



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



Board Members

Debra Alviso, Physical Therapist, DPT,
President

Martha Jewell, Physical Therapist, Ph.D.,
Vice-President

Sara Takii, Physical Therapist, DPT, MPA
Katarina Eleby
James Turner, MPA
Carol Wallisch, MA, MPH

Physical Therapy Board of California Notice of Public Meeting

August 7, 2013 8:30 a.m.
August 8, 2013 8:30 a.m.

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

Board Staff

Jason Kaiser, Executive Officer
Liz Constancio, Manager
Elsa Ybarra, Manager
Sarah Conley, Executive Associate
Analyst

Action may be taken on any agenda item. Agenda items may be taken out of order. Please refer to the informational notes at the end of the agenda.

Unless otherwise indicated, all agenda items will be held in OPEN SESSION. THE PUBLIC IS ENCOURAGED TO ATTEND.

A webcast of this meeting will be available on the Board's website at www.ptbc.ca.gov. While the Board intends to webcast this meeting, it may not be possible to webcast the entire open meeting due to limitations on resources.

Agenda

1. **Call to Order and Roll Call**
2. **Board Member and Staff Appointments**
 - (A) Thanks to Don Chu
 - (B) Welcome to Katarina Eleby
 - (C) Formal Welcome to New Executive Officer
3. **Special Order of Business – August 7, 2013 8:35 a.m.**
Regulatory Hearing on Proposed Language for Guidelines for Issuing Citations and Imposing Discipline/Uniform Standards Regarding Substance-Abusing Healing Arts Licensees, Section 1399.15 of Division 13.2 of Title 16 of the California Code of Regulations
4. **Approval of May 8 & 9, 2013 Meeting Minutes – Sarah Conley**

- 5. **Consumer and Professional Associations and Intergovernmental Relations Reports**
 - (A) Federation of State Boards of Physical Therapy (FSBPT)
 - (B) Department of Consumer Affairs (DCA)
 - (C) California Physical Therapy Association (CPTA)
 - i. Correspondence and Request Regarding Wellness

- 6. **President's Report – Dr. Debra Alviso**
 - (A) Adopted 2013 Meeting Calendar
 - (B) Proposed 2014 Meeting Calendar

- 7. **Executive Officer's Report – Jason Kaiser**

- 8. **FSBPT Minimum Data Set – Jason Kaiser**

- 9. **Legislation Report – Sarah Conley**
 - (A) AB 186 (Maienschein) Professions and Vocations: Military Spouses: Temporary Licenses
 - (B) AB 258 (Chávez) State Agencies: Veterans
 - (C) AB 809 (Logue) Healing Arts: Telehealth
 - (D) AB 1000 (Wieckowski) Physical Therapists: Direct Access to Services
 - (E) AB 1057 (Medina) Professions and Vocations: Licenses: Military Service
 - (F) SB 198 (Price) Physical Therapy Board of California
 - (G) SB 305 (Price) Healing Arts: Boards

- 10. **Rulemaking Report – Sarah Conley**
 - (A) Rulemaking in Progress
 - i. Guidelines for Issuing Citations and Imposing Discipline, and Uniform Standards Regarding Substance-Abusing Healing Arts Licensees
 - ii. Mandatory Fingerprinting
 - iii. Notice to Consumers
 - iv. Required Email Filing
 - (B) Proposed Rulemaking
 - i. Update of Regulations
 - ii. Physical Therapy Business Requirements
 - iii. Continuing Competency
 - iv. Delegation Authority for Citation Informal Conferences
 - v. Telehealth
 - vi. 2014 Rulemaking Calendar

11. Closed Session

- (A) Pursuant to Government Code section 11126(c)(3)
Deliberation on Disciplinary Actions
- (B) Pursuant to Government Code section 11126(e)
US Equal Employment Opportunity Commission (EEOC) Charge
Number 555-2012-00027

12. Special Order of Business – August 8, 2013 8:30 a.m.
Hearing on Petition for Reinstatement of License – William Skelly
Hearing on Petition for Modification of Probation – Pamela Wain, PT

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

13. Administrative Services Report – Liz Constancio

- (A) Budget
- (B) Outreach

14. Application & Licensing Services Report – Sophia Cornejo

15. Consumer Protection Services Report – Elsa Ybarra

16. Continuing Competency Report – Karin Thompsen

17. Public Comment on Items Not on the Agenda

An opportunity for public comment will be provided both days of the meeting; however, please be aware 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 to place the matter on the agenda of a future meeting [Government Code sections 11125 and 11125.7(a)].

18. Agenda Items for Next Meeting – November 6 & 7, 2013
Samuel Merritt University
Oakland, CA

19. Adjournment

Times stated are approximate and subject to change. Agenda order is tentative and may be changed by the Board without prior notice. This meeting will conform to the Bagley-Keene Open Meeting Act. Agenda discussions and report items are subject to action being taken on them during the meeting by the Board at its discretion. The Board provides the public the opportunity at the meetings to address each agenda item during the Board's discussion or consideration of the item. Total time allocated for public comment on particular issues may be limited.

The meeting is accessible to the physically disabled. A person who needs disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Sarah Conley at (916) 561-8210, e-mail Sarah.Conley@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

Department of Consumer Affairs, Sacramento, CA

August 7, 2013

	Present	Absent
Debra J. Alviso, PT, DPT, President		
Martha Jewell, Ph.D., PT, Vice-President		
Sara Takii, PT, DPT, MPA		
Katarina V. Eleby		
James E. Turner, MPA		
Carol A. Wallisch, MA, MPH		

August 8, 2013

	Present	Absent
Debra J. Alviso, PT, DPT, President		
Martha Jewell, Ph.D., PT, Vice-President		
Sara Takii, PT, DPT, MPA		
Katarina V. Eleby		
James E. Turner, MPA		
Carol A. Wallisch, MA, MPH		



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Briefing Paper

Date: July 16, 2013

Prepared for: PTBC Members

Prepared by: Sarah Conley

Subject: Proposed Regulation: Guidelines for Issuing Citations and Imposing Discipline/Uniform Standards Regarding Substance-Abusing Healing Arts Licensees

Purpose:

To inform the Board of the status of the proposed changes to Title 16, California Code of Regulations, section 1399.15.

Background:

In April 2011, the Department of Consumer Affairs (DCA), Substance Abuse Coordination Committee (SACC) published the “Uniform Standards Regarding Substance-Abusing Healing Arts Licensees” (hereinafter referred to as “Uniform Standards”). The Board initially attempted to adopt the Uniform Standards by including them in the August 2012, 4th edition of its “Guidelines for Issuing Citations and Imposing Discipline” (hereinafter referred to as “Guidelines”); however, there was confusion as to the appropriate method of adopting the Uniform Standards. Therefore, at the May 2012 meeting, the Board removed provisions from the Guidelines related to the Uniform Standards¹.

The Board continued to discuss the best method for adopting the Uniform Standards in regulation, and at the November 2012 meeting, the Board approved the proposed regulatory language to incorporate the Uniform Standards by reference and to directed staff to include the applicable standards as terms in the Guidelines, and then notice the proposed regulatory action for hearing. The drafting and review process took longer than anticipated. Additionally, in preparing the Guidelines, staff and legal counsel identified items for Board consideration; therefore, the Guidelines were presented, discussed and revised at the May 2013 meeting. The Board adopted the changes made at the meeting and directed staff to

¹ At the May 2012 meeting, the 4th edition of the Guidelines was in the rulemaking process. The 4th edition of the Guidelines was adopted in August 2012.

move forward with the rulemaking process. The hearing is scheduled for the first day of this meeting.

Action Requested:

After the hearing, make one of the following motions:

(A) If the Board chooses to adopt the language as proposed:

“I move that we adopt the proposed regulatory changes as noticed, and delegate to the Executive Officer the authority to make technical or non-substantive changes in completing the rulemaking file.”

(B) If the Board chooses to modify the proposed language, approve the modified text, and direct staff to move forward with the rulemaking process, the following motion should be made:

“I move that we approve the proposed modified text for a 15-day public comment period and delegate to the Executive Officer the authority to adopt the proposed regulatory changes, as modified, if there are no adverse comments received during the public comment period and also delegate to the Executive Officer the authority to make technical or non-substantive changes that may be required in completing the rulemaking file.”

PHYSICAL THERAPY BOARD OF CALIFORNIA

Amend Section 1399.15. of Article 8 of Division 13.2 of Title 16 of the California Code of Regulations to read as follows:

Section 1399.15. Model Guidelines for Issuing Citations and Imposing Discipline.

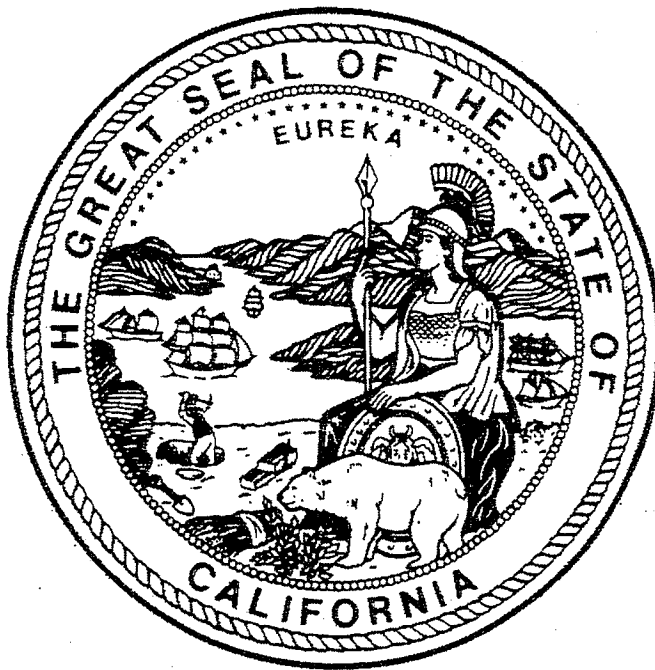
- (a) In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et. seq.), the Board shall consider the Guidelines for Issuing Citations and Imposing Discipline", Revised August 2012 ~~May 2013~~, 45th Edition; hereafter, "Guidelines") which are hereby incorporated by reference. Subject to paragraph (c). ~~D~~eviation from these guidelines and orders, including the standard terms of probation, is appropriate where the Board, in its sole discretion, determines that the facts warrant such a deviation – for example: The presence of mitigating or aggravating factors; the age of the case; evidentiary problems.
- (b) Notwithstanding the disciplinary ~~g~~Guidelines, any proposed decision issued in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that contains any finding of fact that the licensee engaged in any act of sexual contact, as defined in subdivision (c) of Section 729 of the Code, with a patient, or any finding that the licensee has committed a sex offense or been convicted of a sex offense, shall contain an order revoking the license. The proposed decision shall not contain an order staying the revocation of the license.

As used in this section, the term "sex offense" shall mean any of the following:

- (1) Any offense for which registration is required by Section 290 of the Penal Code or a finding that a person committed such an offense.
 - (2) Any offense defined in Section 261.5, 313.1, 647b, or 647 subdivisions (a) or (d) of the Penal Code or a finding that a person committed such an offense.
 - (3) Any attempt to commit any of the offenses specified in this section.
 - (4) Any offense committed or attempted in any other state or against the laws of the United States which, if committed or attempted in this state, would be punishable as one or more of the offenses specified in this section.
- (c) If the conduct found to be a violation involves drugs, alcohol, or both, and the individual is permitted to practice under conditions of probation, a clinical diagnostic evaluation shall be ordered as a condition of probation in every case, without deviation.

- (1) Each of the "Conditions Applying the Uniform Standards," as set forth in the Guidelines, shall be included in any order subject to this subsection, but may be imposed contingent upon the outcome of the clinical diagnostic evaluation.
- (2) The Substance Abuse Coordination Committee's *Uniform Standards Regarding Substance Abusing Healing Arts Licensees* (4/2011), which are hereby incorporated by reference, shall be used in applying the probationary conditions imposed pursuant to this subsection.
- (d) Nothing in this section shall prohibit the Board from imposing additional terms or conditions of probation in any order that the Board determines would provide greater public protection.

NOTE: Authority cited: Sections 2615 and 2655.1, Business and Professions Code. Reference: Sections 315, 315.2, 315.4, 2660, 2660.1, 2661 and 2661.5, Business and Professions Code: and Section 11425.50(e), Government Code.



GUIDELINES FOR ISSUING CITATIONS AND IMPOSING DISCIPLINE

Physical Therapy Board of California

Department of Consumer Affairs

Physical Therapy Board of California

Guidelines for Issuing Citations & Imposing Discipline

Edmund G. Brown Jr., Governor

Denise Brown, Director
Department of Consumer Affairs

Physical Therapy Board of California Members:

Debra Alviso, PT, DPT, President
Marty Jewell, PT, PhD, Vice President
Donald Chu, PT, PhD
Sara Takii, PT, DPT
James E. Turner, M.P.A.
Carol A. Wallisch, M.A., M.P.H.

Executive Officer: ~~Rebecca Maree~~ Jason Kaiser

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

~~August 2012-May 2013~~
45th Edition

Page numbering will be affected by the proposed revisions and will be corrected once adopted.

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Statement of Purpose, Intent & Expectations

The purpose of physical therapists and physical therapist assistant licensure in the State of California is to protect the public's health, safety and welfare from the incompetent and unprofessional practice of physical therapy. These guidelines address the challenge of providing public protection and of enabling a licensee to practice his or her profession. In addition to protecting the public and rehabilitating a licensee, the Physical Therapy Board finds imposing the discipline set forth in the guidelines will further public protection by promoting uniformity, certainty, fairness, and deterrence.

The Physical Therapy Board of California (Board) is producing this 45th edition of the "Guidelines for Issuing Citations and Imposing Discipline" (Guidelines) for the public, individuals subject to issuance of a citation and fine, as well as those involved in the disciplinary process: Administrative Law Judges, Deputy Attorneys General, Members of the Board who review proposed decisions and stipulations and make final decisions; the Board's Executive Officer and staff, and Respondents and their Counsel. When an Initial Probationary License has been issued, a Statement of Issues, or an Accusation has been filed, these actions indicate the nature of the alleged violation is severe enough to warrant disciplinary action if the allegations are proven true. An administrative citation is not discipline and is issued for less egregious violations. However, when documentation of significant mitigation has been received; discipline may not be required to protect the public.

When criminal charges are alleged and there is an immediate need to protect the public, application of Penal Code 23 shall be sought. In addition, if the alleged conduct poses an immediate threat to public safety an Interim Suspension Order shall be sought.

The Board has some basic expectations when an Administrative Law Judge determines the allegations are true and a cause for discipline exists. The Board recognizes a rare individual case may necessitate a departure from these guidelines. Any "Proposed Decision" that departs from the disciplinary guidelines shall identify the departures and the facts supporting the departure. However, in such a rare case, the mitigating circumstances must be detailed in the Findings of Fact, which is in every Proposed Decision.

These include:

- 1) If at the time of hearing, the Administrative Law Judge finds Respondent, for any reason, not capable of safe practice, the Board expects the outright revocation of the license. This is particularly true in cases of patient sexual abuse. In less egregious cases, a stayed revocation with suspension and probation, pursuant to the guidelines contained in this manual, would be expected.
- 2) The Board expects revocation to normally be the appropriate order in cases where Respondent does not file a Notice of Defense or appear at a hearing.
- 3) When probation is granted, the inclusion of a stayed revocation order is essential to ensure compliance with terms of probation.

- 4) When the revocation of a license is stayed, a suspension of the license shall be considered when further education, medical or psychological evaluation or treatment is deemed necessary to ensure safe practice. A suspension, when imposed, should not be for less than indicated in the guidelines.
- 5) The Board expects the decision to include an order for cost recovery.

The Board expects a similar result and explanation for any Stipulation negotiated prior to hearing. Any "Proposed Settlement" that departs from the disciplinary guidelines shall be accompanied by a memorandum identifying the departures and the facts supporting the departure. However, in such a rare case, the mitigating circumstances must be detailed in the Findings of Fact.

Probation conditions are divided into three categories: 1) Standard Conditions which the Board expects in all probation cases; 2) Specific Conditions that depend on the nature and circumstances of the particular case; and 3) Conditions Applying the Uniform Standards Specific to Alcohol and/or Controlled Substance

LEGAL AUTHORITY

The legal authority for these ~~“Physical Therapy Board of California, Guidelines for Issuing Citations and Imposing Discipline”, revised August 2012,~~ is contained in Section 315, 315.2, 315.4, 2615, 2660, 2660.1, 2661 and 2661.5 of the Business and Professions Code; and Title 16, CCR §1399.15.

California Code of Regulations
Title. 16 Professional and Vocational Regulations
Division 13.2
Article 8 Disciplinary Guidelines

- (a) In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et. seq.), the Board shall consider the “Guidelines for Issuing Citations and Imposing Discipline”, (Revised August 2012 ~~May 2013~~, 45th Edition; hereafter, “Guidelines”) which are hereby incorporated by reference. Subject to paragraph (c), ~~d~~Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the Board, in its sole discretion, determines that the facts warrant such a deviation – for example: The presence of mitigating or aggravating factors; the age of the case; evidentiary problems.
- (b) Notwithstanding the ~~disciplinary g~~Guidelines, any proposed decision issued in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that contains any finding of fact that the licensee engaged in any act of sexual contact, as defined in subdivision (c) of Section 729 of the Code, with a patient, or any finding that the licensee has committed a sex offense or been convicted of a sex offense, shall contain an order revoking the license. The proposed decision shall not contain an order staying the revocation of the license.

As used in this section, the term “sex offense” shall mean any of the following:

- (1) Any offense for which registration is required by Section 290 of the Penal code or a finding that a person committed such an offense.
- (2) Any offense defined in Section 261.5, 313.1, 647b, or 647 subdivisions (a) or (d) of the Penal code or a finding that a person committed such an offense.
- (3) Any attempt to commit any of the offenses specified in this section.
- (4) Any offense committed or attempted in any other state or against the laws of the United States which, if committed or attempted in this state, would be punishable as one or more of the offenses specified in this section.

- (c) If the conduct found to be a violation involves drugs, alcohol, or both, and the individual is permitted to practice under conditions of probation, a clinical diagnostic evaluation shall be ordered as a condition of probation in every case, without deviation.

(1) Each of the "Conditions Applying the Uniform Standards," as set forth in the Guidelines, shall be included in any order subject to this subsection, but may be imposed contingent upon the outcome of the clinical diagnostic evaluation.

(2) The Substance Abuse Coordination Committee's Uniform Standards Regarding Substance Abusing Healing Arts Licensees (4/2011), which are hereby incorporated by reference, shall be used in applying the probationary conditions imposed pursuant to this subsection.

(d) Nothing in this section shall prohibit the Board from imposing additional terms or conditions of probation in any order that the Board determines would provide greater public protection.

AUTHORITY TO EXAMINE DUE TO MENTAL ILLNESS AND/OR PHYSICAL IMPAIRMENT

Business and Professions Code, Section 820. Whenever it appears that any person holding a license, certificate or permit under this division or under any initiative act referred to in this division may be unable to practice his or her profession safely because the licentiate's ability to practice is impaired due to mental illness, or physical illness, affecting competency, the licensing agency may order the licentiate to be examined by one or more physicians and surgeons or psychologists designated by the agency. The report of the examiners shall be made available to the licentiate and may be received as direct evidence in proceedings conducted pursuant to Section 822.

Business and Professions Code, Section 821. The licentiate's failure to comply with an order issued under Section 820 shall constitute grounds for the suspension or revocation of the licentiate's certificate or license.

Business and Professions Code, Section 822. If a licensing agency determines that its licentiate's ability to practice his or her profession safely is impaired because the licentiate is mentally ill, or physically ill, affecting competency, the licensing agency may take action by any one of the following methods:

- (a) Revoking the licentiate's certificate or license.
- (b) Suspending the licentiate's right to practice.
- (c) Placing the licentiate on probation.

(d) Taking such other action in relation to the licentiate as the licensing agency in its discretion deems proper.

The licensing agency shall not reinstate a revoked or suspended certificate or license until it has received competent evidence of the absence or control of the condition which caused its action and until it is satisfied that with due regard for the public health and safety the person's right to practice his or her profession may be safely reinstated.

Business and Professions Code, Section 823. Notwithstanding any other provisions of law, reinstatement of a licentiate against whom action has been taken pursuant to Section 822 shall be governed by the procedures in this article. In reinstating a certificate or license which has been revoked or suspended under Section 822, the licensing agency may impose terms and conditions to be complied with by the licentiate after the certificate or license has been reinstated. The authority of the licensing agency to impose terms and conditions includes, but is not limited to, the following:

(a) Requiring the licentiate to obtain additional professional training and to pass an examination upon the completion of the training.

(b) Requiring the licentiate to pass an oral, written, practical, or clinical examination, or any combination thereof to determine his or her present fitness to engage in the practice of his or her profession.

(c) Requiring the licentiate to submit to a complete diagnostic examination by one or more physicians and surgeons or psychologists appointed by the licensing agency. If the licensing agency requires the licentiate to submit to such an examination, the licensing agency shall receive and consider any other report of a complete diagnostic examination given by one or more physicians and surgeons or psychologists of the licentiate's choice.

(d) Requiring the licentiate to undergo continuing treatment.

(e) Restricting or limiting the extent, scope or type of practice of the licentiate.

Business and Professions Code, Section 824. The licensing agency may proceed against a licentiate under either Section 820, or 822, or under both sections.

DEFINITION OF DRUG AND ALCOHOL RECOVERY MONITORING PROGRAMS

The Board does not consider licensees who have been ordered to participate in the Board's diversion program to be "in diversion," rather the Board considers these individuals to be in a drug and alcohol recovery monitoring program. As a result, the Board will not use the term "diversion" in these disciplinary guidelines to describe licensees on probation or terms and conditions of probation related to drug and alcohol recovery monitoring. Instead the phrase "drug and alcohol recovery monitoring program" or "recovery monitoring program" will be used.

There are two pathways into the Board's drug and alcohol recovery monitoring program:

1) Participants with drug and/or alcohol addiction issues who have self-referred to the program and are not under a disciplinary order; and, 2) Participants who have been ordered into the Board's drug and alcohol recovery monitoring program as a result of violations of the Physical Therapy Practice Act related to drug and/or alcohol addiction.

Self-Referrals

When a licensee enrolls in the Board's drug and/or alcohol addiction program as a self-referral, the participation is confidential. ~~When~~ However, if a self-referred participant is determined to be too great a risk to the public health, safety, and welfare to continue the practice of physical therapy, the facts shall be reported to the Executive Officer of the Board and all documents and information pertaining to and supporting that conclusion shall be provided to the Executive Officer. The matter may be referred for investigation and disciplinary action by the Board. Each physical therapist or physical therapist assistant who requests participation in a drug and/or alcohol addiction program shall agree to cooperate with the recovery program designed for him or her. Any failure to comply with the program may result in termination of participation in the program.

Probationary Participants

Probationary participants are required to comply with terms of probation or risk losing their license. A clinical diagnostic evaluation will be ordered as a term of probation and the conditions applying the Uniform Standards will be included.

While self-referred licensees are not subject to terms and conditions in these Guidelines, they are subject to nearly identical contractual terms of participation and the violation of those terms could lead to termination of participation in the drug and/or alcohol addiction program.

~~The terms and conditions described in the following guidelines are not applicable to self-referred licensees. Instead, self-referred licensees are subject to contractual terms of participation and the violation of those terms could lead to termination of participation in the drug and/or alcohol addiction program.~~

**~~PARTICIPANTS OF THE BOARD'S CONTRACTED
DRUG AND ALCOHOL RECOVERY MONITORING PROGRAM~~**

**OVERVIEW OF PARTICIPANT REQUIREMENTS & COSTS
(For either self-referrals or probation participants)**

Licensees enrolled in the drug and alcohol recovery monitoring program are required to pay the entire cost of the program pursuant to Business and Professions Code Section 2668. The drug and alcohol recovery monitoring program costs include the monthly administrative fee, monthly health support fees, and random drug and alcohol testing fees. ***All drug and alcohol recovery monitoring program fees are subject to change.***

Drug and Alcohol Recovery Monitoring Program Timeframe: Participation in the drug and alcohol recovery monitoring program is for a period of approximately 3-5 years.

Monthly Administrative Fee: The participant pays the monthly administrative fee directly to the drug and alcohol recovery monitoring program. The monthly administrative fee is currently \$288. The monthly administrative fee may increase 3-5% annually each July. Costs are dependent on the contracted costs.

Random Body Fluid Testing (RBFT) & Fee: Currently the average cost of each RBFT is approximately \$60.00 plus the collection fee at the testing site which can cost up to \$125.00 and possibly more if the applicant is required to test on a weekend. Additionally, there are charges for the medical review officer (MRO) who reviews drug test results, retests of specimen samples, and hair tests. These additional procedures are usually a direct result of problematic (i.e. positive) RBFT results.

Professional Support Group Meetings: Support group meetings are a treatment modality of the drug and alcohol recovery monitoring program. These groups are attended exclusively by licensed professionals who are in their own recovery and involved in a drug and alcohol recovery monitoring program. The support group facilitators are licensed professionals who have extensive clinical experience in working with licensed professionals in recovery and in drug and alcohol recovery monitoring programs. Each participant is required to attend support group meetings two times per week during their first 18 months in the drug and alcohol recovery monitoring program. The frequency of support group meeting attendance can be reduced to one time per week after 18 months of successful participation in the program. This reduction is also based upon the on-going clinical evaluation of each participant.

Professional Support Group Meeting Fees: The participant pays the monthly support group meeting fees directly to the support group facilitator. Support groups all charge different fees and negotiate directly with the participant. Average costs range from \$200-\$500 monthly. Participants may be required to attend support groups once or twice weekly.

12-Step Meetings: All participants are required to attend community-based 12-step meetings. The frequency requirement for attending 12-step meetings range from daily attendance to three times per week. The frequency requirement is established and modified by the Clinical Case Manager based upon the on-going clinical evaluation of each participant. Generally there is not a cost associated with attending 12-step meetings.

Contributions at the 12-step meetings are voluntary.

Clinical Assessment: All participants are required to undergo an initial clinical assessment and subsequent re-assessments by contracted Assessors. There is currently no cost to the Physical Therapy Board participants for the initial clinical assessment and the annual re-assessments. However, if the participant is required to have more than one clinical assessment per year the participant is required to pay the cost for the additional clinical assessment. These additional assessments are usually a direct result of reoccurring problems in the drug and alcohol recovery monitoring program.

Additional Costs to Third Parties: Participants may be required to enter formal chemical dependency treatment (i.e. inpatient or outpatient facilities) at treatment programs approved by the drug and alcohol recovery monitoring program. Referrals to specific treatment programs are based upon the assessment of a participant's clinical need. The cost of any formal chemical dependency treatment program is the sole responsibility of each participant. The participants may also be required to undergo formal treatment for mental health diagnosis. The cost of any formal treatment for mental health treatment program is the sole responsibility of each participant.

Worksite Monitor: Each participant is required to have a worksite monitor at his or her place of employment. The drug and alcohol recovery monitoring program will provide the applicant with the required consent forms at the time of enrollment. The worksite monitor is required to report to the drug and alcohol recovery monitoring program on the status of the participant.

Other Requirements: The participant must submit monthly self-evaluation reports and call into the drug and alcohol recovery monitoring program on a routine, often daily, basis. The assigned Clinical Case Manager will determine the frequency of how often the participant needs to call in. Participants are required to receive prior approval from the Clinical Case Manager before scheduling and taking any vacations. The participant's Clinical Case Manager may determine other requirements.

DENIAL OF LICENSURE & ISSUANCE OF AN INITIAL PROBATIONARY LICENSE

Mandatory Denial of a License

In accordance with 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 290 registrant, his or her application for licensure will be denied.

Permissive Denials of a License

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

Business and Professions Code 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 self or another or to substantially injure another
- Any act which is grounds for revocation of a license
- Making a false statement on the application

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

Business and Professions Code 2635: every 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 2655.3(c): Not be addicted to alcohol or any controlled substance; (d) Not have committed acts or crimes constituting grounds for denial of approval under Section 480.

Business and Professions Code 2660 (e): Habitual intemperance; (f) Addiction to the excessive use of any habit-forming drug

Business and Professions Code 2660.2 (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 2660.2: The Board may refuse a license to any applicant guilty of unprofessional conduct or sexual misconduct as defined in B&P Code, Section

2660.1 and Title 16, California Code of Regulations, Section 1399.23. The Board may in its sole discretion, 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 with terms and conditions of a license. 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 license only after a period of one (1) year has elapsed from the date of the denial.

CITATION

The Physical Therapy Board may issue a citation pursuant to Section 125.9 of the Business and Professions Code, as an alternate means to address relatively minor violations not necessarily warranting discipline.

Citations are not disciplinary actions, but are matters of public record. The citation program increases the effectiveness of the Board's consumer protection process by providing a method to effectively address less egregious violations.

Citations shall be in writing and shall describe the particular nature and facts of the violation, including a reference to the statute or regulation allegedly violated. In assessing a fine, the Board shall give due consideration to the factors enumerated in Section 1399.25 of Title 16 of the CCR.

Payment of a fine with or without an informal conference or administrative hearing does not constitute an admission of the violation charged, but represents a satisfactory resolution of the citation for purposes of public disclosure.

After a citation is issued, the person may:

- 1) Pay the fine/comply with any Order of Abatement and the matter will be satisfactorily resolved.
- 2) Request an informal conference. At the conclusion of the informal conference, the citation may be affirmed, modified or dismissed, including any fine levied or order of abatement issued.
- 3) Request an Administrative Hearing in appeal of the citation whether or not an informal conference was held.

Failure to pay a fine, unless the citation is being appealed, may result in disciplinary action. Where a citation is not contested and a fine is not paid, the fine shall be added to the fee for renewal of the license.

PUBLIC REPROVALS & REPRIMANDS

B&P Code Section 495 authorizes the Board to publicly reprove a physical therapist or physical therapist assistant for an act constituting grounds for suspension or revocation of a license. Issuing a Public Reprival as part of a disciplinary order may be considered when the following circumstances exist:

1. The offense is an isolated incident.
2. Sufficient time elapsed since the offense without further violations indicating a recurrence is unlikely.
3. Respondent admitted to the offense.
4. Respondent indicated remorse.
5. No prior discipline for a similar violation exists.
6. In the case of an offense related to substance abuse, active participation in a recovery program has been documented for at least one year without a relapse.

In lieu of filing or prosecuting a formal accusation against a licensee, B&P Code Section 2660.3 authorizes the Board, upon stipulation or agreement by the licensee, to issue a public letter of reprimand after it has conducted an investigation or inspection. The Board may use a public letter of reprimand only for minor violations (as defined by the Board) committed by the licensee. Minor violations, include, but are not limited to, the following:

1. First DUI with no underlying circumstances that would be considered egregious. (e.g. no bodily injury to any third party)
2. One (1) minor adverse action in another State
3. Failure to maintain patient records, such as an isolated incident of a documentation violation

GUIDELINES SPECIFIC TO VIOLATION

The following offenses are listed in numerical order of the statutory numbers in the Business and Professions Code (B&P Code), the California Code of Regulations (CCR) and the Health and Safety Code (H&S Code).

B&P Code 2660(h) authorizes the Physical Therapy Board of California to cite violations of the Medical Practice Act. When violations of the Medical Practice Act are cited, B&P Code 2660(h) must also be cited.

Violations of the B&P Code or the CCR may result in the issuance of a Citation, Public Reprimand, Initial Probationary License, filing of a Statement of Issues, or an Accusation. Filing of criminal charges shall be sought when appropriate.

BUSINESS AND PROFESSIONS CODE

SUBVERTING OR ATTEMPTING TO SUBVERT A LICENSING EXAM B&P CODE 123

Citation:

Minimum Fine: \$100
Maximum Fine: \$5,000

Discipline:

Minimum: Public Reproval or Initial Probationary License
Maximum: Revocation or denial of license

Conditions of Probation:

- 1) All "Standard Probation Conditions"
- 2) "Probation Conditions Specific to Violation" for consideration are: A, B, C, E, F

"Probation Conditions Specific to Violation" should be considered individually since some, or all, may **not** apply.

CHANGE OF ADDRESS REPORTING REQUIREMENT B&P CODE 136

Citation:

Minimum Fine: \$100
Maximum Fine: \$1,000

Discipline:

Minimum: Public Reproval
Maximum: Public Reproval

Refer to related regulation: CCR 1398.6

DISCIPLINARY ACTION BY A FOREIGN JURISDICTION B&P CODE 141

Citation:

Minimum Fine: \$100
Maximum Fine: \$5,000

Discipline:

If violation is an offense in California, refer to corresponding statute. If not, the Board shall consider the discipline order from the state, federal government, or country of discipline when determining disciplinary action.

Refer to related regulation: CCR 1399.24

**CONVICTION OF A CRIME - SUBSTANTIAL RELATIONSHIP REQUIRED
B&P CODE 490**

Citation:

Minimum Fine: \$100
Maximum Fine: \$5,000

Discipline:

Minimum: Public Reproval
Maximum: Revocation

Conditions of Probation:

- 1) All "Standard Probation Conditions"
- 2) "Probation Conditions Specific to Violation" for consideration are: A, B, C, D, E, F, M, N, P, W

"Probation Conditions Specific to Violation" should be considered individually since some, or all, may **not** apply.

(Conditions "P" and "W" should only be used if the violation relates to alcohol/substance abuse or psychiatric conditions)

Refer to related statutes and/or regulations: B&P Code 2236, 2660(d), (h)¹, 2661, CCR 1399.24(d)

**COMPLIANCE WITH CHILD SUPPORT ORDERS AND JUDGMENTS
B&P CODE 490.5**

In addition to the mandatory suspension requirements of B&P 490.5:

Citation:

Minimum Fine: \$100
Maximum Fine: \$5,000

Discipline:

Minimum: Public Reproval
Maximum: Public Reproval

¹ B&P Code 2660(h) authorizes the Physical Therapy Board of California to cite the Medical Practice Act.

OBTAINING LICENSURE BY FRAUD B&P CODE 498

Discipline:
Revocation or Denial of License

Refer to related statutes: B&P Code 499, 581, 582, 583, 2235, 2660(b) (h) ¹

FALSE STATEMENT OF MATERIAL FACT FOR APPLICATION B&P CODE 499

Discipline:
Revocation or Denial of License

Refer to related statutes: B&P Code 498, 581, 582, 583, 2235, 2660(b)(h) ¹

SALE OR BARTER OF DEGREE, CERTIFICATE OR TRANSCRIPT B&P CODE 580

Discipline:
Revocation or Denial of License

PURCHASE OR FRAUDULENT ALTERATION OF DIPLOMA OR OTHER WRITINGS-B&P CODE 581

Discipline:
Revocation or Denial of License

Refer to related statutes: B&P Code 498, 499, 582, 583, 2235, 2660(b)(h) ¹

USE OF ILLEGALLY OBTAINED, ALTERED OR COUNTERFEIT DIPLOMA, CERTIFICATE, OR TRANSCRIPT B&P CODE 582

Discipline:
Revocation or Denial of License

Refer to related statutes: B&P Code 498, 499, 581, 583, 2235, 2660(b)(h) ¹

¹ B&P Code 2660(h) authorizes the Physical Therapy Board of California to cite the Medical Practice Act.

