Update

468
469 Ms. Arneson referred the Board to the rulemaking tracking form included in the
470 agenda materials and advised on the status of all rulemaking items.

471
472 i. Examination Passing Standard/Setting Examination Score

473
474 Ms. Arneson reported that modified language was adopted by the Board at the
475 September 2018 Board meeting and PTBC staff are preparing the initial
476 rulemaking package for completing the new review process implemented by
477 DCA.

479 ii. Guidelines for Issuing Citations and Imposing Discipline, 6th Edition
480

481 Ms. Arneson reported that modified language was adopted at the March 2018 by
482 the Board and with the passage of AB 2138, significant revisions will need to be
483 made to the Disciplinary Guidelines, therefore, this regulation will be placed on
484 hold as staff identify the impact of AB 2138 on the guidelines.
485

486 iii. Satisfactory Documentary Evidence of Equivalent Degree for Licensure as a
487 Physical Therapist or Physical Therapist Assistant/Coursework Tool
488

489 Ms. Arneson reported that the Board approved regulatory language at the May
490 2017 Board meeting and PTBC staff and DCA legal are working on preparing the
491 initial rulemaking package for completing the new review process implemented
492 by DCA.
493

494 iv. Federation of State Boards of Physical Therapy's (FSBPT) Performance
495 Evaluation Tool for Foreign Educated Physical Therapists Completing a
496 Supervised Clinical Practice in the United States
497

498 Ms. Arneson reported that language was adopted at the September 2018 Board
499 meeting and staff is in the process of preparing the initial rulemaking package for
500 completing the new review process implemented by DCA.
501

502 Mr. Kaiser stated that both the Retired License and Continuing Competency
503 regulations are included in the 2019 Rulemaking calendar. He added that staff
504 will review the disciplinary guidelines for edits made necessary by the passage of
505 AB 2138 before the guidelines move forward in the rulemaking process.
506

507 **14. Discussion and Possible Board Action on 2019 Rulemaking Calendar – Brooke**
508 *Arneson*
509

510 Mr. Kaiser presented the proposed 2019 Rulemaking Calendar and stated this is a
511 list that the Board anticipates for this next year's future rulemaking and that Office of
512 Administrative Law (OAL) uses this calendar to anticipate future workload. Mr. Kaiser
513 reported that it is his recommendation to include both the continuing competency and
514 retired license regulations in the 2019 rulemaking calendar as well as placeholders
515 for the projected regulations regarding the implementation of AB 2138 which would
516 affect Substantial Relationship Criteria, Rehabilitation Criteria for Denial and
517 Reinstatement of Licensure and Rehabilitation Criteria for Suspensions and
518 Revocations.

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Ms. Eleby asked if licensees will be held to a different standard than applicants when it comes to criminal offenses now that AB 2138 has passed. Mr. Kaiser responded that arguably yes, the requirement for a licensee has not changed they would still be required to answer the disclosure question on the renewal form, however the question for disclosure for an applicant will change; therefore, effective July 1, 2020, the Board will no longer be able to ask applicants about their criminal history on their application. Mr. Kaiser stated that through the DOJ and FBI criminal background check, when there is a hit for an applicant, the Board will pursue on its own, the records or documents pertaining to that conviction. Ms. Eleby asked what the implications to the Board's budget will be with the increased workload due to the passage of AB 2138. Mr. Kaiser responded that it is hard to tell at this point as there may be efficiencies realized in addition to the increase of workload.

Dr. Drummer asked Mr. Kaiser to rank the rulemaking items in order of importance. Mr. Kaiser responded that all the regulations on the calendar were important and crucial however, the AB 2138 regulatory packages are deemed critical and department wide followed by the Disciplinary Guidelines and Setting the Exam Score, Continuing Competency, Retired License Status, and Coursework Tool.

Ms. Bojack, legal counsel, stated that the AB 2138 rulemaking packages has been prioritized by DCA. Ms. Bojack reported to the Board that the Department has started working with the programs and setting up meeting groups to recommend model regulatory language to keep the rulemaking packages as consistent as possible and meet the January 2020 timeline goal. Mr. Kaiser responded that the OAL timelines for the AB 2138 regulation packages on the calendar are post effective date of the statute and are conservative projections at this point as the regulations cannot take effect prior to the statutes taking effect.

- MOTION:** Adopt the 2019 Rulemaking Calendar Schedule B.
- M/S:** Drummer/Watkins
- VOTE:** Dominguez- Aye
Drummer – Aye
Eleby – Aye
McMillian – Aye
Rabena-Amen - Aye
Watkins – Aye
6-0 Motion carried

Mr. Kaiser solicited the Board for any additional regulatory packages to be added to Schedule A of the proposed 2019 Rulemaking Calendar. The Board did not have any recommendations for additional rulemaking to be added to Schedule A. Mr. Kaiser

563 stated that the rulemaking calendar is based on projected regulatory workload and
564 the Board could add regulatory packages if the need arises.

565
566 Ms. Bojack stated that AB 2138 could potentially impact the Board's applications
567 which may need to be addressed through regulatory change. Mr. Kaiser stated that
568 the Board's applications are not currently incorporated by reference. Mr. Kaiser
569 recommended implementing the changes from AB 2138 prior to promulgating
570 regulations regarding applications.

571
572 **15. Public Comment on Items Not on the Agenda**

573
574 The Board requested public comment on items not on the agenda, and there was no
575 public comment.

576
577 **16. Recess**

578
579 The Board recessed at 5:02 p.m. on the first day of the meeting, Wednesday,
580 December 5, 2018.

581
582 **Thursday, December 6, 2018**

583
584 **17. Call to Order - 9:00 a.m.**

585
586 **18. Roll Call and Establishment of Quorum**

587
588 Dominguez- Present
589 Drummer – Present
590 Eleby – Present
591 McMillian – Present
592 Rabena-Amen - Present
593 Watkins – Present

594
595 All members were present, and a quorum was established. Also present at the meeting
596 were: Salwa Bojack, Legal Counsel; Jason Kaiser, Executive Officer; Elsa Ybarra,
597 Sarah Conley, Brooke Arneson, Monny Martin and April Beauchamps.

598
599 Dr. Drummer read the Board's mission statement: To advance and protect the interests
600 of the people of California by the effective administration of the Physical Therapy
601 Practice Act.

602
603 **19. Closed Session**

604
605 (A) Pursuant to Government Code section 11126(c)(3), Deliberation on Disciplinary
606 Actions and Decisions to be Reached in Administrative Procedure Act Proceeding

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The Board entered closed session on day two, December 6, 2018 at 1:00 p.m. to deliberate on Agenda Item 19(A). The Board reconvened open session to adjourn at 3:55 p.m.

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

The Board entered closed session on day two, December 6, 2018 at 1:00 p.m. to deliberate on Agenda Item 19(A). The Board reconvened open session to adjourn at 3:55 p.m.

20. Reconvene Open Session

The Board reconvened into open session to adjourn at 3:55 p.m.

21. Administrative Services Report

(A) Budget Report

Mr. Kaiser presented the Budget Report on behalf of Ms. Constancio and reported that the report is for the first quarter of this fiscal year. Mr. Kaiser stated that the Board does not have fiscal software program to rely upon, therefore, most numbers are straight line estimates and projections. Mr. Kaiser mentioned a few items to note on the budget report: there was an increase in normal staffing costs which is attributed to bargaining agreements, cost of living adjustments, general salary increases and benefits; in addition, there was a decrease in DOI spending which should continue from this fiscal year to next.

Mr. Kaiser reported that the Board is in need of temporary help services to address backlog issues from money in the blanket. He stated that the Board's projected move will require an off-calendar budget change proposal, spring finance letter, to account for the one-time costs for the build out of space and move as well as adjusting the Board's allocation for the rental agreement moving forward. Ms. Eleby clarified that the Board has \$400,000 put away for the move and asked how much was going to be requested in the spring finance letter. Mr. Kaiser responded that the numbers are still unknown, and the Board will remain unknown until the square footage is finalized and other tenants have signed lease agreements; Mr. Kaiser projected that the spring finance letter would be approximately \$500,000 or more.

(B) Outreach Report – April Beauchamps

649 Ms. Beauchamps presented the Outreach Report. She reported that September was
650 busy for outreach; the Board went to University of the Pacific, Sacramento State and
651 attended both days of CPTA's Conference in Santa Clara September 22nd and 23rd.
652 Ms. Beauchamps reported that the website had a 10% decrease over last fiscal year
653 quarter. Ms. Beauchamps stated that even though there were decreases, for
654 example, with the "forms" tab, it means that applicants are going to BreEze to apply,
655 which is great.

656
657 Ms. Beauchamps reported there was a traffic decrease of 5% on the Facebook page;
658 however, there was significant increases in "Activities" from last fiscal year. The
659 "Engaged Users" showed a 222% increase and the "Consumers" showed a 206%
660 increase. Ms. Beauchamps reported there were 54 posts this year, compared to 24
661 posts last fiscal year during this quarter.

662
663 Mr. Watkins questioned the trends on Facebook and if licensees or applicants were
664 more interested with Facebook posts. Ms. Beauchamps responded that new
665 applicants and students are most engaged in Facebook; however; the Board does
666 post Facebook posts aimed at licensees and consumers as well. Mr. Watkins
667 suggested that creating posts with tips and strategies of how to develop as a
668 professional might be useful to students and new applicants since they seem to be
669 more engaged in social media.

670
671 **22. Application Services Report – Sarah Conley**

672
673 (A) Statistical Reports

674
675 Ms. Conley presented the Application Services report. She reported that the format
676 and information reported has changed using Quality Business Interactive Reporting
677 Tool (QBIRT) which allows staff the opportunity to collect data that previously was
678 unavailable; the new report also illustrates online usage as compared to other
679 methods of submission. Ms. Conley reported that online usage has increased
680 significantly from the past year; which was also shown on the decrease of the "forms"
681 tab of the website. Ms. Conley stated that the exam format has not changed.

682
683 Ms. Conley stated that the application instructions have been updated to direct
684 applicants to BreEze to apply online. Ms. Eleby stated that she liked the new report
685 and it was great to see the number of military represented and Dr. Rabena-Amen
686 added that she also liked to see the foreign represented as well. Dr. Drummer asked
687 if foreign educated applicants can apply on BreEze and Ms. Conley responded yes.

688
689 **23. Licensing Services Report – Sarah Conley**

690
691 (A) Statistical Reports

692

693 Ms. Conley presented the Licensing Maintenance report. She reported that the
694 format and information reported for licensing has also changed using QBIRT. Dr.
695 Rabena-Amen asked Ms. Conley why some licensees do not prefer to use BreZE
696 for online renewals. Ms. Conley responded it could possibly be due to the lengthy
697 online registration process and part of it could be part of not wanting to be online.
698 Ms. Conley stated that applicants have taken more to the online system.
699

700 Dr. Drummer questioned what verification requests are and Ms. Conley responded
701 that it is an endorsement request; the licensee needs to be verify their California
702 license for application in another state. Ms. Conley stated that she encourages
703 people to go online to BreZE to verify licenses as the online record is current.
704

705 **24. Continuing Competency Report – Sarah Conley**

706

707 (A) Statistical Reports

708

709 Ms. Conley presented the Continuing Competency report. She reported that 136
710 physical therapists and 45 physical therapist assistants were selected for audit for
711 fiscal year 2017/18 Quarter 4 (April-June). Ms. Conley stated the pass rates are on
712 track to be consistent with previous quarter pass rates.
713

714

715 **25. Consumer Protection Services Report– Elsa Ybarra**

716

717 (A) Statistical Reports

718

719 Ms. Ybarra presented the Consumer Protection Services report. She reported that
720 quarter 1, PM 3 cycle time-investigation we went down slightly from 130 year-to-date
721 to 97. Ms. Ybarra stated that for Investigations ageing, the Board is up 76% in
722 comparison to last year which was 67%.
723

724

725 Ms. Ybarra reported that for PM4 AG cases, there are two that are within the
726 performance goal of 540 days, they are at 482 days, so the goals are being met. She
727 reported that enforcement staff do a great job at keeping track of cases and of DOI,
728 the Experts and the Attorney General’s Office.
729

730

731 Ms. Ybarra stated that Mr. Azar is a great asset as a subject matter expert for both
732 BreZE and QBIRT. She reported that CPS is encouraging people to use the online
733 services versus the forms as it’s a lot faster and it’s to their benefit.
734

735

736 Ms. Eleby asked that the performance goals to be placed on the CPS report. Dr.
737 Rabena-Amen asked if there were sub goals for each of PM 4 and Ms. Ybarra
738 responded no, the goal is the 540-day goal and that is a DCA wide goal.
739

740

736 Dr. Dominguez solicited the Board for their feedback on the first case for review
737 through BreEZe portal. Ms. Eleby stated that she liked it and she felt it was a good
738 way to disseminate information and get members into the habit of submitting votes
739 through BreEZe. Dr. Drummer stated that he struggled with the online portal with the
740 challenge of easy flow and not being intuitive. Dr. Rabena-Amen agreed with Dr.
741 Drummer. Ms. Eleby stated that it would be helpful to have the due date for
742 members responses. Ms. Ybarra responded that they would look at the instructions
743 and make them more detailed and specific. Mr. Kaiser added that the online system
744 is made to be used by all the Boards and Bureau's at DCA so unfortunately there is a
745 narrow set of parameters that are tailorable.
746

747 Ms. Bojack, legal counsel, identified that the topic of conversation was beyond what
748 was noticed on the agenda and encouraged the Board to stay on topic of agenda
749 item 25, Consumer Protection Services Report. Mr. Pane, legal counsel, added that
750 it is to the Board's benefit for transparency, to be as specific on the agenda and stay
751 on topic during the meeting.
752

753 **26. Probation Monitoring Report– *Monny Martin***

754
755 (A) Statistical Reports
756

757 Mr. Martin presented the Probation Monitoring report for quarter 1, fiscal year 2018-
758 19. Mr. Martin reported that there were 85 licensees on probation and in addition,
759 there were 11 probationers tolling (out of state) and not receiving credit toward the
760 completion of probation. Mr. Martin also reported there were two licensees that
761 completed probation in this quarter. He also stated that of the 74 licensees that are
762 not currently tolling, 18 are currently enrolled and participating in the Board's Drug
763 and Alcohol Recovery Monitoring Program, which is 24% of all licensees on probation
764 that are not tolling.
765

766 Ms. Eleby asked Mr. Martin to add the number of probationers that are tolling to the
767 probation monitoring statistical report.
768

769 **27. Board Member Elections**

770
771 (A) President
772

773 **NOMINATION:** Ms. McMillian nominated Dr. Drummer as Board President.
774 **NOMINEE:** Drummer
775 **MOTION:** To elect Dr. Drummer as Board President.
776 **M/S:** McMillian/Rabena-Amen
777 Dr. Drummer declined the nomination.
778

779 **NOMINATION:** Dr. Drummer nominated Dr. Rabena-Amen as Board
780 President.
781 **NOMINEES:** Rabena-Amen
782 **MOTION:** To elect Dr. Rabena-Amen as Board President.
783 **M/S:** Drummer/Eleby
784 **VOTE:** Dominguez- Aye
785 Drummer – Aye
786 Eleby – Aye
787 McMillian – Aye
788 Rabena-Amen - Aye
789 Watkins – Aye
790 6-0 Motion carried
791

792 **(B) Vice-President**

793
794 **NOMINATION:** Ms. McMillian nominated Mr. Watkins as Board Vice-
795 President.
796 **NOMINEES:** Watkins
797 **MOTION:** To elect Mr. Watkins as Board Vice-President.
798 **M/S:** McMillian/Drummer
799 **VOTE:** Dominguez- Aye
800 Drummer – Aye
801 Eleby – Aye
802 McMillian – Aye
803 Rabena-Amen - Aye
804 Watkins – Aye
805 6-0 Motion carried
806

807 **(C) FSBPT Delegate**

808
809 **NOMINATION:** Ms. McMillian nominated Ms. Eleby as FSBPT Delegate.
810 **NOMINEES:** Eleby
811 **MOTION:** To elect Ms. Eleby as Board FSBPT Delegate.
812 **M/S:** McMillian/Watkins
813 **VOTE:** Dominguez- Aye
814 Drummer – Aye
815 Eleby – Aye
816 McMillian – Aye
817 Rabena-Amen - Aye
818 Watkins – Aye
819 6-0 Motion carried
820

821 **NOMINATION:** Dr. Rabena Amen nominated Ms. McMillian as FSBPT
822 Delegate.
823 **NOMINEES:** McMillian
824 **MOTION:** To elect Ms. McMillian as Board FSBPT Delegate.
825 **M/S:** Rabena-Amen/Drummer
826 Ms. McMillian declined the nomination
827

828 **(D) FSBPT Alternate Delegate**
829

830 **NOMINATION:** Mr. Watkins nominated Dr. Drummer as FSBPT Alternate
831 Delegate.
832 **NOMINEES:** Drummer
833 **M/S:** Watkins/Rabena-Amen
834

835 **NOMINATION:** Dr. Drummer nominated Ms. McMillian as FSBPT Alternate
836 Delegate.
837 **NOMINEES:** McMillian
838 **M/S:** Drummer/None
839 Ms. McMillian declined the nomination
840

841 **NOMINATION:** Ms. Eleby nominated Dr. Rabena-Amen as FSBPT Alternate
842 Delegate.
843 **NOMINEES:** Rabena-Amen
844 **M/S:** Eleby/None.
845 Dr. Rabena-Amen declined the nomination
846

847 **NOMINATION:** Dr. Drummer nominated Mr. Watkins as FSBPT Alternate
848 Delegate.
849 **NOMINEES:** Watkins
850 **M/S:** Drummer/Eleby
851

852 **MOTION:** To elect a Board FSBPT Alternate Delegate
853 **VOTE:** Dominguez- Drummer
854 Drummer – Watkins
855 Eleby – Drummer
856 McMillian – Drummer
857 Rabena-Amen - Drummer
858 Watkins – Watkins
859 4-2 in favor of Dr. Drummer/Motion carried
860

861 **(E) FSBPT Back-up Alternate Delegate**
862

863 **MOTION:** To adopt the procedure of establishing back-up alternate
864 delegates in reverse alphabetical order of Board members.
865 **M/S:** Drummer/Eleby
866 **VOTE:** Dominguez- Aye
867 Drummer – Aye
868 Eleby – Aye
869 McMillian – Aye
870 Rabena-Amen - Aye
871 Watkins – Aye
872 6-0 Motion carried
873

874 **28. Public Comment on Items Not on the Agenda**

875 *Please note that the Board may not discuss or take action on any matter raised during*
876 *this public comment section that is not included on this agenda, except to decide*
877 *whether to place the matter on the agenda of a future meeting. [Government Code*
878 *sections 11125, 11125.7(a).]*

879 The Board requested public comment on items not on the agenda, and there was no
880 public comment.
881

882 **29. Agenda Items for Future Meeting –**

883 March 19-20, 2019
884 Sacramento, CA
885
886

887 Dr. Rabena-Amen stated that she would like to see under the reports on the agenda, a
888 place for procedural questions directed to staff from the Board. Dr. Rabena-Amen
889 added she would also like a Probation Monitor Services presentation; and in specific
890 she would like to know how Mr. Martin spends his time and how he would like to spend
891 his time. Dr. Drummer stated that he would like to add under the statistical reports on
892 the agenda, a separate subsection that addresses issues with duties, performance etc.
893 so that the Board can discuss updates. Dr. Rabena-Amen stated she would like to see
894 an agenda item for further discussion on the online BreEZe case review for Board
895 members. Mr. Watkins stated he would like to add under agenda item 10; increase in
896 the level of the Executive Officer a section for the committee to report back on the
897 progress on investigating the exempt level request. Ms. McMillian stated she would like
898 to have an update on the Board members transition to BreEZe.
899

900 **30. Adjournment**

901 The meeting adjourned at 3:55 p.m.
902



DEPARTMENT OF CONSUMER AFFAIRS • PHYSICAL THERAPY BOARD OF CALIFORNIA
2005 Evergreen Street, Suite 1350, Sacramento, CA 95815
P (916) 561-8200 | F (916) 263-2560
www.ptbc.ca.gov



Board Members

President

Alicia Rabena-Amen, PT, DPT

Vice-President

TJ Watkins

Members

Jesus Dominguez, PT, PhD

Daniel Drummer, PT, DPT

Katarina Eleby

Tonia McMillian

Physical Therapy Board of California

**DRAFT TELECONFERENCE
MEETING MINUTES**

February 13, 2019 10:00 a.m.

Teleconference Locations:

Department of Consumer Affairs
Physical Therapy Board of California
2005 Evergreen Street, Suite 1350
Sacramento, CA 95815

The California Endowment
1000 N. Alameda Street, Suite 240
Los Angeles, CA 90012

5058 Tudor Rose Glen
Stockton, CA 95212

Zuckerberg San Francisco General
Hospital, Room G 141
1001 Potrero Avenue
San Francisco, CA 94110

University of Southern California
Center for Health Professions
1540 Alcazar Street, CHP-155
Los Angeles, CA 90089

Board Staff

Jason Kaiser, Executive Officer

Sarah Conley, Manager

Liz Constancio, Manager

Elsa Ybarra, Manager

Brooke Arneson, Associate

Analyst

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

1. Call to Order, Roll Call, and Establishment of Quorum

The Physical Therapy Board of California (Board) meeting was called to order by President Dr. Rabena-Amen at 10:03 a.m. and recessed at 11:20 p.m. on February 13, 2019.

Members Present:

TJ Watkins – Vice President

Members Via Telephone:

Dominguez- Present

Drummer – Present

23 Eleby – Present
24 McMillian – Absent
25 Rabena-Amen - Present
26 Watkins – Present
27

28 All members were present; with the exception of Ms. McMillian, and a quorum was
29 established. Also present at the meeting were: Salwa Bojack, Legal Counsel; Anthony
30 Pane, Legal Counsel; Jason Kaiser, Executive Officer; Elsa Ybarra, Consumer Protection
31 Services Manager and Brooke Arneson, Associate Analyst,
32

33 **2. Public Comment on Items Not on the Agenda**

34
35 The Board requested public comment on items not on the agenda, and there was no public
36 comment.