**FALSE STATEMENTS IN APPLICATION DOCUMENTS OR WRITINGS
B&P CODE 583**

Discipline:
Revocation or Denial of License

Refer to related statutes: B&P Code 498, 499, 581, 582, 2235, 2660(b)(h)¹

**VIOLATION OF EXAMINATION SECURITY; IMPERSONATION
B&P CODE 584**

Discipline:
Revocation or Denial of License

Refer to related statutes: B&P Code 2288, 2660(h), 2660.7

CONSIDERATION FOR REFERRALS PROHIBITED B&P CODE 650

Citation:
Minimum Fine: \$100
Maximum Fine: \$5,000

Discipline:
Minimum: Revocation, stayed, 30 days suspension, 3 years probation
Maximum: Revocation

Conditions of Probation in Addition to Standard Conditions: NONE

**ADVERTISING VIOLATIONS- DISSEMINATION OF FALSE OR
MISLEADING INFORMATION CONCERNING PROFESSIONAL
SERVICES OR PRODUCTS B&P CODE 651**

Citation:
Minimum Fine: \$1,000
Maximum Fine: \$5,000

Discipline:
Minimum: Revocation, stayed, 30 days suspension, 3 years probation
Maximum: Revocation

¹ B&P Code 2660(h) authorizes the Physical Therapy Board of California to cite the Medical Practice Act.

Conditions of Probation:

- 1) All "Standard Probation Conditions"
- 2) "Probation Conditions Specific to Violation" for consideration are: E

"Probation Conditions Specific to Violation" should be considered individually since some, or all, may **not** apply.

Refer to related statutes: B&P Code 2660(a), H&S 17500, CCR 1398.10

HEALTH CARE PRACTITIONER'S DISCLOSURE OF NAME AND LICENSE STATUS B&P CODE 680

Citation:

Minimum Fine: \$100
Maximum Fine \$5,000

Discipline:

Minimum: Public Reproval
Maximum: Public Reproval

Refer to related regulation: CCR 1398.11

EXCESSIVE PRESCRIBING OR TREATMENT B&P CODE 725

Citation:

Minimum Fine: \$100
Maximum Fine \$5,000

Discipline:

Minimum: Revocation, stayed, 30 days suspension, 3 years probation
Maximum: Revocation

Conditions of Probation:

- 1) All "Standard Probation Conditions"
- 2) "Probation Conditions Specific to Violation" for consideration are: A, B, D, E, F, H, L, O

"Probation Conditions Specific to Violation" should be considered individually since some, or all, may **not** apply.

Refer to related statutes: B&P Code 2234(b), 2660(g)(h).

**SEXUAL ABUSE OR MISCONDUCT WITH PATIENT OR CLIENT
B&P CODE 726**

Note: The Board has determined that no term and condition of probation can adequately protect the public from a licensee who has engaged in sexual abuse and/or misconduct.

Refer to related statutes and/or regulation: B&P Code 2660.1, CCR 1399.15

**REPORTS OF MALPRACTICE SETTLEMENTS OR ARBITRATION
AWARDS INVOLVING UNINSURED LICENSEES; PENALTIES FOR NON
COMPLIANCE B&P CODE 802**

Citation:

Minimum Fine: \$100
Maximum Fine: \$5,000

Discipline: Refer to related statutes and/or regulation violation triggering malpractice settlement.

INSURANCE FRAUD - UNPROFESSIONAL CONDUCT B&P CODE 810

Citation:

Minimum Fine: \$100
Maximum Fine: \$5,000

Discipline:

Minimum: Revocation, stayed, 30 days suspension, 3 years probation
Maximum: Revocation

Conditions of Probation:

- 1) All "Standard Probation Conditions"
- 2) "Probation Conditions Specific to Violation" for consideration are: A, B, C, D, E, F

"Probation Conditions Specific to Violation" should be considered individually since some, or all, may **not** apply.

Refer to related statutes: B&P Code 2261, 2262, 2660 (k)(h) ¹

¹ B&P Code 2660(h) authorizes the Physical Therapy Board of California to cite the Medical Practice Act.

REQUIREMENTS FOR LICENSE EXEMPTION B&P CODE 901

Citation:

Minimum Fine: \$100
Maximum Fine: \$5,000

Refer to related statutes and regulations: B&P Code, 2630, CCR 1399.99.2, 1399.99.3, 1399.99.4

NUTRITIONAL ADVICE B&P CODE 2068, 2660(h)¹

Citation:

Minimum Fine \$100
Maximum Fine \$5,000

Discipline:

Minimum: Public Reproval
Maximum: Public Reproval

GROSS NEGLIGENCE B&P CODE 2234(b), 2660(h)¹

Discipline:

Minimum: Revocation, stayed, 30 days suspension or until proficiency to practice safely is determined, 3 years probation following return to practice.
Maximum: Revocation

Conditions of Probation:

- 1) All "Standard Probation Conditions"
- 2) "Probation Conditions Specific to Violation" for consideration are: A, B, C, D, E, I, J, L, M, N, O

"Probation Conditions Specific to Violation" should be considered individually since some, or all, may **not** apply.

Refer to related statutes: B&P Code 725, 2660(g)

REPEATED NEGLIGENT ACTS B&P CODE 2234(c), 2660(h)¹

Citation:

Minimum Fine \$1,000
Maximum Fine \$5,000

¹ B&P Code 2660(h) authorizes the Physical Therapy Board of California to cite the Medical Practice Act.

Discipline:

Minimum: Revocation, stayed, 30 days suspension or until proficiency to practice safely is determined, 3 years probation following return to practice.

Maximum: Revocation

Conditions of Probation:

- 1) All "Standard Probation Conditions"
- 2) "Probation Conditions Specific to Violation" for consideration are: A, B, C, D, E, I, J, L, M, N, O

"Probation Conditions Specific to Violation" should be considered individually since some, or all, may **not** apply.

INCOMPETENCE B&P CODE 2234(d), 2660(h)¹

Discipline:

Minimum: Revocation, stayed, 30 days suspension or until proficiency to practice safely is determined, 3 years probation following return to practice.

Maximum: Revocation

Conditions of Probation:

- 1) All "Standard Probation Conditions"
- 2) "Probation Conditions Specific to Violation" for consideration are: A, B, C, D, E, I, J, L, M, N, O

"Probation Conditions Specific to Violation" should be considered individually since some, or all, may **not** apply.

PROCURING LICENSE BY FRAUD B&P CODE 2235, 2660(h)¹

Discipline:

Revocation or cancellation is the only suitable discipline in as much as the license would not have been issued but for the fraud or misrepresentation.

Refer to statute(s) for appropriate penalties: B&P Code 498, 499, 581, 582, 583, 2660(g)

CRIMINAL CONVICTION B&P CODE 2236, 2660(h)¹

Note: If the conviction relates to the use or abuse (i.e. possession, possession for sale, trafficking, etc.) of a controlled substance for DUI or related offenses, or if the conviction was attributed to the use of a controlled substance or alcohol (i.e. disorderly conduct) the conditions applying the "Uniform Standards Regarding Substance-Abusing Healing Arts Licensees" shall be imposed.

¹ B&P Code 2660(h) authorizes the Physical Therapy Board of California to cite the Medical Practice Act.

Refer to related statutes: B&P Code 490, 2660(d), 2661, CCR 1399.24(d)

CONVICTION RELATED TO DRUGS B&P CODE 2237, 2660(h)¹

Discipline:

Minimum: Revocation, stayed, 30 days suspension, 3 years probation

Maximum: Revocation

Conditions of Probation:

- 1) All "Standard Probation Conditions"
- 2) "Probation Conditions Specific to Violation" for consideration are: A, B, C, D, M, N, P, T, U, V, W

"Probation Conditions Specific to Violation" should be considered individually since some, or all, may **not** apply.

Note: If the conviction relates to the use or abuse (i.e. possession, possession for sale, trafficking, etc.) of a controlled substance for DUI or related offenses, or if the conviction was attributed to the use of a controlled substance or alcohol (i.e. disorderly conduct) the conditions applying the "Uniform Standards Regarding Substance-Abusing Healing Arts Licensees" shall be imposed.

NOTE: *Outright revocation for conviction of illegal sales of controlled substances unless extensive mitigation appears.*

VIOLATION OF DRUG STATUTES B&P CODE 2238, 2660(h)¹

Discipline:

Minimum: Revocation, stayed, 30 days suspension, 3 years probation

Maximum: Revocation

Conditions of Probation:

- 1) All "Standard Probation Conditions"
- 2) "Probation Conditions Specific to Violation" for consideration are: A, B, C, D, M, N, P, T, U, V, W

"Probation Conditions Specific to Violation" should be considered individually since some, or all, may **not** apply.

The conditions applying the "Uniform Standards Regarding Substance-Abusing Healing Arts Licensees" shall be imposed.

¹ B&P Code 2660(h) authorizes the Physical Therapy Board of California to cite the Medical Practice Act.

NOTE: *Outright revocation for conviction of illegal sales of controlled substances unless extensive mitigation appears.*

SELF ABUSE OF DRUGS OR ALCOHOL B&P CODE 2239, 2660(h)¹

Discipline:

Minimum: Revocation, stayed, ssuspension until the ability to practice safely is determined, participation in drug and alcohol recovery monitoring program, 5 years probation or until satisfactory completion of the drug and alcohol recovery monitoring program, whichever is longer.

Maximum: Revocation

Conditions of Probation:

- 1) All "Standard Probation Conditions"
- 2) "Probation Conditions Specific to Violation" for consideration are: A, B, C, D, J, L, M, N, P, T, U, V, W

"Probation Conditions Specific to Violation" should be considered individually since some, or all, may **not** apply.

The conditions applying the "Uniform Standards Regarding Substance-Abusing Healing Arts Licensees" shall be imposed.

Refer to related statutes: B&P Code 2660(e), 2660(f)

MAKING FALSE DOCUMENTS B&P CODE 2261, 2660(h)¹

Citation:

Minimum Fine: \$100
Maximum Fine: \$5,000

Discipline:

Minimum: Revocation, stayed, 30 days suspension, 3 years probation
Maximum: Revocation

Conditions of Probation:

¹ B&P Code 2660(h) authorizes the Physical Therapy Board of California to cite the Medical Practice Act.

- 1) All "Standard Probation Conditions"
- 2) "Probation Conditions Specific to Violation" for consideration are: A, B, C, D, E, F,

"Probation Conditions Specific to Violation" should be considered individually since some, or all, may **not** apply.

Refer to related statutes: B&P Code 810, 2262, 2660(h)¹

ALTERATION OF MEDICAL RECORDS B&P CODE 2262, 2660(h)¹

Citation:

Minimum Fine: \$100
Maximum Fine: \$5,000

Discipline:

Minimum: Revocation, stayed, 30 days suspension, 3 years probation
Maximum: Revocation

Conditions of Probation:

- 1) All "Standard Probation Conditions"
- 2) "Probation Conditions Specific to Violation" for consideration are: A, B, D, E

"Probation Conditions Specific to Violation" should be considered individually since some, or all, may **not** apply.

Refer to related statutes: B&P Code 810, 2261, 2660(h)¹

VIOLATION OF PROFESSIONAL CONFIDENCE B&P CODE 2263, 2660(h)¹

Citation:

Minimum Fine \$100
Maximum Fine \$5,000

Discipline:

Minimum: Revocation, stayed, 30 days suspension, 3 years probation
Maximum: Revocation

Conditions of Probation:

¹ B&P Code 2660(h) authorizes the Physical Therapy Board of California to cite the Medical Practice Act.

- 1) All "Standard Probation Conditions"
- 2) "Probation Conditions Specific to Violation" for consideration are: V (course should include HIPPA requirements)

"Probation Conditions Specific to Violation" should be considered individually since some, or all, may **not** apply.

AIDING AND ABETTING UNLICENSED PRACTICE B&P CODE 2264, 2660(h)¹

Citation:

Minimum Fine: \$100
 Maximum Fine: \$5,000

Discipline:

Minimum: Revocation, stayed, 5 days suspension, 3 years probation
 Maximum: Revocation

Conditions of Probation:

- 1) All "Standard Probation Conditions"
- 2) "Probation Conditions Specific to Violation" for consideration are: B, C, E, J, K, L

"Probation Conditions Specific to Violation" should be considered individually since some, or all, may **not** apply.

Refer to related statutes and/or regulation: B&P Code 2630, 2660(j), CCR 1399

FALSE OR MISLEADING ADVERTISING B&P CODE 2271, 2660(h)¹

Citation:

Minimum Fine: \$100
 Maximum Fine: \$5,000

Discipline:

Minimum: Public Reproval
 Maximum: Public Reproval

Refer to related statutes and/or regulation: B&P Code 651, 2660(a), 17500, CCR 1398.10

EMPLOYMENT OF RUNNERS, CAPPERS AND STEERERS B&P CODE 2273, 2660(h)¹

Citation:

Minimum Fine: \$100

¹ B&P Code 2660(h) authorizes the Physical Therapy Board of California to cite the Medical Practice Act.

Maximum Fine: \$5,000

Discipline:

Minimum: Revocation, stayed, 30 days suspension, 3 years probation
Maximum: Revocation

Conditions of Probation:

- 1) All "Standard Probation Conditions"
- 2) "Probation Conditions Specific to Violation" for consideration are: F

"Probation Conditions Specific to Violation" should be considered individually since some, or all, may **not** apply.

UNAUTHORIZED USE OF MEDICAL DESIGNATION B&P CODE 2274, 2660(h)¹

Citation:

Minimum Fine: \$100
Maximum Fine: \$5,000

Discipline:

Minimum: Revocation, stayed, 30 days suspension, 3 years probation
Maximum: Revocation

Conditions of Probation in Addition to Standard Conditions: NONE

VIOLATION OF PROFESSIONAL CORPORATION ACT B&P CODE 2286, 2660(h)¹

Citation:

Minimum Fine: \$100
Maximum Fine: \$5,000

Discipline:

Minimum: Public Reprimand
Maximum: Revocation

Conditions of Probation in Addition to Standard Conditions: NONE

Refer to related statute: B&P Code 2691

IMPERSONATION OF APPLICANT IN EXAM B&P CODE 2288, 2660(h)¹

¹ B&P Code 2660(h) authorizes the Physical Therapy Board of California to cite the Medical Practice Act.

Discipline:

Revocation or denial of license

Refer to related statutes: B&P Code 584, 2660.7

IMPERSONATION PRACTICE OF MEDICINE B&P CODE 2289, 2660(h)¹

Discipline:

Minimum: Revocation, stayed, 180 days suspension, 7 years probation
Maximum: Revocation

Conditions of Probation:

- 1) All "Standard Probation Conditions"
- 2) "Probation Conditions Specific to Violation" for consideration are: A, B, D, E, G, J, L, M, N, O

"Probation Conditions Specific to Violation" should be considered individually since some, or all, may **not** apply.

(Term "F" to be used only when self employed or owner)

AUTHORIZATION TO INSPECT PATIENT RECORDS B&P CODE 2608.5

Citation:

Minimum Fine: \$100
Maximum Fine: \$5,000

Discipline:

Minimum: Public Reproval
Maximum: Revocation

Conditions of Probation in Addition to Standard Conditions: NONE

Refer to related statute and/or regulation: B&P Code 2660 (h), CCR 1399.24

TOPICAL MEDICATIONS B&P CODE 2620.3

Citation:

Minimum Fine: \$100
Maximum Fine: \$5,000

Discipline:

Minimum: Public Reproval
Maximum: Revocation

Conditions of Probation in Addition to Standard Conditions: NONE

Refer to related regulations: CCR 1399.77, 1399.78, 1399.79

CERTIFICATION TO PENETRATE TISSUE FOR THE PURPOSE OF NEUROMUSCULAR EVALUATION B&P CODE 2620.5

Citation:

Minimum Fine: \$100
Maximum Fine: \$5,000

Discipline:

Minimum: Revocation, stayed, 5 days suspension, 3 years probation
Maximum: Revocation

Conditions of Probation:

- 1) All "Standard Probation Conditions"
- 2) "Probation Conditions Specific to Violation" for consideration are: D

"Probation Conditions Specific to Violation" should be considered individually since some, or all, may **not** apply.

Refer to related regulation: CCR 1399.61

PATIENT RECORD B&P CODE 2620.7

Citation:

Minimum Fine: \$100
Maximum Fine: \$5,000

Discipline:

Minimum: Public Reproval
Maximum: Revocation

Conditions of Probation:

- 1) All "Standard Probation Conditions"
- 2) "Probation Conditions Specific to Violation" for consideration are: A, B, O

"Probation Conditions Specific to Violation" should be considered individually since some, or all, may **not** apply.

Refer to related regulation: CCR 1398.13

**DEFINITIONS "PHYSICAL THERAPIST", "PHYSIOTHERAPIST",
"PHYSICAL THERAPIST TECHNICIAN", "PHYSICAL THERAPY"
INTERCHANGEABLE TITLES B&P CODE 2622**

Citation:

Minimum Fine: \$100
Maximum Fine: \$5,000

Discipline:

Minimum: Public Reproval
Maximum: Revocation

Refer to related statutes: B&P Code 2630, 2633

**UNLICENSED PRACTICE - PHYSICAL THERAPIST ASSISTANT
PRACTICING AS A PHYSICAL THERAPIST B&P CODE 2630**

Citation:

Minimum Fine: \$1,00
Maximum Fine: \$5,000

Discipline:

Minimum: Revocation, stayed, 30 days suspension, 5 years probation
Maximum: Revocation

Conditions of Probation:

- 1) All "Standard Probation Conditions"
- 2) "Probation Conditions Specific to Violation" for consideration are: B, C, E, O

"Probation Conditions Specific to Violation" should be considered individually since some, or all, may **not** apply.

*Refer to related statutes and/or regulations: B&P Code 2264, 2660(j)(h)¹
CCR 1398.44, 1399.99.3, 1399.99.4*

**UNLICENSED PRACTICE - IMPROPER SUPERVISION OF A PHYSICAL
THERAPY AIDE B&P CODE 2630**

Citation:

Minimum Fine: \$100
Maximum Fine: \$5,000

Discipline:

Minimum: Revocation, stayed, 30 days suspension, 5 years probation
Maximum: Revocation

Conditions of Probation:

- 1) All "Standard Probation Conditions"
- 2) "Probation Conditions Specific to Violation" for consideration are: A, B, J, L

"Probation Conditions Specific to Violation" should be considered individually since some, or all, may **not** apply.

Refer to related statutes and/or regulation: B&P Code 2264, 2660(h)¹
(j), CCR 1399

**AUTHORIZED USE OF TITLE "P.T." AND "PHYSICAL THERAPIST"
PERMITTED TITLES & OTHER DESIGNATIONS; DOCTORAL DEGREE
B&P CODE 2633**

Citation:

Minimum Fine: \$100
Maximum Fine: \$5,000

Discipline:

Minimum: Revocation, stayed, 30 days suspension, 5 years probation
Maximum: Revocation

Conditions of Probation:

- 1) All "Standard Probation Conditions"
- 2) "Probation Conditions Specific to Violation" for consideration are: A

"Probation Conditions Specific to Violation" should be considered individually since some, or all, may **not** apply.

**REQUIREMENTS FOR A PHYSICAL THERAPIST APPLICANT LICENSED
IN ANOTHER STATE & PHYSICAL THERAPIST LICENSE APPLICANT
STATUS B&P CODE 2636.5**

Citation:

Minimum Fine: \$100
Maximum Fine: \$5,000

Discipline:

¹ B&P Code 2660(h) authorizes the Physical Therapy Board of California to cite the Medical Practice Act.

Minimum: Issue Initial Probationary License
Maximum: Deny Application

Refer to related regulation: CCR 1399.10

**PHYSICAL THERAPIST LICENSE APPLICANT GRADUATE PRACTICE
B&P CODE 2639 (ALSO SEE 2640)**

Citation:

Minimum Fine: \$100
Maximum Fine: \$5,000

Discipline:

Minimum: Issue Initial Probationary License
Maximum: Deny Application

Refer to related regulation: CCR 1399.10

**COMPUTER ADMINISTERED TESTING/PHYSICAL THERAPIST
LICENSE APPLICANT STATUS B&P CODE 2640**

Citation:

Minimum Fine: \$100
Maximum Fine: \$5,000

Discipline:

Minimum: Issue Initial Probationary License
Maximum: Deny Application

Refer to related regulation: CCR 1398.11, 1399.10

IDENTIFICATION AS STUDENT OR INTERN B&P CODE 2650.1

Citation:

Minimum Fine: \$100
Maximum Fine: \$5,000

Discipline:

Minimum: Issue Initial Probationary License
Maximum: Deny Application

Refer to related regulation: CCR 1398.37

REQUIREMENTS OF GRADUATES FROM FOREIGN SCHOOLS B&P CODE 2653

Citation:

Minimum Fine: \$100
Maximum Fine: \$5,000

Discipline:

Minimum: Issue Initial Probationary License
Maximum: Deny Application

Refer to related regulation: CCR 1398.26, 1398.26.5

NUMBER OF PHYSICAL THERAPIST ASSISTANTS SUPERVISED B&P CODE 2655.2

Citation:

Minimum Fine: \$100
Maximum Fine: \$5,000

Discipline:

Minimum: Revocation, stayed, 5 days suspension, 3 years probation
Maximum: Revocation

Conditions of Probation:

- 1) All "Standard Probation Conditions"
- 2) "Probation Conditions Specific to Violation" for consideration are: A, J, K

"Probation Conditions Specific to Violation" should be considered individually since some, or all, may not apply.

PHYSICAL THERAPIST ASSISTANT'S QUALIFICATIONS FOR LICENSURE B&P 2655.3

Discipline:

Minimum: Issue Initial Probationary License
Maximum: Deny Application

The conditions applying the "Uniform Standards Regarding Substance-Abusing Healing Arts Licensees" shall be imposed.

**PRACTICE AUTHORIZED (PHYSICAL THERAPIST ASSISTANT)
B&P CODE 2655.7**

Citation:

Minimum Fine: \$100
Maximum Fine: \$5,000

Discipline:

Minimum: Public Reproval
Maximum: Revocation

Refer to related statute and/or regulation: B&P Code 2630, CCR 1398.44

**AUTHORIZED USE OF TITLES BY PHYSICAL THERAPIST ASSISTANT
B&P CODE 2655.11**

Citation:

Minimum Fine: \$100
Maximum Fine: \$5,000

Discipline:

Minimum: Issue Initial Probationary License
Maximum: Deny Application

STUDENTS PERFORMING PHYSICAL THERAPY B&P 2655.75

Citation:

Minimum Fine: \$100
Maximum Fine: \$5,000

Refer to related regulation: CCR 1398.52

**PERFORMANCE AS A "PHYSICAL THERAPIST ASSISTANT
APPLICANT" PENDING EXAMINATION RESULTS
B&P CODE 2655.91**

Citation:

Minimum Fine: \$100
Maximum Fine: \$5,000

Discipline:

Minimum: Issue Initial Probationary License
Maximum: Deny Application

Refer to related statute and/or regulation: B&P Code 2655.93, CCR 1399.12

PHYSICAL THERAPIST ASSISTANT APPLICANT B&P CODE 2655.93

Citation:

Minimum Fine: \$100
Maximum Fine: \$5,000

Discipline:

Minimum: Issue Initial Probationary License
Maximum: Deny Application

Refer to related statute and/or regulation: B&P Code 2655.91, CCR 1399.12

ADVERTISING IN VIOLATION OF B&P CODE 2660(a) & 17500

Refer to related statute and/or regulation: B&P Code 651, 2271, 17500, CCR 1398.10

**PROCURING A LICENSE BY FRAUD OR MISREPRESENTATION
B&P CODE 2660(b)**

Discipline:

Minimum: Issue Initial Probationary License
Maximum: Deny Application

Refer to related statutes: B&P Code 498, 499, 581, 582, 583, 2235, 2660(h)

CONVICTION OF A CRIME B&P CODE 2660(d)

Note: If the conviction relates to the use or abuse (i.e. possession, possession for sale, trafficking, etc.) of a controlled substance for DUI or related offenses, or if the conviction was attributed to the use of a controlled substance or alcohol (i.e. disorderly conduct) the conditions applying the "Uniform Standards Regarding Substance-Abusing Healing Arts Licensees" shall be imposed.

Refer to related statutes and/or regulation: B&P Code 490, 2236, 2237, 2660(h)¹, 2661, CCR 1399.24

HABITUAL INTEMPERANCE B&P CODE 2660(e)

The conditions applying the "Uniform Standards Regarding Substance-Abusing Healing Arts Licensees" shall be imposed.

Refer to related statute: B&P Code 2239, 2660(h)¹

ADDICTION TO HABIT- FORMING DRUGS B&P CODE 2660(f)

Note: If the conviction relates to the use or abuse (i.e. possession, possession for sale, trafficking, etc.) of a controlled substance for DUI or related offenses, or if the conviction was attributed to the use of a controlled substance or alcohol (i.e. disorderly conduct) the conditions applying the "Uniform Standards Regarding Substance-Abusing Healing Arts Licensees" shall be imposed.

Refer to related statute: B&P Code 2239

GROSS NEGLIGENCE B&P CODE 2660(g)

Refer to related statutes: B&P Code 725, 2234(b), 2660(h)¹

VIOLATION OF THE PHYSICAL THERAPY OR MEDICAL PRACTICE ACTS B&P CODE 2660(h)

Citation:

Minimum Fine: \$100
Maximum Fine: \$5,000

Discipline:

See specific statute violated.

Note: B&P Code 2660(h) authorizes the Physical Therapy Board of California to cite violations of the Medical Practice Act; therefore whenever violations of the Medical Practice Act are cited B&P 2660(h) must also be cited

AIDING OR ABETTING A VIOLATION OF THE PHYSICAL THERAPY PRACTICE ACT OR REGULATIONS B&P CODE 2660(i)

¹ B&P Code 2660(h) authorizes the Physical Therapy Board of California to cite the Medical Practice Act.

Citation:

Minimum Fine: \$100
Maximum Fine: \$5,000

Discipline:

Minimum: Public Reproval
Maximum: Revocation

AIDING OR ABETTING UNLAWFUL PRACTICE B&P CODE 2660 (j)

Citation:

Minimum Fine: \$100
Maximum Fine: \$5,000

Discipline:

Minimum: Public Reproval
Maximum: Revocation

Refer to related statutes: B&P Code 2264, 2660(h)¹

FRAUDULENT, DISHONEST OR CORRUPT ACT SUBSTANTIALLY RELATED B&P CODE 2660(k)

Citation:

Minimum Fine: \$100
Maximum Fine: \$5,000

Discipline:

Minimum: Revocation, stayed, 5 days suspension, 3 years probation
Maximum: Revocation

Conditions of Probation:

- 1) All "Standard Probation Conditions"
- 2) "Probation Conditions Specific to Violation" for consideration are: F

"Probation Conditions Specific to Violation" should be considered individually since some, or all, may **not** apply.

Refer to related statute: B&P Code 810,

INFECTION CONTROL GUIDELINES B&P CODE 2660(l)

Citation:

Minimum Fine: \$100

¹ B&P Code 2660(h) authorizes the Physical Therapy Board of California to cite the Medical Practice Act.

Maximum Fine: \$5,000

Discipline:

Minimum: Public Reproval
Maximum: Revocation

Conditions of Probation:

- 1) All "Standard Probation Conditions"
- 2) "Probation Conditions Specific to Violation" for consideration are: A, B, C, E, I, J

"Probation Conditions Specific to Violation" should be considered individually since some, or all, may **not** apply.

VERBAL ABUSE OR SEXUAL HARASSMENT- B&P CODE 2660(m)

Citation:

Minimum Fine: \$100
Maximum Fine: \$5,000

Discipline:

Minimum: Public Reproval
Maximum: Revocation

Conditions of Probation:

- 1) All "Standard Probation Conditions"
- 2) "Probation Conditions Specific to Violation" for consideration are: A, B, C, G, T

"Probation Conditions Specific to Violation" should be considered individually since some, or all, may **not** apply.

PRESUMPTION REGARDING INCAPABILITY TO CONSENT TO SEXUAL ACTIVITY B&P CODE 2660.1

Note: Pursuant to CCR 1399.15 any findings the licensee committed a sex offense or been convicted of a sex offense, the order shall revoke the license. The proposed decision shall not contain an order staying the revocation of the license.

Refer to related statute and/or regulation: B&P Code 726, 1399.15

DENIAL OF LICENSE IN SPECIFIED CIRCUMSTANCES - REGISTERED SEX OFFENDER (APPLICANT) B&P 2660.5

Discipline: Denial of License

SUBVERSION OF EXAMINATION B&P 2660.7

Refer to related statutes: B&P Code 123, 584, 2288, 2660 (h)¹, (i)(k)

CONVICTION OF CRIME B&P CODE 2661

A conviction demonstrates a lack of judgment and unwillingness to obey a legal prohibition and also exhibits characteristics and actions that do not demonstrate that he or she exercises prudence and good judgment. Therefore, the conviction is substantially related to the qualifications, functions and duties as a licensee.

Note: B&P Code 2661 should be cited in conjunction with a conviction violation since it defines the conviction being of substantial relationship to the qualifications, functions and duties, and should not stand alone as its own cause.

Refer to related statutes and/or regulations: B&P Code 490, 2236, 2660(d), CCR 1399.23, 1399.24

DEMONSTRATION OF CONTINUING COMPETENCY REQUIREMENT B&P CODE 2676

Citation:

Minimum Fine: \$100
Maximum Fine: \$5,000

Discipline:

Minimum: Public Reproval
Maximum: Revocation

Refer to related statute: B&P Code 2684

¹ B&P Code 2660(h) authorizes the Physical Therapy Board of California to cite the Medical Practice Act.

EXPIRATION AND RENEWAL OF LICENSES, DISCLOSURE OF MISDEMEANOR OR CRIMINAL OFFENSE & CONTINUING COMPETENCY REQUIREMENTS B&P CODE 2684

Citation:

Minimum Fine: \$100
Maximum Fine: \$5,000

Discipline:

Minimum: Public Reproval
Maximum: Revocation

Refer to related statute: B&P Code 2630, 2676

PHYSICAL THERAPY CORPORATION B&P CODE 2691

Refer to related statute: B&P Code 2286 Note: If a licensee violates this section it would be a criminal offense; therefore, also see B&P Code 2236.

UNPROFESSIONAL CONDUCT- CORPORATION B&P CODE 2692

Citation:

Minimum Fine: \$100
Maximum Fine: \$5,000

Discipline:

Minimum: Public Reproval
Maximum: Revocation

VIOLATION OF PROBATION

Discipline:

NOTE: The maximum penalty should be given for repeated similar offenses or for probation violations revealing a cavalier or recalcitrant attitude.

Implementation of Original Stayed Order.

TITLE 16, CALIFORNIA CODE OF REGULATIONS

FILING OF ADDRESSES, EMAIL ADDRESSES & NAME CHANGE CCR 1398.6

Refer to statute: B&P Code 136, 2660

ADVERTISING CCR 1398.10

Refer to statute(s) for appropriate penalties: B&P Code 651, 2271, 2660(a)(h)¹, H&S Code 17500

PHYSICAL THERAPY AIDE, APPLICANT, STUDENT AND INTERN IDENTIFICATION CCR 1398.11

Refer to statute(s) for appropriate penalties: B&P Code 680

PATIENT RECORD DOCUMENTATION REQUIREMENT CCR 1398.13

Refer to statute(s) for appropriate penalties: B&P Code 2620.7

NOTICE TO CONSUMERS (FORM NTC 12-01) CCR 1398.15

Citation:

Minimum Fine: \$100
Maximum Fine: \$5,000

Discipline:

Minimum: Public Reproval
Maximum: Public Reproval

Refer to related statute: B&P Code 2660

APPLICATIONS OF FOREIGN GRADUATES CCR 1398.26

Refer to statute(s) for appropriate penalties: B&P Code 2653

¹ B&P Code 2660(h) authorizes the Physical Therapy Board of California to cite the Medical Practice Act.

CLINICAL SERVICE REQUIREMENTS FOR FOREIGN EDUCATED APPLICANTS CCR 1398.26.5

Refer to statute(s) for appropriate penalties: B&P Code 2653

IDENTIFICATION AND SUPERVISION OF PHYSICAL THERAPIST STUDENTS AND INTERNS DEFINED CCR 1398.37

Refer to statute(s) for appropriate penalties: B&P Code 2650.1

CRITERIA FOR APPROVAL OF PHYSICAL THERAPY FACILITIES TO SUPERVISE THE CLINICAL SERVICE OF FOREIGN EDUCATED APPLICANTS CCR 1398.38

Refer to statute(s) for appropriate penalties: B&P Code 2653

SUPERVISION OF PHYSICAL THERAPIST ASSISTANTS CCR 1398.44

Refer to statute(s) for appropriate penalties: B&P Code 2660(h), 2655.2

IDENTIFICATION AND SUPERVISION OF PHYSICAL THERAPIST ASSISTANT STUDENTS AND INTERNS DEFINED CCR 1398.52

Refer to statute(s) for appropriate penalties: B&P Code 2655.75

REQUIREMENTS FOR USE OF AIDES CCR 1399

Refer to statute(s) for appropriate penalties: B&P Code 2264, 2630, 2660(j)(h)¹

SUPERVISION OF PHYSICAL THERAPISTS LICENSE APPLICANTS CCR 1399.10

Citation:

Minimum Fine: \$100
Maximum Fine: \$5,000

Discipline:

¹ B&P Code 2660(h) authorizes the Physical Therapy Board of California to cite the Medical Practice Act.

Minimum: Revocation, stayed, 5 days suspension, 3 years probation
Maximum: Revocation

Conditions of Probation:

- 1) All "Standard Probation Conditions"
- 2) "Probation Conditions Specific to Violation" for consideration are: A, B, J, K, M
"Probation Conditions Specific to Violation" should be considered individually since some, or all, may **not** apply.

Refer to related statute(s) for appropriate penalties: B&P Code 2636.5, 2639, 2640

SUPERVISION OF PHYSICAL THERAPIST ASSISTANT LICENSE APPLICANTS CCR 1399.12

Citation:

Minimum Fine: \$100
Maximum Fine: \$5,000

Discipline:

Minimum: Revocation, stayed, 5 days suspension, 3 years probation
Maximum: Revocation

Conditions of Probation:

- 1) All "Standard Probation Conditions"
- 2) "Probation Conditions Specific to Violation" for consideration are: A, B, J, K, M

"Probation Conditions Specific to Violation" should be considered individually since some, or all, may **not** apply.