37 **3. Closed Session**

38
39 Pursuant to Government Code section 11126, subdivisions (e)(1) and (2)(A), the Board will
40 convene to confer with, or receive legal counsel regarding pending litigation when discussion
41 in open session concerning those matters would prejudice the position of the state body in
42 the litigation.
43

44 The Board went into closed session at 10:15 a.m. to deliberate on Agenda Item 3 and
45 adjourned at 11:20 a.m. on February 13, 2019.
46

47 **4. Adjournment**

48
49 The meeting adjourned at 11:20 a.m.
50

Physical Therapy Board of California Proposed 2019 Meeting Calendar

January							February							March							April						
Su	M	T	W	Th	F	S	Su	M	T	W	Th	F	S	Su	M	T	W	Th	F	S	Su	M	T	W	Th	F	S
		1	2	3	4	5						1	2						1	2		1	2	3	4	5	6
6	7	8	9	10	11	12	3	4	5	6	7	8	9	3	4	5	6	7	8	9	7	8	9	10	11	12	13
13	14	15	16	17	18	19	10	11	12	13	14	15	16	10	11	12	13	14	15	16	14	15	16	17	18	19	20
20	21	22	23	24	25	26	17	18	19	20	21	22	23	17	18	19	20	21	22	23	21	22	23	24	25	26	27
27	28	29	30	31			24	25	26	27	28			24	25	26	27	28	29	30	28	29	30				
														31													

May							June							July							August						
Su	M	T	W	Th	F	S	Su	M	T	W	Th	F	S	Su	M	T	W	Th	F	S	Su	M	T	W	Th	F	S
			1	2	3	4						1		1	2	3	4	5	6					1	2	3	
5	6	7	8	9	10	11	2	3	4	5	6	7	8	7	8	9	10	11	12	13	4	5	6	7	8	9	10
12	13	14	15	16	17	18	9	10	11	12	13	14	15	14	15	16	17	18	19	20	11	12	13	14	15	16	17
19	20	21	22	23	24	25	16	17	18	19	20	21	22	21	22	23	24	25	26	27	18	19	20	21	22	23	24
26	27	28	29	30	31		23	24	25	26	27	28	29	28	29	30	31				25	26	27	28	29	30	31
							30																				

September							October							November							December						
Su	M	T	W	Th	F	S	Su	M	T	W	Th	F	S	Su	M	T	W	Th	F	S	Su	M	T	W	Th	F	S
1	2	3	4	5	6	7			1	2	3	4	5						1	2	1	2	3	4	5	6	7
8	9	10	11	12	13	14	6	7	8	9	10	11	12	3	4	5	6	7	8	9	8	9	10	11	12	13	14
15	16	17	18	19	20	21	13	14	15	16	17	18	19	10	11	12	13	14	15	16	15	16	17	18	19	20	21
22	23	24	25	26	27	28	20	21	22	23	24	25	26	17	18	19	20	21	22	23	22	23	24	25	26	27	28
29	30						27	28	29	30	31			24	25	26	27	28	29	30	29	30	31				

January		February		March		April	
1	New Year's Day	18	President's Day	21-22	PTBC Meeting	4	PTA NPTE
9	PTA NPTE				Sacramento, CA	18	CPTA Student Conclave
21	Martin Luther King Jr			31	César Chávez Day		University of Pacific
23-26	APTA Sections						Stockton, CA
29	PT NPTE					23	PT NPTE

May		June		July		August	
12	Mother's Day	TBD	FSBPT REG Training	4	Independence Day		
27	Memorial Day		Alexandria, VA	9	PTA NPTE		
		12-15	APTA NEXT	13-14	FSBPT LIF		
			Chicago, IL		Alexandria, VA		
		16	Father's Day	24-25	PT NPTE		
		19-20	PTBC Meeting				
			CSU Longbeach, CA				

September		October		November		December	
2	Labor Day	3	PTA NPTE	TBD	FSBPT Annual Meeting	12-13	PTBC Meeting
18-19	PTBC Meeting	12-13	CPTA Annual Meeting	11	Veteran's Day		Sacramento, CA
	TBD, Bay Area, CA		Las Vegas, NV	28	Thanksgiving		
		24	PT NPTE				
		31	Halloween				

Physical Therapy Board of California Proposed 2020 Meeting Calendar

January							February							March							April						
Su	M	T	W	Th	F	S	Su	M	T	W	Th	F	S	Su	M	T	W	Th	F	S	Su	M	T	W	Th	F	S
			1	2	3	4							1	1	2	3	4	5	6	7				1	2	3	4
5	6	7	8	9	10	11	2	3	4	5	6	7	8	8	9	10	11	12	13	14	5	6	7	8	9	10	11
12	13	14	15	16	17	18	9	10	11	12	13	14	15	15	16	17	18	19	20	21	12	13	14	15	16	17	18
19	20	21	22	23	24	25	16	17	18	19	20	21	22	22	23	24	25	26	27	28	19	20	21	22	23	24	25
26	27	28	29	30	31		23	24	25	26	27	28	29	29	30	31					26	27	28	29	30		

May							June							July							August						
Su	M	T	W	Th	F	S	Su	M	T	W	Th	F	S	Su	M	T	W	Th	F	S	Su	M	T	W	Th	F	S
					1	2		1	2	3	4	5	6				1	2	3	4							1
3	4	5	6	7	8	9	7	8	9	10	11	12	13	5	6	7	8	9	10	11	2	3	4	5	6	7	8
10	11	12	13	14	15	16	14	15	16	17	18	19	20	12	13	14	15	16	17	18	9	10	11	12	13	14	15
17	18	19	20	21	22	23	21	22	23	24	25	26	27	19	20	21	22	23	24	25	16	17	18	19	20	21	22
24	25	26	27	28	29	30	28	29	30					26	27	28	29	30	31		23	24	25	26	27	28	29
31																					30	31					

September							October							November							December								
Su	M	T	W	Th	F	S	Su	M	T	W	Th	F	S	Su	M	T	W	Th	F	S	Su	M	T	W	Th	F	S		
			1	2	3	4	5					1	2	3	1	2	3	4	5	6	7				1	2	3	4	5
6	7	8	9	10	11	12	4	5	6	7	8	9	10	8	9	10	11	12	13	14	6	7	8	9	10	11	12		
13	14	15	16	17	18	19	11	12	13	14	15	16	17	15	16	17	18	19	20	21	13	14	15	16	17	18	19		
20	21	22	23	24	25	26	18	19	20	21	22	23	24	22	23	24	25	26	27	28	20	21	22	23	24	25	26		
27	28	29	30				25	26	27	28	29	30	31	29	30						27	28	29	30	31				

January							February							March							April						
1	New Year's Day						12-15	APTA Sections Meeting Denver, Colorado						26-27	PTBC Meeting Sacramento, CA						7	PTA NPTE					
9	PTA NPTE																				TBD	CPTA Student Conclave TBD					
20	Martin Luther King Jr						17	President's Day						31	César Chávez Day												
29	PT NPTE																										
																					28	PT NPTE					

May							June							July							August						
10	Mother's Day						TBD	FSBPT REG Training Alexandria, VA						4	Independence Day												
25	Memorial Day						4-7	APTA NEXT Phoenix, AZ						8	PTA NPTE												
							21	Father's Day						TBD	FSBPT LIF Alexandria, VA												
							24-25	PTBC Meeting TBD, Southern CA						28-29	PT NPTE												

September							October							November							December						
7	Labor Day						6	PTA NPTE						TBD	FSBPT Annual Meeting						10-11	PTBC Meeting Sacramento, CA					
16-17	PTBC Meeting TBD, Bay Area, CA						TBD	CPTA Annual Meeting TBD						11	Veteran's Day												
							27	PT NPTE						26	Thanksgiving						25	Christmas					
							31	Halloween																			



Briefing Paper

Date: March 4, 2019
Prepared for: PTBC Members
Prepared by: Brooke Arneson
Subject: Legislation Report

Agenda Item 11(A)

Purpose:

To provide an update on the 2019/20 Legislative session.

Attachments: [1. 2019 Legislative Calendar](#)
[2. Definition of the Board's Legislative Positions](#)
[3. 2019/20 Legislative Summary](#)

Background and Update:

The 2019 Legislative calendar is included in the meeting materials for your reference, along with a copy of the Board's Legislative positions taken from the PTBC's Board Member Administrative Manual.

As noted on the calendar, the Legislature reconvened on January 7th. February 22nd was the last day for bills to be introduced and May 31st is the last day for bills to be passed out of the house of origin. October 13th is the last day for the Governor to sign or veto bills passed by the Legislature before September 1st and in the Governor's possession after September 13th. All statutes will take effect January 1, 2020.

In addition, a 2019/20 Legislative summary is included which notes all bills from the current Legislative session that could potentially impact Physical Therapy practice, regulation or the operation of the Physical Therapy Board.

Action: No action requested.

2019 TENTATIVE LEGISLATIVE CALENDAR

COMPILED BY THE OFFICE OF THE SECRETARY OF THE SENATE AND THE OFFICE OF THE CHIEF CLERK
October 31, 2018 (revised)

DEADLINES

JANUARY						
S	M	T	W	TH	F	S
		<u>1</u>	2	3	4	5
6	<u>7</u>	8	9	<u>10</u>	11	12
13	14	15	16	17	18	19
20	<u>21</u>	22	23	24	<u>25</u>	26
27	28	29	30	31		

- [Jan. 1](#) Statutes take effect (Art. IV, Sec. 8(c)).
- [Jan. 7](#) Legislature **reconvenes** (J.R. 51(a)(1)).
- [Jan. 10](#) Budget must be submitted by Governor (Art. IV, Sec. 12(a)).
- [Jan. 21](#) Martin Luther King, Jr. Day.
- [Jan. 25](#) Last day to submit **bill requests** to the Office of Legislative Counsel

FEBRUARY						
S	M	T	W	TH	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	<u>18</u>	19	20	21	<u>22</u>	23
24	25	26	27	28		

- [Feb. 18](#) Presidents' Day.
- [Feb. 22](#) Last day for **bills to be introduced** (J.R. 61(a)(1)), (J.R. 54(a)).

MARCH						
S	M	T	W	TH	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	<u>29</u>	30
31						

- [Mar. 29](#) Cesar Chavez Day observed.

APRIL						
S	M	T	W	TH	F	S
	1	2	3	4	5	6
7	8	9	10	<u>11</u>	12	13
14	15	16	17	18	19	20
21	<u>22</u>	23	24	25	<u>26</u>	27
28	29	30				

- [Apr. 11](#) **Spring recess** begins upon adjournment of this day's session (J.R. 51(a)(2)).
- [Apr. 22](#) Legislature **reconvenes** from Spring recess (J.R. 51(a)(2)).
- [Apr. 26](#) Last day for **policy committees** to hear and report to **fiscal committees** **fiscal bills** introduced in their house (J.R. 61(a)(2)).

MAY						
S	M	T	W	TH	F	S
			1	2	<u>3</u>	4
5	6	7	8	9	<u>10</u>	11
12	13	14	15	16	<u>17</u>	18
19	20	21	22	23	24	25
26	<u>27</u>	<u>28</u>	<u>29</u>	<u>30</u>	<u>31</u>	

- [May 3](#) Last day for **policy committees** to hear and report to the Floor **nonfiscal bills** introduced in their house (J.R. 61(a)(3)).
- [May 10](#) Last day for **policy committees** to meet prior to June 3 (J.R. 61(a)(4)).
- [May 17](#) Last day for **fiscal committees** to hear and report to the Floor bills introduced in their house (J.R. 61(a)(5)). Last day for **fiscal committees** to meet prior to June 3 (J.R. 61(a)(6)).
- [May 27](#) Memorial Day.
- [May 28-31](#) **Floor Session Only.**
No committees, other than conference or Rules committees, may meet for any purpose (J.R. 61(a)(7)).

- [May 31](#) Last day for bills to be **passed out of the house of origin** (J.R. 61(a)(8)).

*Holiday schedule subject to Rules committee approval.

2019 TENTATIVE LEGISLATIVE CALENDAR

COMPILED BY THE OFFICE OF THE SECRETARY OF THE SENATE AND THE OFFICE OF THE CHIEF CLERK
October 31, 2018 (revised)

JUNE						
S	M	T	W	TH	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

Jun. 3 Committee meetings may resume (J.R. 61(a)(9)).

Jun. 15 **Budget Bill** must be **passed by midnight** (Art. IV, Sec. 12(c)(3)).

JULY						
S	M	T	W	TH	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

Jul. 4 Independence Day.

Jul. 10 Last day for **policy committees** to hear and report **fiscal bills** to **fiscal committees** (J.R. 61(a)(10)).

Jul. 12 Last day for **policy committees** to meet and report bills (J.R. 61(a)(11)). **Summer recess** begins upon adjournment of this day's session, provided Budget Bill has been passed (J.R. 51(a)(3)).

AUGUST						
S	M	T	W	TH	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

Aug. 12 **Legislature reconvenes** from Summer recess (J.R. 51(a)(3)).

Aug. 30 Last day for **fiscal committees** to meet and report bills to Floor (J.R. 61(a)(12)).

SEPTEMBER						
S	M	T	W	TH	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

Sep. 2 Labor Day.

Sep. 3-13 **Floor Session Only**. No committees, other than conference and Rules committees, may meet for any purpose (J.R. 61(a)(13)).

Sep. 6 Last day to **amend bills on the floor** (J.R. 61(a)(14)).

Sep. 13 Last day for **each house to pass bills** (J.R. 61(a)(15)). **Interim Study Recess** begins upon adjournment of this day's session (J.R. 51(a)(4)).

*Holiday schedule subject to Senate Rules committee approval.

IMPORTANT DATES OCCURRING DURING INTERIM STUDY RECESS

2019

Oct. 13

Last day for Governor to sign or veto bills passed by the Legislature on or before Sep. 13 and in the Governor's possession after Sep. 13 (Art. IV, Sec.10(b)(1)).

2020

Jan. 1

Statutes take effect (Art. IV, Sec. 8(c)).

Jan. 6

Legislature reconvenes (J.R. 51 (a)(4)).

Legislation - Definition of the Positions Taken by the Physical Therapy Board Regarding Proposed Legislation

(Board Policy)

The Board will adopt the following positions regarding pending or proposed legislation.

Oppose: The Board will actively oppose proposed legislation and demonstrate opposition through letters, testimony and other action necessary to communicate the oppose position taken by the Board.

Oppose, unless amended: The Board will take an opposed position and actively lobby the legislature to amend the proposed legislation.

Neutral: The Board neither supports nor opposes the addition/amendment/repeal of the statutory provision(s) set forth by the bill.

Watch: The watch position adopted by the Board will indicate interest regarding the proposed legislation. The Board staff and members will closely monitor the progress of the proposed legislation and amendments.

Support, if amended: The Board will take a supportive position and actively lobby the legislature to amend the proposed legislation.

Support: The Board will actively support proposed legislation and demonstrate support through letter, testimony and any other action necessary to communicate the support position taken by the Board.

Bill	Author	Summary	Board's Position	Status	
AB 5 12/3/18)	Gonzalez	Worker Status: Independent Contractors Existing law, as established in the case of Dynamex Operations West, Inc. v. Superior Court of Los Angeles (2018) 4 Cal. 5 th 903 (Dynamex), creates a presumption that a worker who performs services for a hirer is an employee. This bill would state the intent of the Legislature to include provisions within this bill would codify the decision in the Dynamex case and clarify its application.	No Position	12/3/18 12/4/18	Read first time. To Print. From Printer. May be heard in committee January 3 rd . Active bill in the Assembly pending referral
AB 71 (Amended Assembly 2/25/19)	Melendez & Kiley		No Position	12/3/18 1/17/19 2/25/19 2/26/19	Read first time. To print. Referred to Assembly Committee on Labor and Employment. From Committee Chair with author's amendments: Amend and re-refer to Committee on Labor and Employment. Read second time and amended. Re-referred to Assembly Committee on Labor and Employment.

<p>AB 193 3/5/19)</p>	<p>Patterson</p>	<p>Professions and Vocations This bill would require the Department, beginning January 1, 2021 to conduct a comprehensive review of all licensing requirements. This bill would require the department to report to the Legislature on January 1, 2023 and every 2 years thereafter on the department's progress and would require the department to issue a final report to the Legislature no later than January 1, 2023. This bill would require the biennial reports to identify the professions reviewed, each unnecessary licensing requirement, and the department's recommendations to the Legislature on whether to keep, modify or eliminate overly burdensome requirements.</p>	<p>No Position</p>	<p>1/10/19 2/4/19 3/5/19 3/6/19</p>	<p>Read first time. To print. Referred to Assembly Business and Professions Committee. From committee chair, with author's amendments: Amend, and re-refer to Assembly Business and Professions Committee. Re-referred to Assembly Business and Professions Committee.</p>
<p>AB 496 (Introduced 2/12/19)</p>	<p>Holden</p>		<p>No Position.</p>	<p>2/12/19 2/13/19 2/21/19</p>	

<p>AB 613 (Introduced 2/14/19)</p>	<p>Low</p>	<p>Professions and Vocations: Regulatory Fees This bill would authorize each Board within the department to increase every four years any fee authorized by that Board by an amount not to exceed the increase in the California Consumer Price Index for the preceding 4 years, subject to specific conditions. This bill would require the director of the department to approve any fee increase proposed by the Board except under specified circumstances. By authorizing an increase in the amount of fees deposited into a continuously appropriated fund, this bill would make an appropriation.</p>	<p>No Position.</p>	<p>2/14/19 2/15/19 2/25/19</p>	<p>Read first time. To print. From printer. May be heard in Committee March 17, 2019. Referred to Assembly Business and Professions Committee.</p>
<p>AB 1592 (Introduced 2/22/19)</p>	<p>Bonta</p>	<p>Athletic Trainers This bill would state the intent of the Legislature to enact legislation relating to the licensure and regulation of athletic trainers.</p>	<p>No Position.</p>	<p>2/22/19 2/23/19 2/25/19</p>	<p>Introduced. To print. From printer. May be heard in Committee March 25, 2019. Read first time.</p>
<p>SB 53 (Amended 3/5/19)</p>	<p>Wilk Bates, Glazer, Jones, Portantino, Choi, Gallagher, Lackey, Mathis, and Patterson</p>	<p>Open Meetings This bill would specify that the definition of "state body" includes an advisory board, advisory committee, advisory commission, advisory subcommittee, or similar multimember advisory body of a state body that consists of 3 or more individuals, as prescribed, except a board, commission, committee, or similar multimember body on which a member of a body serves in their official capacity as a representative of that state body and that is supported, in whole or in part, by funds provided by the state body, whether the multimember body is organized and operated by the state body or by a private corporations. This bill would declare that it is to take effect immediately as an urgency statute.</p>	<p>No Position</p>	<p>12/10/18 1/16/19 2/20/19 3/5/19 3/12/19</p>	<p>Introduced. To Senate Rules Committee for assignment. To print. Referred to Senate Standing Committee on Governmental Organization. Set for hearing March 12, 2019. From Senate Standing Committee on Governmental Organization with author's amendments. Read second time and amended. Re-referred to Senate G.O Committee. From Committee: Do pass and re-refer to Senate</p>

					Appropriations Committee.
<u>SB 425</u> (Introduced 2/21/19)	Hill	<p>Health Practitioners: Licensee’s File: Probationary Physician’s and Surgeon’s Certificate: Unprofessional Conduct</p> <p>This bill This bill would require any health facility or clinic, administrator or chief executive officer of a health care service plan, or other entity that makes any arrangement under which a healing arts licensee is allowed to practice in or provide care for patients to report any allegation of sexual abuse or sexual misconduct made against a healing arts licensee to the relevant state licensing agency within 15 days of receiving the allegation and would require the relevant agency to investigate the circumstances underlying a received report.</p> <p>The bill would also require an employee or healing arts licensee that works in a health facility or clinic, health care service plan, or other entity with knowledge of any allegation of sexual abuse or sexual misconduct by a healing arts licensee to report to the relevant state agency having jurisdiction over the healing arts licensee and the administration of the health facility or clinic, health care service plan, or other entity within 15 days of knowing about the allegation of sexual abuse or sexual misconduct.</p> <p>The bill would make a willful failure to file the report by a health facility or clinic, health care service plan, or other entity punishable by a civil fine not to exceed \$100,000 per violation and any other failure to make that report punishable by a civil fine not to exceed \$50,000 per</p>	No Position.	<p>2/21/19</p> <p>2/22/19</p> <p>3/7/19</p>	<p>Introduced. Read first time. To Senate Rules Committee for assignment. To print.</p> <p>From printer. May be acted upon on or after March 24, 2109.</p> <p>Referred to Senate Business Professions and Economic Development Committee.</p>

	<p>violation, as specified. The bill would also prohibit a person, including an employee or individual contracted or subcontracted to provide health care services, a health facility or clinic, a health care service plan, or other entity from incurring civil or criminal liability as a result of making a report. This bill would require the board to disclose a probationary physician's and surgeon's certificate and the operative statement of issues to an inquiring member of the public and to post the certificate and statement on the board's internet website for 10 years from issuance. This bill would delete the condition that the failure to attend and participate in an interview by the board be repeated. The bill would also delete an obsolete provision. The bill would authorize the board or its designee, upon receipt of information that the public health, safety, or welfare requires emergency action, to place a physician's and surgeon's certificate on suspension pending formal proceedings and would require the board to inform the licensee of the facts or conduct warranting the suspension. The bill would require the board to post reference to the emergency order of suspension on its internet website. The bill would authorize the holder of the suspended license to request a hearing for an interim suspension order and would specify how the hearing is to be conducted.</p>			
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<p><u>SB 537</u> (Introduced 2/21/19)</p>	<p>Hill</p>	<p>Workers Compensation: Independent Bill Review Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of employment. Existing law requires an employer to provide medical, surgical, chiropractic, acupuncture, and hospital treatment that is reasonably required to cure or relieve the injured worker from the effects of the injury. Upon payment, adjustment, or denial of a complete or incomplete itemization of medical services, existing law requires an employer to provide an explanation of review. If the provider disputes the amount paid, existing law authorizes the provider to request a 2nd review. Existing law authorizes a provider to request an independent bill review within 30 calendar days of service of the 2nd review if the only dispute is the amount of payment and the provider has received a 2nd review that did not resolve the dispute. This bill would make technical, nonsubstantive changes to the provision authorizing a provider to request an independent bill review.</p>	<p>No Position</p>	<p>2/21/19 2/22/19 3/7/19</p>	<p>Introduced. Read first time. To Senate Rules Committee for assignment. To print. From printer. May be acted upon on or after March 24, 2019. Referred to Senate Rules Committee.</p>
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Briefing Paper

Date: March 4, 2019
Prepared for: PTBC Members
Prepared by: Brooke Arneson
Subject: Rulemaking Report

Agenda Item 12(A)

Purpose: To update the Board on the status of proposed rulemaking in progress and to provide an update on the rulemaking process.

Attachments: [1. 2018/19 Rulemaking Tracking Form](#)
[2. Updated DCA Rulemaking Process](#)

Background:

At the November 2018 meeting, the Board adopted the 2019 Rulemaking Calendar as required by Government Code (GC) § 11017.6. The rulemaking calendar prepared pursuant to this section sets forth the Board's rulemaking plan for the year and is published by the Office of Administrative Law (OAL) in the California Regulatory Notice Register (Notice Register); the Notice Register is available on OAL's website: http://www.oal.ca.gov/Notice_Register.htm

From the 2019 Rulemaking Calendar, staff developed a rulemaking tracking form on which all rulemaking progress is noted and reported to the Board at its quarterly meetings.

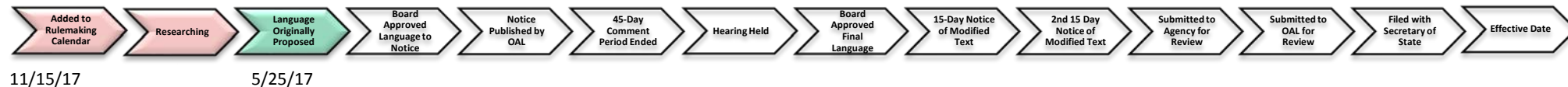
Effective September 7, 2016 all regulatory packages must be submitted to the Department of Consumer Affairs for Business, Consumer Services, and Housing Agency (Agency) review, prior to publicly noticing with the Office of Administrative Law (OAL). A copy of the current DCA Rulemaking process is included.

Action:

No action is requested on presentation of the rulemaking report.

2019 Rulemaking Tracking Form

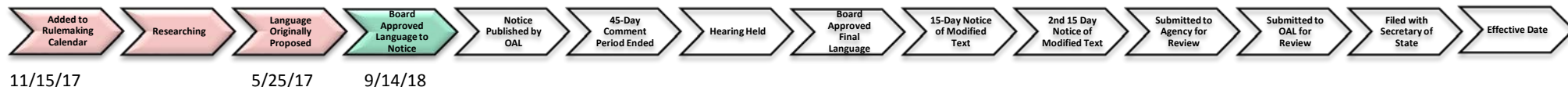
Satisfactory Documentary Evidence of Equivalent Degree for Licensure as a Physical Therapist or Physical Therapist Assistant/Coursework Tool



OAL No.:

Notes: Proposed regulatory language was presented at the May 2017 Board Meeting. The Board approved the proposed language and directed PTBC staff to initiate the formal rulemaking process. PTBC staff and DCA legal are working on preparing the initial rulemaking package for completing the new review process implemented by DCA.

Examination Passing Standard/Setting Examination Score



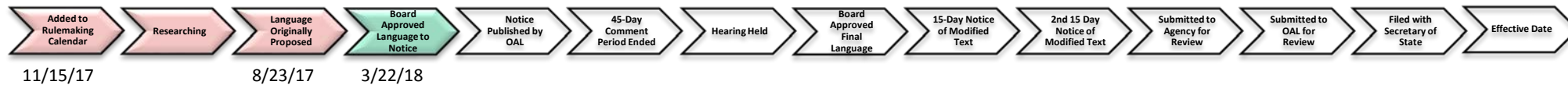
OAL No.:

Notes: Proposed regulatory language was presented at the May 2017 Board Meeting. The Board approved the proposed language and directed PTBC staff to initiate the formal rulemaking process. While finalizing the initial rulemaking package, DCA legal proposed revisions to the approved proposed language. Modified proposed language was presented for Board consideration at the September 2018 Board meeting and the Board approved the modified proposed language and directed PTBC staff to initiate the formal rulemaking process. PTBC staff are preparing the initial rulemaking package for completing the new review process implemented by DCA.

Teal: Current Status Burgundy: Completed

2019 Rulemaking Tracking Form

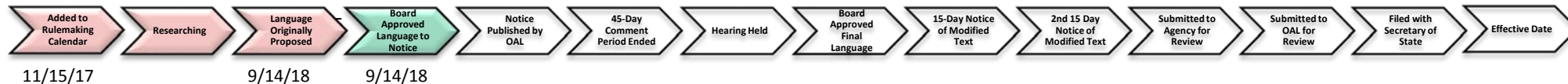
Disciplinary Guidelines



OAL No.:

Notes: Proposed regulatory language was presented at the August 2017 Board Meeting. The Board approved the proposed language and directed PTBC staff to initiate the formal rulemaking process. While finalizing the initial rulemaking package, PTBC staff identified revisions needed to the approved proposed language. Modified proposed language was presented for Board consideration at the March 2018 Board meeting and the Board approved the modified proposed language and directed PTBC staff to initiate the formal rulemaking process. With the passage of AB 2138 (Chiu and Low, 2018), the Disciplinary Guidelines will need to be updated. PTBC staff will be presenting these proposed amendments to the Disciplinary Guidelines for Board consideration under Agenda Item 12(A).

Clinical Service Requirement for Foreign Educated Applicants



OAL No.:

Notes: Proposed regulatory language was presented and adopted at the September 2018 Board Meeting. The Board directed PTBC staff to initiate the formal rulemaking process. PTBC staff are preparing the initial rulemaking package for completing the new review process implemented by DCA.

Teal: Current Status Burgundy: Completed

2019 Rulemaking Tracking Form

Substantial Relationship Criteria (AB 2138)



12/5/18

OAL No.:

Notes: Placed on the 2019 Rulemaking Calendar that was adopted at the Board meeting on December 5, 2018. Proposed language will be presented under Agenda Item 12(B).

Rehabilitation Criteria for Denial and Reinstatement of Licensure (AB 2138)



12/5/18

OAL No.:

Notes: Placed on the 2019 Rulemaking Calendar that was adopted at the Board meeting on December 5, 2018. Proposed language will be presented under Agenda Item 12(C).

2019 Rulemaking Tracking Form

Rehabilitation Criteria for Suspension and Revocations (AB 2138)



12/5/18

OAL No.:

Notes: Placed on the 2019 Rulemaking Calendar that was adopted at the Board meeting on December 5, 2018. Proposed language will be presented under Agenda Item 12(D).

Continuing Competency



12/5/18

OAL No.:

Notes: Placed on the 2019 Rulemaking Calendar that was adopted at the Board meeting on December 5, 2018.

2019 Rulemaking Tracking Form

License Renewal Exemptions: Retired License Status



12/5/2018

OAL No.:

Notes: Placed on the 2019 Rulemaking Calendar that was adopted at the Board meeting on December 5, 2018.

Unprofessional Conduct



12/5/2018

OAL No.:

Notes: Placed on the 2019 Rulemaking Calendar that was adopted at the Board meeting on December 5, 2018.

Teal: Current Status Burgundy: Completed

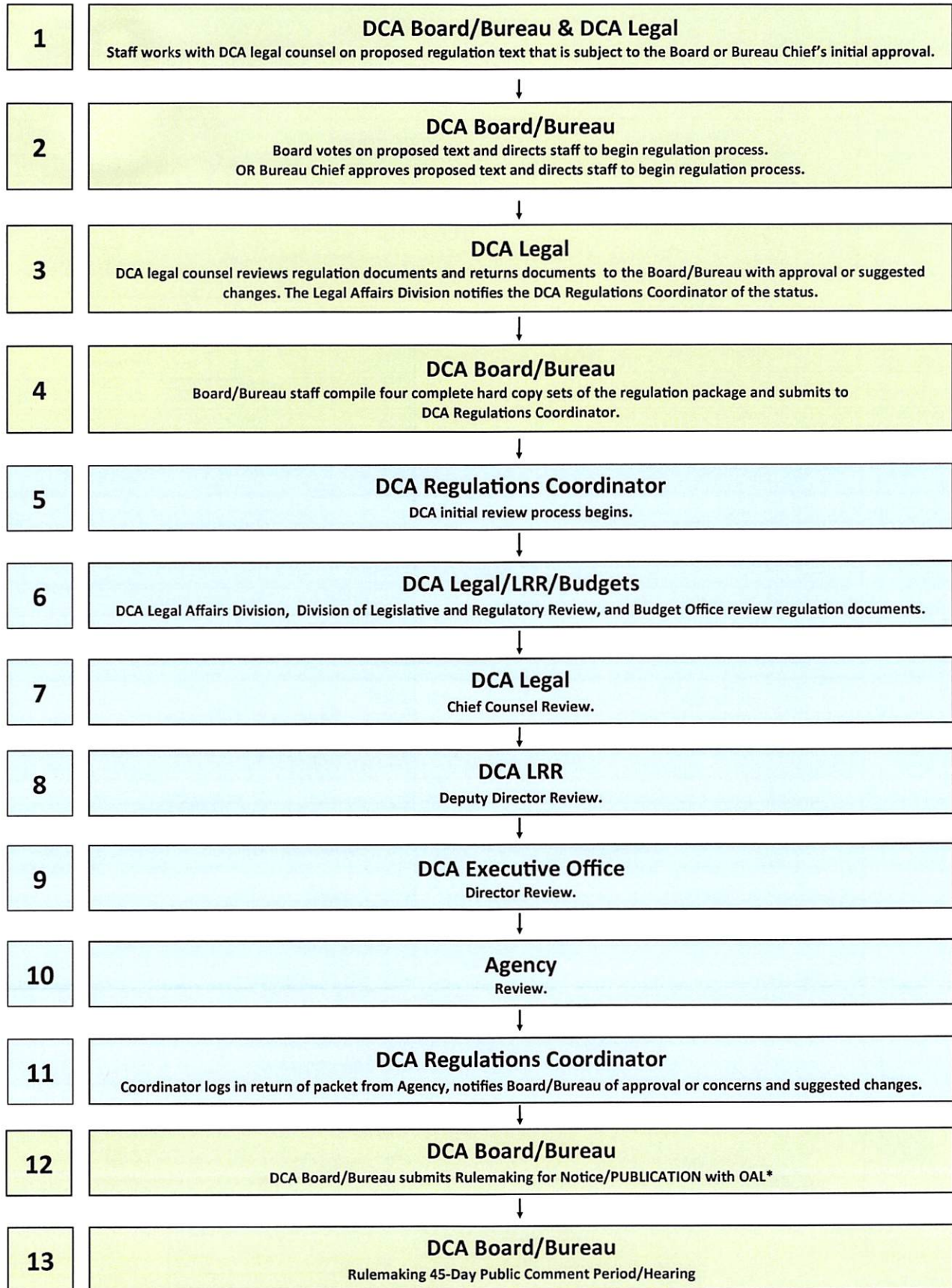
Processing Times

- A rulemaking file must be completed within one year of the publication date of the Notice of Proposed Action. The OAL issues the Notice File Number upon filing the Notice of Proposed Action.
- The DCA is allowed thirty calendar days to review the rulemaking file prior to submission to the Department of Finance (DOF).
- The DOF is allowed thirty days to review the rulemaking file prior to submission to the OAL.
- The OAL is allowed thirty working days to review the file and determine whether to approve or disapprove it. The OAL issues the Regulatory Action Number upon submission of the rulemaking file for final review.
- Pursuant to Government Code section 11343.4, as amended by Section 2 of Chapter 295 of the Statutes of 2012 (SB 1099, Wright), regulation effective dates are as follows:

Date Filed with the Secretary of State	Effective Date
September 1 st – November 30 th	January 1 st
December 1 st – February 29 th	April 1 st
March 1 st – May 31 st	July 1 st
June 1 st – August 31 st	October 1 st

REGULAR RULEMAKING PROCESS—DCA BOARDS/BUREAUS

INITIAL PHASE

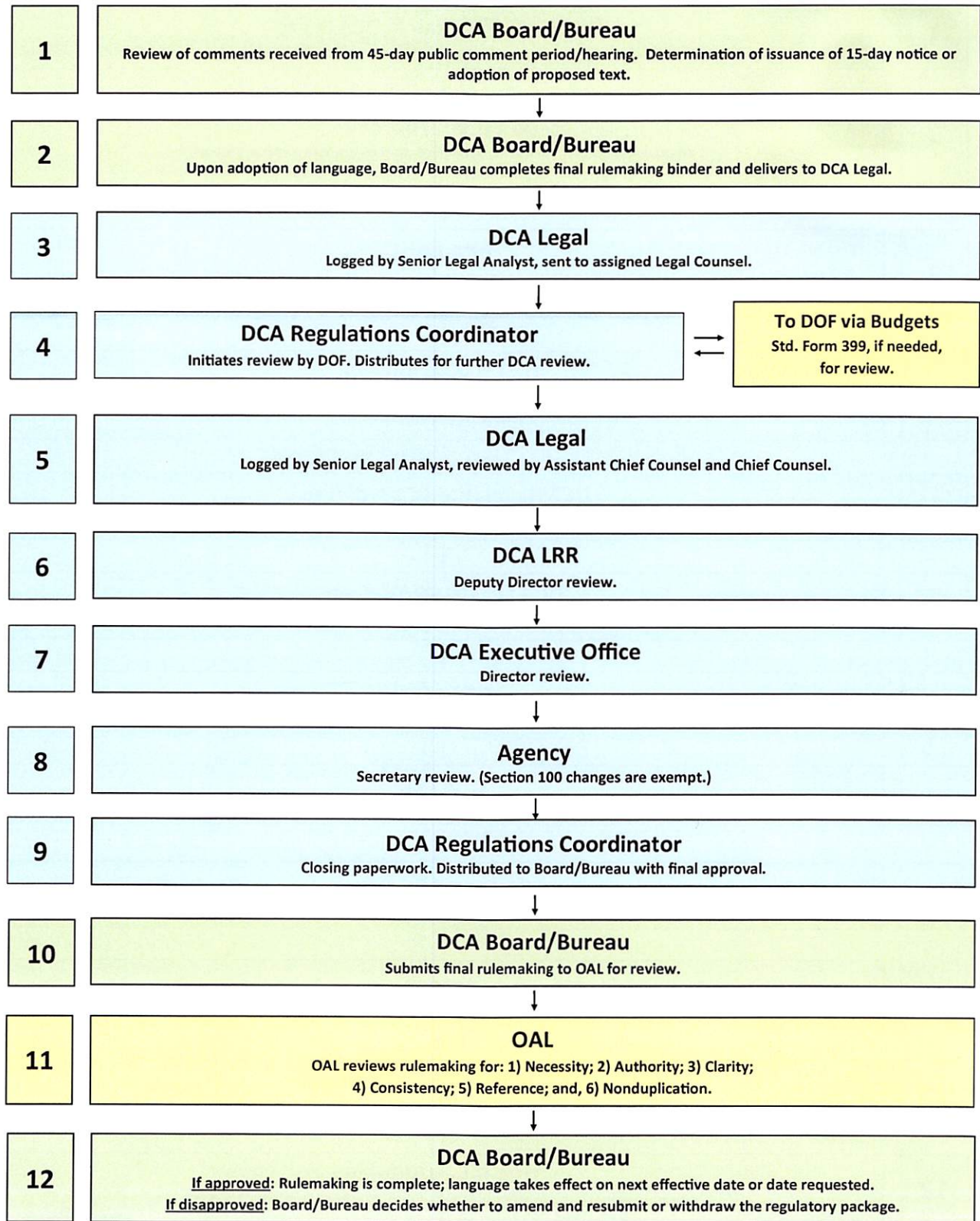


Legend
 DCA – Department of Consumer Affairs
 LRR – Division of Legislative Regulatory Review
 OAL – Office of Administrative Law

* If any changes to language last approved by the Board are needed, a vote by the Board may be necessary.

REGULAR RULEMAKING PROCESS—DCA BOARDS/BUREAUS

FINAL PHASE



Legend

DCA – Department of Consumer Affairs
 LRR – Division of Legislative Regulatory Review
 OAL – Office of Administrative Law
 DOF – Department of Finance
 Std. Form 399 – Economic and Fiscal Impact Statement



Physical Therapy Board of California

BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY - GOVERNOR EDMUND G. BROWN JR.

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



Briefing Paper

Agenda Item 12(A)

- Date:** March 14, 2019
- Prepared for:** PTBC Members
- Prepared by:** Elsa Ybarra
- Subject:** 1399.15, Guidelines for Issuing Citations and Imposing Discipline (Guidelines)
- Purpose:** To propose revisions to the language of the Guidelines for Issuing Citations and Imposing Discipline included by reference in section 1399.15 of Article 8, Division 13.2, Title 16 of the California Code of Regulations, specifically:
 - Definition of Substantial Relationship and Rehabilitation Criteria
- Attachments:** 1. [Modified language](#)
 2. [AB 2138](#)

Background:

The Board initially adopted into regulation the “Model Guidelines for Imposing Discipline” in July 1997. Since then the Board has adopted language modifying the title and content of the Guidelines into regulation on five separate occasions.

Since then, the Board considered proposed language modifications to address current issues identified by staff and counsel at the August 2017, November 2017 and the March 2018 meetings. Board staff modified the language adopted by the Board at said meetings accordingly.

However, when learning AB 2138 would most likely be signed by the Governor, Board staff considered the lengthy and burdensome regulatory process and thought it may be prudent to wait before modifying the Guidelines language conforming with AB 2138 that will become operative on July 1, 2020. To address AB 2138, additional revisions have been made to the Guidelines. For your review and consideration, only the sections revised (yellow highlight) are attached. If approved, they will be incorporated into the existing rulemaking packet.

It was advised AB 2138 requires boards to amend existing regulations governing substantially related crimes or acts and rehabilitation criteria. The Boards existing regulations addressing substantial relations criteria and rehabilitation reside in sections 1398.20; 1398.21 and 1398.22 of the California Code of Regulations. The proposed amendments to these sections will be addressed under Agenda Items 12 B, C and D.

Action Requested:

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

Physical Therapy Board of California Guidelines for Issuing Citations & and Imposing Discipline

~~Edmund G. Brown Jr.~~ Gavin Newsom, Governor

~~Dean R. Grafilo~~ Denise Brown, Director

Department of Consumer Affairs

Physical Therapy Board of California Members:

Alicia Rabena-Amen, P.T., M.P.T., President

Eserick "TJ" Watkins, Vice President

~~Debra Alviso, P.T., D.P.T., O.C.S.~~ President

Daniel Drummer, P.T., D.P.T.

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~~James E. Turner, M.P.A.~~

~~Carol A. Wallisch, M.A., M.P.H.~~

~~Katarina Eleby~~

Executive Officer: Jason Kaiser

Published by the Physical Therapy Board of California, Department of
Consumer Affairs, 2005 Evergreen Street, Suite 1350, Sacramento,
California 95815.

~~December 2013~~ March 2019

56th Edition

DENIAL OF LICENSURE ~~& AND~~ ISSUANCE OF AN INITIAL PROBATIONARY LICENSE

Mandatory Denial of a License

In accordance with Business and Professions Code Section 2660.5 ~~of the B&P Code~~, the Board must deny licensure to any applicant who is required to be registered pursuant to Penal Code ~~Section~~ 290, unless the only basis for the registration is a misdemeanor conviction under Penal Code Section 314. There is no discretion allowed. If an applicant is a Penal Code section 290 registrant, ~~his or her~~ the application for licensure will be denied.

Permissive Denials of a License

The Board has the ~~right~~ authority to deny a license to any applicant for any of the following reasons:

Business and Professions Code section 480; ~~†~~ The Physical Therapy Board has the authority to deny licensure to any applicant whose misconduct or criminal history is substantially related to the qualifications, functions, or duties of a physical therapist or physical therapist assistant. Reasons for denial of a license include, but are not limited to, the following:

- ~~• Conviction of a crime substantially related to the practice of physical therapy~~
- ~~• Any act involving dishonesty, fraud, or deceit with intent to substantially benefit or another or to substantially injure another~~
- ~~• Any act which is grounds for revocation of a license~~
- ~~• Making a false statement on the application~~

- The applicant has been convicted of a crime within the preceding seven years from the date of application that is substantially related to the qualifications, functions, or duties of the business or profession
- The applicant was convicted of a serious felony, as defined in Section 1192.7 of the Penal Code
- The applicant has been subjected to formal discipline by a licensing board in or outside California within the preceding seven years from the date of application based on professional misconduct that would have been cause for discipline before the board for which the present application is made and that is substantially related to the qualifications, functions, or duties of the business or profession for which the present application is made
- Knowingly made a false statement of fact that is required to be revealed in the application for the license.

~~In addition to Section 480, the Board has the authority to deny a license for any of the following reasons:~~

Business and Professions Code section 2635: eEvery applicant for a license under this chapter shall, at the time of application, be a person over 18 years of age, not addicted to alcohol or any controlled substance, have successfully completed the education and training required by Section 2650, and not have committed acts or crimes constituting grounds for denial of licensure under Section 480.

Business and Professions Code section 2660, subdivision (f)(1): Obtaining or possessing in violation of law, or except as directed by a licensed physician and surgeon, dentist, or podiatrist, administering to himself or herself, or furnishing or administering to another, any controlled substances or any dangerous drug.

Business and Professions Code section 2660, subdivision (f)(2): Using any controlled substance or any dangerous drug.

Business and Professions Code section 2660, subdivision (w): Habitual intemperance.

Business and Professions Code section 2660.2, subdivision (a): The Board may refuse a license to any applicant guilty of unprofessional conduct or sexual activity referred to in Section 2660.1.

Business and Professions Code section 2660.2: The Board may refuse a license to any applicant guilty of unprofessional conduct or sexual misconduct as defined in ~~B&P Business and Professions Code, Section 2660.1 and California Code of Regulations, Title 16, California Code of Regulations, Section 1399.23.~~ The Board may, in its sole discretion, issue a public letter of reprimand or may issue a probationary license to any applicant for a license who is guilty of unprofessional conduct, but who has met all other requirements for licensure.

Appeal Rights

The applicant has the right to appeal the denial or the issuance of a license with terms and conditions. In either case, a Statement of Issues would be filed in accordance with Chapter 5, (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the Board shall have all the powers granted therein.

Any person whose application for a license has been denied by the Board may reapply to the Board for a license only after a period of one (1) year from the date of the denial.



Briefing Paper

Date: March 5, 2019
Prepared for: PTBC Members
Prepared by: Brooke Arneson
Subject: Amend CCR 1399.20, Substantial Relationship Criteria

Agenda Item 12(B)

Purpose: To propose revisions to the language in Section 1399.20 of Article 8, Division 13.2, Title 16 of the California Code of Regulations

Attachments: [1. Proposed Amendments to CCR Section 1399.20](#)
[2. AB 2138 Bill Language](#)

Background:

Existing law (Business and Professions Code Section 480) presently authorizes the Board to deny an application for licensure based on a conviction for a crime or act substantially related to the licensed business or profession. Likewise, Section 490 authorizes the board to suspend or revoke a license on the basis that the licensee was convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession.

The Legislature's intent in enacting AB 2138 was "to reduce licensing and employment barriers for people who are rehabilitated." Section 480 was amended to restrict the Board's ability to use prior convictions or acts when denying licenses. Beginning July 1, 2020, the Board may not deny a license to an applicant because the applicant was convicted of a crime, or due to acts underlying the conviction, if the applicant has a certificate of rehabilitation, was granted clemency, made a showing of rehabilitation, or the conviction was dismissed or expunged.

Discussion:

AB 2138 will permit the board to deny a license when an applicant has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the physical therapy profession and one of the following conditions exists:

- The conviction occurred within the seven years preceding the application date. This does not apply if the applicant was convicted of:
 - A serious felony under Penal Code 1192.7
 - A registerable offense under Penal Code Section 290
- The applicant is presently incarcerated for the crime
- The applicant was released from incarceration for the crime within the seven years preceding the application date.

AB 2138 also specified three criteria that the Board must consider when evaluating whether a crime is substantially related to the physical therapy profession. The criteria shall include all of the following:

- The nature and gravity of the offense,
- The number of years elapsed since the date of the offense, and
- The nature and duties of the profession in which the applicant seeks licensure or in which the licensee is licensed.

The proposed language incorporates the AB 2138 substantial relationship criteria. It is also expanded to include discipline under Business and Professions Code Section 141, because substantially related acts that are the basis for discipline in another jurisdiction may be used to discipline a licensee under this section. The proposed language also includes "professional misconduct" as this may be considered for denial under Business and Professions Code Section 480.

Action:

Should the Board move to initiate the rulemaking process, consider the following motions:

Motions for Option 1:

“Approve the proposed regulatory text of Option 1 for Section 1399.20, direct staff to submit the text to the Director of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for hearing.”

“Approve the proposed regulatory text of Option 1 as amended [...] for Section 1399.20, direct staff to submit the text to the Director of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package and set the matter for hearing.”

Motions for Option 2:

“Approve the proposed regulatory text of Option 2 for Section 1399.20, direct staff to submit the text to the Director of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for hearing.”

“Approve the proposed regulatory text of Option 2 as amended [...] for Section 1399.20, direct staff to submit the text to the Director of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package and set the matter for hearing.”

PHYSICAL THERAPY BOARD OF CALIFORNIA

PROPOSED LANGUAGE

Proposed amendments to the regulatory language are shown in single underline for new text and ~~single strikethrough~~ for deleted text.

(1) Amend Section 1399.20 in Article 8, Division 13.2 of Title 16 of the California Code of Regulations to read as follows:

OPTION 1

§ 1399.20. Substantial Relationship Criteria.

(a) For the purposes of denial, suspension or revocation of a license, pursuant to section 141 or Division 1.5 (commencing with Section 475) of the code, a crime, professional misconduct, or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license under the Physical Therapy Practice Act if to a substantial degree it evidences present or potential unfitness of a person to perform the functions authorized by the license in a manner consistent with the public health, safety or welfare. Such crimes or acts shall include but not be limited to the following:

~~(a) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of the Physical Therapy Practice Act.~~

~~(b) Conviction of a crime involving fiscal dishonesty arising out of or in connection with the practice of physical therapy.~~

~~(c) Violating or attempting to violate any provision or term of the Medical Practice Act.~~

(b) In making the substantial relationship determination required under subdivision (a) for a crime, the board shall consider the following criteria:

(1) The nature and gravity of the offense;

(2) The number of years elapsed since the date of the offense; and

(3) The nature and duties of a licensee [or physical therapist or physical therapist assistant].

Note: Authority cited: Sections 481, 493 and 2615, Business and Professions Code.
Reference: Sections 141, 480, 481, 490, 493, 2660, 2660.5 and 2661, Business and Professions Code.

OPTION 2

§ 1399.20. Substantial Relationship Criteria.

(a) For the purposes of denial, suspension or revocation of a license, pursuant to section 141 or Division 1.5 (commencing with Section 475) of the code, a crime, professional misconduct, or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license under the Physical Therapy Practice Act if to a substantial degree it evidences present or potential unfitness of a person to perform the functions authorized by the license in a manner consistent with the public health, safety or welfare. ~~Such crimes or acts shall include but not be limited to the following:~~

(b) In making the substantial relationship determination required under subdivision (a) for a crime, the board shall consider the following criteria:

(1) The nature and gravity of the offense;

(2) The number of years elapsed since the date of the offense; and

(3) The nature and duties of a licensee [or physical therapist or physical therapist assistant].

(c) For purposes of subdivision (a), substantially related crimes, professional misconduct, or acts shall include but are not limited to, the following:

~~(a) (1) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of the Physical Therapy Practice Act or other state or federal laws governing the practice of physical therapy.~~

~~(b) Conviction of a crime involving fiscal dishonesty arising out of or in connection with the practice of physical therapy.~~

~~(c) (2) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of the Medical Practice Act.~~

(3) A conviction of child abuse.

(4) Conviction as a sex offender.

(5) Any crime, professional misconduct, or act involving the sale, gift, administration, or furnishing of narcotics or dangerous drugs or dangerous devices, as defined in Section 4022 of the code.

(6) Conviction for assault and/or battery.

(7) Conviction of a crime involving lewd conduct.

(8) Conviction of a crime involving fiscal dishonesty.

(9) Conviction for driving under the influence of drugs or alcohol.

Note: Authority cited: Sections 481, 493 and 2615, Business and Professions Code.
Reference: Sections 141, 480, 481, 490, 493, 2660, 2660.5 and 2661, Business and Professions Code.

Assembly Bill No. 2138

CHAPTER 995

An act to amend, repeal, and add Sections 7.5, 480, 481, 482, 488, 493, and 11345.2 of, and to add Section 480.2 to, the Business and Professions Code, relating to professions and vocations.