Refer to related statute(s): B&P Code 2655.91

REQUIRED ACTIONS AGAINST REGISTERED SEX OFFENDERS CCR1399.23

Discipline:

Revocation or Denial of License

Refer to related statute(s) and regulation for appropriate penalties: B&P Code 480, 726, 2660.1, 2660.5, 2608, 2660.1, 2660.2, 2661, CCR 1399.15

PROHIBITING ANOTHER PARTY FROM COOPERATING WITH OR DISPUTING A COMPLAINT CCR 1399.24(a)

Citation:

Minimum Fine: \$100
Maximum Fine: \$5,000

Discipline:
Minimum: Public Reproval
Maximum: Revocation

Standard Conditions Only

FAILURE TO PROVIDE CERTIFIED DOCUMENTS CCR 1399.24(b)

Refer to statute for appropriate penalties: B&P Code 2608.5

FAILURE TO COOPERATE IN BOARD INVESTIGATION 1399.24(c)

Citation:
Minimum Fine: \$100
Maximum Fine: \$5,000

Discipline:
Minimum: Public Reproval
Maximum: Revocation

Standard Conditions Only

FAILURE TO REPORT TO BOARD CRIMINIAL OR DISCIPLINARY INFORMATION CCR 1399.24(d)

Refer to related statutes for appropriate penalties: B&P Code 141, 490, 2661, 2660(d)

FAILURE TO COMPLY WITH SUBPOENA ORDER CCR 1399.24(e)

Citation:
Minimum Fine: \$100
Maximum Fine: \$5,000

Discipline:
Minimum: Public Reproval
Maximum: Revocation

Standard Conditions Only

CERTIFICATION REQUIRED - ELECTROMYOGRAPHY CCR 1399.61

Refer to statute(s) for appropriate penalties: B&P Code 2620.5

ADMINISTRATION OF MEDICATIONS CCR 1399.77

Refer to statute(s) for appropriate penalties and related regulations: B&P Code 2620.3, CCR 1399.78, 1399.79

AUTHORIZATION AND PROTOCOLS REQUIRED FOR TOPICAL MEDICATIONS CCR 1399.78

Refer to statute(s) for appropriate penalties and related regulations: B&P Code 2620.3, CCR 1399.77, 1399.79

AUTHORIZED TOPICAL MEDICATIONS CCR 1399.79

Refer to statute(s) for appropriate penalties and related regulations: B&P Code 2620.3, CCR 1399.77, 1399.78

CONTINUING COMPETENCY REQUIRED CCR 1399.91

Refer to statute(s) for appropriate penalties: B&P Code 2676, 2684

CONTENT STANDARDS FOR CONTINUING COMPETENCY CCR 1399.92

Refer to statute(s) for appropriate penalties: B&P Code 2676, 2684

CONTINUING COMPETENCY SUBJECT MATTER REQUIREMENTS AND OTHER LIMITATIONS CCR 1399.93

Refer to statute(s) for appropriate penalties: B&P Code 2676, 2684

AUTHORIZED PATHWAYS FOR OBTAINING CONTINUING COMPETENCY HOURS CCR 1399.94

Refer to statute(s) for appropriate penalties: B&P Code 2676, 2684

STANDARDS FOR APPROVED AGENCIES CCR 1399.95

Citation:

Minimum Fine: \$100
Maximum Fine: \$5,000

Maximum:

Revocation of recognition as an approved agency

Refer to related statute: B&P Code 2676

STANDARDS FOR APPROVED PROVIDERS CCR 1399.96

Citation:

Minimum Fine: \$100
Maximum Fine: \$5,000

Maximum:

Revocation of recognition as an approved provider

Refer to related statute: B&P Code 2676

RECORD KEEPING (CONTINUING COMPETENCY) CCR 1399.97

Refer to statute(s) for appropriate penalties: B&P Code 2676, 2684

INACTIVE STATUS (CONTINUING COMPETENCY) CCR 1399.98

Refer to statute(s) for appropriate penalties: B&P Code 2676, 2684

EXEMPTION FROM CONTINUING COMPETENCY REQUIREMENTS CCR 1399.99

Refer to statute(s) for appropriate penalties: B&P Code 2676, 2684

SPONSORING ENTITY REGISTRATION AND RECORDKEEPING REQUIREMENTS CCR 1399.99.2

Refer to statute for appropriate penalties: B&P Code 901

OUT OF STATE PRACTITIONER AUTHORIZATION TO PARTICPATE IN SPONSORED EVENT CCR 1399.99.3

Refer to statute(s)) for appropriate penalties: B&P Code 901

**TERMINATION OF AUTHORIZATION AND APPEAL (OUT OF STATE
PRACTITIONER'S AUTHORIZATION) CCR 1399.99.4**

Refer to statute for appropriate penalties: B&P Code 901

HEALTH AND SAFETY CODE

PATIENT'S ACCESS TO HEALTH CARE RECORDS H&S CODE 123110

Citation:

Minimum Fine: \$100
Maximum Fine: \$5,000

Discipline:

Minimum: Revocation, stayed, 5 days suspension, 3 years probation
Maximum: Revocation

Conditions of Probation in Addition to Standard Conditions: NONE

~~Standard Probation Conditions~~
PROBATION CONDITIONS

Probation conditions are divided into three categories: 1) Standard Conditions the Board expects in all probation cases; 2) Specific Conditions that depend on the nature and circumstances of the particular case; and 3) Conditions Specific to Alcohol and/or Controlled Substance.

STANDARD PROBATION CONDITIONS

The standard conditions generally appearing in every probation case are as follows:

1. **License Revocation, Stayed**

Respondent's license shall be revoked, with the revocation stayed.

2. **License Suspension**

Respondent's license shall be suspended for [insert specific number of days, months]. See specific violation for recommended time of suspension.

Note: This term is not meant to be used for punitive purposes but should be used as an educational consequence to ensure Respondent's understanding of his or her actions.

3. **Cost Recovery**

Respondent is ordered to reimburse the Board the actual and reasonable investigative and prosecutorial costs incurred by the Board in the amount of \$_____. Said costs shall be reduced, however, and the remainder forgiven, if Respondent pays _____% of said costs, or \$_____, within thirty (30) days of the effective date of this Decision and Order. In the event Respondent fails to pay within thirty (30) days of the Decision, the full amount of costs shall be immediately due and payable. The Board or its designee may establish a payment plan for cost recovery; however, Respondent shall pay the full amount of cost recovery at least ninety (90) days prior to completion of the probation. Failure to pay the ordered reimbursement, or any agreed upon payment, constitutes a violation of the probation order. If Respondent is in default of his responsibility to reimburse the Board, the Board will collect cost recovery from the Franchise Tax Board, the Internal Revenue Service, or

by any other means of attachment of earned wages legally available to the Board.

Note: Costs represent the actual investigative and prosecutorial costs.

4. Obey All Laws

Respondent shall obey all federal, state and local laws, the statutes and regulations governing the practice of physical therapy and remain in full compliance with any court ordered criminal probation. This condition applies to any jurisdiction with authority over Respondent, whether it is inside or outside of California.

Further, Respondent shall, within five (5) days of any arrest, submit to the Board in writing a full and detailed account of such arrest.

5. Compliance with Orders of a Court

Respondent shall be in compliance with any valid order of a court. Being found in contempt of any court order is a violation of probation.

6. Compliance with Criminal Probation and Payment of Restitution

Respondent shall not violate any terms or conditions of criminal probation and shall be in compliance with any restitution ordered, payments, or other orders.

7. Quarterly Reports

Respondent shall submit quarterly reports under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all conditions of probation.

8. Probation Monitoring Program Compliance

Respondent shall comply with the Board's probation monitoring program.

9. Interview with the Board or its Designee

Respondent shall appear in person for interviews with the Board, or its designee, upon request at various intervals.

10. Notification of Probationer Status to Employers

Respondent shall notify all present and future employers of the reason for and the terms and conditions of the probation.

Prior to engaging in the practice of physical therapy, Respondent shall provide a true copy of the Initial Probationary License Decision and

Order, Statement of Issues or Accusation, Decision and Order, or Stipulated Decision and Order as appropriate to his or her employer, supervisor, or contractor, or prospective employer or contractor, and at any other facility where Respondent engages in the practice of physical therapy before accepting or continuing employment.

Respondent shall provide the probation monitor the names, physical addresses, mailing addresses, and telephone numbers of all employers and supervisors, or contractors, and shall inform the probation monitor in writing of the facility or facilities at which Respondent will be engaging in the practice of physical therapy for purposes of allowing the probation monitor to communicate with the employer, supervisor, or contractor regarding Respondent's work status, performance and monitoring.

The information will be provided in writing to the probation monitor within ten (10) calendar days and will include written employer confirmation of receipt.

11. Notification of Change of Name, or Address or E-mail Address Change

Respondent shall notify the Board, in writing, of any and all name, and/or address, and/or e-mail address changes within ten (10) days of the change.

12. Restriction of Practice - Temporary Services Agencies

Respondent shall not work for a temporary services agency or registry.

OR:

NOTE: If Respondent's restrictions are limited to a certain number of registries and/or temporary service agencies:

Respondent's work for a temporary services agency or registry shall be limited as follows:

- 1) Respondent shall be limited to work for (indicate # of temporary services or registries) temporary service agency or registry.
- 2) This work must be approved by the Probation Monitor.
- 3) Respondent must disclose this disciplinary proceeding as described above in Condition # [include appropriate term] to the temporary service agency or registry.
- 4) Respondent must disclose this disciplinary proceeding, as described above in Condition # [include appropriate term] to the supervisor at the facility where physical therapy care is being performed.

Respondent must notify his or her Probation Monitor or Board's designee, in writing, of any change in registry or temporary service. Respondent must have written approval by the Probation Monitor prior to commencing work at a new registry or temporary service agency.

13. Restriction of Practice - Clinical Instructor of Physical Therapy Student Interns or Foreign Educated Physical Therapist License Applicants Prohibited

Respondent shall not supervise any physical therapy student interns, foreign educated physical therapist license applicants, or other individuals accumulating hours or experience in a learning capacity in physical therapy during the entire period of probation. Respondent shall terminate any such supervisory relationship in existence on the effective date of the Decision and Order.

14. Prohibited Use of Aliases

Respondent shall not use aliases and shall be prohibited from using any name which is not his or her legally-recognized name or based upon a legal change of name.

15. Intermittent Work

If Respondent works less than 192 hours as a physical therapist or a physical therapist assistant in the physical therapy profession in a period of three (3) consecutive months, those months shall not be counted toward satisfaction of the probationary period. Respondent is required to immediately notify the probation monitor or his or her designee if he or she works less than 192 hours in a three-month period.

16. Tolling of Probation

The period of probation shall run only during the time Respondent is practicing or performing physical therapy within California. If, during probation, Respondent does not practice or perform within California, Respondent is required to immediately notify the probation monitor in writing of the date Respondent is practicing or performing physical therapy out of state, and the date of return, if any. Practicing or performing physical therapy by Respondent in California prior to notification to the Board of Respondent's return will not be credited toward completion of probation. Any order for payment of cost recovery shall remain in effect whether or not probation is tolled.

17. Violation of Probation

Failure to fully comply with any component of any of the probationary terms and conditions is a violation of probation.

If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or petition to revoke probation is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

18. Request to Surrender License Due to Retirement, Health or Other Reasons

Following the effective date of the Decision and Order, if Respondent ceases practicing or performing physical therapy due to retirement, health or other reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request to surrender his or her license to the Board. The Board reserves the right to evaluate Respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the tendered license, the terms and conditions of probation shall be tolled until such time as (1) the license is no longer renewable; (2) Respondent makes application for the renewal of the tendered license; or (3) Respondent makes application for a new license.

19. Completion of Probation

Respondent shall comply with all financial obligations required by this Order (e.g., cost recovery, restitution, probation costs) not later than 180 calendar days prior to completion of probation unless otherwise specified in Order. Upon successful completion of probation, Respondent's license shall be fully restored.

20. California Law Examination - Written Exam on the Laws and Regulations Governing the Practice or Performance of Physical Therapy

Within ninety (90) days of the effective date of this Decision and Order, Respondent shall take and pass the Board's written examination on the laws and regulations governing the practice of physical therapy in California. If Respondent fails to pass the examination, Respondent shall be suspended from the practice of physical therapy until a repeat examination has been successfully passed. Respondent shall pay the costs of all examinations.

21. Practice or Performance of Physical Therapy While on Probation

It is not contrary to the public interest for Respondent to practice and/or perform physical therapy under the probationary conditions specified in

the disciplinary order. Accordingly, it is not the intent of the Board that this order, the fact that Respondent has been disciplined, or Respondent is on probation, shall be used as the sole basis for any third party payor to remove Respondent from any list of approved providers.

22. Probation Monitoring Costs

Respondent shall reimburse all costs incurred by the Board for probation monitoring during the entire period of probation. Respondent will be billed at least quarterly. Such costs shall be made payable to the Physical Therapy Board of California and sent directly to the Physical Therapy Board of California. Failure to make ordered reimbursement within sixty (60) days of the billing shall constitute a violation of the probation order.

PROBATION CONDITIONS SPECIFIC TO VIOLATION

The following conditions lettered A through S are specific to the violation, and should be used depending on the nature and circumstances of the particular case.

A. Restriction of Practice - Presence of Physical Therapist

Note: The purpose of this condition would allow Respondent (physical therapist or physical therapist assistant) to practice with a level of supervision which ensures Respondent is in compliance with the Physical Therapy Practice Act as well as the probationary conditions. If Respondent works with another physical therapist that is eligible and available to function as Respondent's supervisor, the "Supervision Required" (Condition A) should be used in lieu of Condition B. Condition A is commonly used for, but not limited to: sexual misconduct, aiding and abetting, documentation cases, behavioral issues and where Respondent is not a sole proprietor. This condition should never be used in conjunction with "B" "Practice Monitor Required".

Choose level of supervision:

1) Full Presence/Documentation Review

The level of supervision shall be direct and require 1) the physical presence of the supervising physical therapist while physical therapy is performed by Respondent; and may require, 2) review patient records and any pertinent documents necessary to determine compliance with Respondent's Decision and Order. Direct and physical presence means, the supervising physical therapist shall be near or close enough to observe or hear the Respondent. While this may not require sharing the same treatment room with Respondent, it does require the supervising physical therapist to be within an audible range that would ensure the immediate presence of the supervising physical therapist.

2) Limited Presence/ Documentation Review

The level of supervision shall not require the physical presence of the supervising physical therapist at all times while physical therapy is performed by Respondent. However, Respondent shall be physically observed at least once per shift and may require review of patient records and any pertinent documents necessary to determine compliance with Respondent's Decision and Order at least once during Respondent's shift by the supervising physical therapist.

3) No Presence/Documentation Review As Determined

The level of supervision shall not require the physical presence of the supervising physical therapist while physical therapy is performed; however, it will require review of patient records and any pertinent documents necessary to determine compliance with Respondent's Decision and Order on a time base as agreed upon by the Board.

Within fifteen (15) business days of the effective date of this Decision and Order, Respondent shall submit to the Board in writing, for its prior approval, the name and qualifications of one or more proposed supervisor(s) and an outline of the plan by which Respondent's practice will be supervised.

Each proposed supervisor shall hold a valid California physical therapist license and shall have been licensed in California for at least five (5) years and never been subject to any disciplinary action by the Board. An administrative citation and fine does not constitute discipline; and therefore, in and of itself is not a reason to deny approval of an individual as a supervisor. The supervisor shall not be an employee of Respondent, have a relationship which is financial or personal in nature with Respondent or any other type of relationship that could reasonably be expected to compromise the ability of the supervisor to render impartial and unbiased reports to the Board. The supervisor shall also not be a family member of Respondent. If the supervisor terminates or is otherwise no longer available, Respondent shall not practice until a new supervisor has been approved by the Board.

Upon approval of the supervisor and outline of supervision, the supervisor shall sign an agreement that he or she has reviewed the conditions of the licensee's disciplinary order and/or contract and agrees to supervise the licensee as set forth by the Board. Respondent shall submit the signed agreement to the Board. The supervisor shall have full and random access to Respondent's patient records and may evaluate all aspects of Respondent's practice. The supervisor shall complete and submit a written report, on a basis determined by the Board, verifying supervision has taken place as approved by the Board. It shall be Respondent's responsibility to ensure the supervisor submits the reports to the Board in a timely manner.

The supervisor's report shall include:

- A. Respondent's name and license number
- B. Supervisor's name, license number and signature
- C. Worksite location(s)
- D. Evaluation of Respondent's compliance with his or her probationary conditions and existing laws and regulations governing the practice of physical therapy
- E. Assessment of Respondent's progress in regards to the specific issues, deficiencies or concerns resulting from the violations identified in the Decision and Order by the Board
- F. Summary of the supervisor's conclusions and opinions concerning the issues described above and the basis for his or her conclusions and opinions

Supervisor shall keep any information used to write his or her report (e.g. record of patient records reviewed) in case Board requests said information. This information does not need to be submitted to the Board unless the Board or its representative requests it or if supervisor feels the information is pertinent to include in report.

After one (1) year of full compliance with probation, respondent may request in writing for the approval by the Board or its designee, to remove this condition entirely or modify the requirement to a lower level of supervision.

B. Restriction of Practice – Monitoring

Note: This probation condition shall only be applied if the Respondent holds a vested interest in the physical therapy practice (i.e. officer, partner, shareholder, sole proprietor). This condition does not require the physical presence of another licensed physical therapist; however, it does require arranged visits by a Practice Monitor approved by the Board for documentation review only. This condition should never be used with condition A.

Within fifteen (15) business days of the effective date of this Decision and Order, Respondent shall submit to the Board in writing, for its prior approval, the name and qualifications of one or more proposed licensed physical therapist(s) to serve as Practice Monitor(s). Each Practice Monitor shall be a California licensed physical therapist and shall have been licensed for at least five (5) years and have never been subject to any disciplinary action by the Board. An administrative citation and fine does not constitute discipline and therefore, in and of itself, is not a reason to deny approval of an individual as a Practice Monitor. The monitor shall not be an employee of the Respondent, have a relationship which is financial or personal in nature with Respondent or any other type of relationship that could reasonably be expected to compromise the ability of the Practice Monitor to render impartial and unbiased reports to the Board. The Practice Monitor shall also not be a family member of Respondent. If the Practice Monitor terminates or is otherwise no longer available, Respondent shall not practice until a new Practice Monitor has been approved by the Board. All costs associated with the Practice Monitor shall be paid by Respondent.

Respondent shall not practice until receiving written approval from the Board regarding Respondent's choice of a Practice Monitor.

Upon approval of the Practice Monitor by the Board, the Practice Monitor in conference with the Board's probation monitor will establish the schedule upon which visits will be made to Respondent's place of employment to review Respondent's current practice and adherence to the conditions of probation. The Practice Monitor shall have full and random access to all of Respondent's patient records at all times. The Practice Monitor shall evaluate all aspects of Respondent's practice.

The Practice Monitor shall report on Respondent's current practice and compliance with the conditions of Respondent's probation to the Board's probation monitor after each visit. Frequency of the visits by the Practice Monitor shall be determined by the Board. It shall be Respondent's responsibility to ensure the Practice Monitor submits the reports to the Board within fourteen (14) days of the visit.

The Practice Monitor's report shall include:

1. Respondent's name and license number
2. Practice Monitor's, license number and signature
3. Worksite location(s)
4. Evaluation of Respondent's compliance with his or her probationary conditions and existing laws and regulations governing the practice of physical therapy
5. Assessment of Respondent's progress in regards to the correction of specific issues, deficiencies or concerns resulting from the violations identified in the Decision and Order by the Board
6. Summary of the Practice Monitor's conclusions and opinions concerning the issues described above and the basis for his or her conclusions and opinions

The Practice Monitor shall also maintain and submit with his or her reports a log of the patient charts reviewed, the date(s) of service reviewed, and the date upon which the review occurred.

C. Restriction of Practice – Prohibition of Home Care

Respondent shall not provide physical therapy services in a patient's home.

D. Restriction of Practice – Prohibition of Solo Practice

Respondent shall be prohibited from engaging in the solo practice of physical therapy.

This condition applies only to a physical therapist since a physical therapist assistant may not perform physical therapy without supervision.

In cases where Respondent's ability to function independently is in doubt as a result of a deficiency in knowledge or skills or as a result of questionable judgment, this condition should be included. Solo practice means a physical therapy business or practice where only Respondent provides patient care.

E. Restriction of Practice - Prohibition of Self-Employment or Ownership

Respondent shall not be the sole proprietor or partner in the ownership of any business that offers physical therapy services. Respondent shall not be a Board member or an officer or have a majority interest in any corporation that offers or provides physical therapy services.

F. Restriction of Practice - Prohibition of Direct Billing of Third-Party Payers

Respondent shall not have final approval over any physical therapy billings submitted to any third-party payers in any employment.

G. Restriction of Practice - Third Party Presence

During probation, Respondent shall have a third party present while examining or treating _____ (name the specific patient population). Respondent shall, within ten (10) days of the effective date of the Decision and Order, submit to the Board or its designee for its approval the name(s) of the person(s) who will act as the third party present. Respondent shall execute a release authorizing the third party present to divulge any information that the Board may request. The person(s) acting in the role of the third party present shall be provided with a copy of the Initial Probationary License Decision and Order, Statement of Issues or Accusation, Decision and Order, or Stipulated Decision and Order.

H. Restriction of Practice - Prohibition Not to Treat a Specific Patient Population

Respondent shall not treat any _____
(name the specific patient population)

I. Restriction of Practice –Prohibition from Performing Specified Physical Therapy Procedures

During probation, Respondent is prohibited from performing or supervising the performance of _____ (specific physical therapy procedure; on a specific patient population). After the effective date of this Decision and Order, the first time that a patient seeking the prohibited services makes an appointment, Respondent shall orally notify the patient that Respondent does not perform _____ (e.g. a specific physical therapy procedure; on a specific patient population). Respondent shall maintain a log of all patients to whom the required notification was made. The log shall contain the: 1) patient's name, address and phone number; 2) patient's medical record number, if available; 3) the full name of the person making the notification; 4) the date the notification was made; and 5) a description of the notification given. Respondent shall keep this log in a separate file or ledger, in chronological order, shall make the log available for immediate inspection and copying on the premises at all times during business hours by the practice monitor or the Board's probation monitor, and shall retain the log for the entire term of probation. Failure to maintain a log as defined in the section, or to make the log available for immediate inspection and copying on the premises during business hours is a violation of probation.

In addition to the required oral notification, after the effective date of this Decision and Order, the first time a patient seeks the prohibited services, and each subsequent time, Respondent shall provide a written notification to the patient stating that Respondent does not perform _____ (e.g. a specific physical therapy procedure; on a specific patient population) Respondent shall maintain a copy of the written notification in the patient's file, shall make the notification available for immediate inspection and copying on the premises at all times during business hours by the practice monitor or the Board's probation monitor, and shall retain the notification for the entire term of probation. Failure to maintain the notification as defined in the section, or to

make the notification available for immediate inspection and copying on the premises during business hours is a violation of probation.

If Respondent can demonstrate competency in performing _____ (e.g. a specific physical therapy procedure; on a specific patient population) to the satisfaction of a physical therapist (holding a valid and current, unrestricted license), approved by the Board's probation monitor, the approved physical therapist can recommend to the Board in writing that this term of the probation end without the probationer petitioning to modify the probation. The Board or its designee will make the decision and notify Respondent of its decision in writing. Until Respondent has been notified in writing by the Board that this term has been terminated, Respondent shall continue to practice under the provision of this term.

Respondent shall pay all costs of the evaluation.

J. Restriction of Practice - No Supervision of Physical Therapist License Applicants or Physical Therapist Assistant License Applicants

Respondent shall not supervise any physical therapist license applicants or physical therapist assistant applicants during the entire period of probation. Respondent shall terminate any such supervisory relationship in existence on the effective date of this Decision and Order.

K. Restriction of Practice - No Supervision of Physical Therapist Assistants

Respondent shall not supervise any physical therapist assistants during the entire period of probation. Respondent shall terminate any such supervisory relationship in existence on the effective date of this Decision and Order.

L. Restriction of Practice - No Supervision of Physical Therapy Aides

Respondent shall not supervise any physical therapy aides during the entire period of probation. Respondent shall terminate any such supervisory relationship in existence on the effective date of this Decision and Order.

M. Notification to Patients

Respondent shall notify each patient, in writing, his or her license is on probation and that [INSERT LANGUAGE SPECIFIC TO CASE, e.g. physical therapist will be reviewing patient records or other specific requirement].

Such notification shall be signed and dated by each patient prior to the commencement or continuation of any examination or treatment of each patient by Respondent. A copy of such notification shall be maintained in the patient's record. Respondent shall offer the patient a copy of the acknowledgement.

The notification shall include the following language unless the Board or its designee agrees, in writing, to a modification:

The Physical Therapy Board of California (PTBC) has placed license [INSERT LICENSE #], issued to [INSERT LICENSEE NAME], on probation.

As a condition of probation, the above-named licensee must notify patients that [INSERT LANGUAGE SPECIFIC TO CASE, e.g. practice monitor will be reviewing patient records or other specific requirement]. In addition, Respondent is required to notify and obtain written acknowledgement from each patient of this condition. A copy of the acknowledgement shall be offered to the patient and placed in the patient's record.

Information regarding PTBC license disciplinary actions may be accessed online at www.ptbc.ca.gov.

N. Notification of Probationer Status to Employees

If Respondent is an employer, Respondent shall notify all present or future employees of the reason for and terms and conditions of the probation. Respondent shall do so by providing a copy of the Initial Probationary License, Statement of Issues, Accusation, and Decision and Order to each employee and submit confirmation of employee receipt to the Board within ten (10) days. The confirmation(s) provided to the Board shall include the name, address, and phone number of the employees.

O. Education Course(s)

Within thirty (30) days of the effective date of this Decision and Order, Respondent shall submit to the Board, or its designee, for prior approval, a physical therapy remedial educational program (including date, title, and length of course(s) in the content of _____ (specify course subject) which shall not be less than eight (8) hours. Respondent shall supply documentation verifying satisfactory completion of coursework. Respondent shall be responsible for costs incurred of the course(s). Course hours shall not satisfy the Continuing Competency requirements pursuant to B&P Code 2676 as a condition for renewal of license.

If Respondent fails to provide documentation verifying satisfactory completion of the coursework, Respondent shall be suspended from the practice of physical therapy until documentation verifying satisfactory completion of the coursework is provided.

P. Psychiatric Evaluation

Within thirty (30) calendar days of the effective date of this Decision and Order, and on whatever periodic basis thereafter may be required by the Board or its designee, Respondent shall undergo and complete a psychiatric evaluation (and psychological testing, if deemed necessary) by a Board-

appointed Board certified psychiatrist, who shall consider any information provided by the Board or designee and any other information the psychiatrist deems relevant, and shall furnish a written evaluation report to the Board or its designee indicating whether Respondent is mentally fit to practice physical therapy safely. Psychiatric evaluations conducted prior to the effective date of the Decision and Order shall not be accepted towards the fulfillment of this requirement. Respondent shall pay all cost of all psychiatric evaluations, and psychological testing, and any required additional follow up visits.

Respondent shall comply with all restrictions or conditions recommended by the evaluating psychiatrist within fifteen (15) calendar days after being notified by the Board or its designee. Failure to undergo and complete a psychiatric evaluation and psychological testing, or comply with the required additional conditions or restrictions, is a violation of probation.

(Option: Condition Precedent)

Respondent shall not engage in the practice of physical therapy until notified by the Board or its designee that Respondent is mentally fit to practice physical therapy safely. The period of time Respondent is not practicing physical therapy shall not be counted toward completion of the term of probation.

Q. Psychotherapy

Within sixty (60) calendar days of the effective date of this Decision and Order, Respondent shall submit to the Board or its designee for prior approval the name and qualifications of a Board certified psychiatrist or a licensed psychologist who has a doctoral degree in psychology and at least five (5) years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders. Upon approval, Respondent shall undergo and continue psychotherapy treatment, including any modifications to the frequency of psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

The psychotherapist shall consider any information provided by the Board or its designee and any other information the psychotherapist deems relevant and shall furnish a written evaluation report to the Board or its designee. Respondent shall cooperate in providing the psychotherapist any information and documents that the psychotherapist may deem pertinent. Respondent shall have the treating psychotherapist submit quarterly status reports to the Board or its designee. The Board or its designee may require Respondent to undergo psychiatric evaluations by a Board-appointed Board certified psychiatrist.

If, prior to the completion of probation, Respondent is found to be mentally unfit to resume the practice of physical therapy without restrictions, the Board shall have continued jurisdiction over Respondent's license and the period of probation shall be extended until the Board determines Respondent is mentally

fit to resume the practice of physical therapy without restrictions. Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

Note:

This condition is for cases where the evidence demonstrates Respondent has had an impairment (impairment by mental illness, alcohol abuse and/or drug self-abuse) related to the violations but is not at present a danger to Respondent's patients.

R. Medical Evaluation

Within thirty (30) days of the effective date of this Decision and Order, and on a periodic basis thereafter, as may be required by the Board or its designee, Respondent shall undergo a medical evaluation by a Board appointed physician and surgeon, who shall furnish a medical report to the Board or its designee. Respondent shall pay the cost of the medical evaluation.

If Respondent is required by the Board or its designee to undergo medical treatment, Respondent shall within thirty (30) days of the requirement submit to the Board or its designee for its prior approval the name and qualifications of a physician and surgeon of Respondent's choice. Upon approval of the treating physician and surgeon, Respondent shall undergo and continue medical treatment until further notice from the Board or its designee. Respondent shall have the treating physician and surgeon submit quarterly status reports to the Board or its designee indicating whether Respondent is capable of practicing physical therapy safely.

Optional Condition

Respondent shall not engage in the practice of physical therapy until notified by the Board or its designee of its determination Respondent is medically fit to practice safely.

S. Medical Treatment

Within fifteen (15) days of the effective date of this Decision and Order, Respondent shall submit to the Board or its designee for its prior approval the name and qualifications of a physician of Respondent's choice. Upon approval, Respondent shall undergo and continue medical treatment until the Board or its designee deems that no further medical treatment is necessary. Respondent shall have the treating physician submit quarterly status reports to the Board or its designee indicating whether Respondent is capable of practicing physical therapy safely. The Board or its designee may require Respondent to undergo periodic medical evaluations by a Board appointed physician. Respondent shall pay the cost of the medical treatment.

~~Conditions Specific to Alcohol and Controlled Substance~~
CONDITIONS APPLYING THE UNIFORM STANDARDS
SPECIFIC TO ALCOHOL
AND CONTROLLED SUBSTANCES

The following conditions, lettered T through Z, must be used in cases where alcohol or a controlled substance was involved in the violation.

T. Clinical Diagnostic Evaluation (CDE)

The Respondent shall undergo a CDE from a licensed practitioner who holds a valid, unrestricted license to conduct CDE's, has three (3) years experience in providing evaluations of health care professionals with substance abuse disorders, and is approved by the Board. The evaluations shall be conducted in accordance with accepted professional standards for conducting substance abuse CDE's.

Respondent shall undergo a CDE to determine whether the Respondent has a substance abuse problem and whether the Respondent is a threat to himself or herself or others. The evaluator shall make recommendations for substance abuse treatment, practice restrictions, or other recommendations related to the Respondent's rehabilitation and safe practice.

Respondent shall not be evaluated by an evaluator that has a financial, personal, or business relationship with the Respondent within the last five (5) years. The evaluator shall provide an objective, unbiased, and independent evaluation.

During the evaluation, if Respondent is determined to be a threat to himself or herself or others, the evaluator shall notify the Board within 24 hours of such a determination.

For all evaluations, a final written report shall be provided to the Board no later than ten (10) days from the date the evaluator is assigned the matter unless the evaluator requests additional information to complete the evaluation, not to exceed thirty (30) days.

Respondent may return to either full-time or part-time work if the Board determines he or she is fit to do so based upon consideration of the CDE report and the following criteria:

- License type;
- Licensee's history;
- Documented length of sobriety/time that has elapsed since last substance use;
- Scope and pattern of use;
- Treatment history;
- Medical history and current medical condition;

- Nature, duration and severity of substance abuse; and,
- Whether the licensee is a threat to himself or herself or others.

The Board shall determine whether or not the Respondent is safe to return to full-time or part-time work, and what restrictions shall be imposed on the Respondent. However, Respondent shall not return to practice until he or she has thirty days of negative drug tests.

If the Respondent is required to participate in inpatient, outpatient, or any other type of treatment, the Board shall take into consideration the recommendation of the CDE, license type, licensee's history, length of sobriety, scope and pattern of substance abuse, treatment history, medical history, current medical condition, nature, duration and severity of substance abuse and whether the licensee is a threat to himself or herself or others.

In the event that any condition applying the Uniform Standards requires interpretation or clarification the uniform standards shall be controlling.

WU. Drug & Alcohol Recovery Monitoring Program

Within fifteen (15) calendar days from the effective date of this Decision and Order, Respondent shall enroll and participate in the Board's drug & alcohol recovery monitoring program at Respondent's cost until the drug & alcohol recovery monitoring program determines that participation in the drug & alcohol recovery monitoring program is no longer necessary.

Respondent shall comply with all components of the drug & alcohol recovery monitoring program. Respondent shall sign a release authorizing the drug & alcohol recovery monitoring program to report all aspects of participation of the drug & alcohol recovery monitoring program as requested by the Board or its designee.

Failure to comply with requirements of the drug & alcohol recovery monitoring program, terminating the program without permission or being expelled for cause shall constitute a violation of probation by Respondent and shall be immediately suspended from the practice of physical therapy.

[Optional language: This condition may be waived by the board upon a written finding by the CDE that Respondent is not a substance abusing licensee.]

FV. Abstain from Use of Controlled Substances and Dangerous Drugs

If recommended by the CDE, Respondent shall abstain completely from personal use, possession, injection, consumption by any route, including inhalation of all controlled substances as defined in the California Uniform, Controlled Substances Act. This prohibition does not apply to medications lawfully prescribed to Respondent for a bona fide illness or condition by a practitioner licensed to prescribe such medications. Within fifteen (15) calendar

days of receiving any lawful prescription medications, Respondent shall notify the recovery program in writing of the following: prescriber's name, address, and telephone number; medication name and strength, issuing pharmacy name, address, and telephone number. Respondent shall also provide a current list of prescribed medication with the prescriber's name, address, and telephone number on each quarterly report submitted. Respondent shall provide the probation monitor with a signed and dated medical release covering the entire probation period.

Respondent shall identify for the Board's approval a single coordinating physician and surgeon who shall be aware of Respondent's history of substance abuse and who will coordinate and monitor any prescriptions for Respondent for dangerous drugs, and controlled substances. Once a Board-approved physician and surgeon has been identified, Respondent shall provide a copy of the Initial Probationary License Decision and Order, Statement of Issues or Accusation, Decision and Order, or Stipulated Decision and Order to the physician and surgeon. The coordinating physician and surgeon shall report to the Board or its designee on a quarterly basis Respondent's compliance with this condition.

The Board may require that only a physician and surgeon who is a specialist in addictive medicine be approved as the coordinating physician and surgeon.

If Respondent has a positive drug screen for any substance not legally authorized, Respondent shall be contacted and instructed to leave work and ordered by the Board to cease any practice and may not practice unless and until notified by the Board. The Board will notify Respondent's employer, if any, and worksite monitor, if any, that Respondent may not practice. If the Board files a petition to revoke probation or an accusation based upon the positive drug screen, Respondent shall be automatically suspended from practice pending the final decision on the petition to revoke probation or accusation. This period of suspension will not apply to the reduction of this probationary period.

[Optional language: This condition may be waived by the board upon a written finding by the CDE that Respondent is not a substance abusing licensee.]

UW. Prohibition Abstain from of the Use of Alcohol

Respondent shall abstain completely from the use of alcoholic beverages.

[Optional language: This condition may be waived by the board upon a written finding by the CDE that Respondent is not a substance abusing licensee.]

VX. Biological Fluid Testing

Respondent shall immediately submit to and pay for any random and directed biological fluid or hair sample, breath alcohol or any other mode of testing required by the Board or its designee.

Respondent shall be subject to a minimum of fifty two (52), but not to exceed, one-hundred and four (104) random tests per year within the first year of probation, and a minimum of thirty six (36) random tests per year thereafter, for the duration of the probationary term.

Respondent shall make daily contact as directed by the Board to determine if he or she must submit to drug testing. Respondent shall have the test performed by a Board-approved laboratory certified and accredited by the U.S. Department of Health and Human Services on the same day that he or she is notified that a test is required. This shall ensure that the test results are sent immediately to the Board. Failure to comply within the time specified shall be considered an admission of a positive drug screen and constitute a violation of probation. If the test results in a determination that the urine was too diluted for testing, the result shall be considered an admission of a positive urine screen and constitutes a violation of probation. If a positive result is obtained, the Board may require Respondent to immediately undergo a physical examination and to complete laboratory or diagnostic testing to determine if any underlying physical condition has contributed to the diluted result and to suspend Respondent's license to practice. Any such examination or laboratory and testing costs shall be paid by Respondent. A positive result is one which, based on scientific principles, indicates Respondent attempted to alter the test results in order to either render the test invalid or obtain a negative result when a positive result should have been the outcome. If it is determined Respondent altered the test results, the result shall be considered an admission of a positive urine screen and constitutes a violation of probation and Respondent must cease practicing. Respondent shall not resume practice until notified by the Board. If Respondent tests positive for a banned substance, Respondent shall be contacted and instructed to leave work and ordered to cease all practice. Respondent shall not resume practice until notified by the Board. All alternative drug testing sites due to vacation or travel outside of California must be approved by the Board prior to the vacation or travel.

This condition may be waived or modified by the Board upon a written finding by the CDE that Respondent is not a substance abusing licensee.

W. ~~Drug & Alcohol Recovery Monitoring Program~~

~~Within fifteen (15) calendar days from the effective date of this Decision and Order, Respondent shall enroll and participate in the Board's drug & alcohol recovery monitoring program at Respondent's cost until the drug & alcohol recovery monitoring program determines that participation in the drug & alcohol recovery monitoring program is no longer necessary.~~

~~Respondent shall comply with all components of the drug & alcohol recovery monitoring program. Respondent shall sign a release authorizing the drug & alcohol recovery monitoring program to report all aspects of participation of the~~

~~drug & alcohol recovery monitoring program as requested by the Board or its designee.~~

~~Failure to comply with requirements of the drug & alcohol recovery monitoring program, terminating the program without permission or being expelled for cause shall constitute a violation of probation by Respondent and shall be immediately suspended from the practice of physical therapy.~~

Y. Major Violations

This provision applies if licensee commits a violation of the drug and alcohol recovery monitoring program or any other condition applying the uniform standards specific to controlled substance.

If Respondent commits a major violation, Respondent shall immediately upon notification by the Board, cease practice until notified otherwise in writing by the Board.

Major Violations include, but are not limited to, the following:

1. Failure to complete a Board-ordered program;
2. Failure to undergo a required CDE;
3. Committing multiple minor violations of probation conditions;
4. Treating a patient while under the influence of drugs or alcohol;
5. Committing any drug or alcohol offense that is a violation of the Business and Professions Code or state or federal law;
6. Failure to obtain biological testing for substance abuse;
7. Testing positive for a banned substance; and
8. Knowingly using, making, altering, or possessing any object or product in such a way as to defraud a drug test designed to detect the presence of alcohol or a controlled substance.

Z. Worksite Monitor

Respondent shall have a worksite monitor as required by this term. The worksite monitor shall not have any current or former financial, personal, or familial relationship with the licensee, or other relationship that could reasonably be expected to compromise the ability of the monitor to render impartial and unbiased reports to the Board. If it is impractical for anyone but the licensee's employer to serve as the worksite monitor, this requirement may be waived by the Board. However, under no circumstances shall a licensee's worksite monitor be an employee of the licensee.

The worksite monitor's license scope of practice shall include the scope of practice of the licensee who is being monitored or be another health care professional if no monitor with like scope of practice is available.

The worksite monitor shall have an active unrestricted license, with no disciplinary action within the last five (5) years.

The worksite monitor shall sign an affirmation that he or she has reviewed the terms and conditions of the licensee's disciplinary order and agrees to monitor the licensee as set forth by the Board.

The worksite monitor must adhere to the following required methods of monitoring the licensee:

- a) Have face-to-face contact with the licensee at least once per week in the work environment or more frequently if required by the Board.
- b) Interview other staff in the office regarding the licensee's behavior, if applicable.
- c) Review the licensee's work attendance.

The worksite monitor shall report to the Board as follows:

- Any suspected substance abuse must be verbally reported to the Board and the licensee's employer within one (1) business day of occurrence. If occurrence is not during the Board's normal business hours the verbal report must be within one (1) hour of the next business day. A written report shall be submitted to the Board within 48 hours of occurrence.
- The worksite monitor shall complete and submit a written report monthly or as directed by the Board. The report shall include: the licensee's name; license number; worksite monitor's name and signature; worksite monitor's license number; worksite location(s); dates licensee had face-to-face contact with monitor; staff interviewed if applicable; attendance report; any change in behavior and/or personal habits; any indicators leading to suspected substance abuse.

The licensee shall complete the required consent forms and sign an agreement with the worksite monitor and the Board to allow the Board to communicate with the worksite monitor.

If Respondent tests positive for a banned substance, the Board will immediately notify Respondent's employer that the Respondent's license has been ordered to cease practice.

[Optional language: This condition may be waived or modified by the board upon a written finding by the CDE that Respondent is not a substance abusing licensee.]

GLOSSARY OF TERMS

Accusation - Charges filed against a licensee alleging violation(s) of the Physical Therapy Practice Act.

Business and Professions Code (B&P) - The statutes in law governing the practice of physical therapy. The Physical Therapy Practice Act begins with section 2600 of the Business and Professions Code. There are some sections of law named in this document that affect the practice of physical therapy but are not included in the Physical Therapy Practice Act. The Physical Therapy Practice Act can be accessed through the Physical Therapy Board of California website at www.ptb.ca.gov.

California Code of Regulations (CCR) - Regulations define the statutes (laws) governing the practice of physical therapy. The regulations specific to physical therapy are located in Title 16, Chapter 13.2, Article 6 of the California Code of Regulations and can be accessed through the Physical Therapy Board of California website at www.ptb.ca.gov.

Citation - A means of addressing relatively minor violations, which would not warrant discipline in order to protect the public. Citations are not disciplinary actions, but are matters of public record.

Decision - The order of the Board in a disciplinary action.

Default Decision - Licensee fails to respond to Accusation by filing a Notice of Defense or fails to appear at an administrative hearing resulting in a default decision.

Diversion - The Board does not divert licensees from discipline.

Health and Safety Code (H&S) - Statutes of law contained in the Health and Safety Code that affect the practice of physical therapy. These statutes can be accessed through the Physical Therapy Board of California website at www.ptb.ca.gov.

Initial Probationary License - The Board may in its sole discretion issue a probationary license to any applicant for licensure who is guilty of unprofessional conduct but who has met all other requirements for licensure.

Interim Suspension Order - An order issued upon petition, suspending a licensee from all or a specified part of his or her physical therapy practice.

Petition to Revoke Probation - Charges filed against a probationer seeking revocation of their physical therapy license based upon violation(s) of probation.

Probation Tolloed - Credit for time served towards the probationary period does not begin until the probationer commences practice in the State of California.

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. If the licensee does not agree to the issuance of the letter, the board shall not issue the letter and may proceed to file a formal accusation. A public letter of reprimand is considered disciplinary action.

Public Reproval – A formal public reproval, pursuant to B&P Code, section 495, may be issued for an act constituting grounds for suspension or revocation of a license. This requires filing of a formal accusation. A public reproval is considered disciplinary action.

Rehabilitation – Disciplinary action taken which includes monitoring rehabilitation through the compliance with probationary terms dealing with substance abuse.

Revoked - The right to practice is ended.

Revoked, stayed, probation – “Stayed” means the revocation is postponed, put off. Professional practice may continue so long as the licensee complies with specific probationary terms and conditions. Violation of probation may result in the revocation that was postponed.

Statement of Issues - Charges filed against an applicant to deny licensure due to alleged violation(s) of the Physical Therapy Practice Act.

Surrender of License - The licensee turns in the license, subject to acceptance by the Board. The right to practice is ended.

Suspension - The licensee is prohibited from practicing for a specific period.

Uniform Standards Regarding Substance–Abusing Healing Arts Licensees -
Addresses penalties established for licensees dealing with substance-abuse violations per SB 1441, developed by the Substance Abuse Coordination Committee, within the Department of Consumer Affairs.

Page numbering will be affected by the proposed revisions and will be corrected once adopted.

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Health and Safety Code

123110 PATIENT'S ACCESS TO HEALTH CARE RECORDS

48

Uniform Standards Regarding Substance-Abusing Healing Arts Licensees

Senate Bill 1441 (Ridley-Thomas)

Implementation by
Department of Consumer Affairs,
Substance Abuse Coordination Committee



Brian J. Stiger, Director
April 2011

STATE OF CALIFORNIA



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#1 SENATE BILL 1441 REQUIREMENT

Specific requirements for a clinical diagnostic evaluation of the licensee, including, but not limited to, required qualifications for the providers evaluating the licensee.

#1 Uniform Standard

If a healing arts board orders a licensee who is either in a diversion program or whose license is on probation due to a substance abuse problem to undergo a clinical diagnosis evaluation, the following applies:

1. The clinical diagnostic evaluation shall be conducted by a licensed practitioner who:
 - holds a valid, unrestricted license, which includes scope of practice to conduct a clinical diagnostic evaluation;
 - has three (3) years experience in providing evaluations of health professionals with substance abuse disorders; and,
 - is approved by the board.
2. The clinical diagnostic evaluation shall be conducted in accordance with acceptable professional standards for conducting substance abuse clinical diagnostic evaluations.
3. The clinical diagnostic evaluation report shall:
 - set forth, in the evaluator's opinion, whether the licensee has a substance abuse problem;
 - set forth, in the evaluator's opinion, whether the licensee is a threat to himself/herself or others; and,
 - set forth, in the evaluator's opinion, recommendations for substance abuse treatment, practice restrictions, or other recommendations related to the licensee's rehabilitation and safe practice.

The evaluator shall not have a financial relationship, personal relationship, or business relationship with the licensee within the last five years. The evaluator shall provide an objective, unbiased, and independent evaluation.

If the evaluator determines during the evaluation process that a licensee is a threat to himself/herself or others, the evaluator shall notify the board within 24 hours of such a determination.

For all evaluations, a final written report shall be provided to the board no later than ten (10) days from the date the evaluator is assigned the matter unless the evaluator requests additional information to complete the evaluation, not to exceed 30 days.

#2 SENATE BILL 1441 REQUIREMENT

Specific requirements for the temporary removal of the licensee from practice, in order to enable the licensee to undergo the clinical diagnostic evaluation described in subdivision (a) and any treatment recommended by the evaluator described in subdivision (a) and approved by the board, and specific criteria that the licensee must meet before being permitted to return to practice on a full-time or part-time basis.

#2 Uniform Standard

The following practice restrictions apply to each licensee who undergoes a clinical diagnostic evaluation:

1. The Board shall order the licensee to cease practice during the clinical diagnostic evaluation pending the results of the clinical diagnostic evaluation and review by the diversion program/board staff.
2. While awaiting the results of the clinical diagnostic evaluation required in Uniform Standard #1, the licensee shall be randomly drug tested at least two (2) times per week.

After reviewing the results of the clinical diagnostic evaluation, and the criteria below, a diversion or probation manager shall determine, whether or not the licensee is safe to return to either part-time or fulltime practice. However, no licensee shall be returned to practice until he or she has at least 30 days of negative drug tests.

- the license type;
- the licensee's history;
- the documented length of sobriety/time that has elapsed since substance use
- the scope and pattern of use;
- the treatment history;
- the licensee's medical history and current medical condition;
- the nature, duration and severity of substance abuse, and
- whether the licensee is a threat to himself/herself or the public.

#3 SENATE BILL 1441 REQUIREMENT

Specific requirements that govern the ability of the licensing board to communicate with the licensee's employer about the licensee's status or condition.

#3 Uniform Standard

If the licensee who is either in a board diversion program or whose license is on probation has an employer, the licensee shall provide to the board the names, physical addresses, mailing addresses, and telephone numbers of all employers and supervisors and shall give specific, written consent that the licensee authorizes the board and the employers and supervisors to communicate regarding the licensee's work status, performance, and monitoring.

#4 SENATE BILL 1441 REQUIREMENT

Standards governing all aspects of required testing, including, but not limited to, frequency of testing, randomicity, method of notice to the licensee, number of hours between the provision of notice and the test, standards for specimen collectors, procedures used by specimen collectors, the permissible locations of testing, whether the collection process must be observed by the collector, backup testing requirements when the licensee is on vacation or otherwise unavailable for local testing, requirements for the laboratory that analyzes the specimens, and the required maximum timeframe from the test to the receipt of the result of the test.

#4 Uniform Standard

The following standards shall govern all aspects of testing required to determine abstinence from alcohol and drugs for any person whose license is placed on probation or in a diversion program due to substance use:

TESTING FREQUENCY SCHEDULE

A board may order a licensee to drug test at any time. Additionally, each licensee shall be tested RANDOMLY in accordance with the schedule below:

Level	Segments of Probation/Diversion	Minimum Range of Number of Random Tests
I	Year 1	52-104 per year
II*	Year 2+	36-104 per year

*The minimum range of 36-104 tests identified in level II, is for the second year of probation or diversion, and each year thereafter, up to five (5) years. Thereafter, administration of one (1) time per month if there have been no positive drug tests in the previous five (5) consecutive years of probation or diversion.

Nothing precludes a board from increasing the number of random tests for any reason. Any board who finds or has suspicion that a licensee has committed a violation of a board's testing program or who has committed a Major Violation, as identified in Uniform Standard 10, may reestablish the testing cycle by placing that licensee at the beginning of level I, in addition to any other disciplinary action that may be pursued.

EXCEPTIONS TO TESTING FREQUENCY SCHEDULE**I. PREVIOUS TESTING/SOBRIETY**

In cases where a board has evidence that a licensee has participated in a treatment or monitoring program requiring random testing, prior to being subject to testing by the board, the board may give consideration to that testing in altering the testing

frequency schedule so that it is equivalent to this standard.

II. VIOLATION(S) OUTSIDE OF EMPLOYMENT

An individual whose license is placed on probation for a single conviction or incident or two convictions or incidents, spanning greater than seven years from each other, where those violations did not occur at work or while on the licensee's way to work, where alcohol or drugs were a contributing factor, may bypass level I and participate in level II of the testing frequency schedule.

III. NOT EMPLOYED IN HEALTH CARE FIELD

A board may reduce testing frequency to a minimum of 12 times per year for any person who is not practicing OR working in any health care field. If a reduced testing frequency schedule is established for this reason, and if a licensee wants to return to practice or work in a health care field, the licensee shall notify and secure the approval of the licensee's board. Prior to returning to any health care employment, the licensee shall be subject to level I testing frequency for at least 60 days. At such time the person returns to employment (in a health care field), if the licensee has not previously met the level I frequency standard, the licensee shall be subject to completing a full year at level I of the testing frequency schedule, otherwise level II testing shall be in effect.

IV. TOLLING

A board may postpone all testing for any person whose probation or diversion is placed in a tolling status if the overall length of the probationary or diversion period is also tolled. A licensee shall notify the board upon the licensee's return to California and shall be subject to testing as provided in this standard. If the licensee returns to employment in a health care field, and has not previously met the level I frequency standard, the licensee shall be subject to completing a full year at level I of the testing frequency schedule, otherwise level II testing shall be in effect.

V. SUBSTANCE USE DISORDER NOT DIAGNOSED

In cases where no current substance use disorder diagnosis is made, a lesser period of monitoring and toxicology screening may be adopted by the board, but not to be less than 24 times per year.

OTHER DRUG STANDARDS

Drug testing may be required on any day, including weekends and holidays.

The scheduling of drug tests shall be done on a random basis, preferably by a computer program, so that a licensee can make no reasonable assumption of when he/she will be tested again. Boards should be prepared to report data to support back-to-back testing as well as, numerous different intervals of testing.

Licensees shall be required to make daily contact to determine if drug testing is required.

Licensees shall be drug tested on the date of notification as directed by the board.

Specimen collectors must either be certified by the Drug and Alcohol Testing Industry Association or have completed the training required to serve as a collector for the U.S. Department of Transportation.

Specimen collectors shall adhere to the current U.S. Department of Transportation Specimen Collection Guidelines.

Testing locations shall comply with the Urine Specimen Collection Guidelines published by the U.S. Department of Transportation, regardless of the type of test administered.

Collection of specimens shall be observed.

Prior to vacation or absence, alternative drug testing location(s) must be approved by the board.

Laboratories shall be certified and accredited by the U.S. Department of Health and Human Services.

A collection site must submit a specimen to the laboratory within one (1) business day of receipt. A chain of custody shall be used on all specimens. The laboratory shall process results and provide legally defensible test results within seven (7) days of receipt of the specimen. The appropriate board will be notified of non-negative test results within one (1) business day and will be notified of negative test results within seven (7) business days.

A board may use other testing methods in place of, or to supplement biological fluid testing, if the alternate testing method is appropriate.

PETITIONS FOR REINSTATEMENT

Nothing herein shall limit a board's authority to reduce or eliminate the standards specified herein pursuant to a petition for reinstatement or reduction of penalty filed pursuant to Government Code section 11522 or statutes applicable to the board that contains different provisions for reinstatement or reduction of penalty.

OUTCOMES AND AMENDMENTS

For purposes of measuring outcomes and effectiveness, each board shall collect and report historical and post implementation data as follows:

Historical Data - Two Years Prior to Implementation of Standard

Each board should collect the following historical data (as available), for a period of two years, prior to implementation of this standard, for each person subject to testing for banned substances, who has 1) tested positive for a banned substance, 2) failed to

appear or call in, for testing on more than three occasions, 3) failed to pay testing costs, or 4) a person who has given a dilute or invalid specimen.

Post Implementation Data- Three Years

Each board should collect the following data annually, for a period of three years, for every probationer and diversion participant subject to testing for banned substances, following the implementation of this standard.

Data Collection

The data to be collected shall be reported to the Department of Consumer Affairs and the Legislature, upon request, and shall include, but may not be limited to:

Probationer/Diversion Participant Unique Identifier
License Type
Probation/Diversion Effective Date
General Range of Testing Frequency by/for Each Probationer/Diversion Participant
Dates Testing Requested
Dates Tested
Identify the Entity that Performed Each Test
Dates Tested Positive
Dates Contractor (if applicable) was informed of Positive Test
Dates Board was informed of Positive Test
Dates of Questionable Tests (e.g. dilute, high levels)
Date Contractor Notified Board of Questionable Test
Identify Substances Detected or Questionably Detected
Dates Failed to Appear
Date Contractor Notified Board of Failed to Appear
Dates Failed to Call In for Testing
Date Contractor Notified Board of Failed to Call In for Testing
Dates Failed to Pay for Testing
Date(s) Removed/Suspended from Practice (identify which)
Final Outcome and Effective Date (if applicable)

#5 SENATE BILL 1441 REQUIREMENT

Standards governing all aspects of group meeting attendance requirements, including, but not limited to, required qualifications for group meeting facilitators, frequency of required meeting attendance, and methods of documenting and reporting attendance or nonattendance by licensees.

#5 Uniform Standard

If a board requires a licensee to participate in group support meetings, the following shall apply:

When determining the frequency of required group meeting attendance, the board shall give consideration to the following:

- the licensee's history;
- the documented length of sobriety/time that has elapsed since substance use;
- the recommendation of the clinical evaluator;
- the scope and pattern of use;
- the licensee's treatment history; and,
- the nature, duration, and severity of substance abuse.

Group Meeting Facilitator Qualifications and Requirements:

1. The meeting facilitator must have a minimum of three (3) years experience in the treatment and rehabilitation of substance abuse, and shall be licensed or certified by the state or other nationally certified organizations.
2. The meeting facilitator must not have a financial relationship, personal relationship, or business relationship with the licensee within the last year.
3. The group meeting facilitator shall provide to the board a signed document showing the licensee's name, the group name, the date and location of the meeting, the licensee's attendance, and the licensee's level of participation and progress.
4. The facilitator shall report any unexcused absence within 24 hours.

#6 SENATE BILL 1441 REQUIREMENT

Standards used in determining whether inpatient, outpatient, or other type of treatment is necessary.

#6 Uniform Standard

In determining whether inpatient, outpatient, or other type of treatment is necessary, the board shall consider the following criteria:

- recommendation of the clinical diagnostic evaluation pursuant to Uniform Standard #1;
- license type;
- licensee's history;
- documented length of sobriety/time that has elapsed since substance abuse;
- scope and pattern of substance use;
- licensee's treatment history;
- licensee's medical history and current medical condition;
- nature, duration, and severity of substance abuse, and
- threat to himself/herself or the public.

#7 SENATE BILL 1441 REQUIREMENT

Worksite monitoring requirements and standards, including, but not limited to, required qualifications of worksite monitors, required methods of monitoring by worksite monitors, and required reporting by worksite monitors.

#7 Uniform Standard

A board may require the use of worksite monitors. If a board determines that a worksite monitor is necessary for a particular licensee, the worksite monitor shall meet the following requirements to be considered for approval by the board.

1. The worksite monitor shall not have financial, personal, or familial relationship with the licensee, or other relationship that could reasonably be expected to compromise the ability of the monitor to render impartial and unbiased reports to the board. If it is impractical for anyone but the licensee's employer to serve as the worksite monitor, this requirement may be waived by the board; however, under no circumstances shall a licensee's worksite monitor be an employee of the licensee.
2. The worksite monitor's license scope of practice shall include the scope of practice of the licensee that is being monitored, be another health care professional if no monitor with like practice is available, or, as approved by the board, be a person in a position of authority who is capable of monitoring the licensee at work.
3. If the worksite monitor is a licensed healthcare professional he or she shall have an active unrestricted license, with no disciplinary action within the last five (5) years.
4. The worksite monitor shall sign an affirmation that he or she has reviewed the terms and conditions of the licensee's disciplinary order and/or contract and agrees to monitor the licensee as set forth by the board.
5. The worksite monitor must adhere to the following required methods of monitoring the licensee:
 - a) Have face-to-face contact with the licensee in the work environment on a frequent basis as determined by the board, at least once per week.
 - b) Interview other staff in the office regarding the licensee's behavior, if applicable.
 - c) Review the licensee's work attendance.

Reporting by the worksite monitor to the board shall be as follows:

1. Any suspected substance abuse must be verbally reported to the board and the licensee's employer within one (1) business day of occurrence. If occurrence is not during the board's normal business hours the verbal report must be within one (1) hour of the next business day. A written report shall be submitted to the board within 48 hours of occurrence.
2. The worksite monitor shall complete and submit a written report monthly or as directed by the board. The report shall include:
 - the licensee's name;
 - license number;
 - worksite monitor's name and signature;
 - worksite monitor's license number;
 - worksite location(s);
 - dates licensee had face-to-face contact with monitor;
 - staff interviewed, if applicable;
 - attendance report;
 - any change in behavior and/or personal habits;
 - any indicators that can lead to suspected substance abuse.

The licensee shall complete the required consent forms and sign an agreement with the worksite monitor and the board to allow the board to communicate with the worksite monitor.

#8 SENATE BILL 1441 REQUIREMENT

Procedures to be followed when a licensee tests positive for a banned substance.

#8 Uniform Standard

When a licensee tests positive for a banned substance:

1. The board shall order the licensee to cease practice;
2. The board shall contact the licensee and instruct the licensee to leave work; and
3. The board shall notify the licensee's employer, if any, and worksite monitor, if any, that the licensee may not work.

Thereafter, the board should determine whether the positive drug test is in fact evidence of prohibited use. If so, proceed to Standard #9. If not, the board shall immediately lift the cease practice order.

In determining whether the positive test is evidence of prohibited use, the board should, as applicable:

1. Consult the specimen collector and the laboratory;
2. Communicate with the licensee and/or any physician who is treating the licensee; and
3. Communicate with any treatment provider, including group facilitator/s.

#9 SENATE BILL 1441 REQUIREMENT

Procedures to be followed when a licensee is confirmed to have ingested a banned substance.

#9 Uniform Standard

When a board confirms that a positive drug test is evidence of use of a prohibited substance, the licensee has committed a major violation, as defined in Uniform Standard #10 and the board shall impose the consequences set forth in Uniform Standard #10.

#10 SENATE BILL 1441 REQUIREMENT

Specific consequences for major and minor violations. In particular, the committee shall consider the use of a "deferred prosecution" stipulation described in Section 1000 of the Penal Code, in which the licensee admits to self-abuse of drugs or alcohol and surrenders his or her license. That agreement is deferred by the agency until or unless licensee commits a major violation, in which case it is revived and license is surrendered.

#10 Uniform Standard

Major Violations include, but are not limited to:

1. Failure to complete a board-ordered program;
2. Failure to undergo a required clinical diagnostic evaluation;
3. Multiple minor violations;
4. Treating patients while under the influence of drugs/alcohol;
5. Any drug/alcohol related act which would constitute a violation of the practice act or state/federal laws;
6. Failure to obtain biological testing for substance abuse;
7. Testing positive and confirmation for substance abuse pursuant to Uniform Standard #9;
8. Knowingly using, making, altering or possessing any object or product in such a way as to defraud a drug test designed to detect the presence of alcohol or a controlled substance.

Consequences for a major violation include, but are not limited to:

1. Licensee will be ordered to cease practice.
 - a) the licensee must undergo a new clinical diagnostic evaluation, and
 - b) the licensee must test negative for at least a month of continuous drug testing before being allowed to go back to work.
2. Termination of a contract/agreement.
3. Referral for disciplinary action, such as suspension, revocation, or other action as determined by the board.

Minor Violations include, but are not limited to:

1. Untimely receipt of required documentation;
2. Unexcused non-attendance at group meetings;
3. Failure to contact a monitor when required;
4. Any other violations that do not present an immediate threat to the violator or to the public.

Consequences for minor violations include, but are not limited to:

1. Removal from practice;
2. Practice limitations;
3. Required supervision;
4. Increased documentation;
5. Issuance of citation and fine or a warning notice;
6. Required re-evaluation/testing;
7. Other action as determined by the board.

#11 SENATE BILL 1441 REQUIREMENT

Criteria that a licensee must meet in order to petition for return to practice on a full time basis.

#11 Uniform Standard

“Petition” as used in this standard is an informal request as opposed to a “Petition for Modification” under the Administrative Procedure Act.

The licensee shall meet the following criteria before submitting a request (petition) to return to full time practice:

1. Demonstrated sustained compliance with current recovery program.
2. Demonstrated the ability to practice safely as evidenced by current work site reports, evaluations, and any other information relating to the licensee’s substance abuse.
3. Negative drug screening reports for at least six (6) months, two (2) positive worksite monitor reports, and complete compliance with other terms and conditions of the program.

#12 SENATE BILL 1441 REQUIREMENT

Criteria that a licensee must meet in order to petition for reinstatement of a full and unrestricted license.

#12 Uniform Standard

“Petition for Reinstatement” as used in this standard is an informal request (petition) as opposed to a “Petition for Reinstatement” under the Administrative Procedure Act.

The licensee must meet the following criteria to request (petition) for a full and unrestricted license.

1. Demonstrated sustained compliance with the terms of the disciplinary order, if applicable.
2. Demonstrated successful completion of recovery program, if required.
3. Demonstrated a consistent and sustained participation in activities that promote and support their recovery including, but not limited to, ongoing support meetings, therapy, counseling, relapse prevention plan, and community activities.
4. Demonstrated that he or she is able to practice safely.
5. Continuous sobriety for three (3) to five (5) years.

#13 SENATE BILL 1441 REQUIREMENT

If a board uses a private-sector vendor that provides diversion services, (1) standards for immediate reporting by the vendor to the board of any and all noncompliance with process for providers or contractors that provide diversion services, including, but not limited to, specimen collectors, group meeting facilitators, and worksite monitors; (3) standards requiring the vendor to disapprove and discontinue the use of providers or contractors that fail to provide effective or timely diversion services; and (4) standards for a licensee's termination from the program and referral to enforcement.

#13 Uniform Standard

1. A vendor must report to the board any major violation, as defined in Uniform Standard #10, within one (1) business day. A vendor must report to the board any minor violation, as defined in Uniform Standard #10, within five (5) business days.
2. A vendor's approval process for providers or contractors that provide diversion services, including, but not limited to, specimen collectors, group meeting facilitators, and worksite monitors is as follows:

(a) Specimen Collectors:

- (1) The provider or subcontractor shall possess all the materials, equipment, and technical expertise necessary in order to test every licensee for which he or she is responsible on any day of the week.
- (2) The provider or subcontractor shall be able to scientifically test for urine, blood, and hair specimens for the detection of alcohol, illegal, and controlled substances.
- (3) The provider or subcontractor must provide collection sites that are located in areas throughout California.
- (4) The provider or subcontractor must have an automated 24-hour toll-free telephone system and/or a secure on-line computer database that allows the participant to check in daily for drug testing.
- (5) The provider or subcontractor must have or be subcontracted with operating collection sites that are engaged in the business of collecting urine, blood, and hair follicle specimens for the testing of drugs and alcohol within the State of California.
- (6) The provider or subcontractor must have a secure, HIPAA compliant, website or computer system to allow staff access to drug test results and compliance reporting information that is available 24 hours a day.

- (7) The provider or subcontractor shall employ or contract with toxicologists that are licensed physicians and have knowledge of substance abuse disorders and the appropriate medical training to interpret and evaluate laboratory drug test results, medical histories, and any other information relevant to biomedical information.
- (8) A toxicology screen will not be considered negative if a positive result is obtained while practicing, even if the practitioner holds a valid prescription for the substance.
- (9) Must undergo training as specified in Uniform Standard #4 (6).

(b) Group Meeting Facilitators:

A group meeting facilitator for any support group meeting:

- (1) must have a minimum of three (3) years experience in the treatment and rehabilitation of substance abuse;
- (2) must be licensed or certified by the state or other nationally certified organization;
- (3) must not have a financial relationship, personal relationship, or business relationship with the licensee within the last year;
- (4) shall report any unexcused absence within 24 hours to the board, and,
- (5) shall provide to the board a signed document showing the licensee's name, the group name, the date and location of the meeting, the licensee's attendance, and the licensee's level of participation and progress.

(c) Work Site Monitors:

The worksite monitor must meet the following qualifications:

- (1) Shall not have financial, personal, or familial relationship with the licensee, or other relationship that could reasonably be expected to compromise the ability of the monitor to render impartial and unbiased reports to the board. If it is impractical for anyone but the licensee's employer to serve as the worksite monitor, this requirement may be waived by the board; however, under no circumstances shall a licensee's worksite monitor be an employee of the licensee.
- (2) The monitor's licensure scope of practice shall include the scope of practice of the licensee that is being monitored, be another health care professional if no

monitor with like practice is available, or, as approved by the board, be a person in a position of authority who is capable of monitoring the licensee at work.

- (3) Shall have an active unrestricted license, with no disciplinary action within the last five (5) years.
 - (4) Shall sign an affirmation that he or she has reviewed the terms and conditions of the licensee's disciplinary order and/or contract and agrees to monitor the licensee as set forth by the board.
2. The worksite monitor must adhere to the following required methods of monitoring the licensee:
 - a) Have face-to-face contact with the licensee in the work environment on a frequent basis as determined by the board, at least once per week.
 - b) Interview other staff in the office regarding the licensee's behavior, if applicable.
 - c) Review the licensee's work attendance.
 3. Any suspected substance abuse must be verbally reported to the contractor, the board, and the licensee's employer within one (1) business day of occurrence. If occurrence is not during the board's normal business hours the verbal report must be within one (1) hour of the next business day. A written report shall be submitted to the board within 48 hours of occurrence.
 4. The worksite monitor shall complete and submit a written report monthly or as directed by the board. The report shall include:
 - the licensee's name;
 - license number;
 - worksite monitor's name and signature;
 - worksite monitor's license number;
 - worksite location(s);
 - dates licensee had face-to-face contact with monitor;
 - staff interviewed, if applicable;
 - attendance report;
 - any change in behavior and/or personal habits;

- any indicators that can lead to suspected substance abuse.

(d) Treatment Providers

Treatment facility staff and services must have:

- (1) Licensure and/or accreditation by appropriate regulatory agencies;
- (2) Sufficient resources available to adequately evaluate the physical and mental needs of the client, provide for safe detoxification, and manage any medical emergency;
- (3) Professional staff who are competent and experienced members of the clinical staff;
- (4) Treatment planning involving a multidisciplinary approach and specific aftercare plans;
- (5) Means to provide treatment/progress documentation to the provider.

(e) General Vendor Requirements

The vendor shall disapprove and discontinue the use of providers or contractors that fail to provide effective or timely diversion services as follows:

- (1) The vendor is fully responsible for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them. No subcontract shall relieve the vendor of its responsibilities and obligations. All state policies, guidelines, and requirements apply to all subcontractors.
- (2) If a subcontractor fails to provide effective or timely services as listed above, but not limited to any other subcontracted services, the vendor will terminate services of said contractor within 30 business days of notification of failure to provide adequate services.
- (3) The vendor shall notify the appropriate board within five (5) business days of termination of said subcontractor.

#14 SENATE BILL 1441 REQUIREMENT

If a board uses a private-sector vendor that provides diversion services, the extent to which licensee participation in that program shall be kept confidential from the public.

#14 Uniform Standard

The board shall disclose the following information to the public for licensees who are participating in a board monitoring/diversion program regardless of whether the licensee is a self-referral or a board referral. However, the disclosure shall not contain information that the restrictions are a result of the licensee's participation in a diversion program.

- Licensee's name;
- Whether the licensee's practice is restricted, or the license is on inactive status;
- A detailed description of any restriction imposed.

#15 SENATE BILL 1441 REQUIREMENT

If a board uses a private-sector vendor that provides diversion services, a schedule for external independent audits of the vendor's performance in adhering to the standards adopted by the committee.

#15 Uniform Standard

1. If a board uses a private-sector vendor to provide monitoring services for its licensees, an external independent audit must be conducted at least once every three (3) years by a qualified, independent reviewer or review team from outside the department with no real or apparent conflict of interest with the vendor providing the monitoring services. In addition, the reviewer shall not be a part of or under the control of the board. The independent reviewer or review team must consist of individuals who are competent in the professional practice of internal auditing and assessment processes and qualified to perform audits of monitoring programs.
2. The audit must assess the vendor's performance in adhering to the uniform standards established by the board. The reviewer must provide a report of their findings to the board by June 30 of each three (3) year cycle. The report shall identify any material inadequacies, deficiencies, irregularities, or other non-compliance with the terms of the vendor's monitoring services that would interfere with the board's mandate of public protection.
3. The board and the department shall respond to the findings in the audit report.

#16 SENATE BILL 1441 Requirement

Measurable criteria and standards to determine whether each board's method of dealing with substance-abusing licensees protects patients from harm and is effective in assisting its licensees in recovering from substance abuse in the long term.

#16 Uniform Standard

Each board shall report the following information on a yearly basis to the Department of Consumer Affairs and the Legislature as it relates to licensees with substance abuse problems who are either in a board probation and/or diversion program.

- Number of intakes into a diversion program
- Number of probationers whose conduct was related to a substance abuse problem
- Number of referrals for treatment programs
- Number of relapses (break in sobriety)
- Number of cease practice orders/license in-activations
- Number of suspensions
- Number terminated from program for noncompliance
- Number of successful completions based on uniform standards
- Number of major violations; nature of violation and action taken
- Number of licensees who successfully returned to practice
- Number of patients harmed while in diversion

The above information shall be further broken down for each licensing category, specific substance abuse problem (i.e. cocaine, alcohol, Demerol etc.), whether the licensee is in a diversion program and/or probation program.

If the data indicates that licensees in specific licensing categories or with specific substance abuse problems have either a higher or lower probability of success, that information shall be taken into account when determining the success of a program. It may also be used to determine the risk factor when a board is determining whether a license should be revoked or placed on probation.

The board shall use the following criteria to determine if its program protects patients from harm and is effective in assisting its licensees in recovering from substance abuse in the long term.

- At least 100 percent of licensees who either entered a diversion program or whose license was placed on probation as a result of a substance abuse problem successfully completed either the program or the probation, or had their license to practice revoked or surrendered on a timely basis based on noncompliance of those programs.
- At least 75 percent of licensees who successfully completed a diversion program or probation did not have any substantiated complaints related to substance abuse for at least five (5) years after completion.