[Approved by Governor September 30, 2018. Filed with
Secretary of State September 30, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2138, Chiu. Licensing boards: denial of application: revocation or suspension of licensure: criminal conviction.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law authorizes a board to deny, suspend, or revoke a license or take disciplinary action against a licensee on the grounds that the applicant or licensee has, among other things, been convicted of a crime, as specified. Existing law provides that a person shall not be denied a license solely on the basis that the person has been convicted of a felony if he or she has obtained a certificate of rehabilitation or that the person has been convicted of a misdemeanor if he or she has met applicable requirements of rehabilitation developed by the board, as specified. Existing law also prohibits a person from being denied a license solely on the basis of a conviction that has been dismissed, as specified. Existing law requires a board to develop criteria to aid it when considering the denial, suspension, or revocation of a license to determine whether a crime is substantially related to the qualifications, functions, or duties of the business or profession the board regulates and requires a board to develop criteria to evaluate the rehabilitation of a person when considering the denial, suspension, or revocation of a license.

This bill would revise and recast those provisions to instead authorize a board to, among other things, deny, revoke, or suspend a license on the grounds that the applicant or licensee has been subject to formal discipline, as specified, or convicted of a crime only if the applicant or licensee has been convicted of a crime within the preceding 7 years from the date of application that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, regardless of whether the applicant was incarcerated for that crime, or if the applicant has been convicted of a crime that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made and for which the applicant is presently incarcerated or for which the applicant was released from incarceration within the preceding 7 years, except as specified. The bill would prohibit a board from

denying a person a license based on the conviction of a crime, or on the basis of acts underlying a conviction, as defined, for a crime, if the conviction has been dismissed or expunged, if the person has provided evidence of rehabilitation, if the person has been granted clemency or a pardon, or if an arrest resulted in a disposition other than a conviction.

The bill would require the board to develop criteria for determining whether a crime is substantially related to the qualifications, functions, or duties of the business or profession. The bill would require a board to consider whether a person has made a showing of rehabilitation if certain conditions are met. The bill would require a board to follow certain procedures when requesting or acting on an applicant's or licensee's criminal history information. The bill would also require a board to annually submit a report to the Legislature and post the report on its Internet Web site containing specified deidentified information regarding actions taken by a board based on an applicant or licensee's criminal history information.

Existing law authorizes a board to deny a license on the grounds that an applicant knowingly made a false statement of fact that is required to be revealed in the application for licensure.

This bill would prohibit a board from denying a license based solely on an applicant's failure to disclose a fact that would not have been cause for denial of the license had the fact been disclosed.

Existing law authorizes a board, after a specified hearing requested by an applicant for licensure to take various actions in relation to denying or granting the applicant the license.

This bill would revise and recast those provisions to eliminate some of the more specific options that the board may take in these circumstances.

This bill would clarify that the existing above-described provisions continue to apply to the State Athletic Commission, the Bureau for Private Postsecondary Education, and the California Horse Racing Board.

This bill would also make necessary conforming changes.

This bill would make these provisions operative on July 1, 2020.

The people of the State of California do enact as follows:

SECTION 1. Section 7.5 of the Business and Professions Code is amended to read:

7.5. (a) A conviction within the meaning of this code means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code. However, a board may not deny a license to an applicant who is otherwise qualified pursuant to subdivision (b) of Section 480.

Nothing in this section shall apply to the licensure of persons pursuant to Chapter 4 (commencing with Section 6000) of Division 3.

(b) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 2. Section 7.5 is added to the Business and Professions Code, to read:

7.5. (a) A conviction within the meaning of this code means a judgment following a plea or verdict of guilty or a plea of nolo contendere or finding of guilt. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence. However, a board may not deny a license to an applicant who is otherwise qualified pursuant to subdivision (b) or (c) of Section 480.

(b) (1) Nothing in this section shall apply to the licensure of persons pursuant to Chapter 4 (commencing with Section 6000) of Division 3.

(2) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

(A) The State Athletic Commission.

(B) The Bureau for Private Postsecondary Education.

(C) The California Horse Racing Board.

(c) Except as provided in subdivision (b), this section controls over and supersedes the definition of conviction contained within individual practice acts under this code.

(d) This section shall become operative on July 1, 2020.

SEC. 3. Section 480 of the Business and Professions Code is amended to read:

480. (a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4, 1203.4a, or 1203.41 of the Penal Code.

(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.

(3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.

(b) Notwithstanding any other provision of this code, a person shall not be denied a license solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate the rehabilitation of a person when considering the denial of a license under subdivision (a) of Section 482.

(c) Notwithstanding any other provisions of this code, a person shall not be denied a license solely on the basis of a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code shall provide proof of the dismissal.

(d) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact that is required to be revealed in the application for the license.

(e) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 4. Section 480 is added to the Business and Professions Code, to read:

480. (a) Notwithstanding any other provision of this code, a board may deny a license regulated by this code on the grounds that the applicant has been convicted of a crime or has been subject to formal discipline only if either of the following conditions are met:

(1) The applicant has been convicted of a crime within the preceding seven years from the date of application that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, regardless of whether the applicant was incarcerated for that crime, or the applicant has been convicted of a crime that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made and for which the applicant is presently incarcerated or for which the applicant was released from incarceration within the preceding seven years from the date of application. However, the preceding seven-year limitation shall not apply in either of the following situations:

(A) The applicant was convicted of a serious felony, as defined in Section 1192.7 of the Penal Code or a crime for which registration is required pursuant to paragraph (2) or (3) of subdivision (d) of Section 290 of the Penal Code.

(B) The applicant was convicted of a financial crime currently classified as a felony that is directly and adversely related to the fiduciary qualifications, functions, or duties of the business or profession for which the application is made, pursuant to regulations adopted by the board, and for which the applicant is seeking licensure under any of the following:

- (i) Chapter 1 (commencing with Section 5000) of Division 3.
- (ii) Chapter 6 (commencing with Section 6500) of Division 3.

- (iii) Chapter 9 (commencing with Section 7000) of Division 3.
- (iv) Chapter 11.3 (commencing with Section 7512) of Division 3.
- (v) Licensure as a funeral director or cemetery manager under Chapter 12 (commencing with Section 7600) of Division 3.
- (vi) Division 4 (commencing with Section 10000).

(2) The applicant has been subjected to formal discipline by a licensing board in or outside California within the preceding seven years from the date of application based on professional misconduct that would have been cause for discipline before the board for which the present application is made and that is substantially related to the qualifications, functions, or duties of the business or profession for which the present application is made. However, prior disciplinary action by a licensing board within the preceding seven years shall not be the basis for denial of a license if the basis for that disciplinary action was a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code or a comparable dismissal or expungement.

(b) Notwithstanding any other provision of this code, a person shall not be denied a license on the basis that he or she has been convicted of a crime, or on the basis of acts underlying a conviction for a crime, if he or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code, has been granted clemency or a pardon by a state or federal executive, or has made a showing of rehabilitation pursuant to Section 482.

(c) Notwithstanding any other provision of this code, a person shall not be denied a license on the basis of any conviction, or on the basis of the acts underlying the conviction, that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code, or a comparable dismissal or expungement. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code shall provide proof of the dismissal if it is not reflected on the report furnished by the Department of Justice.

(d) Notwithstanding any other provision of this code, a board shall not deny a license on the basis of an arrest that resulted in a disposition other than a conviction, including an arrest that resulted in an infraction, citation, or a juvenile adjudication.

(e) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact that is required to be revealed in the application for the license. A board shall not deny a license based solely on an applicant's failure to disclose a fact that would not have been cause for denial of the license had it been disclosed.

(f) A board shall follow the following procedures in requesting or acting on an applicant's criminal history information:

(1) A board issuing a license pursuant to Chapter 3 (commencing with Section 5500), Chapter 3.5 (commencing with Section 5615), Chapter 10 (commencing with Section 7301), Chapter 20 (commencing with Section 9800), or Chapter 20.3 (commencing with Section 9880), of Division 3, or Chapter 3 (commencing with Section 19000) or Chapter 3.1 (commencing

with Section 19225) of Division 8 may require applicants for licensure under those chapters to disclose criminal conviction history on an application for licensure.

(2) Except as provided in paragraph (1), a board shall not require an applicant for licensure to disclose any information or documentation regarding the applicant's criminal history. However, a board may request mitigating information from an applicant regarding the applicant's criminal history for purposes of determining substantial relation or demonstrating evidence of rehabilitation, provided that the applicant is informed that disclosure is voluntary and that the applicant's decision not to disclose any information shall not be a factor in a board's decision to grant or deny an application for licensure.

(3) If a board decides to deny an application for licensure based solely or in part on the applicant's conviction history, the board shall notify the applicant in writing of all of the following:

(A) The denial or disqualification of licensure.

(B) Any existing procedure the board has for the applicant to challenge the decision or to request reconsideration.

(C) That the applicant has the right to appeal the board's decision.

(D) The processes for the applicant to request a copy of his or her complete conviction history and question the accuracy or completeness of the record pursuant to Sections 11122 to 11127 of the Penal Code.

(g) (1) For a minimum of three years, each board under this code shall retain application forms and other documents submitted by an applicant, any notice provided to an applicant, all other communications received from and provided to an applicant, and criminal history reports of an applicant.

(2) Each board under this code shall retain the number of applications received for each license and the number of applications requiring inquiries regarding criminal history. In addition, each licensing authority shall retain all of the following information:

(A) The number of applicants with a criminal record who received notice of denial or disqualification of licensure.

(B) The number of applicants with a criminal record who provided evidence of mitigation or rehabilitation.

(C) The number of applicants with a criminal record who appealed any denial or disqualification of licensure.

(D) The final disposition and demographic information, consisting of voluntarily provided information on race or gender, of any applicant described in subparagraph (A), (B), or (C).

(3) (A) Each board under this code shall annually make available to the public through the board's Internet Web site and through a report submitted to the appropriate policy committees of the Legislature deidentified information collected pursuant to this subdivision. Each board shall ensure confidentiality of the individual applicants.

(B) A report pursuant to subparagraph (A) shall be submitted in compliance with Section 9795 of the Government Code.

(h) “Conviction” as used in this section shall have the same meaning as defined in Section 7.5.

(i) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

- (1) The State Athletic Commission.
- (2) The Bureau for Private Postsecondary Education.
- (3) The California Horse Racing Board.

(j) This section shall become operative on July 1, 2020.

SEC. 5. Section 480.2 is added to the Business and Professions Code, to read:

480.2. (a) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board may deny a license regulated by it on the grounds that the applicant has one of the following:

- (1) Been convicted of a crime.
- (2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.
- (3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(B) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.

(b) Notwithstanding any other provision of this code, a person shall not be denied a license solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed by the Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board to evaluate the rehabilitation of a person when considering the denial of a license under paragraph (1) of subdivision (f).

(c) Notwithstanding any other provisions of this code, a person shall not be denied a license by the Bureau for Private Postsecondary Education, the State Athletic Commission, or the California Horse Racing Board solely on the basis of a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code shall provide proof of the dismissal.

(d) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board may deny a license regulated by it on the ground that the applicant knowingly made a false

statement of fact that is required to be revealed in the application for the license.

(e) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board shall develop criteria to aid it, when considering the denial, suspension or revocation of a license, to determine whether a crime or act is substantially related to the qualifications, functions, or duties of the business or profession it regulates.

(f) (1) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board shall develop criteria to evaluate the rehabilitation of a person either when:

(A) Considering the denial of a license under this section.

(B) Considering suspension or revocation of a license under Section 490.

(2) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

(g) Except as otherwise provided by law, following a hearing requested by an applicant pursuant to subdivision (b) of Section 485, the Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board may take any of the following actions:

(1) Grant the license effective upon completion of all licensing requirements by the applicant.

(2) Grant the license effective upon completion of all licensing requirements by the applicant, immediately revoke the license, stay the revocation, and impose probationary conditions on the license, which may include suspension.

(3) Deny the license.

(4) Take other action in relation to denying or granting the license as the Bureau for Private Postsecondary Education, the State Athletic Commission, or the California Horse Racing Board, in its discretion, may deem proper.

(h) Notwithstanding any other law, in a proceeding conducted by the Bureau for Private Postsecondary Education, the State Athletic Commission, or the California Horse Racing Board to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

(i) Notwithstanding Section 7.5, a conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that the Bureau for Private Postsecondary

Education, the State Athletic Commission, or the California Horse Racing Board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4, 1203.4a, or 1203.41 of the Penal Code.

(j) This section shall become operative on July 1, 2020.

SEC. 6. Section 481 of the Business and Professions Code is amended to read:

481. (a) Each board under the provisions of this code shall develop criteria to aid it, when considering the denial, suspension or revocation of a license, to determine whether a crime or act is substantially related to the qualifications, functions, or duties of the business or profession it regulates.

(b) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 7. Section 481 is added to the Business and Professions Code, to read:

481. (a) Each board under this code shall develop criteria to aid it, when considering the denial, suspension, or revocation of a license, to determine whether a crime is substantially related to the qualifications, functions, or duties of the business or profession it regulates.

(b) Criteria for determining whether a crime is substantially related to the qualifications, functions, or duties of the business or profession a board regulates shall include all of the following:

- (1) The nature and gravity of the offense.
- (2) The number of years elapsed since the date of the offense.
- (3) The nature and duties of the profession in which the applicant seeks licensure or in which the licensee is licensed.

(c) A board shall not deny a license based in whole or in part on a conviction without considering evidence of rehabilitation submitted by an applicant pursuant to any process established in the practice act or regulations of the particular board and as directed by Section 482.

(d) Each board shall post on its Internet Web site a summary of the criteria used to consider whether a crime is considered to be substantially related to the qualifications, functions, or duties of the business or profession it regulates consistent with this section.

(e) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

- (1) The State Athletic Commission.
- (2) The Bureau for Private Postsecondary Education.
- (3) The California Horse Racing Board.

(f) This section shall become operative on July 1, 2020.

SEC. 8. Section 482 of the Business and Professions Code is amended to read:

482. (a) Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

(1) Considering the denial of a license by the board under Section 480;
or

(2) Considering suspension or revocation of a license under Section 490.

(b) Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

(c) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 9. Section 482 is added to the Business and Professions Code, to read:

482. (a) Each board under this code shall develop criteria to evaluate the rehabilitation of a person when doing either of the following:

(1) Considering the denial of a license by the board under Section 480.

(2) Considering suspension or revocation of a license under Section 490.

(b) Each board shall consider whether an applicant or licensee has made a showing of rehabilitation if either of the following are met:

(1) The applicant or licensee has completed the criminal sentence at issue without a violation of parole or probation.

(2) The board, applying its criteria for rehabilitation, finds that the applicant is rehabilitated.

(c) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

(1) The State Athletic Commission.

(2) The Bureau for Private Postsecondary Education.

(3) The California Horse Racing Board.

(d) This section shall become operative on July 1, 2020.

SEC. 10. Section 488 of the Business and Professions Code is amended to read:

488. (a) Except as otherwise provided by law, following a hearing requested by an applicant pursuant to subdivision (b) of Section 485, the board may take any of the following actions:

(1) Grant the license effective upon completion of all licensing requirements by the applicant.

(2) Grant the license effective upon completion of all licensing requirements by the applicant, immediately revoke the license, stay the revocation, and impose probationary conditions on the license, which may include suspension.

(3) Deny the license.

(4) Take other action in relation to denying or granting the license as the board in its discretion may deem proper.

(b) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 11. Section 488 is added to the Business and Professions Code, to read:

488. (a) Except as otherwise provided by law, following a hearing requested by an applicant pursuant to subdivision (b) of Section 485, the board may take any of the following actions:

(1) Grant the license effective upon completion of all licensing requirements by the applicant.

(2) Grant the license effective upon completion of all licensing requirements by the applicant, immediately revoke the license, stay the revocation, and impose probationary conditions on the license, which may include suspension.

(3) Deny the license.

(4) Take other action in relation to denying or granting the license as the board in its discretion may deem proper.

(b) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

(1) The State Athletic Commission.

(2) The Bureau for Private Postsecondary Education.

(3) The California Horse Racing Board.

(c) This section shall become operative on July 1, 2020.

SEC. 12. Section 493 of the Business and Professions Code is amended to read:

493. (a) Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

(b) As used in this section, “license” includes “certificate,” “permit,” “authority,” and “registration.”

(c) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 13. Section 493 is added to the Business and Professions Code, to read:

493. (a) Notwithstanding any other law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact.

(b) (1) Criteria for determining whether a crime is substantially related to the qualifications, functions, or duties of the business or profession the board regulates shall include all of the following:

(A) The nature and gravity of the offense.

- (B) The number of years elapsed since the date of the offense.
- (C) The nature and duties of the profession.
- (2) A board shall not categorically bar an applicant based solely on the type of conviction without considering evidence of rehabilitation.
- (c) As used in this section, “license” includes “certificate,” “permit,” “authority,” and “registration.”
- (d) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:
 - (1) The State Athletic Commission.
 - (2) The Bureau for Private Postsecondary Education.
 - (3) The California Horse Racing Board.
- (e) This section shall become operative on July 1, 2020.

SEC. 14. Section 11345.2 of the Business and Professions Code is amended to read:

11345.2. (a) An individual shall not act as a controlling person for a registrant if any of the following apply:

(1) The individual has entered a plea of guilty or no contest to, or been convicted of, a felony. Notwithstanding subdivision (c) of Section 480, if the individual’s felony conviction has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code, the bureau may allow the individual to act as a controlling person.

(2) The individual has had a license or certificate to act as an appraiser or to engage in activities related to the transfer of real property refused, denied, canceled, or revoked in this state or any other state.

(b) Any individual who acts as a controlling person of an appraisal management company and who enters a plea of guilty or no contest to, or is convicted of, a felony, or who has a license or certificate as an appraiser refused, denied, canceled, or revoked in any other state shall report that fact or cause that fact to be reported to the office, in writing, within 10 days of the date he or she has knowledge of that fact.

(c) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 15. Section 11345.2 is added to the Business and Professions Code, to read:

11345.2. (a) An individual shall not act as a controlling person for a registrant if any of the following apply:

(1) The individual has entered a plea of guilty or no contest to, or been convicted of, a felony. If the individual’s felony conviction has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code, the bureau may allow the individual to act as a controlling person.

(2) The individual has had a license or certificate to act as an appraiser or to engage in activities related to the transfer of real property refused, denied, canceled, or revoked in this state or any other state.

(b) Any individual who acts as a controlling person of an appraisal management company and who enters a plea of guilty or no contest to, or is convicted of, a felony, or who has a license or certificate as an appraiser

refused, denied, canceled, or revoked in any other state shall report that fact or cause that fact to be reported to the office, in writing, within 10 days of the date he or she has knowledge of that fact.

(c) This section shall become operative on July 1, 2020.

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Briefing Paper

Date: March 5, 2019 **Agenda Item 12(C)**

Prepared for: PTBC Members

Prepared by: Brooke Arneson

Subject: Amend CCR 1399.21, Rehabilitation Criteria for Denial and Reinstatement of Licensure

Purpose: To propose revisions to the language in Section 1399.21 of Article 8, Division 13.2, Title 16 of the California Code of Regulations

Attachments: [1. Proposed Amendments to CCR Section 1399.21](#)

Background:

Existing law (Business and Professions Code Section 482) required the Board to develop criteria to evaluate the rehabilitation of an applicant or licensee when considering denying or disciplining a license based on a conviction, and to consider evidence of rehabilitation in making such decisions. The Board may not deny an applicant a license based solely on a misdemeanor conviction, if the applicant met the applicable requirements of the criteria of rehabilitation that the Board developed.

Effective July 1, 2020, Section 480 will prohibit the board from denying a license on the basis that the applicant was convicted of a crime, or on the basis of the facts underlying a conviction, if the applicant made a showing of rehabilitation pursuant to Section 482.

In deciding whether to deny a license based on a conviction, the Board must consider evidence of the applicant's rehabilitation, pursuant to the process established in the Board's practice act, or its regulations, and as directed under Section 482.

The Board will need to revise its regulations that establish criteria for evaluating rehabilitation, when deciding whether to deny, or reinstate a license based on a conviction. The Board will also need to decide whether an applicant or licensee "made a showing of rehabilitation," if the applicant or licensee completed the criminal sentence at issue without a violation of parole or probation, or the Board finds, in applying its rehabilitation criteria that the applicant or licensee is rehabilitated.

Discussion:

Option No. 1

This proposed option would require the Board to consider whether an applicant made a showing of rehabilitation, if the person completed the applicable criminal sentence without a parole or

probation violation. In this circumstance, the Board would apply a narrow set of rehabilitation criteria focused on the applicant's parole or probation and whether successful completion of parole or probation sufficiently demonstrates the applicant's rehabilitation. The board would not be required to consider its standard rehabilitation criteria and could find that the applicant made a sufficient showing of the rehabilitation base on the narrower set of criteria. But if the board determines that the requisite showing was not made, or the applicant did not comply with the terms of parole or probation, the proposed regulation would require the board to apply its standard set of rehabilitation criteria to evaluate the applicant's rehabilitation.

Option No. 2

This proposed option would require the Board to find that the applicant made a showing of rehabilitation and is eligible for licensure, if the applicant completed the criminal sentence without a parole or probation violation. And if not, the Board would apply its standard rehabilitation criteria to determine whether the applicant made the requisite showing of rehabilitation.

Action:

Should the Board move to initiate the rulemaking process, consider the following motions:

Motions for Option 1:

“Approve the proposed regulatory text of Option 1 for Section 1399.21, direct staff to submit the text to the Director of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for hearing.”

“Approve the proposed regulatory text of Option 1 as amended [...] for Section 1399.21, direct staff to submit the text to the Director of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package and set the matter for hearing.”

Motions for Option 2:

“Approve the proposed regulatory text of Option 2 for Section 1399.21, direct staff to submit the text to the Director of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for hearing.”

“Approve the proposed regulatory text of Option 2 as amended [...] for Section 1399.21, direct staff to submit the text to the Director of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package and set the matter for hearing.”

PHYSICAL THERAPY BOARD OF CALIFORNIA

PROPOSED LANGUAGE

Proposed amendments to the regulatory language are shown in single underline for new text and ~~single strikethrough~~ for deleted text.

(1) Amend Section 1399.21 in Article 8, Division 13.2 of Title 16 of the California Code of Regulations to read as follows:

OPTION 1

§ 1399.21. Rehabilitation Criteria for Denial and Reinstatement of Licensure.

(a) When considering the denial of a license, under Section 480 of the code or a petition for reinstatement under Section 11522 of the Government Code on the ground that the applicant was convicted of a crime, the board shall consider whether the applicant made a showing of rehabilitation and is presently eligible for a license, if the applicant completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the board shall consider the following criteria: the board, in evaluating the rehabilitation of the applicant and his or her present eligibility for a license shall consider the following criteria:

(a) (1) The nature and severity gravity of the act(s) or crime(s) under consideration as grounds for denial.

(2) The length(s) of the applicable parole or probation period(s).

(3) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified.

(4) The terms or conditions of parole or probation and the extent to which they bear on the applicant's rehabilitation.

(5) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification.

(b) If subdivision (a) is inapplicable, or the board determines that the applicant did not make the showing of rehabilitation based on the criteria in subdivision (a), the board shall apply the following criteria in evaluating an applicant's rehabilitation. The board shall find that the applicant made a showing of rehabilitation and is presently eligible for a license if, after considering the following criteria, the board finds that the applicant is rehabilitated:

(1) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.

(b) (2) Evidence of any act(s) or crime(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the Business and Professions Code.

(c) (3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subsections (a) or (b) subdivisions (1) or (2).

~~(d)~~ (4) Whether ~~The extent to which~~ the applicant has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the applicant.

(5) The criteria in subdivision (a)(1)-(5), as applicable.

~~(e)~~ (6) Evidence, if any, of rehabilitation submitted by the applicant.

Note: Authority cited: Sections 482 and 2615, Business and Professions Code.

Reference: Sections 480, 481, 482, 488, 493 2660 and 2661, Business and Professions Code.

OPTION 2

§ 1399.21. Rehabilitation Criteria for Denial and Reinstatement of Licensure.

(a) When considering the denial of a license, under Section 480 of the code or a petition for reinstatement under Section 11522 of the Government Code, on the ground that the applicant was convicted of a crime, the board shall find that the applicant made a showing of rehabilitation and is presently eligible for a license, if the applicant completed the criminal sentence at issue without a violation of parole or probation. the board, in evaluating the rehabilitation of the applicant and his or her present eligibility for a license shall consider the following criteria:

(b) If subdivision (a) is inapplicable, the board shall apply the following criteria in evaluation an applicant's rehabilitation. The board shall find that the applicant made a showing of rehabilitation and is presently eligible for a license if, after considering the following criteria, the board finds that the applicant is rehabilitated:

~~(a) (1)~~ (1) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.

~~(b) (2)~~ (2) Evidence of any act(s) or crime(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial ~~which also could be considered as grounds for denial~~ under Section 480 of the Business and Professions Code.

~~(c) (3)~~ (3) The time that has elapsed since commission of the act(s) or crime(s) referred to in ~~subsections (a) or (b) subdivisions (1) or (2).~~

~~(d) (4) Whether~~ (4) ~~The extent to which~~ the applicant has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the applicant.

~~(e) (5)~~ (5) Evidence, if any, of rehabilitation submitted by the applicant.

Note: Authority cited: Sections 482 and 2615, Business and Professions Code.

Reference: Sections 480, 481, 482, 488, 493 2660 and 2661, Business and Professions Code.



Briefing Paper

Date: March 5, 2019 **Agenda Item 12(B)**

Prepared for: PTBC Members

Prepared by: Brooke Arneson

Subject: Amend CCR 1399.22, Rehabilitation Criteria for Suspensions and Revocations

Purpose: To propose revisions to the language in Section 1399.22 of Article 8, Division 13.2, Title 16 of the California Code of Regulations

Attachments: [1. Proposed Amendments to CCR Section 1399.22](#)

Background:

Existing law (Business and Professions Code Section 482) required the Board to develop criteria to evaluate the rehabilitation of an applicant or licensee when considering denying or disciplining a license based on a conviction, and to consider evidence of rehabilitation in making such decisions. The Board may not deny an applicant a license based solely on a misdemeanor conviction, if the applicant met the applicable requirements of the criteria of rehabilitation that the board developed.

Effective July 1, 2020, Section 480 will prohibit the board from denying a license on the basis that the applicant was convicted of a crime, or on the basis of the facts underlying a conviction, if the applicant made a showing of rehabilitation pursuant to Section 482.

In deciding whether to deny a license based on a conviction, the Board must consider evidence of the applicant's rehabilitation, pursuant to the process established in the board's practice act, or its regulations, and as directed under Section 482.

The Board will need to revise its regulations that establish criteria for evaluating rehabilitation, when deciding whether to suspend or revoke a license based on a conviction. You will also need to decide whether an applicant or licensee "made a showing of rehabilitation," if the applicant or licensee completed the criminal sentence at issue without a violation of parole or probation, or the Board finds, in applying its rehabilitation criteria that the applicant or licensee is rehabilitated.

Discussion:

Option No. 1

This proposed option would require the board to consider whether an applicant made a showing of rehabilitation, if the person completed the applicable criminal sentence without a parole or probation violation. In this circumstance, the board would apply a narrow set of rehabilitation criteria focused on the applicant's parole or probation and whether successful completion of parole

or probation sufficiently demonstrates the applicant's rehabilitation. The board would not be required to consider its standard rehabilitation criteria and could find that the applicant made a sufficient showing of the rehabilitation base on the narrower set of criteria. But if the board determines that the requisite showing was not made, or the applicant did not comply with the terms of parole or probation, the proposed regulation would require the board to apply its standard set of rehabilitation criteria to evaluate the applicant's rehabilitation.

Option 2

This proposed option would require the Board to find that the applicant made a showing of rehabilitation and is eligible for licensure, if the applicant completed the criminal sentence without a parole or probation violation. And if not, the Board would apply its standard rehabilitation criteria to determine whether the applicant made the requisite showing of rehabilitation.

Action:

Should the Board move to initiate the rulemaking process, consider the following motions:

Motions for Option 1:

“Approve the proposed regulatory text of Option 1 for Section 1399.22, direct staff to submit the text to the Director of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for hearing.”

“Approve the proposed regulatory text of Option 1 as amended [...] for Section 1399.22, direct staff to submit the text to the Director of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package and set the matter for hearing.”

Motions for Option 2:

“Approve the proposed regulatory text of Option 2 for Section 1399.22, direct staff to submit the text to the Director of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for hearing.”

“Approve the proposed regulatory text of Option 2 as amended [...] for Section 1399.22, direct staff to submit the text to the Director of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package and set the matter for hearing.”

PHYSICAL THERAPY BOARD OF CALIFORNIA

PROPOSED LANGUAGE

Proposed amendments to the regulatory language are shown in single underline for new text and ~~single strikethrough~~ for deleted text.

(1) Amend Section 1399.22 in Article 8, Division 13.2 of Title 16 of the California Code of Regulations to read as follows:

OPTION 1

§ 1399.22. Rehabilitation Criteria for Suspensions or Revocations.

(a) When considering the suspension or revocation of a license on the ground that a person holding a license under the Physical Therapy Practice Act has been convicted of a crime, the board shall consider whether the licensee made a showing of rehabilitation and is presently eligible for a license, if the licensee completed the criminal sentence at issue without a violation or parole or probation. In making this determination, the board in evaluating the rehabilitation of such person and his or her eligibility for a license shall consider the following criteria:

(1) The nature and gravity of the crime(s).

(2) The length(s) of the applicable parole or probation period(s).

(3) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified.

(4) The terms or conditions of parole or probation and the extent to which they bear on the licensee's rehabilitation.

(5) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for the modification.

(b) If subdivision (a) is inapplicable, or the board determines that the licensee did not make the showing of rehabilitation based on the criteria in subdivision (a), the board shall apply the following criteria in evaluating a licensee's rehabilitation. The board shall find that the licensee made a showing of rehabilitation and is presently eligible for a license if, after considering the following criteria, the board finds that the licensee is rehabilitated:

~~(a)~~ (1) The nature and severity of the act(s) or ~~offense(s)~~ crime(s).

~~(b)~~ (2) The total criminal record.

~~(c)~~ (3) The time that has elapsed since commission of the act(s) or ~~offense(s)~~ crime(s).

~~(d)~~ (4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against such person.

(5) The criteria in subdivision (a)(1)-(5), as applicable.

~~(e)~~ (6) If applicable, evidence of ~~expungement~~ dismissal proceedings pursuant to Section 1203.4 of the Penal Code.

~~(f)~~ (7) Evidence, if any, of rehabilitation submitted by the licensee.

Note: Authority cited: Sections 482 and 2615, Business and Professions Code.
Reference: Sections 141, 480, 482, 488, 493, 2660 and 2661, Business and Professions Code.

OPTION 2

§ 1399.22. Rehabilitation Criteria for Suspensions or Revocations.

~~(a) When considering the suspension or revocation of a license on the ground that a person holding a license under the Physical Therapy Practice Act has been convicted of a crime, the board shall find that the licensee made a showing of rehabilitation and is presently eligible for a license, if the licensee completed the criminal sentence at issue without a violation of parole or probation. in evaluating the rehabilitation of such person and his or her eligibility for a license shall consider the following criteria:~~

~~(b) If subdivision (a) is inapplicable, the board shall apply the following criteria in evaluating a licensee's rehabilitation. The board shall find that the licensee made a showing rehabilitation and is presently eligible for a license if, after considering the following criteria, the board finds that the applicant is rehabilitated:~~

~~(a) (1) The nature and severity of the act(s) or offense(s) crime(s) under consideration as grounds for denial.~~

~~(2) Evidence of any act(s) or crime(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial under Section 480 of the Business and Professions Code.~~

~~(b) The total criminal record.~~

~~(c) (3) The time that has elapsed since commission of the act(s) or offense(s) crime(s) referred to in subdivision (1) or (2).~~

~~(d) (4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against such person.~~

~~(e) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.~~

~~(f) (5) Evidence, if any, of rehabilitation submitted by the licensee.~~

Note: Authority cited: Sections 482 and 2615, Business and Professions Code.

Reference: Sections 480, 481, 482, 488, 493, 2660 and 2661, Business and Professions Code.



Briefing Paper

Date: March 12, 2019

Agenda Item 13(A)

Prepared for: PTBC Members

Prepared by: Carl Nelson

Subject: Budget Report

Purpose:

To provide an update on the PTBC’s Budget activities for Jul-Sep (Q1), CY 2018-19.

Background:

The PTBC Budget Report is a quarterly review of the expenditures and revenues, including budget activities and analysis for the current fiscal year. The report reflects data collected from the Quarterly Department of Consumer Affairs Budget Office Projection Report and is generated by staff quarterly: Jul-Sep (Q1), Oct-Dec (Q2), Jan-Mar (Q3) and Apr-Jun (Q4).

Effective, July 1, 2017, the DCA migrated to a new accounting system, Fi\$cal. Due to this changeover, all Budget reporting mechanisms such as the CalStars monthly expenditure and revenue report, which is relied on by PTBC budget staff in compiling reports, have been suspended until further notice. DCA Budget and Accounting staff are currently training and working on implementing the new system out to boards/bureaus. The PTBC has begun to receive monthly projection reports from DCA Budget Office. However, no accounting reports from Fi\$cal have been distributed to the PTBC.

This CY 2018-19, according to the Governor’s Budget, the PTBC is authorized \$4,669,000, which includes personnel services, operating expenses and equipment, and authorized 21.4 positions to support program requirements.

Analysis:

The Personnel Services Budget is \$2,132,000 including benefits, slightly up from \$2,039,000 over FY2017-18. The increases are normal and account for annual salary and benefit adjustments.

The Operating Expenses and Equipment (OE&E) budget is \$2,682,000, a 13% decrease from \$3,043,000 in FY2017-18. While various line items decreased, the most significant

decrease was in the Department of Investigations services (DOI) at \$312,000. Previous fiscal year, the PTBC was authorized \$757,000 for DOI.

The PTBC's budget staff is not projecting major changes in expenditures this fiscal year. However, staff anticipates a slight increase in personnel services, specifically within the "Temp Help" expenditures, to accommodate obtaining additional staff to address workload backlogs in those core program areas, such as applications and continuing competency.

Based on projections provided by the DCA, Budget Office, the PTBC expended \$2,292.913 through month 6 of 2018/19 in comparison to last fiscal year through month 6, the Board spent \$2,369,349. Board spending has decreased this fiscal year by 3%.

In addition, the PTBC collected \$1486,996 in revenues during Q2 this fiscal year (FY2018-19). This is an increase of \$35,318 or 4% increase over last FY 2017-18 when the Board received \$1,451,678.

Action Requested:

No action required.

Expenditure Statistics Report						
Budget Line Items	FY 2017 18		CY 2018 19)			
	Q2	YTD	Authorized	YTD	Percent	Balance
	Oct-Dec	(As of 12/31/17)	Budget	(As of 12/31/18)	Budget Spent	Remaining
PERSONNEL SERVICES						
Civil Services Permanent	297,422	594,844	1,253,000	659,022	53%	593,978
Temp help	28,714	57,428	0	70,164	-	(70,164)
Statutory Exempt	24,642	49,284	77,000	50,730	66%	26,270
Board Members	11,025	22,050	12,000	25,900	216%	(13,900)
Overtime	19,216	38,432	0	0	-	0
Staff Benefits	186,322	372,644	790,000	458,576	58%	331,424
TOTAL PERS SVS	567,341	1,134,682	2,132,000	1,264,392	59%	867,608
OPERATING EXPENSES & EQUIPMENT						
General Services Totals	128,270	177,612	488,000	150,615	31%	337,385
Fingerprints	8,017	16,034	99,000	20,804	21%	78,196
General Expense	4,960	9,920	13,000	3,496	27%	9,504
Minor Equipment	1,061	2,122	0	17,572		(17,572)
Major Equipment	0	0	0	0	-	0
Printing	7,764	15,528	12,000	9,757	81%	2,243
Communications	2,255	4,510	9,000	3,428	38%	5,572
Postage	4,773	9,546	5,000	9	0%	4,991
Insurance	1,578	3,156	0	0	-	0
Travel in State	4,324	8,648	7,000	4,051	58%	2,949
Training	0	0	10,000	0	0%	10,000
Facilities Operations	78,838	78,838	118,000	58,130	49%	59,870
C&P Services Interdepartmental	95	190	4,000	0	0%	4,000
C&P Services External	14,605	29,120	211,000	33,368	16%	177,632
Departmental Services Totals	231,307	462,615	1,017,000	498,564	49%	518,436
OIS Pro Rata	74,500	149,000	573,000	286,500	50%	286,500
Indirect Distributed Cost	145,500	291,000	334,000	167,000	50%	167,000
Interagency Services	4,625	9,250	37,000	18,500	50%	18,500
DOI Pro Rata	875	1,750	10,000	5,000	50%	5,000
Communications Pro Rata	2,250	4,500	20,000	10,000	50%	10,000
PPRD Pro Rata	2,375	4,750	19,000	9,500	50%	9,500
Consolidated Data Center	1,182	2,365	8,000	282	4%	7,718
Data Processing	0	0	16,000	1,782	11%	14,218
Central Admin Services Pro Rata	0	0	0	0	-	0
Exams Totals	484	968	0	0		0
Exam Administrative External	484	968	0	0		0
Enforcement Totals	296,741	593,472	1,177,000	379,342	32%	797,658
Attorney General	83,225	166,450	655,000	190,231	29%	464,769
Office of Admin Hearings	15,166	30,322	110,000	28,910	26%	81,090
Evidence/Witness	8,350	16,700	100,000	0	0%	100,000
Court Reporters	750	1,500	0	4,201	-	(4,201)
DOI Investigation	189,250	378,500	312,000	156,000	50%	156,000
TOTAL OE & E	656,802	1,234,667	2,682,000	1,028,521	38%	1,653,479
TOTALS, PERS SVS/OE&E	1,224,143	2,369,349	4,814,000	2,292,913	48%	2,521,087
Scheduled Reimbursements	-11,980	-23,960	-99,000	-17,766	-	0
Un-Scheduled Reimbursements	-34,738	-69,476	0	-26,830	-	0
TOTAL REIMBURSEMENTS	-46,718	-93,436	-99,000	-44,596		
TOTALS, PERS SVS/OE&E (-REIM)	1,177,425	2,275,913	4,715,000	2,248,317	48%	2,521,087

*The PTBC is authorized to allocate \$99k of its revenues collected from scheduled/unscheduled reimbursements towards CY expenditures. Revenues over 99k are transferred/deposited directly to fund (year-end).



Briefing Paper

Date: March 21, 2019
Prepared for: PTBC Members
Prepared by: April Beauchamps
Subject: Outreach Report

Agenda Item 13(B)

Purpose:

To provide PTBC’s Outreach activities and statistics for October – December (Q2), CY 2018/19.

- Attachments:** [1. Website Statistics](#)
[2. Facebook Statistics](#)
-

Background:

The PTBC Outreach Report is a quarterly review of the Website and Facebook activities and analysis of those activities for the current fiscal year in comparison to the previous fiscal year. The website statistics is collected from Google Analytics, and Facebook statistics is collected directly from the “insight reports” from Facebook reporting system; and, generated by PTBC staff on a quarterly basis: Jul -Sep (Q1), Oct-Dec (Q2), Jan-Mar (Q3) and Apr- Jun (Q4).

Program Updates:

The PTBC conducted four outreach events this quarter at Sacramento State on October 1st, 8th, and 15th, and November 27th.

Analysis:

Website

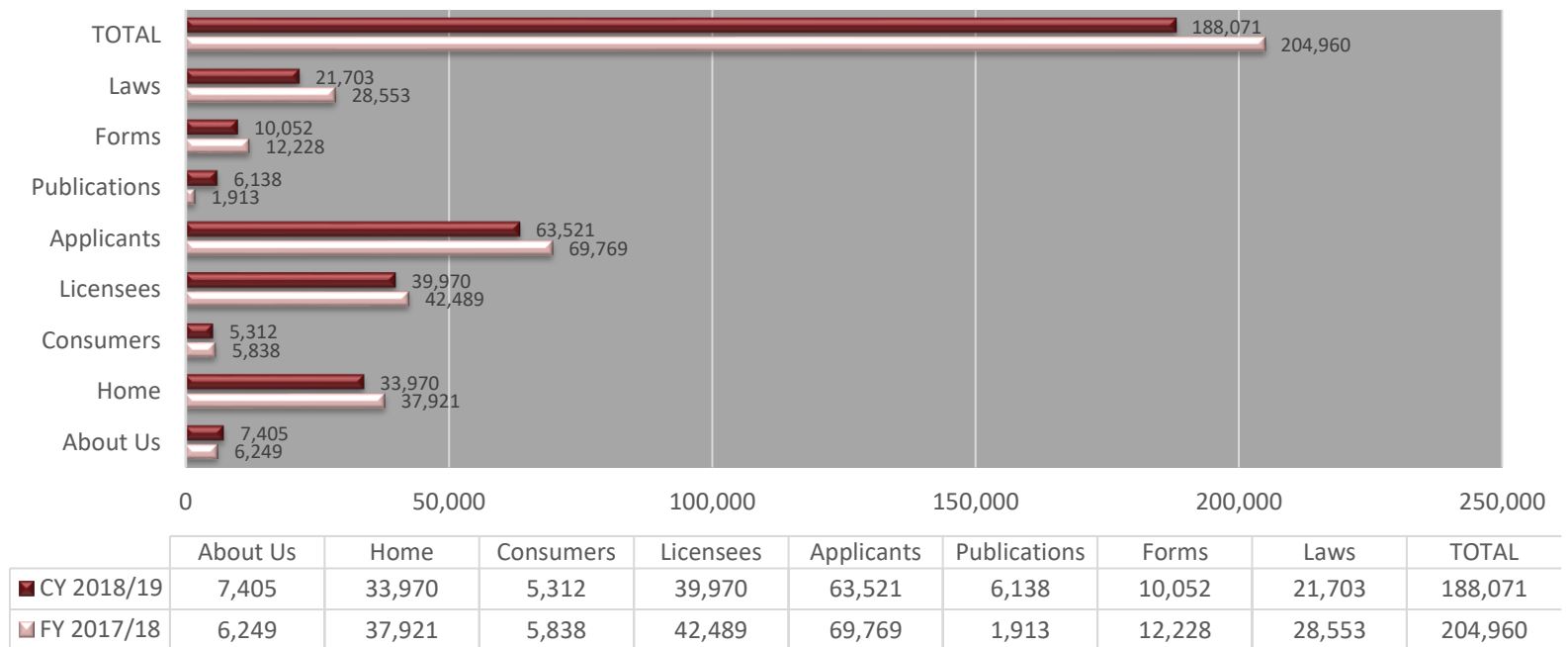
The PTBC had 188,071 web-hits through its home page tabs, resulting in a 8% decrease over last fiscal year (Q2). The “Laws” section had the most significant decrease compared to prior fiscal year (Q2) of a 24% decrease.

Facebook

The PTBC had 33,914 people access (traffic) our page and we received 95 “likes”. In comparison to last fiscal year (Q2), the traffic increased 84%. The most significant increases in activities over last fiscal year (Q2) was our “Consumers” showing an overall 587% increase and our “Engaged Users” showing an overall 514% increase.

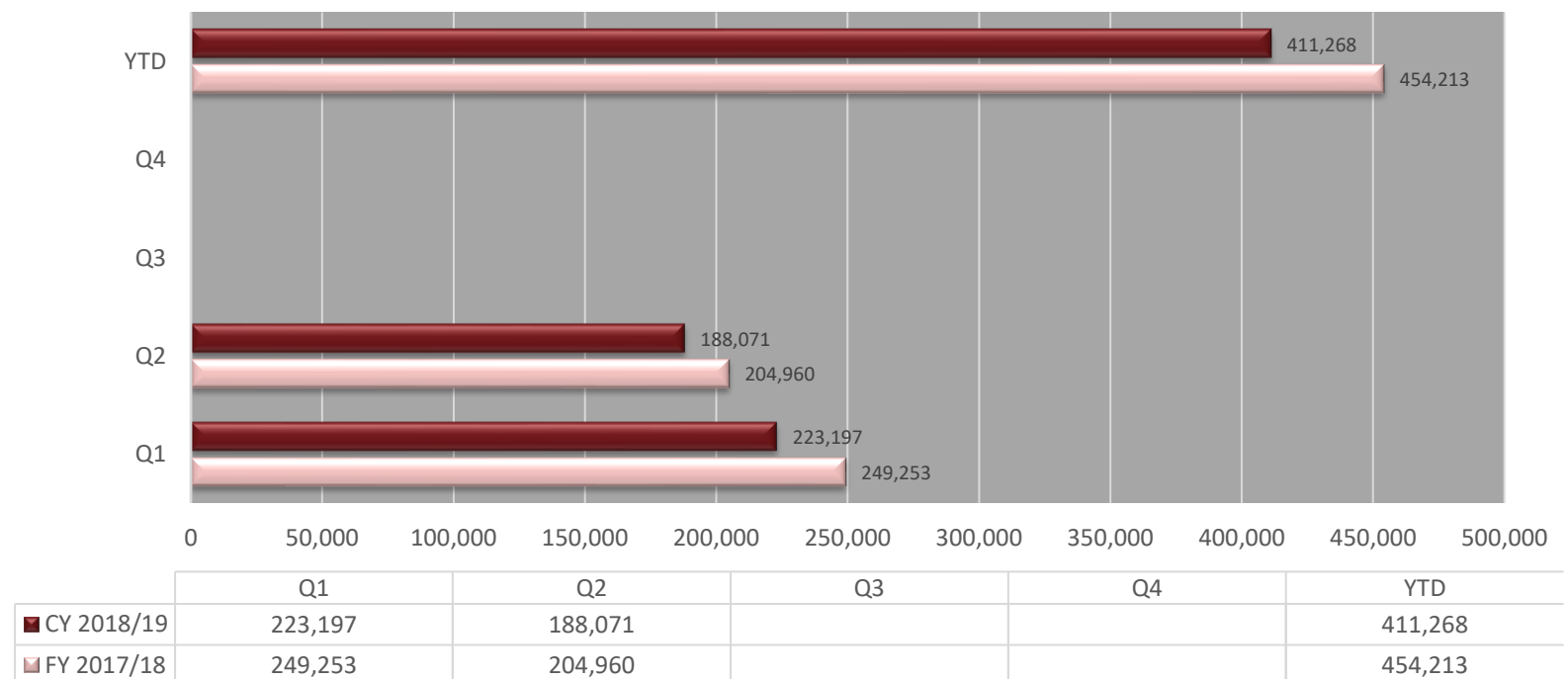
Action: No action requested.

**Website Activity
(Quarterly)**



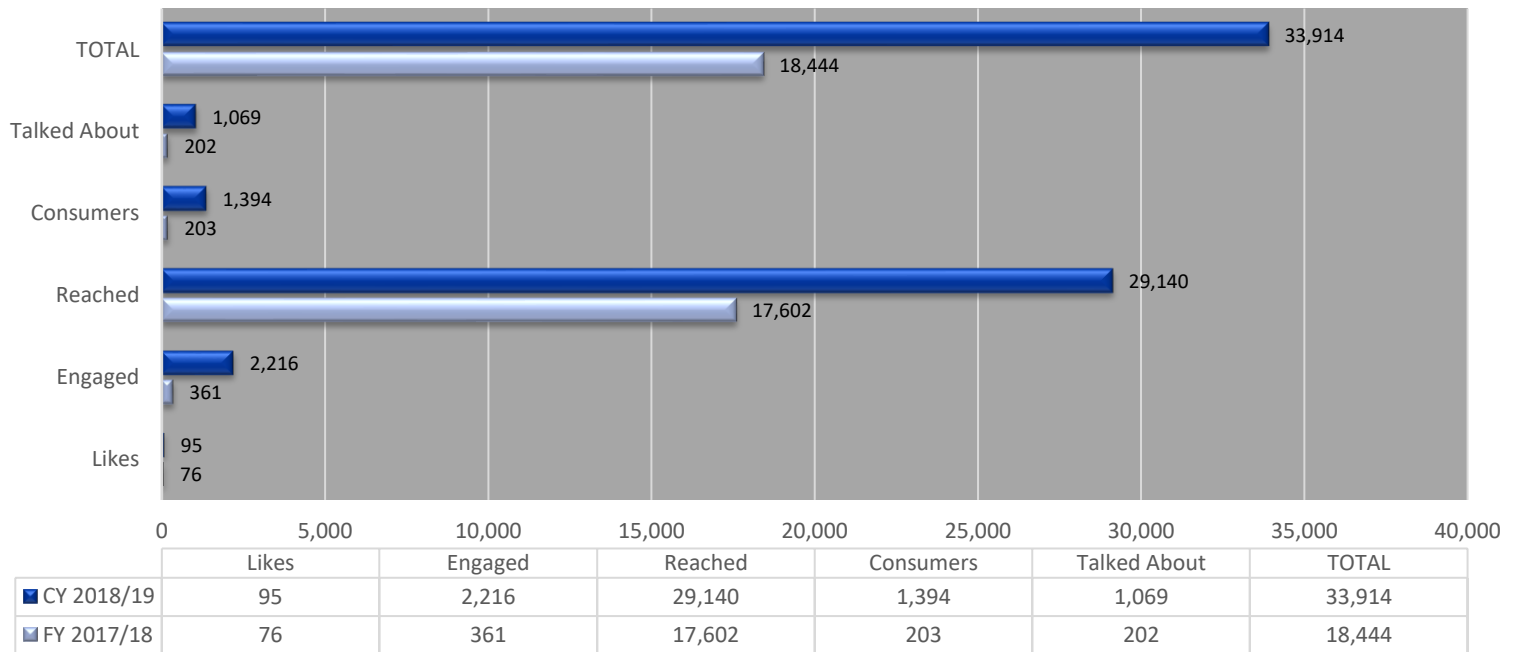
The graph reveals an 10% decrease in website hits during Q1, over previous fiscal year (17/18).