**PHYSICAL THERAPY BOARD OF CALIFORNIA
INITIAL STATEMENT OF REASONS**

HEARING DATE: August 7, 2013

SUBJECT MATTER OF PROPOSED REGULATIONS:
Guidelines for Issuing Citations and Imposing Discipline

SECTION(S) AFFECTED: California Code of Regulations (CCR) Title 16, Division 13.2,
Section 1399.15

SPECIFIC PURPOSE OF EACH ADOPTION, AMENDMENT, OR REPEAL:

1. Problem being addressed:

In 2008, the Legislature SB 1441 (Ridley-Thomas, Chapter 548, Statutes of 2008). SB 1441 was drafted in response to public and internal concerns with the boards' diversion programs. One audit of a diversion program reported substantial concerns and provided extensive recommendations. Specific issues included:

- No assurance that the program received required monitoring reports from its participants' treatment providers and work-site monitors;
- Neglecting to address potential relapses (positive drug tests) in a timely and adequate manner, such as stopping a licensee from practicing after a positive drug test;
- Failure to enforce drug tests to be conducted randomly, and not reconciling scheduled drug tests with tests performed;
- Inadequate evaluations of collectors, group facilitators, and diversion evaluation committee members to ensure all are meeting program standards; and,
- Lack of consistent oversight.

Although this was an in-house diversion program, concerns also arose from other boards' contracted diversion program such as:

- Caseloads ranging from 100-200 per clinical management team;
- Limited in-person resources, i.e. conducting telephone interviews unless otherwise specified; and,
- Performing unobserved, as well as observed, drug screening.

Consequently, the intent of SB 1441 was to extend the application of best practices and standards uniformly across all healing arts boards. SB 1441 established the Substance Abuse Coordination Committee (SACC) within the Department of Consumer Affairs (DCA); the DCA SACC was tasked with developing uniform standards in sixteen specific areas for use in dealing with substance-abusing healing arts licensees. The

DCA SACC was comprised of Executive Officers of the DCA's healing arts boards, a representative of the California Department of Alcohol and Drug Programs, and chaired by the Director of the DCA. In April 2011, the DCA SACC published the "Uniform Standards Regarding Substance-Abusing Healing Arts Licensees" (hereinafter referred to as "Uniform Standards"). The Board initially attempted to adopt the Uniform Standards by including them in the August 2012, 4th edition of its "Guidelines for Issuing Citations and Imposing Discipline" (hereinafter referred to as "Guidelines"); however, there was confusion as to the appropriate method of adopting the Uniform Standards. Therefore, at the May 2012 meeting, the Board removed provisions from the Guidelines related to the Uniform Standards. By incorporating the Uniform Standards by reference and including provisions in its Guidelines to implement those Uniform Standards, the Board is ensuring the Uniform Standards are applied to licensees as required by Business and Professions Code (B&P Code) sections 315 et seq. (enacted by SB 1441).

In addition to proposing to adopt the Uniform Standards, the Board is also proposing to update the Guidelines' violations and penalties to be consistent with current needs. At the time of publication of this document, the draft revisions include penalties for licensees who fail to comply with two proposed regulations: 1) Notice to Consumers and 2) Required Email Filing. The Board is including penalties for violating these proposed regulations in anticipation that they will go into effect. If the proposed regulations do not become final by close of this proceeding, the corresponding portions of this proposal will be removed.

Anticipated benefits from this regulatory action:

- Incorporation of Uniform Standards by Reference

The DCA directed the healing arts boards to adopt the Uniform Standards in regulation to ensure that public safety remains the paramount mission of these boards, and to implement consistent practices for all healing arts boards when dealing with substance-abusing licensees.

- Inclusion of Specific Conditions to Implement the Uniform Standards in the Guidelines

The Guidelines were established by the Board to facilitate uniformity in taking disciplinary action against licensees, and to provide transparency in regards to the Board's course of action when imposing discipline. The Guidelines are intended for, and used by, various parties such as Attorney Generals, judges, Board staff, licensees and the public. The first three parties use the Guidelines to determine what penalties are recommended for specific violations; and, the latter two parties use the Guidelines for reference to discern the penalties that could be imposed on a licensee who has either committed or assisted in committing various violations of the Physical Therapy

Practice Act or other laws and regulations, as specified in the Guidelines. For clarity, the Board is proposing to include in the Guidelines only those standards from the Uniform Standards that apply to a licensee who may be a substance-abusing licensee. Therefore, the Uniform Standards will be incorporated by reference, including all standards, and from that document, only those standards applicable to a licensee who may be a substance-abusing licensee will be included in the Guidelines. This provides clarity for licensees to understand what specifically could apply to them, and for judges and Attorney Generals in drafting a decision as it will be clearer which standards are penalties for the licensee, and which standards are for administrative use.

- Inclusion of Penalties for Violations of New Regulations

In addition to proposing to adopt the Uniform Standards, the Board is also proposing to update the Guidelines' violations and penalties to be consistent with current needs. At the time of publication of this document, the draft revisions include penalties for licensees who fail to comply with two proposed regulations: 1) Notice to Consumers and 2) Required Email Filing. The Board is including penalties for violating these proposed regulations in anticipation that they will go into effect. Including penalties for these proposed regulations will ensure appropriate disciplinary action is imposed for violations of these sections. If the proposed regulations do not become final by close of this proceeding, the corresponding portions of this proposal will be removed.

FACTUAL BASIS/RATIONALE

This proposal will amend 16 CCR section 1399.15 to incorporate by reference the "Guidelines for Issuing Citations and Imposing Discipline" as revised May 2013. Additionally, this proposal will further amend 16 CCR section 1399.15 to incorporate by reference the DCA SACC's April 2011 "Uniform Standards Regarding Substance Abusing Healing Arts Licensees."

- Incorporation of the Uniform Standards by Reference

The DCA directed the healing arts boards to adopt the Uniform Standards in regulation to ensure that public safety remains the paramount mission of these boards, and to implement consistent practices across the healing arts boards when dealing with substance-abusing licensees. This direction stemmed from the determination that the DCA does not have authority to adopt the Uniform Standards in regulation. SB 1441 charged the DCA SACC with developing the Uniform Standards; however, it did not give the DCA the authority to adopt the Uniform Standards in regulation. The rulemaking authority exists with each individual board.

The Uniform Standards published by the DCA SACC addresses not only penalties for the licensee, but administrative requirements for the Board, and the monitoring program, if applicable, as well. Therefore, the Uniform Standards are being incorporated

by reference in their entirety; however, for clarity only, those standards which apply solely to the licensee, will also be included in the Guidelines.

- Inclusion of Specific Terms to Implement the Uniform Standards in the Guidelines

The Guidelines were established by the Board to facilitate uniformity in taking disciplinary action against licensees, and to provide transparency in regards to the Board's course of action when imposing discipline. The Guidelines are intended for, and used by, various parties such as Attorney Generals, judges, Board staff, licensees and the public. The first three parties use the Guidelines to determine what penalties are recommended for specific violations; and, the latter two parties use the Guidelines for reference to discern the penalties that could be imposed on a licensee whose either committed or assisted in committing various violations of the Physical Therapy Practice Act or other laws and regulations, as specified in the Guidelines. For clarity, the Board is proposing to modify the Guidelines to reflect only those standards that apply to a licensee who may be a substance-abusing licensee. Therefore, the Uniform Standards will be incorporated by reference, including all standards, and from that document, only those provisions applicable to a licensee who may be a substance-abusing licensee will be reflected in the Guidelines. This provides clarity for licensees to understand what specifically could apply to them, and for judges and Attorney Generals in drafting a decision as it will be clearer which standards are penalties for the licensee, and which standards are for administrative use. The manner in which the Board proposes to adopt the Uniform Standards is supported by the DCA pursuant to a memorandum issued April 5, 2012 by the DCA Legal Affairs office: *Opinion Regarding Uniform Standards for Substance-Abusing Licensees (SB 1441)*, which references a Legislative Counsel opinion dated October 27, 2011 and an informal legal opinion rendered by the Office of the Attorney General dated February 29, 2012, and states, in part:

"Some of the standards are appropriate for inclusion in an agency's disciplinary guidelines, which necessarily will involve the regulatory process. Others are administrative in nature and not appropriate for inclusion in the disciplinary guidelines."

- Inclusion of Notice to Consumers and Required Email Filing in Guidelines

In addition to proposing to adopt the Uniform Standards, the Board is also proposing to update the Guidelines' violations and penalties to be consistent with current needs. At the time of publication of this document, the draft revisions include penalties for licensees who fail to comply with two proposed regulations: 1) Notice to Consumers and 2) Required Email Filing. The Board is including penalties for violating these proposed regulations in anticipation that they will go into effect. Including penalties for these proposed regulations will ensure appropriate disciplinary action is imposed for violations of these sections. If the proposed regulations do not become final by close of this

proceeding, the corresponding portions of this proposal will be removed.

In addressing all of the above, the specific changes to the Guidelines are as follows:

Responsible Governmental Members

The Executive Officer's name and title are revised to reflect the name and title of the current position and who is holding the position.

Publication Date

Renaming the Guidelines to the "5th Edition" will be updated on the cover and in other locations to reflect the date the Board adopts the amendments made to the Guidelines from April 2012 to May 2013. The effective dates will be inserted into the Guidelines once the regulations are officially adopted.

Table of Contents

- The title of the section was revised to reflect the provisions relating to the Uniform Standards.
- Upon adoption of the Guidelines, the page numbers will be changed to reflect the changes in the final text.

Statement of Purpose, Intent & Expectations

- Revised "4th" to "5th" Edition
- Referenced "Guidelines for Issuing Citations and Imposing Discipline" as "Guidelines" for easy reading.
- Revised title of the Probation conditions, category number 3) to reflect the Uniform Standards will also apply for conditions specific to alcohol and/or controlled substance.

Legal Authority

This section was revised to reflect the proposed changes in 16 CCR, section 1399.15, which includes the requirement to apply the Uniform Standards.

Definition of Drug and Alcohol Recovery Monitoring Programs

For clarity, the Probationary Participants requirements were redefined.

Participants of the Board's Contracted Drug and Alcohol recovery Monitoring Program

The title was changed to include both type of participants, whether self-referred or ordered based on the probation conditions.

Title 16, California Code of Regulations

- "CCR Section 1398.6 Filing of Addresses" title has been changed to reflect the three requirements set forth in the section. This change is based on the rulemaking file currently in process and it is anticipated it will be in effect at the completion of the Guidelines rulemaking process.
- "CCR 1398.15 Notice to Consumer" has been added to the Guidelines to specify that a violation of the section will be cause for a citation or discipline. This addition is based on the rulemaking file currently in process and it is anticipated it will be in effect at the completion of the Guidelines rulemaking process.

Business and Professions Codes

For B&P Code sections: 2236, 2237, 2660(d), 2660(f):

Language was added to violations of the B&P Code, where substance and/or alcohol related violations were a factor, to reflect that the Uniform Standards are imposed as required by SB 1441.

- For B&P Code sections: 2238, 2239, 2655.3, 2660(d), 2660(e):

Language was added to reflect that if a violation of any of these sections is found, the conditions applying the Uniform Standards must be included in any probationary order.

Standard Probation Conditions

The title of the section was revised to read "Probation Conditions," and the title was moved below to show where the "Standard Probation Conditions" actually begin in the document.

Standard Condition #3

The language allowing a percentage of total cost recovery paid was removed to obtain full investigative and prosecutorial costs. Instead, language was added to allow a payment plan; however, full costs must be paid within 90 days prior to completion of the probation.

Standard Condition #10

In consideration of Uniform Standard #3, this term requires that the Board be able to communicate with Respondent's employer about Respondent's status or condition.

Standard Condition #11

Standard Condition #11 was updated to include the proposed regulatory change to 16 CCR section 1398.6, which requires notification of changes to a licensee's email address.

Probation Conditions Specific to Violation

For consistency, as in the Standard Terms of Probation, introductory language was added to clarify that conditions are specific to violations.

Conditions Specific to Alcohol and Controlled Substance

In consideration of the Uniform Standards, the title was revised to "Conditions Applying the Uniform Standards Specific to Alcohol and Controlled Substance." Also, for consistency as in the other section titles, the title formatting was changed to uppercase. Language was added indicating that these conditions must be included for violations involving drugs, alcohol, or both.

T. Clinical Diagnostic Evaluation (CDE)

In consideration of Uniform Standards 1 & 2, this term was added, which will require Respondent to undergo a clinical diagnostic evaluation. The evaluation must be conducted by a licensed practitioner who holds a valid, unrestricted license which authorizes the practitioner to conduct clinical diagnostic evaluations; has three (3) years of experience in providing evaluations of health care professionals with substance abuse disorders; and, is approved by the Board. The evaluations are to be conducted in accordance with acceptable professional standards for conducting substance abuse clinical diagnostic evaluations as specified by the Uniform Standards.

WU. Drug & Alcohol Recovery Monitoring Program

A non-substantive change was made to the subdivision. It was re-lettered due to the reorganization of terms.

This term may be waived upon finding, by clinical diagnostic evaluation, that a licensee is not a substance-abusing licensee.

TV. Abstain from Use of Controlled Substances and Dangerous Drugs

- This term was modified to include if the Clinical Diagnostic Evaluation determines the Respondent has a drug and/or alcohol addiction, Respondent shall abstain from the use of any controlled substance as defined in the Uniform Standards.
- The requirement to instruct Respondent to leave work and reporting to Respondent's employer and worksite monitor was added to reflect Uniform Standard #8.

UW. Prohibition Abstain from of the Use of Alcohol

A non-substantive change was made to the title for consistency. The title was updated using the term "Abstain" instead of the term "Prohibition."

This term may be waived upon finding, by clinical diagnostic evaluation, that a licensee is not a substance-abusing licensee.

VX. Biological Fluid Testing

In consideration of Uniform Standard #4, this term was modified to reflect the minimum standards for biological fluid testing and the nature of the testing being conducted. The frequency of testing condition will be placed on Respondent when substance and/or alcohol abuse is a problem or where the terms of the Uniform Standards apply. This will allow the Board to monitor whether or not Respondent is abstaining from the use of banned substances and/or alcohol.

This term may be waived or modified upon finding, by clinical diagnostic evaluation, that a licensee is not a substance-abusing licensee.

W. ~~Drug & Alcohol Recovery Monitoring Program~~

This term was moved to "U."

Y. Major Violations

In consideration of Uniform Standard # 10 and potential consequences, this term was added to include the definitions for major and minor violations. If Respondent commits a major violation, the Respondent shall cease practice and not practice unless notified by the Board, and undergo a new clinical diagnostic evaluation, if necessary. The Board shall terminate the employment contract/agreement and refer matter for disciplinary action or other action as determined by the Board.

If Respondent commits a minor violation, the Board will be required to determine what action is appropriate pursuant to Uniform Standard #10.

Z. Worksite Monitor

In consideration Uniform Standard # 7, this term requires a worksite monitor. The proposed amendment specifies the requirements and standards of a worksite monitor by setting forth the qualifications, methods of monitoring, and reporting by worksite monitors.

This term may be waived upon finding, by clinical diagnostic evaluation, that a licensee is not a substance-abusing licensee.

Terms Y and Z.

A note was added for these two terms to specifying that they shall be included in all disciplinary orders relating to substance abuse.

This term may be waived upon finding, by clinical diagnostic evaluation, that a licensee is not a substance-abusing licensee.

Glossary of Terms

In consideration of the Uniform Standards Regarding Substance-Abusing Healing Arts Licensees, the definition was added to address how the Uniform Standards were established.

Alphabetical Violation Index and Violation Code Index

- Upon adoption of the Guidelines, the page numbers will be changed in both indexes to reflect the changes in the final text.
- "CCR 1398.15 Notice to Consumers" was added in both sections.

UNDERLYING DATA

1. November 2012 Physical Therapy Board Meeting Minutes
2. Senate Bill 1441(Senator Ridley-Thomas, Chapter 548, Statutes of 2008)
3. DCA Legal Affairs Opinion Regarding Uniform Standards for Substance Abusing Licensees (SB 1441), April 5, 2012
4. Office of the Attorney General Opinion, February 29, 2012
5. Legislative Counsel Bureau Opinion Healing Arts Boards: Adoption of Uniform Standards - #1124437, October 27, 2011
6. Draft DCA SACC Meeting Minutes, April 6, 2011

BUSINESS IMPACT

This regulation will not have a significant adverse economic impact on businesses. This initial determination is based on the following facts or evidence/documents/testimony:
None.

ECONOMIC IMPACT ASSESSMENT

This regulatory proposal will have the following effects:

- This regulatory proposal will not eliminate jobs within the State of California because the proposal imposes specific requirements on licensees who are subject to the Uniform Standards due to a drug or alcohol violation, as specified, and the provisions of the Uniform Standards are current practice.
- This regulatory proposal will not create new business or eliminate existing businesses within the State of California because the proposal imposes specific requirement on licensees who are subject to the Uniform Standards due to a drug or alcohol violation, as specified, and the provisions of the Uniform Standards are current practice.
- This regulatory proposal will not affect the expansion of businesses currently doing business with the State of California because the proposal imposes specific requirement on licensees who are subject to the Uniform Standards due to a drug or alcohol violation, as specified, and the provisions of the Uniform Standards are current practice.
- This regulatory proposal benefits the health and welfare of California residents because it will continue to provide protection to the California consumer against licensees who are found to be in violation of the law or have a substance abuse problem. These benefits are a direct result of the Board's statutorily mandated priority set forth in B&P Code section 2602.1.
- This regulatory proposal does not affect worker safety because it does not impose any requirements affecting working environments.
- This regulatory proposal does not affect the state's environment because the proposal imposes specific requirement on licensees who are subject to the Uniform Standards due to a drug or alcohol violation, as specified, and the provisions of the Uniform Standards are current practice.

SPECIFIC TECHNOLOGIES OR EQUIPMENT

This regulation does not mandate the use of specific technologies or equipment.

CONSIDERATION OF ALTERNATIVES

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.

TITLE 16. PHYSICAL THERAPY BOARD OF CALIFORNIA

NOTICE IS HEREBY GIVEN that the Physical Therapy Board of California (Board) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at:

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

August 7, 2013

8:35 a.m.

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than **5:00 p.m.** on **August 5, 2013**, or must be received at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 2615 and 2655.1 of the Business and Professions Code (B&P Code), and to implement, interpret or make specific Sections 315 et seq., 2660, 2661, 2661.5 of the B&P Code, and Section 11425.5(e) of the Government Code, the Board is considering changes to Division 13.2 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST

A. Informative Digest

Existing regulation, Title 16, California Code of Regulations, section 1399.15, incorporates by reference the "Guidelines for Issuing Citations and Imposing Discipline," a manual addressing public protection while enabling the licensee to practice their profession in a controlled environment.

This proposal will amend Section 1399.15 to incorporate by reference the "Guidelines for Issuing Citations and Imposing Discipline" (hereinafter referred to as "Guidelines") as revised May 2013. Additionally, this proposal will further amend Section 1399.15 to incorporate by reference the Department of Consumer Affairs (DCA), Substance Abusing Coordination Committee's (SACC), April 2011 Uniform Standards Regarding Substance-Abusing Healing Arts Licensees (hereinafter referred to as "Uniform

Standards”).

In addition to proposing to adopt the Uniform Standards, the Board is also proposing to update the Guidelines’ violations and penalties to be consistent with current needs. At the time of publication of this document, the draft revisions include penalties for licensees who fail to comply with two proposed regulations: 1) Notice to Consumers and 2) Required Email Filing. The Board is including penalties for violating these proposed regulations in anticipation that they will go into effect. If the proposed regulations do not become final by close of this proceeding, the corresponding portions of this proposal will be removed.

B. Policy Statement Overview/Anticipated Benefits of Proposal

The Uniform Standards are being adopted into regulation by the DCA healing arts boards to ensure that public safety remains their paramount mission, and to implement consistent practices across these when dealing with substance-abusing licensees. Moreover, the Guidelines were established by the Board to facilitate uniformity in taking disciplinary action against licensees, and to provide transparency in regards to the Board’s course of action when imposing discipline.

The Uniform Standards address not only penalties for the licensee, but administrative requirements for the Board, and the monitoring program, if applicable, as well. Therefore, the Uniform Standards are being incorporated by reference in its entirety; however, for clarity only, those standards which apply solely to the licensee will also be included in the Guidelines.

In addition to proposing to adopt the Uniform Standards, the Board is also proposing to update the Guidelines’ violations and penalties to be consistent with current needs. At the time of publication of this document, the draft revisions include penalties for licensees who fail to comply with two proposed regulations: 1) Notice to Consumers and 2) Required Email Filing. The Board is including penalties for violating these proposed regulations in anticipation that they will go into effect. Including penalties for these proposed regulations will ensure appropriate disciplinary action is imposed for violations of these sections. If the proposed regulations do not become final by close of this proceeding, the corresponding portions of this proposal will be removed.

C. Consistency and Compatibility with Existing State Regulations

After conducting a review for similar regulations on uniform standards for substance-abusing healing arts licensees subject to discipline by the appropriate licensing board, the Board had found that there are no other regulations concerning these standards. Therefore, the Board has determined that the proposed regulatory changes are neither inconsistent nor incompatible with existing regulations.

INCORPORATION BY REFERENCE

1. 5th edition, Guidelines for Issuing Citations and Imposing Discipline, Revised May

2013

2. DCA SACC, Uniform Standards Regarding Substance-Abusing Healing Arts Licensees, (April 2011)

FISCAL IMPACT ESTIMATES

A. Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

B. Nondiscretionary Costs/Savings to Local Agencies: None.

C. Local Mandate: None.

D. Cost to Any Local Agency or School District for Which Government Code Sections 17500 - 17630 Require Reimbursement: None.

E. Business Impact:

1. The Board has made the initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The following studies/relevant data were relied upon in making the above determination: None.
2. The following reporting, recordkeeping or other compliance requirements are projected to result from the proposed action: None.
3. The Board has not considered proposed alternatives that would lessen any adverse economic impact on business since the Uniform Standards are mandated by statute; however, you are invited to submit such proposals. Submissions may include the following considerations:
 - (a) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to businesses.
 - (b) Consolidation or simplification of compliance and reporting requirements for businesses.
 - (c) The use of performance standards rather than prescriptive standards.
 - (d) Exemption or partial exemption from the regulatory requirements for businesses.
 - (e) The rulemaking file includes the facts, evidence, documents, testimony, and/or other evidence which supports this determination.

F. Cost Impact on Representative Private Person or Business:

The Board identified potentially significant costs which only affect those licensees who have been deemed substance-abusing and are subject to the Uniform Standards; the Uniform Standards are a part of the rehabilitation program in which substance-abusing licensees are required to participate, pursuant to their terms of probation. The rehabilitation program with which the Board contracts with has already implemented the Uniform Standards; therefore, there is no impact that differs from current practice. Moreover, the costs for a licensee subject to the Uniform Standards were previously identified for the public in the rulemaking file to adopt the 4th edition of the Guidelines, which took effect April 1, 2013.

G. Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would not affect small businesses. The proposed regulation will only affect individual licensees.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS:

A. Impact on Jobs/Businesses:

- The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California because the provisions of the Uniform Standards are current practice.

B. Benefits of Regulation:

- Incorporation of Uniform Standards by Reference

The DCA directed the healing arts boards to adopt the Uniform Standards in regulation to ensure that public safety remains the paramount mission of these boards, and to implement consistent practices for all healing arts boards when dealing with substance-abusing licensees.

- Inclusion of Specific Conditions to Implement the Uniform Standards in the Guidelines

For clarity, the Board is proposing to include in the Guidelines only those standards from the Uniform Standards that apply to a licensee who may be a substance-abusing licensee. Therefore, the Uniform Standards will be incorporated by reference, including all standards, and from that document, only those standards applicable to a licensee who may be a substance-abusing

licensee will be included in the Guidelines. This provides clarity for licensees to understand what specifically could apply to them, and for judges and Attorney Generals in drafting a decision as it will be clearer which standards are penalties for the licensee, and which standards are for administrative use.

- Inclusion of Penalties for Violations of New Regulations

In addition to proposing to adopt the Uniform Standards, the Board is also proposing to update the Guidelines' violations and penalties to be consistent with current needs. At the time of publication of this document, the draft revisions include penalties for licensees who fail to comply with two proposed regulations: 1) Notice to Consumers and 2) Required Email Filing. The Board is including penalties for violating these proposed regulations in anticipation that they will go into effect. Including penalties for these proposed regulations will ensure appropriate disciplinary action is imposed for violations of these sections. If the proposed regulations do not become final by close of this proceeding, the corresponding portions of this proposal will be removed.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposal described in this Notice, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Contact Person at or by accessing the Board's website at: http://www.ptbc.ca.gov/laws/prop_regs/index.shtml.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the

rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the Contact Person named below, or by accessing the website at: http://www.ptbc.ca.gov/laws/prop_regs/index.shtml.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Sarah Conley
Address: Physical Therapy Board
2005 Evergreen Street, Suite 1350
Sacramento, CA 95815
Telephone No.: (916) 561-8210
Fax No.: (916) 263-2560
E-Mail Address: Sarah.Conley@dca.ca.gov

The backup contact person is:

Name: Elsa Ybarra
Address: Physical Therapy Board
2005 Evergreen Street, Suite 1350
Sacramento, CA 95815
Telephone No.: (916) 561-8262
Fax No.: (916) 263-2560
E-Mail Address: Elsa.Ybarra@dca.ca.gov

WEBSITE ACCESS

Materials regarding this proposal can be found at:
http://www.ptbc.ca.gov/laws/prop_regs/index.shtml.



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



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

May 8, 2013 8:30 a.m.
May 9, 2013 8:30 a.m.

Department of Consumer Affairs,
Headquarters 2 (HQ2)
1747 North Market Blvd., Hearing Room
Sacramento, CA 95834

Board Members

Debra Alviso, PT, DPT, President
Martha Jewell, Ph.D., PT,
Vice-President
Donald Chu, Ph.D., PT, ATC, CSCS
Sara Takii, PT, DPT, MPA
James Turner, MPA
Carol Wallisch, MA, MPH

Board Staff

Jason Kaiser, Interim Executive
Officer
Liz Constancio, Manager
Elsa Ybarra, Manager
Sarah Conley, Executive Associate
Analyst

For the sake of clarity, the meeting minutes are organized in numerical order to reflect their original order on the agenda; however, issues were taken out of order during the meeting.

1. Call to Order and Roll Call

The Physical Therapy Board of California (Board) meeting was called to order by Dr. Alviso at 8:30 a.m. All members were present and a quorum was established. Also present at the meeting were Jason Kaiser, Interim Executive Officer; Liz Constancio, Manager; Elsa Ybarra, Manager; Sarah Conley, Executive Associate Analyst; and, other Board staff.

2. Approval of February 13 & 14, 2013 Meeting Minutes – Sarah Conley

Corrections were made to the minutes as follows (underline indicates new text and strikeout indicates deleted text):

On page 3, Line 17, the following edit was made:

Mr. Kaiser informed the Board that due to the failure of SB 924 and the sunset of Business and Professions Code section 2674 [...].

On page 5, Lines 38-46, the following edit was made:

Dr. Chu expressed concern with the way the minutes captured Ms. Freedman's explanation of why the Board should refrain from involving itself with issues relating to the practice of physical therapy. Therefore, paragraph 3 on page 5 was replaced with the following:

After Dr. Chu's presentation, Dr. Alviso requested Ms. Freedman provide a brief explanation about legal issues regarding the Board's involvement in issues related to practice. Ms. Freedman explained that there are a few issues that can cause concern. The first is that the

1 Board could, by issuing practice standards, inadvertently create underground regulation in
2 violation of the Administrative Procedures Act. Another is that, if staff contacts multiple Board
3 members about an issue outside of a Board meeting, there could be a violation of the Bagley-
4 Keene Open Meeting Act. Finally, she advised that, should the question result in an
5 enforcement action, a Board member that got involved in the issue might have to recuse
6 himself or herself from voting on that matter.

7
8 Ms. Freedman also explained that a legal opinion is one option available that avoids all of
9 these concerns. Resources are, however, a limitation with regard to that option.

10
11 On page 8, Lines 21-22, the following edit was made:

12
13 Unfortunately, since they needed more discussion, ~~the~~ and the deadline to file the Guidelines
14 was quickly approaching [...].

15
16 **MOTION: To adopt the draft February 13 & 14, 2013 meeting minutes as**
17 **amended.**

18
19 **MOVED: Ms. Wallisch**

20
21 **SECOND: Mr. Turner**

22
23 **VOTE: 6-0 Motion carried**

24
25 **3. President's Report – Dr. Debra Alviso**
26 **(A) Adopted 2013 Meeting Calendar**
27 **(B) Proposed 2014 Meeting Calendar**
28

29 Dr. Alviso informed the Board of her involvement in Board activities since the last meeting, one
30 of the most prominent was representing the Board with Ms. Wallisch and Mr. Kaiser at the
31 sunset hearing before the a joint committee comprised of the Assembly Business, Professions,
32 and Consumer Protection Committee, and the Senate Business, Professions, and Economic
33 Development Committee. Dr. Alviso shared the Committees' responses were favorable and
34 commended and thanked the other members and staff for their work on sunset.

35
36 The Board reviewed the adopted 2013 meeting calendar and the proposed 2014 meeting
37 calendar. All members indicated they had no conflicts or concerns with the remaining dates in
38 2013, or the proposed 2014 calendar. The Board will plan to adopt a 2014 calendar at the
39 next meeting.

40
41 **4. Executive Officer's Report – Jason Kaiser**
42

43 Mr. Kaiser informed the Board staff will be developing a 1-year follow-up response to the
44 Bureau of State Audits (BSA). All of the concerns identified by the BSA for the Board have
45 been addressed except for hiring a civil servant employee to serve as an expert consultant.

1 Dr. Jewell requested the status of determining whether a civil servant employee, also a
2 licensed physical therapist, could serve as an expert consultant. Mr. Kaiser explained Board
3 staff has been working with the DCA, and the DCA is concerned with creating a new position,
4 which Board staff feels is necessary to meet the current qualifications necessary to serve as
5 an expert consult for the Board. Although this remains an outstanding issue, immediate action
6 was taken by abbreviating the in-house expert consultant's contract so that it is the same as
7 the other experts' contracts; this addressed a specific aspect of the issue cited by the BSA.
8 Dr. Jewell suggested the obstacles with implementing the BSA's recommendation be included
9 in the one-year response to the BSA.

10
11 Mr. Kaiser explained, to aid the Consumer Protection Services program and the Application
12 and Licensing Services program, the Board has contracted with the American Association of
13 Retired Persons (AARP) to host members who wish to gain work experience. These
14 individuals are paid by AARP, but work at the Board to assist them in re-entering the work
15 force. Mr. Turner questioned how many participants of this program the Board can host, and
16 how long they can participate. Mr. Kaiser explained they can work up to four years at one
17 assignment, and the Board can have no more than one AARP member in each unit. Mr.
18 Kaiser also noted AARP members are limited to twenty hours per week.

19
20 Mr. Kaiser updated the Board on the BreEZe project, specifically noting the amount of staff
21 time necessary to ensure the successfulness of the project for the Board. The time that staff
22 must dedicate to the BreEZe project will take them away from their regular duties, which could
23 result in workload backlogs within the Application and Licensing Services program and the
24 Consumer Protection Services program.

25
26 **5. Administrative Services Report – Liz Constancio**

27 **(A) Budget**

28 **(B) Outreach**

29
30 Ms. Constancio presented the Board's budget report and indicated she was happy to field any
31 questions. Dr. Jewell questioned whether it was a problem for the Board that the budget
32 reflects an over expenditure by members. Mr. Turner and Ms. Constancio explained staff is
33 currently working on addressing this issue.

34
35 After the budget report, Ms. Constancio presented the Outreach statistics for January through
36 March, 2013. She noted the Board has seen, overall, an eleven percent increase in users for
37 the website. Facebook and Twitter statistics remain constant.

38
39 **6. Application & Licensing Services Report – Liz Constancio**

40
41 Dr. Jewell thanked staff for providing the statistics on applicants who were educated in a
42 physical therapist program outside the U.S. and not approved by the Board, but who applied
43 for physical therapist assistant licensure in California. The Board questioned if there was a
44 reason for the increase in applicants who applied based on training and/or experience
45 equivalent to that obtained in a Board approved physical therapist assistant program. Mr.

1 Kaiser responded staff has not identified a reason for this increase. He went on to note that
2 this group includes applicants who graduated from a physical therapist program approved by
3 the Board who opt to apply for physical therapist assistant licensure, but does not include
4 applicants who were educated in a physical therapist program outside the U.S. and not
5 approved by the Board, but apply for physical therapist assistant licensure. Dr. Jewell
6 requested staff record and report the percentage of new physical therapists that are educated
7 in physical therapist program outside the U.S. and not approved by the Board as this data may
8 be helpful in the future if the Board needs to look at conducting a manpower study of the
9 profession. Furthermore, Dr. Jewell is also looking for a report on the overall make-up of the
10 physical therapist assistant licensing population. She indicated she will work further with staff
11 on this item.

12
13 Dr. Jewell recommended the Board focus its outreach resources on reaching out to schools
14 that have a concerning low pass rate for the California Law Exam (CLE). Dr. Chu inquired as
15 to whether staff can identify the schools whose graduates are not passing the CLE. Ms.
16 Constancio and Mr. Kaiser explained staff is currently looking into collecting data to assess
17 whether a correlation exists between the school attended and the CLE pass rate.

18
19 Dr. Chu explained the Council for Accreditation of Physical Therapist Educations (CAPTE) has
20 increased its accreditation of small private schools, which do not have the history and curricula
21 as those well-established schools with physical therapist and physical therapist assistant
22 programs. Dr. Jewell recommended, once data is collected and examined, contacting CAPTE
23 to discuss the findings.

24
25 Ms. Constancio reported the new CLE went into effect March 5th, which has impacted the
26 exam passing rate as illustrated by the data.

27
28 Dr. Jewell inquired whether fixed-date testing was still an obstacle for students trying to sit for
29 the exam. Ms. Constancio explained staff needs at least three weeks to process applications;
30 however, at one point in an attempt to be accommodating, pushed the deadline back allowing
31 only two weeks for staff to process applications to determine exam eligibility. Mr. Kaiser added
32 that reducing the processing time to two weeks does not allow staff enough time to realistically
33 meet FSBPT's deadlines and meet other Board mandates. Moreover, staff has scrutinized the
34 calendar in an attempt to, again accommodate as many programs as possible, but no matter
35 the changes made to the calendar, the Board would still be unable to include all programs.

36
37 Dr. Chu noted the FSBPT's fixed-dated testing schedule for the national exam is heavily
38 impacting west coast physical therapy programs as they do not graduate until almost June and
39 with the FSBPT's and the Board's processing deadlines it is almost impossible for applicants to
40 take the summer exam. These applicants then have to wait until fall, delaying their licensure
41 and ability to work. Mr. Kaiser explained the Board has been encouraging applicants to submit
42 their application and receive license applicant status while waiting for the completion of the
43 application process.

1 **7. Consumer Protection Services Report – *Elsa Ybarra***

2
3 Ms. Ybarra presented the Performance Measure data as well as other enforcement statistics.
4 She noted that the intake of cases is at the target of nine days, which is an increase; however,
5 this should improve as the Consumer Protection Services program just welcomed a new
6 permanent-intermittent employee who will be supporting the analysts, including processing
7 case intake. Ms. Ybarra also pointed out that that timeline for investigations is close to the
8 Board’s target, but this is good given the loss of staff in the CPS program. As the Performance
9 Measures illustrate, the loss of CPS staff is starting to show; however, she commended the
10 existing staff for all their continued hard work.

11
12 Dr. Jewell requested that the Performance Measures report be reformatted for clarity. Mr.
13 Kaiser explained the DCA provides this report; however, he will recommend the report be
14 reformatted.

15
16 Ms. Kaiser announced Ms. Ybarra accepted the manager position for the CPS program, and
17 noted she is very deserving of the promotion.

18
19 **8. Continuing Competency Report – *Karin Thompsen***

20
21 Ms. Thompsen presented the Continuing Competency report and explained the high number of
22 pending audits for February and March is because staff just started auditing those licensees,
23 so they are waiting for responses from them.