**Website Activity
(Year-to-date)**

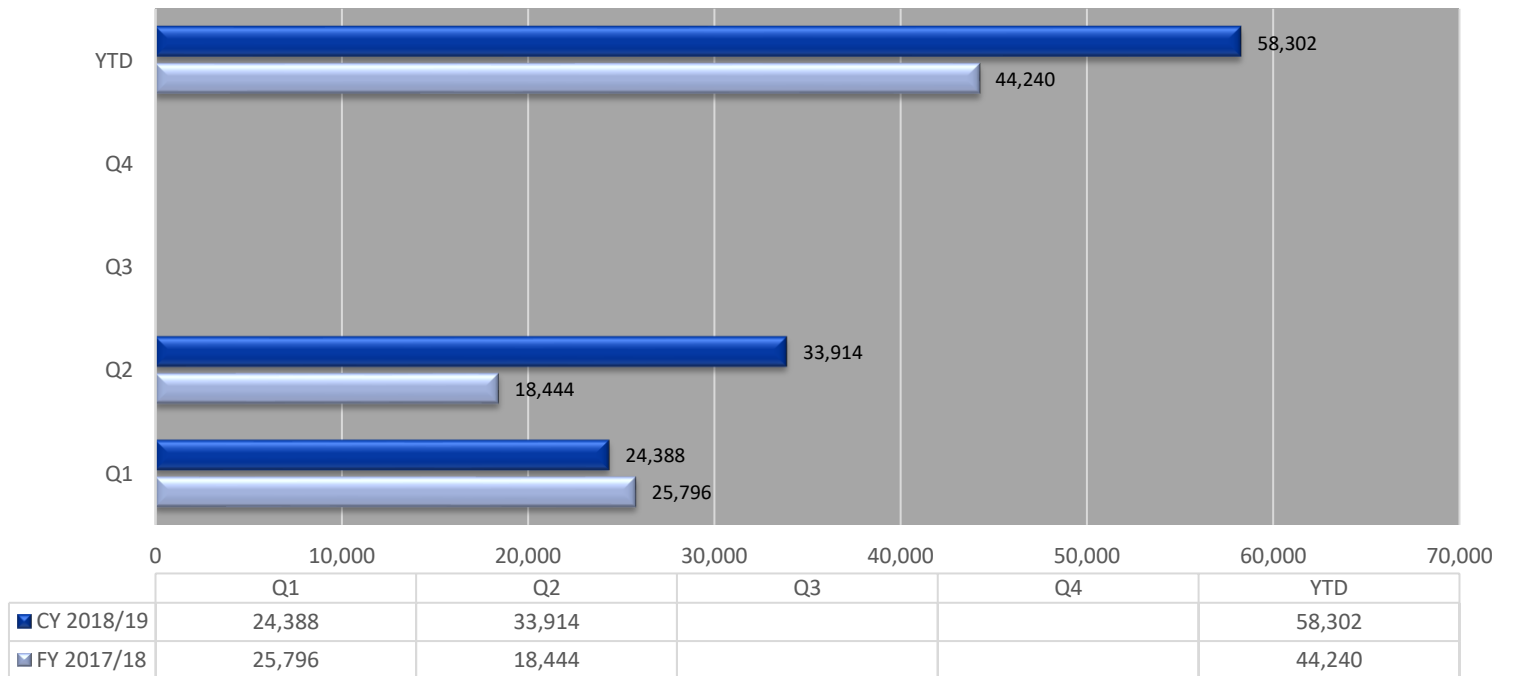


The graph reveals an overall 10% decrease in website hits over fiscal year (17/18) year-to-date.

**Facebook Activity
(Quarterly)**



**Facebook Activity
(Year-to-Date)**





PHYSICAL THERAPY BOARD
OF CALIFORNIA



BOARD MEMBER
ADMINISTRATIVE MANUAL

NOVEMBER 2014 March 2019



PHYSICAL THERAPY BOARD OF CALIFORNIA

2005 Evergreen Street, Suite 1350
Sacramento, CA 95815
Phone: (916) 561-8200
Fax: (916) 263-2560
TDD: (800) 326-2297
www.ptbc.ca.gov



ACKNOWLEDGEMENTS

Members of the Board

Alicia K. Rabena-Amen, PT, DPT -
President
TJ Watkins – Vice President
Daniel Drummer, PT, DPT
Jesus Dominguez, PT, PhD
Katarina Eleby
Tonia McMillian
Vacant, Physical Therapist

Executive Officer

Jason Kaiser

This manual is a general reference including laws, regulations and basic Board policies to guide the actions of Board members to ensure Board effectiveness and efficiency.

This administrative procedure manual, regarding Board policy, can be amended by a majority of affirmative votes of any current or future Board. The Board delegates authority to staff to make non-substantive changes as necessary.¹

¹ Delegation approved at the May 2014 Board Meeting.

TABLE OF CONTENTS

Chapter 1. Introduction

Definition/Acronyms.....	6
Mission Statement	7
Overview	7
General Rules of Conduct.....	8

Chapter 2. Board Meeting Procedures

Frequency of Meetings	9
Board Member Attendance at Board Meetings	9
Public Attendance at Board Meetings/Open Meeting Act	9
Quorum.....	10
Agenda Items	10
Notice of Meetings	10
Notice of Meetings to be Posted on the Internet.....	10
Record of Meetings	11
Electronic Recording	11
Meeting Rules	11
Public Comment	11

Chapter 3. Travel/Salary Policies & Procedures

Travel Approval	13
Approval of Unscheduled Travel.....	13
Travel Arrangements.....	13
Out of State Travel	13
Travel Claims.....	13
Salary Per Diem.....	14

Chapter 4. Selection of Officers & Committees

Officers of the Board.....	16
Election of Officers	16
Officer Vacancies	16
Committee/Task Force Appointments.....	16
Attendance at Committee/Task Force Meetings	16

Chapter 5. Board Administration and Staff

Board Administration	17
Executive Officer	17
Executive Officer Evaluation	17
Board Staff	17
Expert Consultants	18
Board Budget	18
Business Cards.....	18
Strategic Planning.....	18
Projects/Approval for New Projects.....	18
Legislative Positions.....	18

TABLE OF CONTENTS

Chapter 6. Enforcement and Disciplinary Actions

Priority of Complaints	20
Investigative Staff and Services	20
Discipline and Citations	20
Administrative Proceedings	21
Review of Decisions	21
Member Questions & Communications about Decisions	22
Mail Ballots	22
Holding Disciplinary Cases for Board Meetings	22
Rejection (Non-adoption) of a Proposed Decision	23
Reconsideration	23
Petitions for Penalty Relief	23
Enforcement Actions – Disclosure to the Public	23
Policy Variation	24

Chapter 7. Other Policies and Procedures

Board Member Address	25
Board Member Written Correspondence and Mailings	25
Communications: Other Organizations/Individuals/Media	25
Communication with Interested Parties	25
Ex Parte Communications	26
Board Member Disciplinary Actions	26
Conflict of Interest	27
Service of Legal Documents	27
Gifts from Candidates	27
Request for Records Access	27
Resignation of Board Members	27
Removal of Board Members	27
Board Member Training Requirements	28
Outreach/Information/Complaints	28

Appendix A—Complaint Prioritization Guidelines for DCA Health Care Agencies

CHAPTER 1. INTRODUCTION



Acronyms/Definitions

ALJ	Administrative Law Judge
BPC	Business and Professions Code
CPS	Consumer Protection Services
<u>CCR</u>	<u>California Code of Regulation</u>
DOI	Division of Investigation
DCA	Department of Consumer Affairs
GC	Government Code
Board	Physical Therapy Board of California
SAM	State Administrative Manual

CHAPTER 1. INTRODUCTION

Mission Statement

The mission of the Physical Therapy Board of California is to advance and protect the interests of the people of California by the effective administration of the Physical Therapy Practice Act.

Overview

In 1953 the Physical Therapy Examining Committee was created by Chapter 1823, statutes of 1953 (AB_1001). While the name has been changed to the Physical Therapy Board of California (Board), the charge to the Board by the Legislature has always been protecting the public from the incompetent, unprofessional and criminal practice of physical therapy ~~since its inception~~. The Board is one of over 40 regulatory entities which exist under the organizational structure of the Department of Consumer Affairs (DCA). The Board has a close and cooperative relationship with DCA.

[BPC § 2603](#)

The Board consists of seven members, four licensed physical therapists and three public members, who serve a maximum of two four-year terms. The Governor appoints the four licensed physical therapists and one public member, and the Senate Rules Committee and the Speaker of the Assembly each appoint one public member.

The Board appoints an Executive Officer as its administrator who oversees the board's staff and ensures all of its programs function efficiently and effectively.

The Board is primarily funded through license and application fees; therefore, the Board does not receive ~~monies-general fund allocations~~ from the State of California.

CHAPTER 1. INTRODUCTION

General Rules of Conduct ([Board Policy](#))

Board members shall not speak to interested parties (such as vendors, lobbyists, legislators, or other governmental entities) on behalf of the Board or act for the Board without proper authorization.

Board members shall maintain confidentiality of information received in closed session.

Board members shall commit time to prepare for Board meeting responsibilities. This includes reviewing Board meeting minutes, administrative cases, and any other materials provided to the Board members by staff that are related to official Board business.

Board members shall respect and recognize the equal role and responsibilities of all Board members, whether public or professional.

Board members shall act fairly and in a nonpartisan, impartial, and unbiased manner.

Board members shall treat all applicants and licensees in a fair and impartial manner.

Board members' actions shall uphold the Board's primary mission – protection of the public.

Board members shall not use their positions on the Board for political, personal, familial, or financial gain. Any employment subsequent to employment as a Board member shall be consistent with [Executive Order 66-2 OHR 14-01](#).

All Board members shall act in accordance with their oath of office, and shall conduct themselves in a courteous, professional and ethical manner at all times.

CHAPTER 2. BOARD MEETING PROCEDURES

Frequency of Meetings
(BPC § 2611)

The Board shall meet at least three times each calendar year, meeting at least once in northern California and once in southern California.

(Bagley-Keene Open Meeting Act²)

Special meetings of the Board may be held at such times and locations as the Board deems necessary.

~~(Open Meeting Act)~~

Due notice of each meeting and the time and place thereof shall be given in the manner provided by ~~the~~ law.

Board Member Attendance at Board Meetings
(Board Policy and BPC § 106)

Board members shall attend each meeting of the Board. If a member is unable to attend, he or she must contact the Board President and ask to be excused from the meeting for a specific reason. The Governor has the power to remove from office any member appointed by him for continued neglect of duties, which may include unexcused absences from meetings.

Board members shall attend the entire meeting and allow sufficient time to conduct all Board business at each meeting.

Public Attendance at Board Meetings
(~~Gov. Code~~ § 11120 et. seq.)

Meetings are subject to all provisions of the Open Meeting Act. This ~~law~~ governs meetings of state regulatory boards and meetings of committees or task forces of those boards where the committee consists of more than two members. It specifies meeting notice and agenda requirements and prohibits discussing or taking action on matters not included on the agenda.

If the agenda contains matters which are appropriate for closed session, the agenda must cite the particular statutory section and subdivision authorizing the closed session.

² Bagley-Keene Open Meeting Act

CHAPTER 2. BOARD MEETING PROCEDURES

Quorum (BPC § 2611)

Four members of the Board shall constitute a quorum for the transaction of business.

The concurrence of a majority of those members of the Board present and voting at a duly noticed meeting at which a quorum is present shall be necessary to constitute an act or decision of the Board.

Agenda Items (Board Policy)

Any Board member may submit items for a meeting agenda during the "Future Agenda Items" section of a Board meeting or directly to the Executive Officer not ~~less~~^{fewer} than 30 days prior to the meeting with the approval of the Board President or chair of the committee or taskforce.

The public may submit an item for consideration for a future meeting agenda. The item shall be submitted not ~~fewer~~^{less} than 30 days prior to the meeting and must be approved by the Board President to be added to a future meeting agenda.

Notice of Meetings (G-C § 11125 et seq.)

In accordance with the Open Meeting Act, meeting notices (including agendas for Board, committee, or task force meetings) shall be sent to persons on the Board's mailing list at least 10 calendar days in advance. The notice shall include the name, work address, e-mail address, and work telephone number of a staff person who can provide further information prior to the meeting.

Notice of Meetings to be Posted on the Internet (Government Code section 11125 et seq.)

Notice shall be given and also made available on the Internet at least 10 days in advance of the meeting and shall include the name, address, and telephone number of any person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting. The written notice shall additionally include the address of the Internet site where notices required by this article are made available.

Commented [BA1]: This needs to be listed as GC § 11125

CHAPTER 2. BOARD MEETING PROCEDURES

Record of Meetings (G.C. § 6254 (a))

The Board and each committee or task force shall keep an official record of all their proceedings. The minutes are a summary, not a transcript, of each Board, committee or task force meeting. They shall be prepared by staff and submitted to members for review before the next meeting. Minutes shall be submitted for approval at the next scheduled meeting of the Board, committee or task force. ~~Draft minutes are not public documents until approved by the Board.~~ When approved, the minutes shall serve as the official record of the meeting.

Commented [BA2]: Legal will assist in identifying proper policy

Electronic Recording (Board Policy)

The meeting may be electronically recorded, whether by video or audio. Electronic recordings will be disposed of upon approval of the minutes in accordance with the Board's record retention schedule.

(G.C. § 11124.1 (b))

Any audio or video recording of an open and public meeting made for whatever purpose by or at the direction of the state body shall be subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), but may be erased or destroyed 30 days after the recording. Any inspection of an audio or video recording shall be provided without charge on equipment made available by the state body.

Meeting Rules (Board Policy)

The Board will use Robert's Rules of Order, to the extent that it does not conflict with state law (e.g. Open Meeting Act), as a guide when conducting its meetings.

Public Comment (~~Bagley-Keene~~ Open Meeting Act & Board Policy)

Public comment is always encouraged and allowed; however, if time constraints mandate, the comments may be limited to a time specified per person by the Board President ~~per person~~.

Due to the need for the Board to maintain fairness and neutrality when performing their adjudicative function, the Board shall not receive any substantive information from a member of the public regarding any matter that is currently under or subject to investigation or involves a pending criminal or administrative action.

1. If, during a Board meeting, a person attempts to provide the Board with substantive information regarding matters that are currently under or subject to investigation or involve a pending administrative or criminal action, the person shall be advised that the Board cannot properly consider or hear such substantive information, and the person shall be instructed to refrain from making such comments.

CHAPTER 2. BOARD MEETING PROCEDURES

Public Comment
([Bagley-Keene](#) Open
Meeting Act & Board
Policy) (Continued)

(G.C. § 11125.7 (a), (b), (c))

2. If, during a Board meeting, a person wishes to address the Board concerning alleged errors of procedure or protocol or staff misconduct involving matters that are currently under or subject to investigation or involve a pending administrative or criminal action, the Board will address the matter as follows:
 - a. Where the allegation involves errors of procedure or protocol, the Board may designate either its Executive Officer or a Board employee to review whether the proper procedure or protocol was followed and to report back to the Board.
 - b. Where the allegation involves significant staff misconduct, the Board may request the person to put the allegation in writing and send it to the Executive Officer of the Board or the Director of DCA who may forward the allegation to [the](#) Division of Investigation (DOI) or CHP for investigation.
3. The Board may deny a person the right to address the Board and have the person removed if such person becomes disruptive at the Board meeting.
4. At the discretion of the Board President or chair of the committee, speakers may be limited in the amount of time to present to give adequate time to everyone who wants to speak. In the event the number of people wishing to address the Board exceeds the allotted time, the Board President or chair of the committee may limit each speaker to a statement of his/her name, organization, and whether they support or do not support the proposed action.

CHAPTER 3. TRAVEL & SALARY POLICIES & PROCEDURES

Travel Approval
(~~DCA Memorandum 96-01~~ DCA Travel Guide)

The Board President's approval is required for all Board members' ~~for~~ travel, except for travel to regularly scheduled Board, committee, or task force meetings to which the Board member is assigned.

Approval of
Unscheduled Travel
(Board Policy)

The President of the Board will be responsible for approving all unscheduled travel plans submitted by Board members and staff. Unscheduled travel plans will be submitted in writing to the Executive Officer, ~~who will then, for perspective and feasibility, The Executive Officer will~~ seek the approval of the President.

Travel Arrangements
(Board Policy)

Board members should make their own travel arrangements but are encouraged to coordinate with Board staff on lodging accommodations.

Out-of-State Travel
(SAM section 700 et seq.)

For approved out-of-state travel, Board members will be reimbursed for actual lodging expenses, supported by receipts, and will be reimbursed for meal and supplemental expenses. Out-of-state travel for all persons representing the State of California is controlled by and must be approved by the Governor's Office.

Rules governing reimbursement of travel expenses for Board members are the same as ~~for~~ management-level state staff. All expenses shall be claimed on the appropriate travel expense-claim forms or through CalATERS (California Automated Travel Expense Reimbursement System). If Board members use paper claims, Board staff maintain these forms and complete them as needed. Board members should submit their travel expense forms or information in CalATERS immediately after returning from a trip and no later than two weeks following the trip.

For the expenses to be reimbursed, Board members shall follow the procedures contained in the DCA Travel Guide, which are periodically disseminated by the Administrative Services Manager, or his or her designee.

Commented [BA3]: Remove DCA Memorandum 96-01 and replace with DCA Travel Guide

CHAPTER 3. TRAVEL & SALARY POLICIES & PROCEDURES

Salary Per Diem (BPC § 103, 2606 & Board Policy)

Compensation in the form of salary per diem and reimbursement of travel and other related expenses for Board members is regulated by BPC section 103, which states:

Each such member shall receive a per diem of one hundred dollars (\$100) for each day actually spent in the discharge of official duties, and shall be reimbursed for traveling and other expenses necessarily incurred in the performance of official duties. The payments in each instance shall be made only from the fund from which the expenses of the agency are paid and shall be subject to the availability of money. Notwithstanding any other provision of law, no public officer or employee shall receive per diem salary compensation for serving on those boards, commissions, committees, or the Consumer Advisory Council on any day when the officer or employee also received compensation for his or her regular public employment.

In relevant part, this section provides for the payment of salary per diem for Board members "for each day actually spent in the discharge of official duties," and provides that the Board member "shall be reimbursed for traveling and other expenses necessarily incurred in the performance of official duties."

Accordingly, the following general guidelines shall be adhered to in the payment of salary per diem or reimbursement for travel:

1. No salary per diem or reimbursement for travel-related expenses shall be paid to Board members, except for attendance at an official Board, committee or task force unless a substantial official service is performed by the Board member. Attendance at gatherings, events, hearings, conferences, or meetings other than official Board, committee, or task force meetings, in which a substantial official service is performed, shall be approved in advance by the Board President. The Executive Officer shall be notified of the event and approval shall be obtained from the Board President prior to Board member's attendance.

CHAPTER 3. TRAVEL & SALARY POLICIES & PROCEDURES

Salary Per Diem
(BPC § 103, 2606 & Board
Policy) *(Continued)*

2. The term “day actually spent in the discharge of official duties” shall mean such time as is expended from the commencement of a Board, committee, or panel meeting to the conclusion of that meeting. Where it is necessary for a Board member to leave a meeting early, the Board President shall determine if the member has provided a substantial service during the meeting, and if so, shall authorize payment of salary per diem and reimbursement for travel-related expenses.

For Board-specified work, Board members will be compensated for ~~actual time spent performing~~ work authorized by the Board President. That work includes, but is not limited to, authorized attendance at other gatherings, events, meetings, hearings, or conferences. It includes preparation time for Board, committee, or task force meetings.

[\(Board Policy HR-08-11\)](#)

It is the Board’s intent that a member shall receive a per diem for the day for any work performed within the 24-hour period.

CHAPTER 4. SELECTION OF OFFICERS & COMMITTEES

Officers of the Board (BPC § 2604)

The Board shall select a President and a Vice-President annually.

Election of Officers (Board Policy)

The Board shall elect the officers at the last meeting of the calendar year. Officers shall serve a term of one year beginning the next calendar year. All officers may be elected on one motion or ballot as a slate of officers unless more than one Board member is running per office. An officer may be re-elected and serve for more than one term.

Officer Vacancies (Board Policy)

If an office becomes vacant during the year, an election shall be held at the next meeting. If the office of the President becomes vacant, the Vice-President shall assume the office of the President. Elected officers then shall serve the remainder of the term.

Committee or Task Force Appointments (Board Policy)

The Board President shall establish committees, whether standing or special, as he or she deems necessary. The composition of the committees and the appointment of the members shall be determined by the Board President in consultation with the Vice-President, and the Executive Officer. committees may include the appointment of non-Board members.

Attendance at Committee or Task Force Meetings (G. C. §11120 et seq.)

If a Board member wishes to attend a meeting of a committee or task force of which he or she is not a member, the Board member should notify the committee or task force chair and staff. Board members who are not members of the Committee or task force that is meeting cannot vote during the committee or task force meeting and may participate only as observers if a majority of the Board is present at a committee meeting.

Commented [BA4]: Legal council will assist in identifying proper policy to replace G.C. 11120

CHAPTER 5. BOARD ADMINISTRATION & STAFF

Board Administration
([DCA Reference Manual](#),
[Board Policy](#))

Board members should be concerned primarily with formulating decisions on Board policies rather than decisions concerning the means for carrying out a specific course of action. It is inappropriate for Board members to become involved in the details of program delivery. Strategies for the day-to-day management of programs and staff shall be the responsibility of the Executive Officer. Board members should not interfere with day-to-day operations, which are under the authority of the Executive Officer.

Executive Officer
([BPC §](#) & [P-Code §](#)
[2607.5](#) & [Open Meeting](#)
[Act](#))

The Board may appoint an Executive Officer. The Executive Officer is responsible for the financial operations and integrity of the Board, and is the official custodian of records. The Executive Officer is an at will employee, who serves at the pleasure of the Board, and may be terminated, with or without cause, in accordance with the provisions of the Open Meeting Act.

Executive Officer
Evaluation
(Board Policy)

Board members shall evaluate the performance of the Executive Officer at least on an annual basis.

Board Staff
([Board Policy](#) [DCA Reference](#)
[Manual](#))

Employees of the Board, with the exception of the Executive Officer, are civil service employees. Their employment, pay, benefits, discipline, termination, and conditions of employment are governed by a myriad of civil service laws and regulations and often by collective bargaining labor agreements. Because of this complexity, it is most appropriate that the Board delegate all authority and responsibility for management of the civil service staff to the Executive Officer. Board members shall not intervene or become involved in specific day-to-day personnel transactions.

CHAPTER 5. BOARD ADMINISTRATION & STAFF

The Board requires special services, certain content experts, or consultants for specific projects and problems. Such services are arranged by means of state-approved contracts established in the DCA Policy ~~standard ways~~. Consistent with state law, such individuals may not serve as members of subcommittees; nor may they function as (e.g.,) ex officio members of the Board.

The Executive Officer or the Executive Officer's designee will attend and testify at the legislative budget hearings and shall communicate all budget issues to the Administration and Legislature.

Business cards will be provided to each Board member with the Board's name, address, telephone number, fax number, website address and e-mail address.

The Board will conduct periodic strategic planning sessions. The Board shall complete and implement a five-year strategic plan to be updated every two years.

The Board President will be responsible for approving all new projects submitted by Board members and staff. New projects will be submitted in writing to the Executive Officer for perspective and feasibility.

The Board adopted the following positions regarding pending or proposed legislation.