24
25 Dr. Alviso suggested using outreach media to remind licensees of the necessity to maintain
26 their continuing competency records.

27
28 **9. Consumer and Professional Associations and Intergovernmental Relations Reports**
29 **(A) Department of Consumer Affairs (DCA) – *Reichel Everhart***

30
31 Ms. Everhart notified the Board that the DCA Director will hold a teleconference with the board
32 presidents and executive officers is scheduled for May 14th at 10:00 a.m.

33
34 **(B) California Physical Therapy Association (CPTA)**

35
36 Representatives from the CPTA indicated they had nothing to bring before the Board under
37 this agenda item.

38
39 **(C) Federation of State Boards of Physical Therapy (FSBPT)**

40 **i. Motions for Submission to the Resolutions Committee for the 2013**
41 **Delegate Assembly**

42
43 The Board determined it did not have any recommendations for motions to submit to the
44 FSBPT for consideration for the 2013 Delegate Assembly.

1 **10. Legislation Report – Sarah Conley**
2

3 Dr. Alviso noted that the she and Dr. Jewell requested a representative from the DCA
4 Legislative and Policy Review unit attend the meeting to address questions the Board may
5 have regarding the legislative process. This request was prompted by the need for a clearer
6 understanding of the legislative process as the Board’s proposed revisions to the Physical
7 Therapy Practice Act was finally carried by an author – Senator Price, and with other important
8 bills of interest for the Board being addressed this session. Normally, the Deputy Director of
9 Legislative and Policy Review, Tracy Rhine, would be available to the Board; however, as this
10 meeting fell at a very busy legislative time, Ms. Everhart and Ryan Arnold, the DCA legislative
11 analyst assigned to the Board, were available to respond to questions regarding the legislative
12 process.
13

14 Ms. Everhart and Mr. Arnold explained that the DCA is an agency under the direction of the
15 Governor, therefore, it cannot take a position or recommend a board or bureau take a position
16 on an issue without approval from the Governor. The Board; however, is semi-autonomous
17 and may take a position on issues, including legislation, as it wishes. They did mention that
18 the DCA would appreciate the Board keeping the DCA apprised of the Board’s positions on
19 issues and legislation.
20

21 They went on to explain that although the DCA cannot take a position that is not already
22 approved by the Governor, staff, specifically the Board’s assigned legislative analyst is
23 available to assist the Board in any way possible as far as process and keeping up to date on
24 legislation.
25

- 26 (A) **AB 186 (Maienschein) Professions and Vocations: Military Spouses:**
- 27 **Temporary Licenses**
- 28 (B) **AB 213 (Logue) Healing Arts: Licensure and Certification Requirements:**
- 29 **Military Experience**
- 30 (C) **AB 258 (Chávez) State Agencies: Veterans**
- 31 (D) **AB 809 (Logue) Healing Arts: Telehealth**
- 32 (E) **AB 864 (Skinner) Athletic Trainers**
- 33 (F) **AB 1000 (Wieckowski) Physical Therapists: Direct Access to Services**
- 34 (G) **AB 1003 (Maienschein) Professional Corporations: Healing Arts Practitioners**
- 35 (H) **AB 1057 (Medina) Professions and Vocations: Licenses: Military Service**
- 36 (I) **SB 198 (Price) Physical Therapy Board of California**
- 37 (J) **SB 381 (Yee) Healing Arts: Chiropractic Practice**
- 38 (K) **SB 306 (Price) Healing Arts: Boards**
- 39 (L) **SB 713 (Correa) Liability: Good Faith Reliance on Administrative Ruling**
- 40 (M) **Chapter 742, Statutes of 2012 (Assembly Member Atkins) Professions and**
- 41 **Vocations: Reservist Licensees: Fees and Continuing Education**
42

43 Ms. Conley provided a brief explanation of each bill and how it may impact the Board and the
44 profession. The Board then adopted positions for each bill.
45

1 **MOTION:** **To take an Oppose position on AB 1000.**

2
3 **MOVED:** **Dr. Jewell**

4
5 **SECOND:** **No second, motion died**

6
7
8
9 **MOTION:** **To take a Watch position on AB 1000.**

10
11 **MOVED:** **Dr. Alviso**

12
13 **SECOND:** **Ms. Wallisch**

14
15 **VOTE:** **5-1 Motion carried**

16
17
18
19 **MOTION:** **To adopt a Watch position on AB 186, AB 213, AB 258, AB 809, AB**
20 **864, AB 1057, SB 381, and SB 713. To adopt a Support position on**
21 **SB 198 and SB 306.**

22
23 **MOVED:** **Dr. Jewell**

24
25 **SECOND:** **Dr. Takii**

26
27 **VOTE:** **6-0 Motion carried**

28
29 **11. Proposed Legislation Regarding Revisions to the Physical Therapy Practice Act –**
30 Sarah Conley

31
32 Ms. Conley explained the proposed revisions have been included in a bill – SB 198. Senator
33 Price was so graciously willing to author SB 198 on behalf of the Board, and as Senator Price
34 is Chair of the Business, Professions and Economic Development Committee, the Committee’s
35 Chief Consultant, Bill Gage, is the consultant assigned to the bill. Therefore, staff worked with
36 Mr. Gage and Legislative Counsel, as authorized by Mr. Gage, to prepare the revisions for bill
37 presentation. Some concerns were identified by Legislative Counsel, so Board staff and
38 Legislative Counsel worked out those concerns. The Board was presented SB 198 as
39 amended May 6th to include the proposed revisions to the Physical Therapy Practice Act (Act).
40 SB 198 contained notes from Board staff that coincided with Board staff’s issue paper. The
41 issues that were brought before the Board were the changes that were made that the Board
42 needed to either confirm or reject, as well as other issues that were identified after additional
43 review and consideration of the proposed revisions as drafted May 6th.
44

1 The Board reviewed the bill and addressed each issue identified by staff as follows:

2
3 Page 1, Lines 4-26 – Section 2071

4
5 Ms. Conley explained this section is in the Medical Practice Act; however, it refers to the
6 Board, but by the Board’s old name – the Physical Therapy Examining Committee. This is
7 also true for the California Physical Therapy Association (CPTA), which is referred to in the
8 section as the California Chapter of the American Physical Therapy Association. The Board
9 only proposed to update the name of the Board and the CPTA in the proposed revisions.
10 Legislative Counsel included additional amendments to the section. Since this is Medical
11 Board’s statute, staff recommended notifying Mr. Gage that these changes are being made to
12 the Medical Practice Act and that the Board did not propose them, and if needed, notifying the
13 Medical Board about the changes and how they came about. The Board concurred with this
14 recommendation.

15
16 Page 2, Lines 18-19 – Section 2603

17
18 Mr. Turner questioned whether “involved in physical therapy education” implied that the
19 educator had to be *currently* involved in education. Ms. Freedman explained she feels that it
20 does imply the educator shall be currently involved in education. The Board made no changes
21 to this section.

22
23 Page 2, Line 27 – Section 2603.5

24
25 *(2) Possess an valid and unrestricted license in California issued pursuant to this chapter.*

26
27 Including the term “valid” ensures the licensee has license that is current as well as
28 unrestricted.

29
30 Page 5, Lines 5-7 – Section 2607.5

31
32 Staff noted that the amendment to extend the provision which allows the Board to appoint an
33 Executive Officer is already included in the Board’s sunset extension bill – SB 306. Therefore,
34 staff recommended bringing this to Mr. Gage’s attention as ask for direction on how to deal
35 with this duplicative provision. The Board concurred with this recommendation.

36
37 Page 6-7, Lines 39-43 and 1-22 – Sections 2620 and 2621

38
39 Mr. Gage’s analysis of SB 198 indicated Senator Price would remove this section regarding
40 scope, even though the Board has identified the revision as clarifying, if the Committee
41 received any opposition. The Committee received a late opposition letter that specifically
42 noted concerns with the revised scope of practice language; therefore, Senator Price informed
43 the Committee it would be removed, and it was in the version date May 6th.

44
45 Ms. Conley explained the Board does have the option of meeting with the California

1 Chiropractic Association (CCA) who opposed the revised scope language to try and come to
2 an agreement for scope language to be added back in, or the Board may accept the removal
3 of the revised scope language from the bill. Given the time restraints at this juncture of the
4 process, and to not jeopardize the rest of the bill, the Board decided to move forward without
5 the inclusion of the revised scope language.

6
7 Page 7, Lines 27-28 – Section 2620.2
8

9 Ms. Conley explained this section can be eliminated as it already in current Section 2620. This
10 section was added with the revision of the scope language; however, since that has been
11 removed, this section can be removed as well. The Board concurred with this
12 recommendation.

13
14 Page 9, Lines 1-6 – Section 2630
15

16 This was one of the sections that used the terms “valid, unexpired, and unrevoked” that was up
17 for discussion. The Board, as mentioned above, opted to use “valid and unrestricted.”

18
19 Further discussion of this issue is later in these minutes.
20

21 Page 10-11, Lines 26-40 and 1-27 – Section 2630.5
22

23 After legal counsel advised the Board that “valid and unrestricted” would be the most
24 appropriate terms to use to ensure licensees hold a current and clear license for the purposes
25 of the provisions discussed, the Board amended the subsections below to include “valid and
26 unrestricted.” In addition, Ms. Conley noted Legislative Counsel added “governmentally” in
27 subdivision (g) of Section 2630.5 to further clarify the applicable type of emergency.

28
29 *(c) A physical therapist who holds an valid and unrestricted license in another jurisdiction of the
30 United States or is credentialed to practice physical therapy in another country [...].*

31
32 *(d) [...] if, at the time of the consultation, lecture, or demonstration, he or she hold an valid and
33 unrestricted physical therapist license in the state or county in which he or she resides.*

34
35 *(e) A physical therapist who holds an valid and unrestricted license in another jurisdiction of
36 the United States or is credentialed to practice physical therapy in another country [...].*

37
38 *(f) A physical therapist assistant who has a ~~current, valid, and~~ unrestricted license in a
39 jurisdiction of the United States*

40
41 *(g) A physical therapist or physical therapist assistant who has a ~~current, valid, and~~
42 unrestricted license in a jurisdiction of the United States who is forced to leave his or her
43 residence in a state other than California due to a governmentally declared emergency.*
44

1 Page 13, Lines 28-31 and 37-38 – Section 2636.5

2
3 Ms. Conley explained “physical therapist assistant” was inadvertently omitted from subdivision
4 (a) of this section.

5
6 *(a) An applicant who has filed a physical therapy application under this section with the board
7 for the first time may, between the date of receipt of notice that his or her application is on file
8 and the date of receipt of his or her license, perform as a physical therapist or physical
9 therapist assistant under the supervision of a physical therapist licensed in this state. [...].*

10
11 *An applicant may only qualify once to perform as a physical therapist or physical therapist
12 assistant license applicant, as appropriate.*

13
14 Page 14, Lines 4-7 – Section 2638

15
16 The Board revised this section to clarify that an applicant may take the licensing exam again if
17 he or she fails, not a different exam for licensure.

18
19 *Any applicant for licensure as a physical therapist or physical therapist assistant who fails to
20 pass the examination required by the board may ~~take another~~ retake the licensing examination
21 and shall pay the reexamination fee.*

22
23 Page 15, Lines 7-9 – Section 2639

24
25 Ms. Conley recommended subdivision (a)(3) be removed as Section 2636.5, which sets forth
26 the requirements to apply for a license without an examination if the applicant holds a valid and
27 unrestricted license in another jurisdiction of the U.S., already authorizes these applicants
28 physical therapist or physical therapist assistant license applicant status, as appropriate,
29 pending the issuance of a license; therefore this subdivision is unnecessary.

30
31 ~~*(3) A person who has filed a complete application pursuant to Section 2636.5 may be issued
32 license applicant status authorizing that individual to practice under the provisions described in
33 paragraph (1).*~~

34
35 Page 15, Lines 20-26 – Section 2639.1

36
37 Ms. Conley explained that Section 2639.1 sets forth the same requirements as Section 2635 in
38 addition to the training and experience requirement; therefore, she recommended revising the
39 section to reference Section 2635 instead of specifically naming each those requirements
40 again in Section 2639.1. The Board concurred with this recommendation.

41
42 *A person having, in the opinion of the Board, training or experience, or a combination of
43 training and experience, equivalent to that obtained in an approved physical therapist assistant
44 education program, and who meets the requirements of Section 2635, may apply for licensure
45 as a physical therapist assistant.*

1
2 Page 16 – Sections 2644, 2646 and 2647

3
4 These sections were revised to address Legislative Counsel’s concerns regarding moving all
5 renewal requirements to regulation. The sections include the renewal requirements.
6

7 Page 16 and 17, Lines 38-41 and 1-11 – Section 2648

8
9 Ms. Conley explained Section 114.3 became effective last year requiring every board under
10 the DCA to waive renewal requirements if the licensee is a member of military and called to
11 active duty, as specified. The provision the Board is proposing is not consistent with Section
12 114.3. Ms. Freedman advised she has no concern with the provision being proposed as it is
13 because in cases such as this the specific statute prevails. The Board decided to leave the
14 provision as it is currently drafted.
15

16 Page 21, Lines 17-41 – Section 2653

17
18 Section 2653 was revised to address Legislative Counsel’s concerns regarding moving all
19 application requirements to regulation. Therefore, the specific licensure requirements were
20 retained in Section 2653, and the additional requirement, which was previously approved by
21 the Board, for applicants who were educated outside the United States at a program not
22 approved by the Board, would be required to demonstrate English proficiency.
23

24 Page 24, Lines 28-34 – Section 2660.2, subdivision (a)

25
26 This section was revised to clearly provide the Board the authority to issue a public letter of
27 reprimand to an applicant with the addition of subdivision (c); however, with the addition of
28 subdivision (c), the reference to Section 2660.3 is no longer necessary. The Board struck “in
29 accordance with Section 2660.3 or.”
30

31 Pages 24 and 25 – Sections 2660.2, subdivision (c); and, 2660.3

32
33 The Board concurred with staff’s addition of cost recovery to be included as a term of a public
34 letter of reprimand, as applicable.
35

36 **MOTION:** To adopt the amendments described by staff and direct staff to
37 **communicate the amendments and the Board’s approval to the**
38 **author.**

39
40 **MOVED:** Dr. Jewell

41
42 **SECOND:** Dr. Takii

43
44 **VOTE:** 6-0
45

2
3 The use of “valid and unrestricted” in this section would prohibit the practice of physical
4 therapy by licensees on probation. This issue was identified after the adoption of the changes
5 in their entirety; therefore, the Board made a specific motion to keep the current bill language
6 which uses “valid, unexpired, and unrevoked,” and to make sure this applies to physical
7 therapist assistants as well.
8

9 **MOTION:** To adopt Section 2630 as presented using the terms “valid,
10 unexpired, and unrevoked,” and to direct staff to ensure this is the
11 same for physical therapist assistants as well.
12

13 **MOVED:** Dr. Jewell

14 **SECOND:** Dr. Takii

15 **VOTE:** 6-0 Motion carried
16
17

18
19 **12. Special Order of Business – May 8, 2013 11:00 a.m.**
20 **FSBPT Continuing Competency Presentation – Heidi Herbst Paakkonen, MPA**
21

22 Ms. Herbst Paakkonen delivered a presentation on the FSBPT’s continuing competency model.
23 The presentation included information on the FSBPT’s Continuing Competency Initiative;
24 continuing competency tools and services; aPTitude, an online continuing competency system;
25 and, strategies for how California could utilize and incorporate the tools and services to better
26 achieve its continuing competency objectives.
27

28 **13. Sunset Review – Jason Kaiser**
29 **(A) Hearing Summary**
30 **(B) Follow-up with Committees**
31 **i. Fictitious Name Permit Language**
32 **(C) Sunset Extension Legislation**
33

34 Dr. Jewell informed the Board that she attended the Sunset hearing and observed how
35 supportive the Joint Committee was to the Board. The Joint Committee was complimentary of
36 the overall performance of the Board. Dr. Jewell thanked staff for all their effort on Sunset as it
37 lead to the introduction of the proposed revisions this legislative session, prompted the
38 Legislature to recommend that the Board’s general fund loan be repaid, and gained support for
39 what may be a Consumer Protection Enforcement Initiative (CPEI) 2 to support the Board’s
40 enforcement program.
41

42 Dr. Alviso explained that the Board recommended adding the authority for a Fictitious Name
43 Permit (FNP) in the Sunset report. The Committee staff had no reservations about this
44 recommendation and was ready to include language with the other proposed revisions to the
45 Act. The Committee staff requested language from the Board; however, after Board staff

1 attempted to draft the language, they determined the potential complexity of the issue. For this
2 reason and to avoid making a decision out of haste that could result in an ineffective or
3 burdensome mandate, Dr. Alviso decided to postpone submission of FNP language until the
4 Board has a better handle on the issue.

5
6 Therefore, Dr. Alviso recommended one or two members of the Board collaborate with staff to
7 begin looking at the aspects of a FNP. Ms. Wallisch and Dr. Chu volunteered to work with staff
8 in research regarding a FNP. Mr. Kaiser requested that BreEZe be a consideration in looking
9 at a FNP.

10
11 Sheryl Low, California State University, Northridge, informed the Board that a FNP requirement
12 may assist the schools in placing students. Currently, the schools have an extremely difficult
13 time verifying the employment setting the students are placed in; the schools need a way to
14 check on facilities as they are responsible for the students' placement.

15
16 **14. 2013 Rulemaking Calendar – Sarah Conley**

- 17 **(A) Review and/or Update of Application and Licensing Regulations**
- 18 **(B) Continuing Competency**
- 19 **(C) Delegation Authority for Citation Informal Conferences (Cite and Fine)**
- 20 **(D) Guidelines for Issuing Citations and Imposing Discipline, and Uniform**
- 21 **Standards Regarding Substance-Abusing Healing Arts Licensees**
- 22 **(E) Evaluation Elements**
- 23 **(F) Physical Therapy Business Requirements**
- 24 **(G) Telehealth**

25
26 Ms. Conley provided the status of each rulemaking item identified on the 2013 Rulemaking
27 Calendar, then Ms. Ybarra addressed agenda item 14(D) in more detail as noted below.

28
29 **(D) Guidelines for Issuing Citations and Imposing Discipline, and Uniform**
30 **Standards Regarding Substance-Abusing Healing Arts Licensees**

31
32 Ms. Ybarra identified changes that were made to incorporate the Uniform Standards for
33 Substance-Abusing Healing Arts Licensees in the Guidelines, and changes to include
34 violations of two pending regulations – Notice to Consumers and Required Email Filing.

35
36 The Board made the following changes to the language as it was presented:

37
38 Page 10 under Self-Referrals

39
40 *If, ~~H~~however, a self-referred participant is determined to be too great a risk to the public [...].*

41
42 Page 25, under Note

43
44 *[...] the conditions applying the Uniform Standards Regarding Substance-Abusing Healing Arts*
45 *Licensees" shall be imposed.*

1
2 This correction should also be made throughout the document as applicable.
3

4 Page 26
5

6 Ms. Freedman advised the abbreviated name of the “Uniform Standards Regarding
7 Substance-Abusing Healing Arts Licensees” – Uniform Standards” – may be used if the title is
8 previously defined in the document.
9

10 Additionally, the Board identified the title “Uniform Standards Regarding Substance-Abusing
11 Healing Arts Licensees” should be used uniformly throughout the document.
12

13 Page 44, under Notice to Consumers
14

15 The maximum should be corrected; it is \$5,000.
16

17 Page 51, under Cost Recovery
18

19 The Board discussed whether the language should include a reduction in cost if a percentage
20 of the total cost recovery amount was paid in full within a specified timeframe. Ms. Freedman
21 explained that Board is unique in how it uses cost recovery allowing respondents to pay a
22 reduced amount if it is paid in full within the specified timeframe. The Board expressed
23 concern that this term is required, and questioned if it was removed, would the authority still
24 exist for a reduction in the amount of cost recovery. Ms. Freedman explained the
25 Administrative Law Judge would still have the discretion to reduce cost recovery if it was not a
26 standard term; therefore, the Board may wish to remove it as a standard term as it may be
27 more useful as a settlement tool. The Board determined it did not want to include reduction of
28 cost recovery reduction as a standard term.
29

30 **MOTION:** To strike “said costs shall be reduced, however, and the
31 remainder forgiven, if Respondent pays _____% of said costs,
32 or \$_____, within thirty (30) days of the effective date of this
33 Decision and Order,” and, as advised by legal counsel, the
34 following sentence – “In the event Respondent fails to pay
35 within thirty (30) days of the Decision, the full amount of costs
36 shall be immediately due and payable.”
37

38 **MOVED:** Dr. Chu
39

40 **SECOND:** Dr. Jewell
41

42 **VOTE:** 6-0 Motion carried
43
44
45

1
2 After reviewing the Guidelines, the Board directed staff to proceed to the rulemaking process.

3
4 **MOTION:** To direct staff to continue the rulemaking process with the
5 **edits made today and delegate to the Executive Officer the**
6 **authority to make non-substantive changes as may be**
7 **necessary.**

8
9 **MOVED:** Dr. Jewell

10
11 **SECOND:** Dr. Takii

12
13 **VOTE:** 6-0 Motion carried

14
15 **15. Closed Session**

16 **(A) Pursuant to Government Code Section 11126(c)(3)**
17 **Deliberation on Disciplinary Actions**

18
19 Once issued, disciplinary decisions may be found on the Board's website at www.ptbc.ca.gov.

20
21 **(B) Pursuant to Government Code Section 11126(a)(1)**
22 **Appointment, Employment, Evaluation of Executive Officer**

23
24 Please see agenda item # 18 for outcome of this item.

25
26 **16. Special Order of Business – May 9, 2013 8:30 a.m.**
27 **Hearing on Petition for Reinstatement of License – William Skelly**

28
29 This item was postponed to the August 2013 meeting.

30
31 **17. Review of Draft 2013 Strategic Plan – Sarah Conley**

32
33 Ms. Conley presented the revised draft 2013 Strategic Plan and identified the revisions. The
34 Board made the following amendments:

35
36 Page 6, Goal 2.1 (Renewals and Continuing Competency)

37
38 Evaluate the processing of renewal applications; and identify and implement process
39 improvements ~~and identify and eliminate redundancies and bottlenecks in the process.~~
40 ~~Integrate the renewal process into the BREEZE project to insure the ability to pay renewal fees~~
41 ~~online.~~

42
43 Page 8, Goal 4.3 (Legislation and Regulation)

44
45 Monitor legislation and maintain regulations that may impact the Board, licensees, and the

1 consumers of physical therapy, ~~its licentiates and the Board.~~

2
3 **MOTION: To adopt the Strategic Plan as**

4
5 **MOVED: Mr. Turner**

6
7 **SECOND: Dr. Takii**

8
9 **VOTE: 6-0 Motion carried**

10
11 **18. Public Comment on Items Not on the Agenda**

12
13 Board President Announcement:

14
15 Dr. Alviso announced that the Board appointed Mr. Kaiser as the Executive Officer of the
16 Board. The Board thanked Mr. Kaiser for serving as the Interim Executive Officer, and
17 congratulated him on his new appointment.

18
19 There was no additional public comment.

20
21 **19. Agenda Items for Next Meeting – August 7 & 8, 2013**
22 Sacramento, CA

23
24 Dr. Jewell indicated she will provide staff with a list of items she noted throughout the meeting.

25
26 **20. Adjournment**

27
28
29 The meeting adjourned at 4:00 p.m. on Thursday, May 9, 2013.



Physical Therapy Board of California

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Briefing Paper

Date: 7/20/13

Prepared for: PTBC Members

Prepared by: Debra Alviso, PTBC Board President

Subject: CPTA Wellness Inquiry and PTBC Action

Purpose: To inform PTBC Board Members of CPTA inquiry and action plan for response.

Background:

CPTA Quality Practice Committee submitted an inquiry and request to PTBC for clarification on issues surrounding Wellness services in a physical therapy setting. The letter, dated 4/12/2013, is attached for reference.

PTBC previously addressed issues surrounding Wellness services. The Assistive Personnel Task Force was asked to include the issues of wellness to their charge.

In January 2009, the task force developed and presented recommendations to the Board. After discussion, the task force was asked to continue exploring issues related to wellness. Legal counsel was to consider current statute and regulation to determine the parameters of supervision requirements as it related to the task force recommendations.

At its January 28 and 29, 2010, meeting, the PTBC Board reviewed draft regulations prepared by legal counsel incorporating the recommendations from the task force. There were statutory limitations on the task force recommendations. Many issues related to wellness remained unclear and without delineation, such as the definition of wellness and the distinction of patient or client. Members relayed concern for consumer protection - wellness should be something uniquely identifiable. Many of the issues related to the definitions and delineation of services were without resolution, even on the national level. The draft regulations were tabled without further action.

The task force, having completed their primary charge of reviewing and updating the regulations related to assistive personnel, was disbanded.

Agenda Item # 5(C)(i)

Due to the complexity of the issue, resource constraints and mandate priorities, the issue of wellness regulation has been deferred since the disbanding of the Assistive Personnel Task Force.

Analysis:

The regulation of wellness services needs to be reviewed. Many issues remain including the statutory limitation on personnel and the questions of defining treatment, wellness, services, client and patient. This current legislative actions including AB1000 and SB198 need to be considered in the discussion. Of utmost concern to PTBC are the public protection elements.

Action Requested:

I have consulted with Legal Counsel, Ms. Freedman, and our Executive Officer, Mr. Kaiser. My suggestion is an initial exploratory meeting to be scheduled in August or September with representatives of the CPTA Quality Practice Committee, PTBC Executive Officer, Legal Counsel, Board President and Board Member Sara Takii, a member of the 2009 Assistive Personnel Task Force. We will review the history of the subject and consider the issues identified in the CPTA letter of April 2013. Although we will not be able to provide declaratory statements to the specific scenarios in the letter, we hope the discussion may provide some insight for a proper course of action and enable the two board members to make a recommendation to the full Board.

This briefing paper is to provide members with the background on this issue, the recent CPTA request and the initial planned course of action.

I ask for Board member support for this plan and welcome any suggestions, resources or comments.

Enclosure:

CPTA Quality Practice Committee 4/12/13 letter

Additional References:

Minutes- Assistive Personnel Task Force January 28, 2009

Minutes- PTBC January 29, 2009
August 19,20, 2009
January 28,29, 2010

Agenda Item # 5(c)(i)



April 12, 2013

Debra J. Alviso, PT, DPT, OCS
Board President
Physical Therapy Board of California (PTBC)
2005 Evergreen St. Suite 1350
Sacramento, CA 95815

From: Nancy Byl, PhD, PT, FAPTA Chair, Quality Practice Committee, CPTA

Dear Dr. Alviso,

CPTA has received a large volume of calls and emails related to providing wellness services in a physical therapist (PT) clinical setting. On behalf of the Quality Practice Committee of the CPTA we request the opportunity to present questions that we have received on behalf of the professional association and its membership.

Changes to the practice of PT are being accelerated by current and future healthcare policies coming from Washington, D.C. and filtering down through the states and private insurers. Wellness and preventative services seem to be the trend for healthcare in order to help decrease the cost of healthcare. With these changes occurring, many physical therapy providers have expanded their services into the areas of preventative care, fitness/health and work site evaluation. Physical therapist should be the leaders in this field based on their education and knowledge in not only exercise but also in areas such as kinesiology, evaluation, body mechanics and assessing needs of individuals with and without a medical condition or functional limitations.

Physical therapists are working in a multitude of settings from healthcare facilities such as hospitals, skilled nursing, rehab facilities, private practice to home health, schools, senior centers, gyms and job sites offering treatment as well as ergonomic evaluations and body mechanics training. All of these activities seem to be in accordance with Section 2620 (a) of the CA Business and Professions Code which states ***The practice of physical therapy includes the promotion and maintenance of physical fitness to enhance the bodily movement related health and wellness of individuals through the use of physical therapy interventions.***

There is a need for the PTBC to develop definitions for wellness, fitness, prevention, class/group training and educational and life style informational offerings and the expectations as to the requirements that need to be met when PTs and/or PTAs are involved, directly or indirectly, with these services. It does not seem appropriate to require that all services fall under the same rules and regulations.



The “white paper” written by Don Chu in March 2005 is a step in the right direction to help define some of the treatment aspects associated with a wellness practice but there are many other situations in which his scenario doesn’t fit. The question regarding documentation is not addressed nor is the use of PTAs, aides, supervision requirements or the need for evaluations/re-evaluations/medical screenings prior, during and at the conclusion of an episode of care.

In the first paragraph of the PTBC’s December 2005 whitepaper titled, *Providing Online Physical Therapy Advice* http://www.ptbc.ca.gov/forms/online_advice.shtml, it states, “...a physical therapist cannot provide physical therapy treatment or give treatment advice directly to consumers without having a diagnosis and performing an evaluation of the patient.” The paper further says that a physical therapist can offer wellness advice via the internet or telephone as long as they inform the inquirer that the information being provided is “Advice only.”

Questions for the Physical Therapy Board California:

- When a PT/PTA leads group instructions, be it geriatric exercise at a senior center, body mechanics, walking/running programs, pre-surgical instructions, obstetric programs, etc., are these PTs/PTAs providing “physical therapy”?
- What are the documentation requirements for wellness/fitness/health/preventative services?
- Are wellness/fitness classes that are not advertised or billed as physical therapy, i.e. community exercise programs, aquatic exercise, aerobic/yoga/Pilates or non-therapeutic massage provided by an instructor, PT or non-PT, considered physical therapy?
- Can a physical therapy aide or an exercise instructor lead an exercise class in a PT clinic without direct supervision by the physical therapist or a physical therapy evaluation? I.e. classes such as "Exercise for a Healthy Back", "Fall Prevention", "Post-Stroke". These classes would be open to the public.
- If individuals are allowed to patron a PT department/office and utilize exercise equipment independently (as they would if they went to a private gym), is this considered physical therapy and is documentation, a medical diagnosis, evaluations a requirement?
- If a PT is asked to go to a work site and perform an ergonomic evaluation and during the visit a worker is observed using poor body mechanics, is the PT able to instruct the individual in proper body mechanics at that time or does the PT have to receive a diagnosis prior to providing instructions? Does the ergonomic instruction prompt the requirement for documentation?
- In a health and wellness setting, if a patient with a diagnosed chronic disease experiences an exacerbation of their chronic condition, without a physician referral, can the physical therapist address the inflammation/exacerbation with exercise and recommendations to facilitate healing?
- If a patient is otherwise healthy and has some increased pain and strain from overuse (I.e. excessive use of the computer keyboard), can the patient self-refer to a physical therapist



in a health and wellness center for instruction on improved ergonomics via an exercise program for postural stabilization and exercise to improve postural alignment?

- If a patient is otherwise healthy and plays sports and has an occurrence of pain in the knee, ankle, hip or back after running, can the patient self-refer to a physical therapist in a wellness setting for evaluation and exercise management?
- In a primary care setting, can the physical therapist triage healthy patients who come in with a new complaint (I.e. hurt back or strain over the weekend)?
- In a primary care setting, if an elderly woman comes into a PT clinic complaining of feeling like her balance is not as good as it used to be can the PT evaluate her and begin exercise instruction on wellness, aerobic exercise, strengthening, flexibility exercises and balance training?

For questions or additional information on this directive, please contact Stacy DeFoe, Executive Director of the California American Physical Therapy Association at 916- 929-2782.

Thank you for your attention to this matter.

Sincerely,

Nancy E. Byl, PhD, MPH, PT

Nancy E. Byl, PT, PhD, FAPTA
CPTA Board of Directors
Quality Practice Committee Chairperson

Physical Therapy Board Adopted 2013 Meeting Calendar

JANUARY							FEBRUARY							MARCH							APRIL											
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S					
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13	14	15	16	17	18	19	10	11	12	13	14	15	16	17	18	19	20	21	22	23	14	15	16	17	18	19	20					
20	21	22	23	24	25	26	17	18	19	20	21	22	23	24	25	26	27	28	29	30	21	22	23	24	25	26	27					
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MAY							JUNE							JULY							AUGUST											
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12	13	14	15	16	17	18	16	17	18	19	20	21	22	14	15	16	17	18	19	20	11	12	13	14	15	16	17					
19	20	21	22	23	24	25	23	24	25	26	27	28	29	21	22	23	24	25	26	27	18	19	20	21	22	23	24					
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SEPTEMBER							OCTOBER							NOVEMBER							DECEMBER							
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January

1 New Year's Day
21 Martin Luther King Jr. Day

May

8-9 PTBC Meeting – Sacramento
12 Mother's Day
27 Memorial Day

September

2 Labor Day
19-21 FSBPT Annual Meeting
19-22 CPTA Annual Conference

February

13-14 PTBC Meeting – Sacramento, CA

June

16 Father's Day

October

18 President's Day

July

4 Independence Day

November

6-7 PTBC Meeting – Samuel Merritt University

March

31 Easter

11 Veteran's Day
28 Thanksgiving Day

April

August

7-8 PTBC Meeting – Sacramento

December

25 Christmas

Physical Therapy Board of California Proposed 2014 Meeting Calendar

<u>January</u>						
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January

1 New Year's Day
20 Martin Luther King Jr. Day

April

20 Easter

July

4 Independence Day

October

31 Halloween

February

17 President's Day
12-13 PTBC Meeting

May

7-8 PTBC Meeting
11 Mother's Day
26 Memorial Day

August

6-7 PTBC Meeting

November

5-6 PTBC Meeting
11 Veteran's Day
27 Thanksgiving

March

June

11-14 APTA Conference
Charlotte, NC
15 Father's Day

September

1 Labor Day
18-20 FSBPT Meeting
San Francisco, CA

December

25 Christmas



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



DATE: July 23, 2013

TO: Physical Therapy Board of California (Board)

SUBJECT: EXECUTIVE OFFICER'S REPORT

This report is to update you on the current status of the Board's operations.

ADMINISTRATION

AUDIT – The Board submitted its one year response to the Bureau of State Audits on July 1, 2013. To date, we have not received any feedback from BSA on the response.

BUDGET/PERSONNEL – Please refer to Agenda Item 13(A) for a more detailed report.

As part of the 2012/2013 Budget Change Proposal (BCP) process the PTBC received approval to hire 2 Staff Service Analysts (SSA) for the Consumer Protection Services Program and an Office Technician (OT) for the Applications and Licensing Services program. We have posted the adverts for the SSA position and expect to conduct interviews the last week of July. After a review by DCA's Office of Human Resources, it has been determined that our Office Technician position was misallocated and has been re-classed as a Program Technician II (PT2). We are awaiting final approval for the PT2 position and will be moving forward with the recruitment.

The PTBC, in partnership with AARP continues to provide on the job training to a number of their members to better assist them in re-entering the workforce on a permanent status. They are assisting the Application and Licensing Program and the Continuing Competency Program. We are currently looking for candidates for the Administration and Consumer Protection Services Program.

As part of a study by the Department of Finance (DOF) on the impact of the Consumer Protection Initiative (CPEI), DCA will be assisting CalHR with a review of the Special Investigator (SI) class. Each of the healing arts boards with Special Investigator incumbents are being asked to have their all of their SI staff complete a written job description, and our Special Investigator was selected to be interviewed by CalHR staff. We will also be meeting

with the Division of Investigation on August 1, 2013 to discuss the efficacy of CPEI, what has worked, what has not worked and why. DOF is pursuing a systemic approach to the entire enforcement process to potentially determine where resources may be needed, potential policy changes, management of expenditures, workload and potential need assessments to better protect the consumers of California.

BreEZe – On May 3, 2013, the CPS program completed its initial interviews with the BreEZe Team. BreEZe continues in development and a hard freeze remains in effect.

GOVERNOR'S REORGANIZATION PLAN NO. 2 OF 2012 – As part of the Governor's Reorganization Plan, effective July 1, 2013, our umbrella agency, the State and Consumer Services Agency (SCSA) has been restructured and renamed the Business, Consumer Services and Housing Agency. With the restructuring come four new additions to the Department of Consumer Affairs; the Board of Chiropractic Examiners, the Bureau of Real Estate Appraisers, and the Bureau of Real Estate, and the return of the Structural Pest Control Board.

NEW PROJECT – The Business, Consumer Services and Housing Agency (formerly SCSA) has partnered with the California Health and Human Services Agency, as well as the California Healthcare Foundation (CHCF) in a project to identify areas of future opportunity to improve the efficiency and effectiveness of our regulatory oversight role; to consider the roles and relationships of our work to that of our local and federal government partners; to identify barriers to improved access to health care services presented by the regulatory environment; and to ensure consumer protections. B & R Klutz Consulting, LLC has been contracted to lead this project effort. Recently we have provided data to the project as well as participated in a tele-interview on June 6, 2013 with the consultant.

LEGISLATION AND REGULATION – Please refer to Agenda Item 9 for a more detailed report regarding Legislation.

OUTREACH – Due to budgetary restraints, the Board's Outreach program is limited to local travel, web traffic and social media. Staff has extended its reach into social media with the additions of Youtube and Google+ and is currently working on content. Staff has also made a number of changes to the Applicant Tab on the website based on feedback provided by Applicants, Program Directors and Board Staff. Please refer to Agenda Item 13(B) for a more detailed report.

Agenda Item # 7

TRAVEL – Travel continues to be restricted to mission critical travel. The Board will be holding its November meeting in Oakland, Ca. which is in line with our mandate, one of the conditions of mission critical travel.

CONSUMER PROTECTION - Due to the staffing shortages, staff continues to prioritize cases as Urgent, High Priority and Routine, and follows the guidelines set forth by the Department of Consumer Affairs Prioritization Guidelines. Unfortunately, a high volume of cases prioritized as Urgent or High Priority may prevent those cases prioritized as Routine from being processed timely. This will be evident in our case aging and performance measures as time goes on. Please refer to Agenda Item 15 for a more detailed report.

CONTINUING COMPETENCY - Continuing competency audits remain at a 14 month backlog. Continuing Competency has temporarily lost its part-time (.5) SSA to medical leave. The sole remaining SSA is responsible for processing applications for recognition of Approval Agencies, continuing competency exemptions, Inactive status requests, and requests to restore licenses from Inactive to Active. The AARP employee assigned to the Continuing Competency unit has been a great help to the unit. While many of these tasks are processed timely, with this loss of staff, we expect the audit backlog to increase. CC staff is working on updating the Records Compliance Database for Recognized Approval Agencies. Please refer to Agenda Item 16 for a more detailed report.

APPLICATIONS & LICENSING - Fix-date testing continues to create challenges for the unit. In July of 2012, Board staff developed application deadlines which would allow for a reasonable amount of time to process new applications without sacrificing our other mandates, e.g., renewals, license verifications, communiqué (written, phone or electronic). Difficulties are created when these applications come in concentrated bursts after the suggested deadlines and create an immediate influx of workload. While applications are processed on a first come first serve basis, programs have expressed concern that the Board's application deadlines are preventing candidates from sitting for the next available exam. The Application & Licensing Services program staff makes every effort to process applications timely; however, must also adhere to the deadlines set in place to ensure that all application and licensing mandates are met. When sufficient resources are available, applications submitted after the deadlines will be and have been processed. FSBPT recently released its testing dates for 2014 and 2015. Staff is currently working on a schedule of suggested application deadlines for the new test dates.



Physical Therapy Board of California

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

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Briefing Paper

Date: July 24, 2013

Prepared for: PTBC Board Members

Prepared by: Jason Kaiser

Subject: Physical Therapy Minimum Data Set

Purpose: To inform the PTBC Board Members of FSBPT's request to participate in their development of a Minimum Data Set for Physical Therapy

Background: The Federation of State Boards of Physical Therapy (FSBPT), in collaboration with the American Physical Therapy Association (APTA) and the Health Resource Services Administration (HRSA) is working on developing a Minimum Data Set (MDS) of licensed physical therapists and physical therapist assistants. The FSBPT believes this initiative is critical for assessing the health care workforce needs within our jurisdiction and throughout the country. They have encouraged our participation as they state that the MDS will only be as successful as the level of participation by the licensing jurisdictions. The FSBPT has asked each jurisdiction to review the following attached materials:

- The physical therapy MDS
- The questions that would be asked on a renewal application in order to collect the MDS
- A rationale for each question describing its importance for workforce analysis
- A PowerPoint presentation on the MDS given to the CBA in May
- A list of questions related to implementation of the MDS.

This review as well as a survey will be discussed during a tele-conference in the coming months.

Analysis: An appropriate supply of physical therapists and physical therapist assistants is vital to ensure that access to care at the highest quality is available to those California consumers that require it. Unfortunately, sufficient data for appropriate workforce planning for the physical therapy profession does not exist. Although data has been collected, the methods of data collection have not always been optimal, and the data rarely, if ever, is used for workforce planning purposes.

California faces a number of obstacles in participating in this collection of data. First and foremost, is the legality of the privacy of its licensing population. Secondly, considering the Boards limited resources, prioritization may limit our ability to participate. Lastly, given the MDS's reliance on the renewal process and the "hard freeze" imposed by the BreEZe project, which limits our ability to make any technical or programming changes, participation at this time may not be an option.

Action Requested: Information provided for the purpose of discussion. No action requested at this time.

Section	Data Element	Question
Demographics	Name	First, Middle, Last, Other Name (Maiden or other)
	Unique Identifier	SSN, if possible
	Birthdate	Month, Day Year
	Sex	M, F
	Race	American Indian/Alaska Native, Asian, Native Hawaiian/Pacific Islander, Black or African American, White, Other
	Ethnicity: Hispanic, Latino(a), or of Spanish origin	Puerto Rican, Mexican/Mexican American/Chicano(a), Cuban, Other Hispanic/Latino(a)/Spanish origin (Please specify)
Education, Training & Licensure	Entry Degree	Certificate, Associate, Bachelors, Masters, Doctor of Physical Therapy
	Year of Graduation	Year Drop Down
	State (US only) or Country of Education	State and country drop down
	License held	PT/PTA
Employment	Employment Status	Actively working in the field of physical therapy
		Actively working in a field other than physical therapy
		Unemployed but seeking work in physical therapy
		Unemployed not seeking work in physical therapy
		retired
	Hours worked in the field of physical therapy per week	Primary Location Hours
		Secondary Location Hours
	Weeks worked in the past year in the field of physical therapy	Primary Location Hours
		Secondary Location hours
	Hours worked in direct patient care per week	Primary Location Hours
		Secondary Location hours
	Weeks worked in past year in direct patient care	Primary location weeks
		Secondary location weeks
	Location of direct care sites	Primary location: Zip, City, County
		Secondary location: Zip, City, County
	Practice Settings	Primary location practice setting: see list below
		Secondary location practice Setting: see list below
	Future Employment Plans in the next 5 years	Increase Hours in field of physical therapy
Decrease hours in field of physical therapy		
Increase Hours in Direct Patient Care		
Decrease Hours in Direct Patient Care		
Leave employment in the field of physical therapy		
	No Planned change	

Practice Settings
Academic Institution (post-secondary)
Acute Care Hospital
Health and Wellness Facility
Health System or Hospital-based Outpatient Facility or Clinic
Industry
Inpatient Rehab Facility (IRF)
US Military/Veterans Administration
Patient's home/home care
Private Outpatient Office or Group Practice
Research Center
School System (preschool/primary/secondary)
Skilled Nursing Facility (SNF)/Long-term Care
Other

Physical Therapist Minimum Data Set Questionnaire

Demographics

1. Name:

First _____ Middle _____ Last _____ Maiden or other _____

2. Social Security Number ____ - ____ - ____

3. Birth date Month Day Year
 □ □ □ □ □ □ □ □

4. Sex

Male Female

5. Race/ethnicity

- American Indian or Alaska Native
- Asian
- Native Hawaiian/Pacific Islander
- Black or African American
- White
- Other (Please specify) _____

6. Are you Hispanic, Latino/a, or of Spanish Origin (optional) (1 or more categories may be selected)

- No
- Yes, Puerto Rican
- Yes, Mexican, Mexican American, Chicano/a
- Yes, Cuban
- Yes, Another Hispanic, Latino/a, or of Spanish origin (specify) _____

Education, Training and Licensure

7. What is your entry level physical therapy degree ^b?

- Certificate
- Associate
- Bachelors
- Masters
- Doctor of Physical Therapy
- Fellowship

^b degree means the degree in which you received your education to become a physical therapist or physical therapist assistant; do not check advanced degrees that you received after your basic physical therapy education.

8. In what year did you earn your entry degree? □ □ □ □

9. Where did you complete your entry level physical therapy education?

- United States (Please specify): [List of States]
- Other (Please specify): _____

7. License or certification held

- Physical therapist
- Physical therapist assistant

Employment Status and Characteristics

10. What is your employment status?

- Actively working in the field of physical therapy
- Actively working in a field other than physical therapy
- Unemployed by seeking work in physical therapy
- Unemployed, not seeking work in physical therapy
- Retired

11. Please check the item that best describes your primary and, if applicable, secondary place of employment. When appropriate please provide the zipcode+4 for each practice site(s).

Practice Setting	Primary	Secondary	Zip Code of Practice Site
Academic Institution (post-secondary)			
Acute Care Hospital			
Health and Wellness Facility			
Health System or Hospital-based Outpatient Facility or Clinic			
Industry			
Inpatient Rehab Facility (IRF)			
US Military/Veterans Administration			
Patient's home/home care			
Private Outpatient Office or Group Practice			
Research Center			
School System (preschool/primary/secondary)			
Skilled Nursing Facility (SNF)/Long-term Care			
Other			

12. For all positions held, indicate the average number of hours spent per week in each physical therapy major activity.

	Primary location	Secondary location
Hours worked in the field of physical therapy* per week		
Weeks worked in the field of physical therapy per year		

Hours worked in direct patient care per week ^φ		
Weeks worked in direct patient care per year		

**include such non-direct patient care activities such as administration, research and teaching in these hours*

^φexclude time spent in such activities as administration, research and teaching

13. What are your employment plans for the next 12 months?

- Increase hours in the field of physical therapy
- Decrease hours in the field of physical therapy
- Increase hours in direct patient care
- Decrease hours in direct patient care
- Leave employment in the field of physical therapy
- No planned change

MDS Elements and Their Rationale: Physical Therapy

Demographics

Demographic factors, such as age, sex and ethnicity, may influence practice patterns. By asking these basic questions it is possible to assess variations by the demographic factors. This can help planning for retirements and changes in the workforce. If a longitudinal data base is maintained, this demographic information only needs to be asked once.

- | | Month | Day | Year |
|---------------------|-------|-----|------|
| • Birth date | □□ | □□ | □□□□ |
- The full month, day, and birth year allows linkage with other data sources and assures greater accuracy over time. It also provides the appropriate data to determine the age distribution of the health profession and assess attrition patterns.
- **Sex, Ethnicity, Race**
Basic demographic information is collected to provide general descriptive characteristics of the profession being analyzed. Data can be used to identify disparities and inform outreach efforts to encourage people to join the profession.

Education and Training

This information allows for assessment of the relationship between educational characteristics and practice patterns, including migration patterns after education, such as in state retention. The basic education and training data can be collected at the point of the initial licensure application, although it may need to be updated as appropriate for continuing professional education.

- **Entry-level degree for health profession**
The entry-level degree earned in a health profession is asked of the practitioner not only to provide descriptive characteristics of the profession but to allow for comparison across states, regions, or other localities of the practitioners. For physical therapists, this information is relevant to model practice laws and scope of practice of the practitioner.
- **Year of completion of entry-level degree for health profession**
Year of education is asked of practitioners to ascertain approximately how long they have been in practice. This question can provide critical data for studies of professional attrition and retirement. This information is also helpful in matching individuals across data bases.
- **Location of Training (degree) for health profession (school, state, country)**

Location of training is important for several reasons. Migration studies can be conducted by determining location of training as compared to practice location. As applicable, the question provides critical information on the number of foreign graduates that are entering the profession.

- **Certifications, Specialties, Post-Graduate Training**

Certifications, specialties, and/or post graduate training questions are asked as applicable since for many professions, it can help to further delineate the focus of their practice (example, physician board certification can better differentiate primary care practitioners from internal medicine subspecialists). This question allows for assessment of the specialty or area of concentration of the practitioner.

Practice Characteristics

- **Employment Status: What is your employment status?**

- Actively working in the field of PT/PTA
- Actively working in a field other than PT/PTA
- Not currently working, looking in the field of PT
- Not currently working, not looking in the field of PT
- Retired

We recommend asking the question in this way to ensure that data needed for HPSA analysis are consistently collected (i.e. being licensed doesn't mean that a health professional is actively practicing).

- **Practice Locations of Direct Patient Care**

The MDS asks for both a principal and secondary practice site and address to allow for better precision for those practitioners specifically who are counted in developing HPSA designations. The specific address allows for geocoding against the larger service area. To be better able to determine HPSA designation sites, we also recommend asking for the number of direct patient care hours worked in these sites.

- **Hours Per Week Worked in Direct Patient Care**

We recommend asking practitioners the number of hours they spend per week providing direct patient care. This question allows for detailed analysis by states in determining profession-specific FTEs.

- **Weeks Worked in Past Year in Direct Patient Care**

Asking the practitioner for the number of weeks worked in the last year in direct patient care allows for detailed analysis by states in determining profession-specific FTEs; question assesses whether or not a practitioner is full time.

- **Practice Settings**

Asking for the specific setting from a list of options that most closely corresponds with principal and secondary practice locations for direct patient care is important to determine where practitioners are actually distributed when delivering care.

- **Practitioner Plans over the next five years**

Asking practitioners about their plans over the following five years provides a preliminary understanding of potential attrition issues and retirement possibilities.

Minimum Data Set Interview

1. Did you get a chance to review the materials?
 - a. If no, "When can we call you back?"
2. Do you understand the purpose and importance of the MDS? What questions do you have?
3. Do you have an online renewal system?
 - a. If yes, what percentage of your licensees renew online?
4. What data elements of the PT MDS do you collect on renewal now?
5. What data elements do you collect on initial application?
6. What barriers are there to adding the data elements that you do not collect? (these could include systems issues, workload issues, legislative barriers, etc)
7. Is there an ideal time for you to make changes to your application? (Is a lead-time required, etc)
8. What barriers are there to sharing this data with FSBPT?
9. What model would work better for you:
 - a. You collect the data and transmit to us
 - b. We collect the data during your renewal cycle
 - i. During your renewal process you link candidates to the FSBPT MDS system and allow them to complete (benefits include pre-populating of information)
 - ii. We assist you in providing electronic renewal.
10. What other issues/barriers/ideas do you have?

Joint Session Schedule

- 11/30/2012 2011-12 session adjournment sine die at midnight (Art. IV, Sec. 3(a)).
- 12/03/2012 2013-14 Regular Session convenes for Organizational Session at 12 noon (Art. IV, Sec. 3(a)).
- 01/01/2013 Statutes take effect (Art. IV, Sec. 8(c)).
- 01/07/2013 Legislature reconvenes (J.R. 51(a)(1)).
- 01/10/2013 Budget Bill must be submitted by Governor (Art. IV, Sec. 12(a)).**
- 01/21/2013 Martin Luther King, Jr. Day observed.
- 01/25/2013 Last day to submit bill requests to the Office of Legislative Counsel.**
- 02/18/2013 Presidents' Day observed.
- 02/22/2013 Last day for bills to be introduced (J.R. 61(a)(1), J.R. 54(a)).**
- 03/21/2013 Spring Recess begins upon adjournment (J.R. 51(a)(2)).
- 03/29/2013 Cesar Chavez Day observed.
- 04/01/2013 Legislature reconvenes from Spring Recess (J.R. 51(a)(2)).
- 05/03/2013 Last day for policy committees to meet and report to fiscal committees fiscal bills introduced in their house (J.R. 61(a)(2)).**
- 05/10/2013 Last day for policy committees to meet and report to the floor non-fiscal bills introduced in their house (J.R. 61(a)(3)).**
- 05/17/2013 Last day for policy committees to meet prior to June 3 (J.R. 61(a)(4)).**
- 05/24/2013 Last day for fiscal committees to meet 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)).**
- 05/27/2013 Memorial Day observed.
- 05/28/2013 thru 5/31/13. Floor session only. No committee may meet for any purpose (J.R. 61(a)(7)).
- 05/31/2013 Last day for each house to pass bills introduced in that house (J.R. 61(a)(8)).**
- 06/03/2013 Committee meetings may resume (J.R. 61(a)(9)).
- 06/15/2013 Budget Bill must be passed by midnight (Art. IV, Sec. 12(c)(3)).**
- 07/03/2013 (ASSEMBLY) Summer Recess begins upon adjournment, provided Budget Bill has been passed (J.R. 51(a)(3)).
- 07/04/2013 Independence Day observed.
- 07/12/2013 (SENATE) Last day for policy committees to meet and report bills (J.R. 61(a)(10)). Summer recess begins at the end of this day&s session, provided the Budget Bill has been passed (J.R. 51(a)(3)).**
- 08/05/2013 (ASSEMBLY) Legislature reconvenes from Summer Recess (J.R. 51(a)(3)).
- 08/12/2013 (SENATE) Legislature reconvenes from Summer Recess (J.R. 51(a)(3)).
- 08/16/2013 (ASSEMBLY) Last day for policy committees to meet and report bills (J.R. 61(a)(10)).**
- 08/30/2013 Last day for fiscal committees to meet and report bills (J.R. 61(a)(11)).**
- 09/02/2013 Labor Day observed.
- 09/03/2013 thru 9/13/13. Floor session only. No committees, other than conference committees and Rules Committee, may meet for any purpose (J.R. 61(a)(12)).
- 09/06/2013 Last day to amend bills on the floor (J.R. 61(a)(13)).**
- 09/13/2013 Last day for any bill to be passed (J.R. 61(a)(14)). Interim Recess begins upon adjournment (J.R. 51(a)(4)).**
- 10/13/2013 Last day for Governor to sign or veto bills passed by the Legislature on or before Sept. 13 and in the Governor's possession after Sept. 13 (Art. IV, Sec. 10(b)(1)).**
- 01/01/2014 Jan. 1 Statutes take effect (Art. IV, Sec. 8(c)).
- 01/06/2014 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.

PHYSICAL THERAPY BOARD OF CALIFORNIA

Legislative Analysis

Bill Number	AB 186	Version	Amd. 6/24/13
Author	Maienschein	Sponsor	Author Sponsored
Subject	Professions and Vocations: Military Spouses: Temporary Licenses	Status	Senate Business, Professions, and Economic Development Committee – Failed deadline
Adopted Position	Watch		

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Enrolled	Vetoed	Chaptered	Effective	2 yr./ Dead
1 st House				2 nd House								

Existing Law

1. Requires boards under the Department of Consumer Affairs (DCA) to expedite the licensure process for an applicant who is the spouse of, in a domestic partnership with, or in any other legal union with, an active member of the military who is assigned to a duty station in California under official active duty military orders; and, who holds a current license in another state (BPC¹ § 115.5).

AB 1904 (Block) Chapter 399, Statutes of 2012

2. Authorizes physical therapist and physical therapist assistant applicants, as specified, to work as license applicants under the direct and immediate supervision of a physical therapist licensed in California pending the results of the first licensing exam attempt, and review for licensure (BPC § 2636.5, § 2639, § 2640, § 2655.91, and § 2655.93)

This Bill

1. Requires boards under the DCA to issue a temporary license to an applicant if he or she:
 - a. Supplies evidence satisfactory to the board that he or she is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in California under official active duty military orders;

¹ Business and Professions Code

- b. Holds a current license in another state, district, or territory of the United States in the profession or vocation for which he or she is seeking licensure;
 - c. Submits an application to the board;
 - d. Signs an affidavit attesting to the fact that he or she meets all the requirement for temporary license and the information submitted in the application is accurate, to the best of his or her knowledge;
 - e. Provides a written verification from the his or her original licensing jurisdiction stating that the he or she is in good standing in that jurisdiction
 - f. Has not committed an act in any jurisdiction that would have constituted grounds for denial, suspension, or revocation of the a license issued pursuant to the BPC at the time the act was committed;
 - g. Has not been disciplined, nor the subject of an unresolved complaint, review procedure, or disciplinary proceeding conducted, by a licensing entity in another jurisdiction; and,
 - h. Furnishes a full set of fingerprints for the purposes of conducting a criminal background check.
2. Specifies that boards under the DCA may adopt regulations necessary to administer this provision.
 3. Sets forth that a temporary license for the practice of medicine may be immediately terminated upon a finding that the temporary license holder failed to meet the requirements for temporary licensure, or provided substantively inaccurate information that would affect his or her eligibility for temporary licensure.
 4. Requires the board (Medical Board) to issue a notice of termination that shall require the license holder to immediately cease the practice of medicine upon receipt.
 5. Specifies that these provisions do not apply to a board that has established a temporary licensing process prior to January 1, 2014.

Background/Purpose

According to the Author, “the wait time for expedited licenses can be very long, and spouses can’t even begin seeking employment until their license has been approved. A December article in *USAA Magazine* described that process as taking many months even after all appropriate documentation has been submitted, fees being paid, and tests

taken to receive the license. The unemployment rate amongst military spouses is estimated to be about 26% which is three times the national average.”

In January 2011, President Obama released *Strengthening Our Military Families: Meeting America’s Commitment* to encourage nationwide collaboration to support military families.

As a result of the President’s directive, the United States Department of Treasury (DOT) and the United States Department of Defense (DOD) issued a joint report identifying career issues military spouses encounter, and ways these issues may be best addressed. One of the primary concerns for professional military spouses is individual state licensure requirements. To address state licensure portability, the report recommended states issue temporary or provisional licenses; however, not at the expense of consumer protection.

Related Legislation

1. **AB 258** (Chavez, 2013) would require, on or after July 1, 2014, every state agency that requests whether a person is a veteran to request that information only in the following format: “Have you ever served in the United States military?”

Status: Senate Floor – Third Reading

2. **AB 1057** (Medina, 2013) would require, commencing January 1, 2015, that each board under the DCA inquire on every application for licensure if the applicant is serving in, or has previously served in, the military.

Status: Senate Floor – Third Reading

Fiscal Impact

According to the Assembly Appropriation Committee’s analysis dated April 22, 2013, “if the BreEZe system is fully implemented prior to the completion of the regulations for the new provisional license type, the cost to DCA would be under \$100,000. However, if there are delays in the implementation of BreEZe, one-time costs to DCA would be approximately \$500,000 (Various licensing funds).”

The fiscal impact to the Board would follow suit to the impact to DCA. If BreEZe is on schedule and the issuance of this temporary license can occur through BreEZe, the cost to the Board will be minor. However, if BreEZe is delayed, and the Board has to implement a temporary license with its current licensing systems; therefore, the resources cost will be greater.

Support and Opposition

Support

American Legion-Department of California
AMVETS-Department of California
Brigadier General Vincent A. Coglianesse
California Architects Board
California Association for Health Services at Home
California State Commanders Veterans Council
United States Department of Defense
VFW-Department of California
Vietnam Veterans of America-California State Council

Support if Amended

Board of Behavioral Sciences
California Board of Accountancy
Medical Board of California

Opposition

Board of Chiropractic Examiners
Contractors State License Board

Oppose Unless Amended

American Association for Marriage and Family Therapy-California Division
Board for Professional Engineers, Land Surveyors and Geologists
California Architects Board

Comments

Although the bill includes a provision that exempts boards from complying if they already have a temporary licensure process in place prior to January 1, 2014, the Board does not fall under that category. License applicant status does not qualify as a temporary licensure in the intent of this bill; therefore, the Board would be required to issue a new license type of license – a temporary license to spouses, domestic partners, or anyone in any other legal union with a member of the military.

AB-186 Professions and vocations: military spouses: temporary licenses.

Bill last amended June 24, 2013.

Author: Maienschein

TODAY'S LAW AS AMENDED^{1,2}

SECTION 1.

Section 115.6 is added to the Business and Professions Code, to read:

115.6.

(a) A board within the department shall, after appropriate investigation, issue a temporary license to an applicant if he or she meets the requirements set forth in subdivision (c). The temporary license shall expire 12 months after issuance, upon issuance of an expedited license pursuant to Section 115.5, or upon denial of the application for expedited licensure by the board, whichever occurs first.

(b) The board may conduct an investigation of an applicant for purposes of denying or revoking a temporary license issued pursuant to this section. This investigation may include a criminal background check.

(c) An applicant seeking a temporary license pursuant to this section shall meet the following requirements:

(1) The applicant shall supply evidence satisfactory to the board that the applicant is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders.

(2) The applicant shall hold a current license in another state, district, or territory of the United States in the profession or vocation for which he or she seeks a temporary license from the board.

(3) The applicant shall submit an application to the board that shall include a signed affidavit attesting to the fact that he or she meets all of the requirements for the temporary license and that the information submitted in the application is accurate, to the best of his or her knowledge. The application shall also include written verification from the applicant's original licensing jurisdiction stating that the applicant's license is in good standing in that jurisdiction.

(4) The applicant shall not have committed an act in any jurisdiction that would have constituted grounds for denial, suspension, or revocation of the license under this code at the time the act was committed. A violation of this paragraph may be grounds for the denial or revocation of a temporary license issued by the board.

¹ The text in this document shows how existing law would be amended by the most current version of the bill.

² Blue, Italic text is added to existing law; and, red, strikethrough text is being repealed from existing law.

(5) The applicant shall not have been disciplined by a licensing entity in another jurisdiction and shall not be the subject of an unresolved complaint, review procedure, or disciplinary proceeding conducted by a licensing entity in another jurisdiction.

(6) The applicant shall, upon request by a board, furnish a full set of fingerprints for purposes of conducting a criminal background check.

(d) A board may adopt regulations necessary to administer this section.

(e) A temporary license issued pursuant to this section for the practice of medicine may be immediately terminated upon a finding that the temporary licenseholder failed to meet any of the requirements described in subdivision (c) or provided substantively inaccurate information that would affect his or her eligibility for temporary licensure. Upon termination of the temporary license, the board shall issue a notice of termination that shall require the temporary licenseholder to immediately cease the practice of medicine upon receipt.

(f) This section shall not apply to a board that has established a temporary licensing process before January 1, 2014.

PHYSICAL THERAPY BOARD OF CALIFORNIA

Legislative Analysis

Bill Number	AB 258	Version	Amd. 4/23/13
Author	Chavez	Sponsor	Author Sponsored
Subject	State agencies: Veterans	Status	Senate Floor
Adopted Position	Watch		

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Enrolled	Vetoed	Chaptered	Effective	2 yr./ Dead
1 st House				2 nd House								

Existing Law

1. Requires boards under the Department of Consumer Affairs (DCA) to promulgate regulations to evaluate military education, training, and experience in meeting licensure requirements, if the military education, training, and experience are applicable to the profession (BPC¹ § 35).
2. Authorizes a licensee whose license expired while serving on active military duty to reinstate his or her license without examination, as specified (BPC 114).
3. Requires boards under the DCA to waive the renewal fee(s), continuing education requirements, and other renewal requirements, if applicable, for any licensee called to active duty, as specified. A licensee whose renewal requirements have been waived pursuant to this section shall not practice until he or she meets the renewal requirements, as specified (BPC § 114.3).
AB 1588 (Atkins) Chapter 742, Statutes of 2012
4. Requires boards under the DCA to expedite the licensure process for an applicant who is the spouse of, in a domestic partnership with, or in any other legal union with, an active member of the military who is assigned to a duty station in California under official active duty military orders; and, who holds a current license in another state. (BPC § 115.5)
AB 1904 (Block) Chapter 399, Statutes of 2012

This Bill

Would require boards under the DCA to, if requesting whether the person is a veteran on any form, to specifically ask the following question, “have you ever served in the United States military?” Boards would be required to implement this format by July 1, 2014.

¹ Business and Professions Code

Background/Purpose

According to the Author's office , "currently California residents are simply asked, "Are you a veteran?" Although a very simple question, many veterans believe they are not true veterans because they have never served in combat or, most commonly, because they are women. In 2011, the California Research Bureau (CRB) conducted a survey on women, 63 of the 843 respondents (7.4%) marked that they were not a veteran then included comments such as, " I served in the Air Force," additionally the women stated "I thought veteran benefits were only for men."

"Furthermore, when the CRB held the ICV (Interagency Council on Veterans) meetings in December 2011, and Jan. and Feb. 2012 both women in the services repeatedly state that the, "Are you a veteran?" question was insufficient for identifying female veterans and men who had not served in combat."

"Veterans who do not identify themselves can lose out on many Federal Benefits for which they are entitled. Such benefits include the GI Bill, disability compensation and pension, access to free or reduced cost medical care, vocational rehab, unemployment benefits, veteran home loans, burial benefits, and survivor benefits."

Related Legislation

1. **AB 186** (Maienschein, 2013) would require a board under the DCA to issue a temporary permit to practice in California to spouses or domestic partners of members of the military who are currently licensed in another state.

Status: Senate Business, Professions, and Economic Development Committee

2. **AB 213** (Logue, 2013) would require boards under the DCA who accredit school programs to require those programs to provide proof that there are procedures in place to evaluate military education, training, and experience toward completion of a degree that would qualify a person for licensure.

Status: Assembly Appropriations: Held under Submission

3. **AB 1057** (Medina, 2013) would require, commencing January 1, 2015, that each board under the DCA inquire on every application for licensure if the applicant is serving in, or has previously served in, the military.

Status: Senate Floor –Third Reading

Fiscal Impact

According to the Assembly Appropriation's fiscal analysis dated April 17, 2013, "minor costs to state agencies to change written materials that inquire as to persons' veteran status."

Board staff concurs with this determination.

Support and Opposition

Support

American Federation of State, County and Municipal Employees, AFL-CIO (AFSCME)
American Association of University Women (AAUW) – California
Housing California

Opposition

None on file.

AB-258 State agencies: veterans.

Bill last amended April 23, 2013.

Author: Chávez

TODAY'S LAW AS AMENDED^{1,2}

SECTION 1.

Section 11019.11 is added to the Government Code, to read:

11019.11.

(a) Every state agency that requests on any written form or written publication, or through its Internet Web site, whether a person is a veteran, shall request that information only in the following format: "Have you ever served in the United States military?"

(b) This section shall apply only to a written form or written publication that is newly printed on or after July 1, 2014.

¹ The text in this document shows how existing law would be amended by the most current version of the bill.

² Blue, Italic text is being added to existing law; and, red, strikeout text is being repealed from existing law.

PHYSICAL THERAPY BOARD OF CALIFORNIA

Legislative Analysis

Bill Number	AB 809	Version	Amd. 6/25/13
Author	Logue	Sponsor	Author Sponsored
Subject	Healing Arts: Telehealth	Status	Senate Health Committee
Adopted Position	Watch		

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Enrolled	Vetoed	Chaptered	Effective	2 yr./ Dead
1 st House				2 nd House								

Existing Law

1. Defines “telehealth” as the mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient’s health care while the patient is at the originating site and the health care provider is at a distant site. Telehealth facilitates patient self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers (BPC¹ § 2290.5(a)(6)).
2. Defines “health care provider” as a person who is licensed under Division 2 of the Business and Professions Code (BPC§ 2290.5(a)(3)).”
3. Defines “synchronous interaction” as a real-time interaction between a patient and a health care provider located at a distant site (BPC § 2290.5(a)(5)).
4. Defines “asynchronous store and forward” as the transmission of a patient’s medical information from an originating site to the health care provider at a distant site without the presence of the patient (BPC § 2290.5(a)(1)).
5. Defines “originating site” as a site where a patient is located at the time the health care services are provided via a telecommunications system or where the asynchronous store and forward service originates (BPC § 2290.5(a)(4)).
6. Defines “distant site” as a site where a health care provider who provide health care is located while providing these services via a telecommunications system (BPC § 2290.5(a)(2)).
7. Requires the health care provider to verbally inform the patient prior to the delivery of health care via telehealth that telehealth may be used, to obtain verbal

¹ Business and Professions Code

consent from the patient for the use of telehealth, and to document the verbal consent in the patient record (BPC § 2290.5(b)).

8. States that failure of a health care provider to comply with these provisions constitutes unprofessional conduct (BPC § 2290.5(c)).
9. Specifies that telehealth shall not be construed to alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting, or in a manner, not otherwise authorized by law (BPC § 2290.5(d)).
10. States all laws regarding the confidentiality of health care information and a patient's rights to his or her medical information shall apply to telehealth interactions (BPC § 2290.5(e)).
11. States that this section (BPC § 2290.5) does not apply under the jurisdiction of the Department of Corrections and Rehabilitation or any other correctional facility (BPC § 2290.5(f)).

This Bill

1. Specifies that the provider initiating telehealth shall inform the patient about the use of telehealth and obtain either verbal or written consent from the patient for the use of telehealth.
2. Indicates that the consent obtained from the initiating provider may be used for all subsequent telehealth services for that specified course of health care treatment.
3. Requires the distant-site provider to obtain confirmation of the patient's consent from the originating site provider, or separately obtain the same consent as if from the initiating provider from the patient.
4. Specifies the patient's consent shall be documented in the patient's medical record.
5. Indicates that the patient's consent for telehealth does not preclude the patient from receiving in-person care during the specified course of care and treatment.
6. Contains an urgency clause that makes the provisions changes effective immediately upon enactment. The urgency clause was added to protect the health and safety of the public due to a lack of access.

Background/Purpose

According to the Author, "Under AB 415, in order to ensure that both physicians and patients understood that telehealth may be used to treat a patient, a physician is

required to obtain verbal consent for each and every visit with the patient. One year after implementation, physicians have reported that this contact requirement is onerous and burdensome on their ability to treat patients effectively.”

Legislative History

Although there have been numerous bills relating to, and expanding, telehealth services, below are some of the more prominent:

1. **AB 1733** (Logue, 2012) updated several code sections to replace the term "telemedicine" with "telehealth" and expanded the potential for telehealth use in health care programs administered by the Department of Health Care Services.

Status: Chaptered. Chapter 782, Statutes of 2012.

2. **SB 764** (Steinberg, 2012) would have required the Department of Developmental Services (DDS) to pilot the use of "telehealth systems," defined as a mode of delivering services that utilizes information and communications technologies to facilitate the diagnosis, evaluation and consultation, treatment, education, care management supports, and self-management of consumers in the provision of Applied Behavioral Analysis and Intensive Behavioral Intervention.

Status: Vetoed by Governor Brown. The Governor's veto message:

"I am returning Senate Bill 764 without my signature.

I appreciate the author's desire to bring more efficiency to regional centers as well as promote the value of telehealth. The goals of this bill, however, can already be accomplished under existing law.

Mandating every individual program planning team to consider telehealth appears excessive. Where beneficial and available, I expect they will consider it, without the state telling them to do so."

3. **AB 415** (Logue, 2011) established the Telehealth Advancement Act of 2011 which revised and updated laws to facilitate the advancement of telehealth in managed care and the Medi-Cal program.

Status: Chaptered. Chapter 547, Statutes of 2011.

4. **AB 329** (Nakanishi, 2007) authorized the Medical Board of California (MBC) to establish a pilot program to expand the practice of telemedicine, and authorized the MBC to implement the program by convening a working group. The bill specified that the purpose of the pilot program was to develop methods, using a telemedicine model, of delivering health care to those with chronic diseases and delivering other health information. It also required the MBC to make

recommendations to the Legislature within one year of the commencement date of the program.

Status: Chaptered. Chapter 386, Statutes of 2007.