Oppose: The Board will actively oppose proposed legislation and demonstrate opposition through letters, testimony and other action necessary to communicate the oppose position taken by the Board.

Oppose, Unless Amended: The Board will take an opposed position and actively lobby the legislature to amend the proposed legislation.

CHAPTER 5. BOARD ADMINISTRATION & STAFF

Definition of the Positions Taken by the Physical Therapy Board Regarding Proposed Legislation
(Board Policy) *(Continued)*

(Board Policy ~~LEG05-12-~~
)

Neutral: The Board neither supports nor opposes the addition/ amendment/ repeal of the statutory provision(s) set forth by the bill.

Watch: The watch position adopted by the Board will indicate concern regarding the proposed legislation. Board staff and members will closely monitor the progress of the proposed legislation and amendments.

Support, if Amended: The Board will take a supportive position and actively lobby the legislature to amend the proposed legislation.

Support: The Board will actively support proposed legislation and demonstrate support through letter, testimony and any other action necessary to communicate the support position taken by the Board.

The Board President has the authority to take interim positions on pending legislation on behalf of the Board, if necessary. The interim position taken by the Board President is the interim position of the Board until the next meeting of the Board at which the Board will decide to either ratify the interim position or reject it.

CHAPTER 6. ENFORCEMENT & DISCIPLINARY ACTIONS

Priority of Complaints (Board Policy)

The Board adopted DCA's Complaint Prioritization Policy to assist staff in determining how to manage incoming complaints in light of available resources. The policy is found in Appendix A.

Investigative Staff and Services ([BPC 2634](#), [BPC 2607.5](#) & Board Policy)

The Executive Officer is responsible for directing the course of any investigation into the conduct of an applicant or licensee. The Board utilizes the Department's Division of Investigation for its formal investigative services.

The Executive Officer may determine the resources to be expended on any given case, including whether a subject matter expert should be consulted, and who may act as a subject matter expert.

Discipline and Citations ([BPC § 125.9](#), [BPC § 2660 et. Seq.](#), and [Title 16 CCR § 1398 et. Seq.](#))

The Board is authorized to take enforcement action against a licensee for any violation of the Physical Therapy Practice Act (Act). There are two types of license enforcement actions: 1) discipline and 2) citations.

Discipline is a formal action against the license that becomes a permanent part of the licensing record. Disciplinary actions may result in revocation of the license (and the loss of the ability to practice physical therapy) or the contingent loss of the license (a stayed revocation) with probationary conditions for a specified term.

A citation, which may be issued with or without a fine, is an enforcement tool by which the Board may address relatively minor violations of the Act that do not necessarily warrant disciplinary consequences in order to protect the public. A citation is not a disciplinary action. Citations are purged and destroyed after five years.

All enforcement actions are available to the public for as long as they exist. Both citations and discipline may be appealed, and may result in a matter coming [to-before](#) the Board [itself](#) for decision.

CHAPTER 6. ENFORCEMENT & DISCIPLINARY ACTIONS

Administrative Proceedings (BPC, §§ 2608, 2614)

Unless otherwise specified in the Business and Professions Code, administrative proceedings against a license are conducted in compliance with Chapter 5 of the Administrative Procedure Act (Gov. Code, § 11500 et seq.).

An administrative proceeding refers to any action to deny, restrict or revoke a license. The proceeding begins when the Executive Officer files a charging document – usually a Statement of Issues (to deny a license) or an Accusation (to restrict or revoke a license).

If the licensee fails to respond to a charging document, a default decision is prepared and submitted the Board members for vote. If the licensee and the Executive Officer agree to a particular enforcement outcome, a stipulation is prepared and presented to the Board members for vote. If neither of the above occurs, the case is sent to a formal hearing before an administrative law judge (ALJ). After considering the evidence from the hearing (usually documents and witness testimony), the ALJ issues a proposed decision (a recommended resolution), which is then presented to the Board members for vote.

Review of Decisions (Gov. Code § 11500, et seq.; BPC § 2602.1; Title 16, C.C.R. § 1399.15)

Board members, by majority vote of a quorum, must approve any decision (proposed decision, stipulation or default) before the decision becomes final and the formal discipline (penalty), if any, can take effect.

Each Board member shall thoroughly review any decision presented for vote. Each case shall be evaluated on a case-by-case basis, considering the following factors:

1. Whether the Board's highest priority, protection of the public, is ~~effected~~ affected by the decision;
2. Whether the Board's Guidelines for Issuing Citations and Imposing Discipline are satisfied or whether variation is warranted;
3. Whether the decision addresses any misconduct in a way consistent with the nature and degree of the violation;
4. the standards of practice in physical therapy and ~~in the~~ whether community ~~was~~ere used as a basis for reaching the decision; and
5. Whether the decision may be reasonably and practically implemented.

Commented [BA5]: Change writing to (GC § 11500 et seq.; BPC § 2602.1; Title 16, CCR § 1399.15)

CHAPTER 6. ENFORCEMENT & DISCIPLINARY ACTIONS

Member Questions and Communications about Decisions
(Gov. Code § 11430.10, et seq.)

Communications with staff concerning pending proceedings, including decisions, are limited by the provisions of the Administrative Procedure Act. There are two parties to any disciplinary proceeding – complainant (the Executive Officer and other staff) and respondent (the licensee). The Board members decide the case and therefore act as judges. To avoid the fact or appearance of bias or impropriety, communications between one party (staff or the licensee) and Board members are limited.

There are two common exceptions to this restriction. First, staff may answer questions of procedure and ministerial questions (e.g., when is a vote due, when will a decision become effective).

Second, staff or the Deputy Attorney General may communicate about stipulated decisions – and only stipulated decisions – only to explain why the stipulated decision should be adopted.

Board members may direct questions about a decision to the Board’s legal counsel, who is not involved in the investigative stage of the proceeding. Questions about permissible or impermissible communications should also be directed to legal counsel.

Mail Ballots
(Gov. Code, § 11526 Board policy)

Proposed decisions, stipulations and default decisions are mailed (electronically or otherwise) to each Board member for voting. The Board members may vote to adopt, reject (non-adopt) or seek to hold the case (discussed in detail below).

Commented [BA6]: Change writing in box to (GC § 11526 & Board Policy)

A ~~10-calendar~~10-calendar day deadline is generally given for a mail ballot to be completed and returned to the Board’s office. Board staff reviews the ballots and, if a decision is reached by a majority of the Board, prepares the decision for the President’s signature.

Holding Disciplinary Cases for Board Meetings
(Board Policy)

When voting on a mail ballot, a Board member may wish to discuss a particular aspect of the decision before voting. If one or more members marks their ballot to “hold for discussion,” the case will be scheduled for the closed session of the Board’s next meeting. At the time the ballot is prepared, the Board member should record his or her concern. Recording the concern facilitates the discussion by allowing staff, if permitted to comment, legal counsel and other members an opportunity to prepare to respond to the concern as appropriate. Since there can also be a delay before the next meeting, it can preserve the member’s memory.

When a matter is held for closed session, Board legal counsel will be present to advise and assist the Board.

CHAPTER 6. ENFORCEMENT & DISCIPLINARY ACTIONS

Rejection (non-adoption) of a Proposed Decision (~~Gov. Code~~, § 11517, ~~Board Policy~~)

If the Board votes to reject a Proposed Decision of an ALJ, absent specific direction to the contrary from the Board, the transcript and exhibits of hearing will be ordered and it will provide an opportunity for written argument. No new evidence will be taken. The Executive Officer will fix the date for submission of written argument to ensure Board members have time to review any materials prior to a Board meeting.

Reconsideration (~~Gov. Code~~ § 11519.7, ~~GC § 11521~~, and Board Policy)

The Board, on its own motion or on petition of any party, may order a reconsideration of all or part of a case at any time prior to the effective date of the decision. Board staff may grant any stay of the effective date authorized by law. If no action is taken on a petition for reconsideration ~~by a party~~ prior to the effective date of the decision, the petition is deemed denied by operation of law. After ordering reconsideration, the Board may reconsider the matter, with or without taking additional evidence, or it may assign the matter to an administrative law judge. If oral evidence is introduced before the Board on reconsideration, no member may vote unless he or she heard the evidence.

Petitions for Penalty Relief (BPC, § 2661.7 Board Policy)

If a licensee files a petition for penalty relief (for modification or termination of existing probation or reinstatement), as long as that petition meets statutory requirements, the matter will be heard by the Board members themselves at a Board meeting. Absent direction to the contrary, an ALJ sits with the members to preside over the hearing where evidence and argument are taken.

Enforcement Actions—Disclosure to the Public (~~Gov. Code~~, § 6250, et seq. ~~BPC~~, § 125.9)

Enforcement actions, including citations and disciplinary actions, are a matter of public record and shall be provided upon request in accordance with applicable law and Department of Consumer Affairs' Guidelines for Access to Public Records.

(Department of Consumer Affairs' Guidelines for Access to Public Records)

Disciplinary action against a license shall be disclosed to the public by means of the Board's website (through license look-up features or otherwise). It may also be disclosed through other means of communication, including direct email distribution, newsletter, or through a social media service.

CHAPTER 6. ENFORCEMENT & DISCIPLINARY ACTIONS

(Department of Consumer Affairs' Guidelines for Access to Public Records) *(Continued)*

Whenever possible, the actual documents that resulted in the disciplinary action shall also be posted on the Board's website to facilitate consumer access. Disciplinary action documents include the charging document (Statement of Issues or Accusation) and any final decision.

Citations are posted on the Board's website. When citation records are provided to the public, and the licensee paid a fine, the record shall reflect that payment represents satisfactory resolution of the matter.

In a particular case, action by the Board itself supersedes any general Board policy set forth in this manual.

Policy Variation

CHAPTER 7. OTHER POLICIES & PROCEDURES

Board Member Address (Board Policy, [Bagley-Keene Open Meeting Act](#))

Board member addresses, email addresses and telephone numbers are confidential and shall not be disclosed to the public without expressed authority of the individual Board member. However, if the Board member is a licensee with the Board, his or her address of record is available to the public upon request in accordance with the Public Records Act. Also, if a teleconference is held from the home of a Board member, the address of where the teleconference occurs must be published and open to the public in accordance with the Bagley-Keene Open Meeting Act. Board issued email addresses are not confidential.

Board Member Written Correspondence and Mailings (Board Policy)

All correspondence, press releases, articles, memoranda or any other communication written by any Board member in his or her official capacity must be provided to the Executive Officer.

Communications: Other Organizations/ Individuals/Media (Board Policy)

All communication relating to any Board action or policy to any individual or organization, or a representative of the media shall be made only by the Board President, his or her designee, or the Executive Officer, or his or her designee. Any Board member who is contacted by any of the above should inform the Board President or Executive Officer.

Communication with Interested Parties

Board members are required to disclose at Board meetings all discussions and communications with interested parties regarding any item pending or likely to be pending before the Board. The Board minutes shall reflect the items disclosed by the Board members.

Ex Parte Communications (~~G-C~~; §_11430.10 et seq.)

The Government Code contains provisions prohibiting ex parte communications. An "ex parte" communication is a communication to the decision-maker made by one party to an enforcement action without participation by the other party. While there are specified exceptions to the general prohibition, the key provision is found in subdivision (a) of section 11430.10, which states:

CHAPTER 7. OTHER POLICIES & PROCEDURES

Ex Parte Communications (G.C. § 11430.10 et seq.)

(Continued).

[\(Board Policy\)](#)

“While the proceeding is pending, there shall be no communication, direct or indirect, regarding any issue in the proceeding to the presiding officer from an employee or representative or if an agency that is a party or from an interested person outside the agency, without notice and an opportunity for all parties to participate in the communication.”

Occasionally, an applicant who is being formally denied licensure, or a licensee against whom a disciplinary action is being taken, will attempt to directly contact Board members.

If the communication is written, the member should read only enough to determine the nature of the communication. Once he or she realizes it is from a person against whom an action is pending, he or she should reseal the documents and send them to the Executive Officer.

If a Board member receives a telephone call from an applicant or licensee against whom an action is pending, he or she should immediately tell the person they cannot speak to him or her about the matter. If the person insists on discussing the case, he or she should be told that the Board member will be required to recuse him or herself from any participation in the matter. Therefore, continued discussion is of no benefit to the applicant or licensee.

If a Board member believes that he or she has received an unlawful ex parte communication, he or she should contact the Board's legal counsel or Executive Officer.

A member may be censured by the Board if, after a hearing before the Board, the Board determines that the member has acted in an inappropriate manner.

The President of the Board shall sit as chair of the hearing unless the censure involves the President's own actions, in which case the Vice-President of the Board shall sit as President. In accordance with the Open Meeting Act, the censure hearing shall be conducted in open session.

Board Member Disciplinary Actions (Board Policy)

CHAPTER 7. OTHER POLICIES & PROCEDURES

Conflict of Interest (G-C: §_87100)

No Board member may make, participate in making, or in any way attempt to use his or her official position to influence a governmental decision in which he or she knows or has reason to know he or she has a financial interest. Any Board member who has a financial interest shall disqualify himself or herself from making or attempting to use his or her official position to influence the decision. Any Board member who feels he or she is entering into a situation where there is a potential for a conflict of interest should immediately consult the Executive Officer or the Board's legal counsel.

Board members should refrain from attempting to influence - staff regarding applications for licensure or potential disciplinary matters.

Service of Legal Documents

If a Board member is personally served as a party in any legal proceeding related to his or her capacity as Board member, he or she must contact the Executive Officer immediately.

Gifts from Candidates (Board Policy)

Gifts of any kind to Board members from candidates for licensure with the Board shall not be permitted.

Request for Records Access (Board Policy)

No Board member may access the file of a licensee or candidate without the Executive Officer's knowledge and approval of the conditions of access. Records or copies of records shall not be removed from the Board's office.

Resignation of Board Members (G. C. §1750)

In the event that it becomes necessary for a Board member to resign, a letter shall be sent to the appropriate appointing authority (Governor, Senate Rules Committee, or Speaker of the Assembly) with the effective date of the resignation. Written notification is required by state law. A copy of this letter also shall be sent to the Officer of the Department, the Board President, and the Executive Officer.

Commented [BA7]: Should read (GC § 1750)

Removal of Board Members (BPC § 106)

The Governor has the power to remove from office, at any time, any member of any Board appointed by him or her for continued neglect of duties required by law or for incompetence or unprofessional or dishonorable conduct.

CHAPTER 7. OTHER POLICIES & PROCEDURES

Board Member Training Requirements

(BPC § 453)

Upon initial appointment, Board members will be given an overview of Board operations, policies, and procedures by Board Executive Staff.

(~~Gov. Code~~ § 11146)

Every newly appointed or reappointed Board member shall, within one year of assuming office, complete a training and orientation program offered by the Department of Consumer Affairs. This is in addition to the Board orientation given by Board staff.

(~~Gov. Code~~ § 12950.1, DCA Policy EEO 12-01, Board Policy)

All Board members are required to annually file a Form 700 – Statement of Economic Interests. Members must also complete an orientation course on the relevant ethics statutes and regulations that govern the official conduct of state officials. The Government Code requires completion of this ethics orientation within the first six months of appointment and completion of a refresher every two years thereafter.

Board members are required to complete the following trainings: ~~two hours of sexual harassment prevention training every two years.~~

- Authorized Use of Privately Owned Vehicle
- Board Member Orientation
- Defensive Driver Training
- Ethics Training
- Form 700-Statement of Economic Interest
- Non-Discrimination Policy
- Sexual Harassment Prevention Policy
- Sexual Harassment Prevention Training
- Use of Applicant Criminal Offender Record Information

Outreach/Information/Complaints (Board Policy)

(BPC 2605)

Outreach and consumer education shall be provided by the Board to applicants, licensees and consumers regarding the role of the Board, laws, and regulations and how to file complaints against licensees. This information shall be provided by the Board through:

1. Board newsletters
2. Speaking engagements by Board members and staff
3. Press releases and public affairs announcements
4. Telephone responses
5. Responses to written, faxed and e-mailed inquires
6. The Board's website
- 6.7. Social Media

APPENDIX A. COMPLAINT PRIORITIZATION GUIDELINES FOR DCA HEALTH CARE AGENCIES

As complaints are received, a staff person should immediately review each complaint to determine the appropriate course of action based on the-complaint prioritization guidelines. The table below represents true guidelines –depending on the facts, a different level of priority may be warranted. For example, a complaint based on a report from a health care practitioner data bank (normally routine) may be re-prioritized to a higher level of response based on the nature of the underlying acts.

Agencies should continue to review complaints warranting urgent or high attention to determine whether to seek an Interim Suspension Order, a Penal Code section 23 request or other interim action as described in Deputy Director for Legal Affairs Doreatha Johnson's memorandum dated December 15, 2008.

Priority Level	Complaint Category
Urgent (Highest Priority)	<ul style="list-style-type: none"> • In general, any act resulting in death or serious injury) • Gross negligence, incompetence or repeated negligent acts that -involve death or serious bodily injury – • Drug or alcohol abuse by the licensee resulting in death or serious bodily injury. • Repeated acts of clearly excessive prescribing, furnishing or administering of controlled substances, or repeated acts of prescribing w/o a good faith exam • Sexual misconduct with patient during course of treatment or examination • Practicing while under the influence of drugs or alcohol • Physical or mental abuse with injury. • Unlicensed activity alleged to have resulted in patient injuries • Aiding and abetting unlicensed activity -alleged to have resulted in -patient injuries • Arrests or convictions substantially related to the area of practice (Note: may be re-categorized based on the nature of the underlying acts) • Impairments (mental, physical or as a result of alcohol or -drug abuse including termination from a diversion-program) • Theft of prescription drugs • Furnishing prescription drugs without a prescription

APPENDIX A. COMPLAINT PRIORITIZATION GUIDELINES FOR DCA HEALTH CARE AGENCIES

Priority Level	Complaint Category
High	<ul style="list-style-type: none"> • Negligence or incompetence without serious bodily injury • Physical or mental abuse (without injury) • Diversion drop outs • 805 Health Facility reports • Complaints about licensees on probation(whether or not injury) • Prescribing drugs without “good faith” exam(where authority to prescribe exists) • Prescribing or dispensing drugs without authority • Multiple complaints of the same allegation • Complaints with multiple prior complaints • Unlicensed activities (with no apparent harm) • Aiding and abetting unlicensed activity * with no apparent harm) • When evidence will likely be destroyed or unavailable
Routine	<ul style="list-style-type: none"> • False/misleading advertising • Patient abandonment • Fraud • Failure to release medical records • Record keeping violations • Applicant misconduct • National Practitioner Data bank reports • Workers Compensation Complaints • Non-jurisdictional complaints (fee disputes, billing) • Exam subversion(exam not compromised) • Continuing Education • Breach of confidentiality



PHYSICAL THERAPY BOARD OF CALIFORNIA

2005 Evergreen St., Suite 1350

Sacramento, CA 95815

Phone: (916) 561-8200

Fax: (916) 263-2560

TDD: (800) 326-2297

www.ptbc.ca.gov





Briefing Paper

Date: 03/11/2019
Prepared for: PTBC Members
Prepared by: Eura Trent
Subject: Application Services Report

Purpose:

To provide an update on the most recent activities and state of the Application Services program.

Attachments: [1. Application Services Program Statistics](#)
[2. Examination Statistics](#)

Update:

The report presented at this meeting provides the most recent data. Displayed first is the year-to-date total for the current fiscal year, followed by the current quarter of the current fiscal year and finally the corresponding quarter for the previous fiscal year. Also, since the implementation of Breeze, online processing has been available. The report illustrates online usage as compared to other methods of application submission.

Applicant online usage has increase significantly over the past year. Online usage is up by 75% from the previous year. This is supported by the data capturing an increase in applications received online. Individuals are applying online using Breeze rather than submitting a paper application.

The percentages included with the actual numbers represent a portion of the total, not the percentage change over a specified time period as shown in the previous reports.

FY 2018/19 Quarter 2 comparison to FY 2017/18 Quarter 2

- The percentage of endorsement (OOS) applications received is 54%.
 - The percentage of foreign applications received increased 8%.
 - The percentage of military applications remained consistent at 1%.
 - The total number of applications received decreased 11%.
 - The total number of licenses issued decreased 2%.
-

Action Requested:

None.

Physical Therapy Board of California
 Application Services Report
 Fiscal Year 2018/19 Q2

Application Services Report Program Statistics

Initial Applications Received

Current FY 2018/19 Year to Date					
	Total	Online	OOS	Foreign	Military
PT	983	846 (86%)	470 (48%)	102 (10%)	13 (1%)
PTA	412	309 (75%)	122 (30%)	33 (8%)	16 (3%)
Total	1395	1155 (82%)	592 (42%)	135 (9%)	29 (2%)
Current FY 2018/19 Quarter 2					
	Total	Online	OOS	Foreign	Military
PT	442	403 (91%)	240 (54%)	52 (12%)	4 (1%)
PTA	286	212 (74%)	65 (23%)	20 (6%)	7 (2%)
Total	728	615 (84%)	305 (42%)	72 (9%)	11 (2%)
Last FY 2017/18 Quarter 2					
	Total	Online	OOS	Foreign	Military
PT	485	250 (52%)	249 (51%)	45 (9%)	4 (1%)
PTA	326	42 (13%)	42 (13%)	27 (8%)	3 (1%)
Total	811	292 (36%)	291 (36%)	72 (9%)	7 (1%)

Licenses Issued

Current FY 2018/19 Year to Date					
	Total	Online	OOS	Foreign	Military
PT	1314	N/A	505 (38%)	103 (7%)	6 (<1%)
PTA	322	N/A	87 (27%)	22 (7%)	6 (2%)
Total	1636	N/A	592 (36%)	125 (8%)	6 (<1%)
Current FY 2018/19 Quarter 2					
	Total	Online	OOS	Foreign	Military
PT	655	N/A	274 (42%)	54 (8%)	3 (<1%)
PTA	151	N/A	50 (33%)	9 (6%)	5 (3%)
Total	806	N/A	324 (40%)	9 (1%)	8 (1%)
Last FY 2017/18 Quarter 2					
	Total	Online	OOS	Foreign	Military
PT	602	N/A	288 (48%)	60 (10%)	6 (1%)
PTA	148	N/A	47 (32%)	12 (8%)	3 (2%)
Total	750	N/A	335 (45%)	72 (9%)	9 (1%)

Application Services Report Examination Statistics

National PT and PTA Examination - California Statistics

Accredited PT Program

	Fiscal Year 2017/18										Year → Year Change
	Q1	Q2	Q3	Q4	YTD through Q1						
Pass	375	237			612	390	271				↑ 8%
Fail	36	42			78	47	47				↑ 21%
Total	411	279			690	437	318				↑ 9%
Pass Rate	91%	85%			89%	89%	85%				↓ -2%

Pass	15	8				7	5				↓
Fail	20	33				25	16				↓
Total	35	41				32	21				↓
Pass Rate	43%	20%				22%	24%				↓

Pass	187	45				124	64				↓
Fail	37	29				45	33				↑
Total	224	74				169	97				↓
Pass Rate	83%	61%				73%	66%				↓

Pass	5	7				7	7				↑
Fail	7	5				9	4				↑
Total	12	12				16	11				↑
Pass Rate	42%	58%				44%	64%				↑

California Law Examination (CLE)

Accredited Program

	Fiscal Year 2017/18					Fiscal Year 2018/19					Year → Year Change
	Q1	Q2	Q3	Q4	YTD through Q1	Q1	Q2	Q3	Q4	YTD through Q1	
Pass	692	525				700	520			1,220	↑ 1%
Fail	252	211				242	195			242	↓ -4%
Total	944	736				942	715			942	↓ -2%
Pass Rate	73%	71%				74%	73%			74%	↑ 1%

Physical Therapy Board of California
 Application Services Report
 Fiscal Year 2018/19 Q2

Pass	44	45			61	48			↑
Fail	41	39			40	36			↓
Total	85	84			101	84			↑
Pass Rate	52%	53%			60%	57%			↑

National PT and PTA Examination - National Statistics

Accredited PT Program											
	Fiscal Year 2017/18					Fiscal Year 2018/19					Year → Year Change
	Q1	Q2	Q3	Q4	YTD through Q1	Q1	Q2	Q3	Q4	YTD through Q1	
Pass	4,870	1,601				4,823	1,647			4,823	↓ -1%
Fail	511	356				556	502			556	↑ 9%
Total	5,381	1,957				5,379	2,149			5,379	⇒ 0%
Pass Rate	91%	82%				90%	77%			90%	↓ -1%

Non Accredited PT Program											
	Fiscal Year 2017/18					Fiscal Year 2018/19					Year → Year Change
	Q1	Q2	Q3	Q4	YTD through Q1	Q1	Q2	Q3	Q4	YTD through Q1	
Pass	268	213			268	155	134			155	↓ -42%
Fail	570	754			570	550	410			550	↓ -4%
Total	838	967			838	705	544			705	↓ -16%
Pass Rate	32%	22%			32%	22%	25%			22%	↓ -10%

Accredited PTA Program											
	Fiscal Year 2017/18					Fiscal Year 2018/19					Year → Year Change
	Q1	Q2	Q3	Q4	YTD through Q1	Q1	Q2	Q3	Q4	YTD through Q1	
Pass	3,200	1,552			3,200	3,155	1,433			3,155	↓ -1%
Fail	628	455			628	758	622			758	↑ 21%
Total	3,828	2,007			3,828	3,913	2,055			3,913	↑ 2%
Pass Rate	84%	77%			84%	81%	70%			81%	↓ -3%

Non Accredited PTA Program											
	Fiscal Year 2017/18					Fiscal Year 2018/19					Year → Year Change
	Q1	Q2	Q3	Q4	YTD through Q1	Q1	Q2	Q3	Q4	YTD through Q1	
Pass	85	96			85	87	76			87	↑ 2%
Fail	84	74			84	88	63			88	↑ 5%
Total	169	170			169	175	139			175	↑ 4%
Pass Rate	50%	56%			50%	50%	55%			50%	⇒ 0%

Jurisprudence Examination - National Statistics

Accredited Program											
	Fiscal Year 2017/18					Fiscal Year 2018/19					Year → Year Change
	Q1	Q2	Q3	Q4	YTD through Q1	Q1	Q2	Q3	Q4	YTD through Q1	
Pass	2,003	1,334				2,036	1,353				↑ 1%
Fail	426	390				416	384				↓ -1%
Total	2,429	1,724				2,452	1,737				↑ 1%
Pass Rate	82%	77%				83%	77%				↑ 1%

Non Accredited Program											
	Fiscal Year 2017/18					Fiscal Year 2018/19					Year → Year Change
	Q1	Q2	Q3	Q4	YTD through Q1	Q1	Q2	Q3	Q4	YTD through Q1	
Pass	86	89			175	101	79			180	↑ 3%
Fail	63	60			123	60	49			109	↓ -11%
Total	149	149			298	161	128			289	↓ -3%
Pass Rate	58%	60%			59%	63%	62%			62%	↑ 3%



Briefing Paper

Date: 03/11/2019
Prepared for: PTBC Members
Prepared by: Eura Trent
Subject: License Maintenance Report

Purpose:

To provide an update on the most recent activities and the state of the License Maintenance program.

Attachments: [License Maintenance Statistics](#)

Update:

The report presented at this meeting provides the most recent data. Displayed first is the year-to-date total for the current fiscal year, followed by the current quarter of the current fiscal year and finally the corresponding quarter for the previous fiscal year. The report illustrates online usage as compared to other methods of application submission.

The percentages included with the actual numbers represent a portion of the total, not the percentage change over a specified time period as shown in the previous reports.

Action Requested:

None.

Physical Therapy Board of California
 License Maintenance Services Report
 Fiscal Year 2018/19 Q2

License Maintenance Services Report Program Statistics

Renewals Processed		
Current FY 2018/19 Year to Date		
	Total	Online
PT	6390	5282 (83%)
PTA	1664	1392 (84%)
Total	8054	6674 (83%)
Current FY 2018/19 Q2		
	Total	Online
PT	3231	2719 (84%)
PTA	785	668 (85%)
Total	4016	3387 (84%)
Last FY 2017/18 Q2		
	Total	Online
PT	3053	2533 (83%)
PTA	792	672 (85%)
Total	3845	3207 (83%)

Address Changes Processed		
Current FY 2018/19 Year to Date		
	Total	Online
PT	1980	738 (37%)
PTA	491	185 (38%)
Total	2471	923 (37%)
Current FY 2018/19 Q2		
	Total	Online
PT	898	316 (35%)
PTA	222	87 (39%)
Total	1120	355 (32%)
Last FY 2017/18 Q2		
	Total	Online
PT	829	293 (35%)
PTA	224	79 (35%)
Total	1053	372(35%)

Physical Therapy Board of California
 License Maintenance Services Report
 Fiscal Year 2018/19 Q2

Name Changes Processed		
Current FY 2018/19 Year to Date		
	Total	Online
PT	165	43 (26%)
PTA	77	17 (22%)
Total	242	60 (25%)
Current FY 2018/19 Q2		
	Total	Online
PT	88	27 (30%)
PTA	30	11 (36%)
Total	118	38 (32%)
Last FY 2017/18 Q2		
	Total	Online
PT	104	33 (32%)
PTA	29	4 (14%)
Total	133	37 (28%)

Duplicate Requests Received		
Current FY 2018/19 Year to Date		
	Total	Online
PT	134	35 (26%)
PTA	31	8 (26%)
Total	165	43(26%)
Current FY 2018/19 Q2		
	Total	Online
PT	58	16 (27%)
PTA	19	6 (32%)
Total	77	22 (29%)
Last FY 2017/18 Q2		
	Total	Online
PT	81	26 (32%)
PTA	27	9 (33%)
Total	108	35 (32%)

Physical Therapy Board of California
 License Maintenance Services Report
 Fiscal Year 2018/19 Q2

Verification Requests Processed		
Current FY 2018/19 Year to Date		
	Total	Online
PT	598	478 (80%)
PTA	86	73 (85%)
Total	684	551 (81%)
Current FY 2018/19 Q2		
	Total	Online
PT	268	228 (85%)
PTA	38	31 (82%)
Total	306	259 (85%)
Last FY 2017/18 Q2		
	Total	Online
PT	286	230 (81%)
PTA	35	30 (86%)
Total	321	260 (81%)



Briefing Paper

Date: 3/12/2019
Prepared for: PTBC Members
Prepared by: Veronica Gutierrez, Alyasha Crutcher
Subject: Continuing Competency Services Report

Purpose:

To provide an update on the most recent activities and state of the Continuing Competency Services program.

Attachments: [Continuing Competency Audit Statistics](#)

Background:

Licensees are required to certify at the time of renewal that they complied with the continuing competency requirement for renewal set forth in Business and Professions Code section 2649. To ensure compliance, the PTBC is mandated to conduct random continuing competency audits. Audit samples are collected quarterly in keeping with the PTBC's overall statistical record keeping and reporting standard. The audit sample is pulled at the beginning of a quarter for licensees who renewed in the previous quarter. Audits are conducted, then the results are reported the following quarter. The whole audit process from sample collection to reporting results runs six months or two fiscal year quarters. Please note, however, this does not mean each audit takes six months to complete.

Update:

A total of 106 physical therapists and 40 physical therapist assistants were selected for audit for FY 2018/19 Q1 (July-Sep). Staff continues to complete audits for both physical therapists and physical therapist assistants for this quarter, so data available thus far has been included, but the pass rate will be reported at the next meeting.

Action Requested:

None.

Continuing Competency Audit Statistics

Physical Therapist

	Fiscal Year 2017/18					Fiscal Year 2018/19					Year → Year Change
	Q1	Q2	Q3	Q4	YTD through Q4	Q1	Q2	Q3	Q4	YTD through Q2	
Pass	134	100	126	128	488	97				97	
Fail	12	5	9	8	34	7				7	
Pending	0	0	0	0	0	2				2	
Total	146	105	135	136	522	106				106	
Pass Rate	92%	95%	93%	94%	93%	91%				91%	

Physical Therapist Assistant

	Fiscal Year 2017/18					Fiscal Year 2018/19					Year → Year Change
	Q1	Q2	Q3	Q4	YTD through Q4	Q1	Q2	Q3	Q4	YTD through Q2	
Pass	43	81	42	43	209	40				40	
Fail	2	4	4	2	12	0				0	
Pending	0	0	0	0	0	0				0	
Total	45	85	46	45	221	40				40	
Pass Rate	96%	95%	91%	95%	94%	100%				100%	

Approval Agencies and Courses

Approval Agencies	125
Courses	14,382



Physical Therapy Board of California

BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY - GAVIN NEWSOM, GOVERNOR
DEPARTMENT OF CONSUMER AFFAIRS - PHYSICAL THERAPY BOARD OF CALIFORNIA
Consumer Protection Services Program
2005 Evergreen St. Suite 1350, Sacramento, California 95815
Phone: (916) 561-8200, Ext. 8215 Fax: (916) 263-2560 TOLL FREE 1-800-832-2251
Internet: www.ptbc.ca.gov EMAIL cps@dca.ca.gov



Briefing Paper

Agenda Item 25

Date: March 11, 2019
Prepared for: PTBC Members
Prepared by: Marney Kincaid
Subject: Consumer Protection Services Program (CPS)

Purpose:

Update on Consumer Protection Services Program - FY 2018/19 Quarter 2 (Oct – Dec 2018)

Attachments: (1) [Consumer Protection Services Statistics Report](#)
(2) [Disciplinary Summary](#)

Attachment 1: Consumer Protection Services Report

The CPS report provides detailed data in certain areas of the enforcement program and includes year end statistics in comparison to last FY.

PM 1: The number of complaints received is slightly lower than the previous FY.

Citations have increased significantly from last year, but the average days to close has decreased.

PM4: All average times continue to show a decrease in the aging timeframes.

The number of AG cases initiated, pending, and filed has significantly increased compared to last year.

Total Orders Aging / Final Decision: Last year, 76% of cases were aged 1 year or more; this year those categories represent only 55% of cases. The largest decrease in percentage of cases was found in the 1 to 2 year category and the largest increase was found in the 181 days to 1 year category. This shows an overall improvement in aging.

Attachment 2: Disciplinary Summary List

Disciplinary Summary of formal discipline and citations issued. Disciplinary actions are of public record and are available through the DCA License Search. <https://search.dca.ca.gov/>

Action Requested: No Action Required

Consumer Protection Services Statistics Report

	YTD					
PM1: Complaints Received	211	91	83			↓
PM1: Convictions/Arrest Received	121	55	59			↓
PM1: Total Received	332	146	142			↓

PM2: Intake/Avg. Days		2	2			→
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Target: 9 days

PM3: Cycle Time-Investigation		97	141			
PM3a: Intake Only		2	2			
PM3b: Investigation Only		89	124			
PM3c: Post Investigation Only		1	6			

Up to 90 Days		107	75			↓
91 - 180 Days		17	27			↑
181 Days - 1 Year (364)		13	23			↑
1 to 2 Years (365-730)		3	12			↑
2 to 3 Years (731- 1092)		1	1			↑
Over 3 Years (1093 +)		0	1			↓

	FY 2017/18	Q1	Q2	Q3	Q4	YTD	Year → Year Change
	YTD						
Final Citations	5	9	25			34	↑ 580%
Average Days to Close	262	212	209			210.5	↓ -20%

Target: 540 Days	FY 2017/18	Fiscal Year 2018/19					Year → Year Change
	YTD	Q1	Q2	Q3	Q4	YTD	
PM4: AG Cases	604	482	488			485	↓ -20%
PM4a: Intake Only	4	1	2			2	
PM4b: Investigation Only	268	146	187			167	
PM4c: Pre-AG Transmittal	11	17	1			9	
PM4d: Post-AG Transmittal	326	323	301			312	

AG Cases Initiated		21	12				↑
AG Cases Pending		47	42				↑
SOIs Filed		0	2				↓
Accusations Filed		15	6				↑

	FY 2017/18						
	YTD						
Total Closed After Transmission	25	10	17				↑
Total Average Days to Complete	610	482	488				↓

Total Orders Aging/Final Decision							
	FY 2017/18	Fiscal Year 2018/19					Year → Year Change
	YTD	Q1	Q2	Q3	Q4	YTD	
Up to 90 Days	0%	0	0			0%	→ 0%
91 - 180 Days	4%	0	0			0%	↓ -4%
181 Days - 1 Year (364)	20%	4	8			44%	↑ 24%
1 to 2 Years (365-730)	56%	4	8			44%	↓ -12%
2 to 3 Years (731- 1092)	8%	2	0			7%	↓ -1%
Over 3 Years (1093 +)	12%	0	1			4%	↓ -8%

Other Legal Actions							
	FY 2017/18	Fiscal Year 2018/19					Year → Year Change
	YTD	Q1	Q2	Q3	Q4	YTD	
Interim Suspension or PC 23 Ordered	1	0	0			0	↓ -100%

Disciplinary Summary

The following is a list of disciplinary actions taken by the Physical Therapy Board of California for the months of October through December 2018. The Decisions become operative on the Effective Date, with the exception of situations where the licensee has obtained a court ordered stay. Stay orders do not occur in stipulated decisions, which are negotiated settlements waiving court appeals.

Copies of Accusations, Decisions, or Citations may be obtained by visiting our website at www.ptbc.ca.gov. In addition to obtaining this information from our website, you may also request it by telephone, fax, or mail. Please address your request to:

Physical Therapy Board of California
2005 Evergreen Street, Suite 1350
Sacramento, CA 95815
(916) 561-8200/ FAX (916) 263-2560

.....
October 2018

KWIATKOWSKI, MARYHELEN (PTA 9737)

Violation of B & P Codes: 2660, 2660(a), 2660(e), and 2661(f)(1). Violation of CCR: 1399.24(b), 1399.24(d)(1), and 1399.24(d)(3). Stipulated Settlement and Disciplinary Order Effective 10/10/18, License Surrendered.

DESIERTO, JACQUELINE (PTA 8741)

Violation of B & P Codes: 490, 490(c), 2239(a), 2644 (b), 2660, 2660(a), 2660(e), 2660(j), and 2661. Violation of CCR: 139.20(a), 1399.20(c), and 1399.24(d). Stipulated Settlement and Disciplinary Order Effective 10/18/18, 5 years' probation.

RICHEY, JOEL BRYAN (PT 13574)

Violation of B & P Codes: 725, 2234, 2605, 2609, 2622(a), 2630, 2630.3(a)(d)(g)(i)(n), 2655, 2655.7, 2660(h)(n). Violation of CCR: 1398.44. Stipulated Surrender of License Effective October 18, 2019.

EMERY-JONES, JOLLENE DELL (PT 9511)

Violation of Probationary Terms. Proposed Decision Effective 10/24/18, License Revoked.

HALE, TIMOTHY ALLEN (PT 32745)

Violation of B & P Codes: 2239(a), 2660(a), and 2660(e). Stipulated Settlement and Disciplinary Order Effective 10/25/18, 5 years' probation.

LONGORIA, SANTIAGO MARTIN (PTA 10298)

Violation of B & P Codes: 2660, 2660(a), 2660(e), and 2661. Violation of CCR: 1399.20, 1399.24(b), 1399.24(c), and 1399.24(d). Stipulated Settlement and Disciplinary Order Effective 10/29/18, 5 years' probation.

November 2018

SHAVERDIAN, ARMIN (PT 34535)

Violation of B & P Codes: 2644, 2649, 2660, 2660(a), 2660(c), and 2660(j). Violation of CCR: 1399.20, 1399.91, 1399.93, and 1399.97. Stipulated Settlement and Disciplinary Order Effective 11/01/18, Public Repeal.

KATSNELSON, IGOR (PT 41926)

Violation of B & P Codes: 2660, and 2660(f). Violation of CCR: 1399.24(b), 1399.24(c), and 1399.24(d)(2). Default Decision and Order Effective 11/01/18, License Revoked.

SULLIVAN, MICHAEL KEVIN (PT 18165)

Violation of B & P Codes: 490, 493, 2660, 2660(a), 2660(e). Violation of CCR: 1399.20, 1399.20(a), 1399.24(d)(1), 1399.24(d)(2). Stipulated Settlement and Disciplinary Order Effective 11/12/18, License Surrendered.

FLORES, ANNA A. (PTA 5645)

Violation of B & P Codes: 490, 493, 2239(a), 2605, 2660, 2660(a), 2660(e). Violation of CCR: 1399.20, 1399.20(a), 1399.24, 1399.24(d)(2), 1399.24(d)(3). Stipulated Settlement and Disciplinary Order Effective 11/12/18, License Revoked.

MC GURRIN, SINEAD ANNE (PT 29278)

Violation of B & P Codes: 2239(a), 2660(a). Stipulated Surrender of License and Order Effective 11/21/18, License Surrendered.

EASTERLING, EMMANUEL J. (PT 42631)

Violation of B & P Codes: 136, 726, 2660, 2660(a), 2660(o), 2660(m), 2660.1. Violation of CCR: 1398.6, 1399.24(d)(4). Stipulated Settlement and Disciplinary Order Effective 11/23/18, License Surrendered.

BJORNARAA, L. JAYNIE (PT 18311)

Violation of B & P Codes: 2239(a), 2239(b), 2660, 2660(a), 2660(e), and 2661. Violation of CCR: 1399.24(d)(2), and 1399.24(d)(3). Public Letter of Reprimand Issued 11/27/18.

December 2018

OPPUS, ARTHUR CARILO (PTA 8546)

Violation of B & P Codes: 2660, 2660(e), 2660(j), 2660(r), and 2661. Violation of CCR: 1399.20, 1399.91, and 1399.93. Stipulated Settlement and Disciplinary Order Effective 12/13/18, 4 years' probation.

SULLIVAN, CARLA K. (PTA 5791)

Violation of B & P Codes: 2239, 2239(a), 2660, 2660(a), 2660(e), 2660(w), and 2661. Violation of CCR: 1399.20(a), 1399.20(c), 1399.24(b), 1399.24(c), 1399.24(d)(2), 1399.24(d)(3). Violation of Probationary Terms. Stipulated Surrender of License and Order Effective 12/28/18, License Surrendered.

GERIAK, AMY GABRIELLE (PT 25892)

Violation of B & P Codes: 490, 2239, 2605(d), 2660(a), 2660(e), and 2661. Violation of CCR: 1399.20, and 1399.24(d). Stipulated Settlement and Disciplinary Order Effective 12/31/18, 4 years' probation.

Initial Probationary Licenses (IPL) Issued

.....

October through December 2018

(NONE)

Licenses Denied

.....

October through December 2018

(NONE)

Glossary of Terms

.....

B & P Code – Business and Professions Code
H & S Code – Health and Safety Code
R & R – Rules and Regulations
CCR – California Code of Regulations

Accusations: Charges filed against a licensee alleging violation(s) of the Physical Therapy Practice Act.

Interim Suspension Order: An Order issued upon petition, suspending a licensee from all or specified part of their practice of, or assisting in the provision of, physical therapy.

Petition to Revoke Probation: Charges filed against a probationer seeking revocation of their physical therapy or physical therapy assistant license based upon violation(s) of probation.

Probationary License: Where good cause exists to deny a license, the licensing agency has the option to issue a conditional license subject to probationary terms and conditions.

Public Letter of Reprimand: In lieu of filing a formal accusation, the Board may, pursuant to B&P Code, section 2660.3, upon stipulation or agreement by the licensee, issue a public letter of reprimand.

Statement of Issues Filed: Charges filed against an applicant due to alleged violation(s) of the Physical Therapy Practice Act. If found to be true, the charges may result in discipline.

Surrender of License: License surrender as part of a disciplinary order.

Stipulated Decision: Negotiated settlements waiving court appeals.



Briefing Paper

Agenda Item 26

Date: February 11, 2019
Prepared for: PTBC Members
Prepared by: Monny Martin, PTBC Probation Monitor
Subject: Probation Monitoring Program

Purpose: Update on Probation Monitoring Program for Q2 - FY 2018-2019

Attachments: (1) [Statistical Report](#)

Background:

This is a report on the Board’s Probation Monitoring Program through the second quarter of FY 2018-2019. Please refer to attachment A-1 which contains the probation statistics for FY 2018-2019.

Currently there are 89 licensees on probation for various causes from Driving Under the Influence to Sexual Misconduct. Besides the 89 licensees on probation and in the state of California, there are an additional 17 probationers tolling (out of state) and not receiving credit toward the completion of probation. There were also 2 licensees that completed probation in the quarter.

Of the 72 licensees that are not currently tolling, 18 are currently enrolled and participating in the Board’s Drug and Alcohol Recovery Monitoring Program, equaling 25% of all licensees on probation that aren’t tolling.

Action Requested:

No Action Required.

Probation Statistics Report

Probation							
	FY 2017/18	Fiscal Year 2018/19					Year → Year Change
	YTD	Q1	Q2	Q3	Q4	YTD	
Entered Probationer	11	3	7			10	↓ -9%
Completed Probation	15	2	2			4	↓ -73%
Probation Terminated	1	0	1			1	→ 0%
Non-Compliant w/Probation	2	1	1			2	→ 0%
Tolling (Out of State)		11	17			28	
Surrenders		3	0			3	
Total Probationers	87	85	89			89	↑ 2%

Maximus							
	FY 2017/18	Fiscal Year 2018/19					Year → Year Change
	YTD	Q1	Q2	Q3	Q4	YTD	
Entered Maximus	4	0	2	0	0		↓ -50%
Completed Maximus	2	0	2	0	0		→ 0%
Total Maximus Participants	19	18	18	0	0		↓ -5%
Determined To Be Clinically Inappropriate	1	0	0	0	0		↓ -100%
Terminated - Public Risk	2	0	0	0	0		↓ -50%
Withdrawn (Expense) - Post-Dec	1	0	0	0	0		↓ -100%
Withdrawn (Left State) - Post-Dec	1	1	0	0	0		→ 0%
Withdrawn - Pre-Dec	1	0	0	0	0		↓ -100%

PROBATION MONITORING



A Presentation on the Physical Therapy Board
of California's Probation Monitoring Program

INTAKE

Let's Talk Probation



Meeting The Respondent

Receive a Case and Initiate Contact

Receive Accusation and Decision and Order From Enforcement Analyst

Create Probation File For Respondent. Add all pertinent information into Breeze system

Make Initial Contact. Mail all forms and samples Respondent will need while on probation. Schedule Initial Orientation Interview





The Initial Interview

Set The Ground Rules, Let Respondent Know What Is Expected of Them

Conduct Initial Interview in person/by telephone

Review Decision and Order with Respondent in great detail. Answer any questions Respondent may have about Probation Terms and address any concerns (if possible) Respondent may have before probation becomes effective

Establish Ground Rules. Let Respondent know how you will conduct yourself and how you expect them to conduct themselves while on probation.

Follow-Up: The Initial Orientation Summary Letter

Continuing/Returning To Work

Deadlines

Submitting Paperwork

Substance Abuse Rehabilitation
Program

Supervision/Practice Monitor

Drug Testing



Ongoing Monitoring

Quarterly Interviews

Submit Quarterly Paperwork

Cost Recovery

Probation Fees

Be Available For Interviews

Practice Monitor/Supervisor Reports

Substance Abuse Rehabilitation
Program



Probation Violations

What Happens When a Licensee Violates Probation?



Physical Therapy Board of California
 Probation Report- Q2
 Fiscal Year 2018/19

Probation Statistics Report

Probation							
	FY 2017/18	Fiscal Year 2018/19				YTD	Year → Year Change
	YTD	Q1	Q2	Q3	Q4		
Entered Probationer	11	3	7			10	↓ -9%
Completed Probation	15	2	2			4	↓ -73%
Probation Terminated	1	0	1			1	→ 0%
Non-Compliant w/Probation	2	1	1			2	→ 0%
Tolling (Out of State)		11	17			28	
Surrenders		3	0			3	
Total Probationers	87	85	89			89	↑ 2%

Maximus							
	FY 2017/18	Fiscal Year 2018/19				YTD	Year → Year Change
	YTD	Q1	Q2	Q3	Q4		
Entered Maximus	4	0	2	0	0	2	↓ -50%
Completed Maximus	2	0	2	0	0	2	→ 0%
Total Maximus Participants	19	18	18	0	0	18	↓ -5%
Determined To Be Clinically Inappropriate	1	0	0	0	0	0	↓ -100%
Terminated - Public Risk	2	0	0	0	0	0	↓ -50%
Withdrawn (Expense) - Post-Dec	1	0	0	0	0	0	↓ -100%
Withdrawn (Left State) - Post-Dec	1	1	0	0	0	1	→ 0%
Withdrawn - Pre-Dec	1	0	0	0	0	0	↓ -100%

HOW CAN WE BE BETTER?

Ways the Physical Therapy Monitoring Program Could Be Improved



More Monitors

I Do What I can, But I'm Just One Man

Just Not Enough Time

More In Person Interviews

More Time Consulting With Supervisors

More Time For Remote Visits

Half of Probation Population Is In Southern California





**THANK
YOU!**

Questions???