5. **AB 2780** (Gallegos, 1998) established minimum standards for audio and visual telemedicine systems and would require the Department of Health Services to report to the appropriate committees of the Legislature by January 1, 2000, on the application of telemedicine to provide various types of care. Also defined „interactive“ to mean an audio, video, or data communication involving a real time (synchronous) or near real time (asynchronous) two-way transfer of medical data and information.

Status: Chaptered. Chapter 310, Statutes of 1998.

6. **SB 1665** (Thompson, 1996) established California's Telemedicine Development Act (TDA) to set standards for the use of telemedicine by health care practitioners and insurers. TDA specifies, in part, that face-to-face contact between a health care provider and a patient shall not be required under the Medi-Cal program for services appropriately provided through telemedicine, when those services are otherwise covered by the Medi-Cal program, and requires a health care practitioner to obtain verbal and written consent prior to providing services through telemedicine.

Status: Chaptered. Chapter 864, Statutes of 1996.

Fiscal Impact

This bill has not been identified as a fiscal bill.

Board staff has not identified any fiscal impact from this bill.

Support and Opposition

Support

Medical Board of California
Association of California Healthcare Districts
California Academy of Physician Assistants
California Association of Physician Groups

Opposition

American Federation of State, County and Municipal Employees

Comments

As previously discussed, although the authority to practice telehealth resides in BPC § 2290.5, which is in the Medical Practice Act, all Division 2 licensees were granted this authority. Section 2290.5, subdivision (a)(3) states, “health care provider” means a person who is licensed under this division.” “This division” is referring to Division 2 of the BPC, which includes physical therapists and physical therapist assistants.

AB-809 Healing arts: telehealth.

Bill last amended June 25, 2013

Author: Logue

TODAY'S LAW AS AMENDED

SECTION 1.

Section 2290.5 of the Business and Professions Code is amended to read:

2290.5.

(a) For purposes of this division, the following definitions shall apply:

(1) "Asynchronous store and forward" means the transmission of a patient's medical information from an originating site to the health care provider at a distant site without the presence of the patient.

(2) "Distant site" means a site where a health care provider who provides health care services is located while providing these services via a telecommunications system.

(3) "Health care provider" means a person who is licensed under this division.

(4) "Originating site" means a site where a patient is located at the time health care services are provided via a telecommunications system or where the asynchronous store and forward service originates.

(5) "Synchronous interaction" means a real-time interaction between a patient and a health care provider located at a distant site.

(6) "Telehealth" means the mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient's health care while the patient is at the originating site and the health care provider is at a distant site. Telehealth facilitates patient self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers.

(b) Prior to the delivery of health care via telehealth, the health care provider *initiating the use of telehealth* at the originating site shall ~~verbally~~ inform the patient ~~that telehealth may be used about the use of telehealth~~ and obtain verbal ~~or written~~ consent from the patient for ~~this use. The verbal~~ *the use of telehealth as an acceptable mode of delivering health care services and public health during a specified course of health care and treatment. The* consent shall be documented in the patient's medical ~~record. record, and the documentation shall be transmitted with the initiation of any telehealth for that specified course of health care and treatment to any distant-site health care provider from whom telehealth is requested or obtained. A distant-site health care provider shall either obtain confirmation of the patient's consent from the originating site provider or separately obtain and document consent from the patient about the use of telehealth as an acceptable mode of delivering health care services and public health during a specified course of health care and treatment.~~

(c) Nothing in this section shall preclude a patient from receiving in-person health care delivery services during a specified course of health care and treatment after agreeing to receive services via telehealth.

~~(c)~~ (d) The failure of a health care provider to comply with this section shall constitute unprofessional conduct. Section 2314 shall not apply to this section.

~~(d)~~ (e) This section shall not be construed to alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting, or in a manner, not otherwise authorized by law.

~~(e)~~ (f) All laws regarding the confidentiality of health care information and a patient's rights to his or her medical information shall apply to telehealth interactions.

~~(f)~~ (g) This section shall not apply to a patient under the jurisdiction of the Department of Corrections and Rehabilitation or any other correctional facility.

~~(g)~~ (h) (1) Notwithstanding any other provision of law and for purposes of this section, the governing body of the hospital whose patients are receiving the telehealth services may grant privileges to, and verify and approve credentials for, providers of telehealth services based on its medical staff recommendations that rely on information provided by the distant-site hospital or telehealth entity, as described in Sections 482.12, 482.22, and 485.616 of Title 42 of the Code of Federal Regulations.

(2) By enacting this subdivision, it is the intent of the Legislature to authorize a hospital to grant privileges to, and verify and approve credentials for, providers of telehealth services as described in paragraph (1).

(3) For the purposes of this subdivision, "telehealth" shall include "telemedicine" as the term is referenced in Sections 482.12, 482.22, and 485.616 of Title 42 of the Code of Federal Regulations.

SEC. 2.

This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect the health and safety of the public due to a lack of access to health care providers in rural and urban medically underserved areas of California, the increasing strain on existing providers expected to occur with the implementation of the federal Patient Protection and Affordable Care Act, and the assistance that further implementation of telehealth can provide to help relieve these burdens, it is necessary for this act to take effect immediately.

PHYSICAL THERAPY BOARD OF CALIFORNIA

Legislative Analysis

Bill Number	AB 1000	Version	Amd. 7/11/13
Author	Wieckowski	Sponsor	CPTA
Subject	Physical Therapists: Direct Access to Services/Professional Corporations	Status	Senate Appropriations
Adopted Position	Watch		

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Enrolled	Vetoed	Chaptered	Effective Date	2 yr./ Dead
1 st House				2 nd House								

Existing Law

1. Defines physical therapy as the art and science of physical or corrective rehabilitation or of physical or corrective treatment of any bodily or mental condition of any person by the use of the physical, chemical, and other properties of heat, light, water, electricity, sound, massage, and active, passive, and resistive exercise, and shall include physical therapy evaluation, treatment planning, instruction and consultative services (BPC¹ § 2620).
2. Provides that the practice of physical therapy includes the promotion and maintenance of physical fitness to enhance the bodily movement related health and wellness of individuals through the use of physical therapy interventions (BPC § 2620).
3. Specifies that the use of roentgen rays and radioactive materials, for diagnostic and therapeutic purposes, and the use of electricity for surgical purposes, including cauterization, are not authorized under the term “physical therapy” (BPC § 2620).
4. Indicates that a physical therapist license does not authorize the diagnosis of disease (BPC § 2620).
5. Permits a physical therapist to perform tissue penetration for the purpose of evaluating neuromuscular performance upon specified authorization of a physician and surgeon, but prohibits the physical therapist from developing or making diagnostic or prognostic interpretations from the data obtained (BPC § 2620.5).

¹ Business and Professions Code

6. Specifies that a physical therapist may not practice medicine, surgery, or any other form of healing except as authorized under the scope of practice established in statute (BPC § 2621).
7. Establishes the Moscone-Knox Professional Corporation Act which sets forth the requirements for formation and operation of a professional corporation (CORP² Code § 13400 et seq.)
8. Defines a “professional corporation” as a corporation organized under the General Corporation Law, or as specified, to provide professional services in a single profession, unless otherwise authorized (CORP Code § 13401).
9. Defines “professional services” as any type of professional services that may be lawfully rendered only pursuant to a license, certificate, or registration authorized by the BPC, Chiropractic Act, or the Osteopathic Act (CORP Code § 13104).
10. Specifies which licensed professionals may be shareholders, officers, directors, or professional employees of a professional corporation offering services other than that which their license authorizes so long as sum of shares owned by those licensed professional does not exceed 49 percent of the total shares, and so long as the number of those licensed professionals owning shares in the corporation does not exceed the number of persons licensed by the – physical therapy corporations are not listed (CORP Code § 13401.5).
11. Requires professional corporations to obtain a certificate of registration issued by the governmental agency regulating the professional; however, exempting the licensees of the following agencies: Medical Board, or any examining committee under the jurisdiction of the board; the Osteopathic Medical Board; the Dental Board; Pharmacy Board, Veterinary Medical Board; Architects Board; Court Reporters Board; Board of Behavioral Sciences, Speech-Language Pathology and Audiology Board; the Board of Registered Nursing; and, the Board of Optometry (CORP Code § 13401.5).
12. Establishes restricted and acceptable practices when referring patients for specified services (BPC § 650 et seq.).

This Bill

1. Requires a physician and surgeon, podiatrist or other referring practitioner who refers a patient to receive services by a physical therapist employed by a professional corporation, to comply with existing law regarding financial arrangements for referrals and requires the referring practitioner to provide notice of the following to the patient orally and in writing, in a least 14-point type and signed by the patient:

² Corporations Code

- a. That the patient may seek physical therapy treatment services from a physical therapy provider of his or her choice who may not necessarily be employed by the medical or podiatric medical corporation; and,
 - b. If the patient chooses to be treated by an employed physical therapist, any financial interest the referring practitioner has in the corporation.
2. Exempts a physician and surgeon, podiatrist, or other referring practitioner, which is in a medical group with a healthcare service plan who exclusively contracts to provide professional medical services for its enrollees, from providing the above notice.
3. Permits a person to initiate physical therapy treatment directly from a physical therapist if the treatment is within the scope of practice of a physical therapist, and the following conditions are met:
 - a. If at any time, the physical therapist has reason to believe that the patient has signs or symptoms of a condition that required treatment beyond the scope of practice of a physical therapist or the patient is not progressing toward documented treatment goals as demonstrated by objective, measurable, or functional improvement, the physical therapist shall refer the patient to a physician and surgeon, dentist, podiatrist, or chiropractor, as appropriate;
 - b. The physical therapist shall comply with professional title and degree title requirements, as specified, and shall disclose to patients any financial interest he or she has in providing treatment and, if working in a physical therapy corporation, shall comply with existing law regarding financial arrangements for referrals, as specified;
 - c. With the patient's authorization, the physical therapist shall notify the patient's physician and surgeon, if any, that the physical therapist is treating the patient;
 - d. The physical therapist shall not continue treating the patient beyond 45 calendar days or 12 visits, whichever occurs first, without receiving, from a physician and surgeon or a podiatrist, and acting within his or her scope of practice, a dated signature on the physical therapist's plan of care indicating approval. Approval of the physical therapist's plan of care shall include an in-person patient examination and evaluation of the patient's condition and, if indicated, testing by the physician and surgeon or podiatrist. (This provision, specifically the requirement for a physician to sign-off the plan of care, is consistent with Federal insurance reimbursement requirements).

4. Sets forth that the 45 calendar days or 12 visits conditions do not apply when a physical therapist is only providing wellness services to a patient.
5. Specifies that this bill does not expand or modify the scope of practice for physical therapists, including the prohibition against physical therapists diagnosing disease.
6. Specifies that this bill does not restrict or alter the scope of practice of any other health care professional.
7. Specifies that this bill does not require a health care service plan or insurer to provide coverage for services rendered to a patient who directly accesses physical therapy treatment services.
8. Requires physical therapists, prior to providing treatment to a patient who initiates physical therapy treatment services directly, to provide the patient the a notice, as specified, orally and in writing, in at least 14-point type and signed by the patient
9. Establishes that a violation of these provisions constitutes unprofessional conduct.
10. Sets forth that current law which permits specified corporations to employ specified professional employees does not limit employment by a professional corporation; any licensee under Division 2 of the BPC, Chiropractic Act, or the Osteopathic Act may be employed to render professional services by any professional corporation.
11. Adds physical therapy corporations to the list of corporations to identify who may be directors, shareholders, and officers of a professional physical therapy corporation.
12. Permits physicians and surgeons, podiatrists, acupuncturists, naturopathic doctors, occupational therapists, speech-language pathologists, audiologists, nurses, psychologists, and physician assistants to be directors, shareholders, and officers of a physical therapy corporation.
13. Adds physical therapists to the list of who may be directors, shareholder, and officers of a medical corporation and a podiatric medical corporation.

Background/Purpose

According to the author, "Direct access to physical therapy services will help streamline health care delivery in California. In a time of severe physician shortage, patients with chronic conditions will not be taking up valuable time of or incurring the cost of seeing additional healthcare providers." Additionally, the author notes, "Clarification of

corporate practice is necessary to allow full employment opportunities to licensed professional by professional corporations. This will provide certainty for health care entrepreneurs who choose to use incorporation as the manner in which they organize their business.”

Legislative History

1. **SB 924** (Price, Steinberg, and Walters, 2012) would have allowed physical therapists to treat patients without a diagnosis from a physician for 30 business days, and thereafter under specified conditions, and specified who may be shareholders, officers, directors, or professional employees of a medical corporation, podiatric medical corporation, chiropractic corporation, and physical therapy corporation.

SB 924 was held in the Assembly Rules Committee.

2. **AB 783** (Hayashi, 2011) would have added licensed physical therapists and occupational therapists to the list of healing arts practitioners who may be shareholders, officers, directors or professional employees of a medical corporation, podiatric medical corporation, or chiropractic corporation, as specified.

AB 783 was held in the Senate Business, Professions and Economic Development Committee.

3. **AB 721** (Nava, 2009) would have provided direct access to physical therapy services.

AB 721 was held in the Assembly Business and Professions Committee.

4. **AB 1444** (Emmerson, 2008) would have revised the definition of physical therapy and authorized a physical therapist to initiate treatment of conditions within the scope of practice of a physical therapist, as specified.

AB 1444 was held in the Assembly Business and Professions Committee.

Fiscal Impact

According to the Assembly Appropriations Committee’s analysis dated May 8, 2013, there are “potentially significant costs to the state as well as to other employers and their insurers, including the State Compensation Insurance Fund (SCIF), for worker's compensation claims. These costs are difficult to project, but direct referral to PTs could increase costs for worker's compensation for state employees well in excess of \$150,000. In addition, this bill specifies it does not require direct access to PT to be covered by a health insurers or plans. There are instances where an enrollee or insured

self-refers outside a health plan's gatekeeper system and, depending on the circumstances, an enrollee could be reimbursed.”

Board staff identified a potential minor and absorbable increase in enforcement costs to regulate the new provisions set forth in this bill; however, Board staff also identified a potential savings due a decrease in the number of complaints specifically regarding employment issues.

Support and Opposition

Support

California Physical Therapy Association (Sponsor)
California Medical Association
California Orthopaedic Association
Mount St. Mary's College, Doctor of Physical Therapy Program

Opposition

American College of Physicians
California Board of Chiropractic Examiners
Independent Physical Therapists of California
Physical Therapy Business Alliance

Oppose Unless Amended

California Chiropractic Association (CCA): The CCA would like to be added to the list of practitioners who may sign-off on the physical therapist's plan of care at the end of the 12 visits or 45 calendar days.

Comments

Diagnosis and Use of ICD-9 Codes

1. California Law

Section 2620 of the BPC specifically states, “[...] a license issued pursuant to this chapter does not authorize the diagnosis of disease.” In the 1960's Assemblymember Frank C. Belotti requested an Attorney General opinion to clarify whether it is possible to treat a condition without first ascertaining what the condition may be. The Attorney General issued Opinion 65-21 on May 7, 1965 concluded that:

It is virtually impossible to treat a bodily or mental condition without it having been first ascertained what the condition may be. That fact, however, does not imply that the one rendering the treatment must also have performed the diagnosis. A licensed physical therapist may treat an ailment basing his treatment upon a physician's diagnosis.

The opinion referenced a California Supreme Court case, *People v. Jordan*, 172 Cal. 391 at 399 (1916), which stated, in part, “diagnosis is as much a part of the practice of medicine as is the administration of remedies, and it is vastly more important branch thereof because, generally speaking, the treatment of disease is governed by the practitioner’s theory regarding its cause.”

The Board has consistently upheld AG Opinion 65-21, and it has long stood that a physical therapist must obtain a diagnosis from a diagnostician prior to beginning treatment; however, this does not preclude a physical therapist from evaluating the patient prior to the patient receiving a diagnosis.

The Board has also maintained the following position regarding physical therapists using ICD-9 codes, which was determined in 2003 by the Board’s Practice Issues Committee:

Since ICD-9 codes are regulated by insurance companies to determine the medical diagnosis rendered by a diagnostician which is secondary to the physical therapist obtaining the medical diagnosis, on that basis the Committee is of the opinion that a physical therapist is not prohibited from determining the ICD-9 code.

2. Federal Law

Medicare coverage for physical therapy requires that a patient must be under the care of a physician, the services must be furnished under a plan of care and the plan of care must be certified/recertified periodically by a physician (usually every 30 days).

Under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Health and Human Services (HHS) adopted specific code sets for diagnoses and procedures to be used in all transactions, i.e. health care provider claim to a health plan. The HHS adopted the International Classification of Diseases, Ninth Edition (ICD-9) for diagnoses and hospital inpatient procedures. The Center for Medicare and Medicaid Services is responsible for maintaining the ICD-9 codes.

3. Medicare/Private Insurance

Medicare as well as private insurance companies have been silent on this issue in regards to this bill; however, according to the CPTA:

Physical therapists currently are required to append ICD-9 codes for the functional impairment, not the medical diagnosis, which they are treating under Medicare. CPTA Board leadership and representatives have made it clear to Committee members that six states have direct access to treatment as well as language that prohibits diagnosis of disease or medical diagnosis (similar to California). These states are currently initiating treatment without a medical

diagnosis and billing ICD-9 codes while practicing under a prohibition from diagnosis of disease or a medical diagnosis.

Referral for Profit

1. California Law

Article 6 of Chapter 1 of Division 2 of the BPC (commencing with Section 650) establishes restricted and acceptable practices when referring patients for specified services.

2. Federal Law

In 1993 Congress enacted Stark II expanding the health services under Medicare for which a physician cannot refer for profit (previously Stark I); these health care services include physical therapy.

Corporate Practice Regulation

Pursuant to Section 13401 of the Corporations Code, a professional corporation is a corporation organized under the General Corporation Law, or as specified, that is engage in rendering professional services in a single profession, except as authorized, pursuant to a certificate of registration issued by the governmental agency regulating the profession. The corporate registration with the regulatory agency allows for the regulation of the corporate practice of the profession. The Secretary of State (SOS) is a filing agency; therefore, although the corporation is registered with the SOS, the SOS does not have any regulatory authority over the professional corporation and its practices. The SOS does have the authority, for specific reasons, to suspend or cancel the filing, but there is no direct action taken by the SOS against the licensee(s) or business. However, this could create legal issues for the corporation as it may no longer have corporate protection.

Section 13401 was later amended to exempt specified licensees from corporate registration with their regulatory board; this list of exemptions includes the Medical Board. The Board was originally established under the Medical Board as the Physical Therapy Examining Committee, and it may be assumed that when the Board became independent of the Medical Board, the statute was not updated to include the Physical Therapy Board. Therefore, the Board does not require corporate registration.

Physical Therapists Working for Medical Corporations

The Board was presented with the issue of the employment relationship between physical therapists and physicians in 2010. At the request of Assemblymember Nava, the Legislative Counsel issued an opinion stating that “a physical therapist may be subject to discipline by the Physical Therapy Board of California for providing physical

therapy services as an employee of a medical corporation.” In February 2011, the DCA issued an opinion concurring with the Legislative Counsel opinion, concluding that “the provisions of the Moscone-Knox Professional Corporation Act limit the practice of a professional corporation to a single profession unless the rendering of services by the professional licensee for a corporation is expressly authorized in section 13401.5 of the California Corporations Code.”

At the same time Assemblymember Hayashi introduced a bill that would have added physical therapists to the list of healing arts practitioners to who may be shareholders, officers, directors, or professional employees of a medical or podiatric medical corporation – this bill died in the Senate Business, Professions and Economic Development Committee. Although this bill died, this was still a prominent issue for the Legislature. Therefore, to allow the Legislature additional time to address the issue, Senator Steinberg introduced a bill that prohibited the Board from taking action against physical therapists who were employed by medical corporations – this bill went into effect January 1, 2012 and had a sunset date of January 1, 2013. AB 1000, if passed, would clarify the Legislature’s intent regarding the employment of professional employees by professional corporations, including physical therapists employed by physician-owned practices.

Potential Regulations/Regulatory Amendments

The Board may wish to determine if record keeping regulations are necessary for the following AB 1000 provisions:

1. Section 2620.1, subdivision (a)(3) requires that, with the patient’s written authorization, the physical therapist notify the patient’s physician and surgeon, if any, that the physical therapist is treating the patient.
2. Section 2620.1, subdivision (a)(4) requires that, for patients who initiated physical therapy treatment and who have been treated for more than 12 visits or 45 days, the physical therapist obtain approval of his or her plan of care from a physician or podiatrist.
3. Section 2620.1, subdivision (e) requires that when a patient initiates physical therapy treatment, the physical therapist shall provide the specified notice orally and in writing to the patient.

The following sections within Article 9. Physical Therapy Professional Corporations. of the California Code of Regulations will require updating:

1. Section 1399.35. Requirements for Professional Corporations.
 - a. Subdivision (b) specifies that each shareholder, director, and officer must hold a valid physical therapist license.
 - b. Subdivision (c) specifies that each professional employee who will practice physical therapy must hold a valid physical therapist license.
2. Section 1399.37. Shares: Ownership and Transfer.
 - a. Subdivision (a)(2) references Section 13401(d) of the CORP Code; this reference should be to 13401(e).

AB-1000 Physical therapists: direct access to services: professional corporations.

Bill last amended July 11, 2013.

Author: Wieckowski

TODAY'S LAW AS AMENDED^{1,2}

SECTION 1.

The Legislature finds and declares that an individual's access to early intervention to physical therapy treatment may decrease the duration of a disability, reduce pain, and lead to a quicker recovery.

SEC. 2.

Section 2406 of the Business and Professions Code is amended to read:

2406.

A medical corporation or podiatry corporation is a corporation ~~which~~ *that* is authorized to render professional services, as defined in ~~Sections Section~~ 13401 ~~and 13401.5~~ of the Corporations Code, so long as that corporation and its shareholders, officers, ~~directors~~ *directors*, and employees rendering professional services who are ~~physicians,~~ *physicians and surgeons*, psychologists, registered nurses, optometrists, ~~podiatrists~~ *podiatrists, chiropractors, acupuncturists, naturopathic doctors, physical therapists, occupational therapists*, or, in the case of a medical corporation only, physician assistants, *marriage and family therapists, clinical counselors, or clinical social workers*, are in compliance with the Moscone-Knox Professional Corporation Act, the provisions of this ~~article~~ *article*, and all other statutes and regulations now or hereafter enacted or adopted pertaining to the corporation and the conduct of its affairs.

With respect to a medical corporation or podiatry corporation, the governmental agency referred to in the Moscone-Knox Professional Corporation Act is the ~~Division of Licensing~~ *board*.

SEC. 3.

Section 2406.5 is added to the Business and Professions Code, to read:

2406.5.

(a) When a physician and surgeon, podiatrist, or other referring practitioner refers a patient to receive services by a physical therapist employed by a professional corporation as defined in Section 13401 of the Corporations Code, the referring practitioner shall comply with Article 6 (commencing with Section 650) of Chapter 1, and shall provide notice of the following to the patient, orally and in writing, in at least 14-point type and signed by the patient:

¹ The text in this document shows how existing law would be amended by the most current version of the bill.

² Blue, Italic text is added to existing law; and, red, strikethrough text is being repealed from existing law.

(1) That the patient may seek physical therapy treatment services from a physical therapy provider of his or her choice who may not necessarily be employed by the medical or podiatry corporation.

(2) If the patient chooses to be treated by an employed physical therapist, any financial interest the referring practitioner has in the corporation.

(b) This section shall not apply to a physician and surgeon, podiatrist, or other referring practitioner who is in a medical group with which a health care service plan, that is licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code) and is also exempt from federal taxation pursuant to Section 501(c)(3) of the Internal Revenue Code, exclusively contracts to provide professional medical services for its enrollees.

SEC. 4.

Section 2620.1 is added to the Business and Professions Code, to read:

2620.1.

(a) In addition to receiving those services authorized by Section 2620, a person may initiate physical therapy treatment directly from a licensed physical therapist if the treatment is within the scope of practice of physical therapists, as defined in Section 2620, and all of the following conditions are met:

(1) If, at any time, the physical therapist has reason to believe that the patient has signs or symptoms of a condition that requires treatment beyond the scope of practice of a physical therapist or the patient is not progressing toward documented treatment goals as demonstrated by objective, measurable, or functional improvement, the physical therapist shall refer the patient to a person holding a physician and surgeon's certificate issued by the Medical Board of California or by the Osteopathic Medical Board of California or to a person licensed to practice dentistry, podiatric medicine, or chiropractic.

(2) The physical therapist shall comply with Section 2633, and shall disclose to the patient any financial interest he or she has in treating the patient and, if working in a physical therapy corporation, shall comply with Article 6 (commencing with Section 650) of Chapter 1.

(3) With the patient's written authorization, the physical therapist shall notify the patient's physician and surgeon, if any, that the physical therapist is treating the patient.

(4) The physical therapist shall not continue treating the patient beyond 45 calendar days or 12 visits, whichever occurs first, without receiving, from a person holding a physician and surgeon's certificate from the Medical Board of California or the Osteopathic Medical Board of California or from a person holding a certificate to practice podiatric medicine from the California Board of Podiatric Medicine and acting within his or her scope of practice, a dated signature on the physical therapist's plan of care indicating approval of the physical therapist's plan of care. Approval of the physical therapist's plan of care shall include an in-person patient examination and evaluation of

the patient's condition and, if indicated, testing by the physician and surgeon or podiatrist.

(b) The conditions in paragraph (4) of subdivision (a) do not apply to a physical therapist when he or she is only providing wellness physical therapy services to a patient as described in subdivision (a) of Section 2620.

(c) (1) This section does not expand or modify the scope of practice for physical therapists set forth in Section 2620, including the prohibition on a physical therapist diagnosing a disease.

(2) This section does not restrict or alter the scope of practice of any other health care professional.

(d) This section does not require a health care service plan or insurer to provide coverage for services rendered to a patient who directly accessed the services of a physical therapist.

(e) When a person initiates physical therapy treatment services directly, pursuant to this section, the physical therapist shall not perform physical therapy treatment services without first providing the following notice to the patient, orally and in writing, in at least 14-point type and signed by the patient:

“Direct Physical Therapy Treatment Services

You are receiving direct physical therapy treatment services from an individual who is a physical therapist licensed by the Physical Therapy Board of California.

Under California law, you may continue to receive direct physical therapy treatment services for a period of up to 45 calendar days or 12 visits, whichever occurs first, after which time a physical therapist may continue providing you with physical therapy treatment services only after receiving, from a person holding a physician and surgeon's certificate issued by the Medical Board of California or by the Osteopathic Medical Board of California, or from a person holding a certificate to practice podiatric medicine from the California Board of Podiatric Medicine and acting within his or her scope of practice, a dated signature on the physical therapist's plan of care indicating approval of the physical therapist's plan of care and that an in-person patient examination and evaluation was conducted by the physician and surgeon or podiatrist.

Patient's Signature/Date”

SEC. 5.

Section 2660 of the Business and Professions Code is amended to read:

2660.

The board may, after the conduct of appropriate proceedings under the Administrative Procedure Act, suspend for not more than 12 months, or revoke, or impose probationary conditions upon any license, certificate, or approval issued under this chapter for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

- (a) Advertising in violation of Section 17500.
- (b) Fraud in the procurement of any license under this chapter.
- (c) Procuring or aiding or offering to procure or aid in criminal abortion.
- (d) Conviction of a crime that substantially relates to the qualifications, functions, or duties of a physical therapist or physical therapist assistant. The record of conviction or a certified copy thereof shall be conclusive evidence of that conviction.
- (e) Habitual intemperance.
- (f) Addiction to the excessive use of any habit-forming drug.
- (g) Gross negligence in his or her practice as a physical therapist or physical therapist assistant.
- (h) Conviction of a violation of any of the provisions of this chapter or of the Medical Practice Act, or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter or of the Medical Practice Act.
- (i) The aiding or abetting of any person to violate this chapter or any regulations duly adopted under this chapter.
- (j) The aiding or abetting of any person to engage in the unlawful practice of physical therapy.
- (k) The commission of any fraudulent, dishonest, or corrupt act that is substantially related to the qualifications, functions, or duties of a physical therapist or physical therapist assistant.
- (l) Except for good cause, the knowing failure to protect patients by failing to follow infection control guidelines of the board, thereby risking transmission of ~~blood-~~ ~~borne~~ *bloodborne* infectious diseases from licensee to patient, from patient to patient, and from patient to licensee. In administering this subdivision, the board shall consider referencing the standards, regulations, and guidelines of the State Department of Public Health developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, regulations, and guidelines pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 6300) of Division 5 of the Labor Code) for preventing the transmission of HIV, hepatitis B, and other ~~blood-~~ ~~borne~~ *bloodborne* pathogens in health care settings. As necessary, the board shall consult with the Medical Board of California, the California Board of Podiatric Medicine, the Dental Board of California, the Board of Registered Nursing, and the Board of

Vocational Nursing and Psychiatric Technicians of the State of California, to encourage appropriate consistency in the implementation of this subdivision.

The board shall seek to ensure that licensees are informed of the responsibility of licensees and others to follow infection control guidelines, and of the most recent scientifically recognized safeguards for minimizing the risk of transmission of ~~blood-~~
~~borne~~ *bloodborne* infectious diseases.

(m) The commission of verbal abuse or sexual harassment.

(n) Failure to comply with the provisions of Section 2620.1.

SEC. 6.

Section 13401.5 of the Corporations Code is amended to read:

13401.5.

Notwithstanding subdivision (d) of Section 13401 and any other provision of law, the following licensed persons may be shareholders, officers, directors, or professional employees of the professional corporations designated in this section so long as the sum of all shares owned by those licensed persons does not exceed 49 percent of the total number of shares of the professional corporation so designated herein, and so long as the number of those licensed persons owning shares in the professional corporation so designated herein does not exceed the number of persons licensed by the governmental agency regulating the designated professional ~~corporation:~~ *corporation.* *This section does not limit employment by a professional corporation designated in this section of only those licensed professionals listed under each subdivision. Any person duly licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, the Chiropractic Act, or the Osteopathic Act may be employed to render professional services by a professional corporation designated in this section.*

(a) Medical corporation.

(1) Licensed doctors of podiatric medicine.

(2) Licensed psychologists.

(3) Registered nurses.

(4) Licensed optometrists.

(5) Licensed marriage and family therapists.

(6) Licensed clinical social workers.

(7) Licensed physician assistants.

(8) Licensed chiropractors.

(9) Licensed acupuncturists.

(10) Naturopathic doctors.

(11) Licensed professional clinical counselors.

(12) Licensed physical therapists.

(b) Podiatric medical corporation.

(1) Licensed physicians and surgeons.

(2) Licensed psychologists.

(3) Registered nurses.

(4) Licensed optometrists.

(5) Licensed chiropractors.

(6) Licensed acupuncturists.

(7) Naturopathic doctors.

(8) Licensed physical therapists.

(c) Psychological corporation.

(1) Licensed physicians and surgeons.

(2) Licensed doctors of podiatric medicine.

(3) Registered nurses.

(4) Licensed optometrists.

(5) Licensed marriage and family therapists.

(6) Licensed clinical social workers.

(7) Licensed chiropractors.

(8) Licensed acupuncturists.

(9) Naturopathic doctors.

(10) Licensed professional clinical counselors.

(d) Speech-language pathology corporation.

(1) Licensed audiologists.

(e) Audiology corporation.

(1) Licensed speech-language pathologists.

(f) Nursing corporation.

- (1) Licensed physicians and surgeons.
- (2) Licensed doctors of podiatric medicine.
- (3) Licensed psychologists.
- (4) Licensed optometrists.
- (5) Licensed marriage and family therapists.
- (6) Licensed clinical social workers.
- (7) Licensed physician assistants.
- (8) Licensed chiropractors.
- (9) Licensed acupuncturists.
- (10) Naturopathic doctors.
- (11) Licensed professional clinical counselors.
- (g) Marriage and family therapist corporation.
- (1) Licensed physicians and surgeons.
- (2) Licensed psychologists.
- (3) Licensed clinical social workers.
- (4) Registered nurses.
- (5) Licensed chiropractors.
- (6) Licensed acupuncturists.
- (7) Naturopathic doctors.
- (8) Licensed professional clinical counselors.
- (h) Licensed clinical social worker corporation.
- (1) Licensed physicians and surgeons.
- (2) Licensed psychologists.
- (3) Licensed marriage and family therapists.
- (4) Registered nurses.
- (5) Licensed chiropractors.
- (6) Licensed acupuncturists.

- (7) Naturopathic doctors.
- (8) Licensed professional clinical counselors.
 - (i) Physician assistants corporation.
 - (1) Licensed physicians and surgeons.
 - (2) Registered nurses.
 - (3) Licensed acupuncturists.
 - (4) Naturopathic doctors.
 - (j) Optometric corporation.
 - (1) Licensed physicians and surgeons.
 - (2) Licensed doctors of podiatric medicine.
 - (3) Licensed psychologists.
 - (4) Registered nurses.
 - (5) Licensed chiropractors.
 - (6) Licensed acupuncturists.
 - (7) Naturopathic doctors.
 - (k) Chiropractic corporation.
 - (1) Licensed physicians and surgeons.
 - (2) Licensed doctors of podiatric medicine.
 - (3) Licensed psychologists.
 - (4) Registered nurses.
 - (5) Licensed optometrists.
 - (6) Licensed marriage and family therapists.
 - (7) Licensed clinical social workers.
 - (8) Licensed acupuncturists.
 - (9) Naturopathic doctors.
 - (10) Licensed professional clinical counselors.
 - (l) Acupuncture corporation.

- (1) Licensed physicians and surgeons.
 - (2) Licensed doctors of podiatric medicine.
 - (3) Licensed psychologists.
 - (4) Registered nurses.
 - (5) Licensed optometrists.
 - (6) Licensed marriage and family therapists.
 - (7) Licensed clinical social workers.
 - (8) Licensed physician assistants.
 - (9) Licensed chiropractors.
 - (10) Naturopathic doctors.
 - (11) Licensed professional clinical counselors.
- (m) Naturopathic doctor corporation.
- (1) Licensed physicians and surgeons.
 - (2) Licensed psychologists.
 - (3) Registered nurses.
 - (4) Licensed physician assistants.
 - (5) Licensed chiropractors.
 - (6) Licensed acupuncturists.
 - (7) Licensed physical therapists.
 - (8) Licensed doctors of podiatric medicine.
 - (9) Licensed marriage and family therapists.
 - (10) Licensed clinical social workers.
 - (11) Licensed optometrists.
 - (12) Licensed professional clinical counselors.
- (n) Dental corporation.
- (1) Licensed physicians and surgeons.
 - (2) Dental assistants.

- (3) Registered dental assistants.
- (4) Registered dental assistants in extended functions.
- (5) Registered dental hygienists.
- (6) Registered dental hygienists in extended functions.
- (7) Registered dental hygienists in alternative practice.
- (o) Professional clinical counselor corporation.
- (1) Licensed physicians and surgeons.
- (2) Licensed psychologists.
- (3) Licensed clinical social workers.
- (4) Licensed marriage and family therapists.
- (5) Registered nurses.
- (6) Licensed chiropractors.
- (7) Licensed acupuncturists.
- (8) Naturopathic doctors.
- (p) Physical therapy corporation.*
- (1) Licensed physicians and surgeons.*
- (2) Licensed doctors of podiatric medicine.*
- (3) Licensed acupuncturists.*
- (4) Naturopathic doctors.*
- (5) Licensed occupational therapists.*
- (6) Licensed speech-language therapists.*
- (7) Licensed audiologists.*
- (8) Registered nurses.*
- (9) Licensed psychologists.*
- (10) Licensed physician assistants.*

SEC. 7.

No reimbursement is required by this act pursuant to Section 6 of Article XIIB of the California Constitution because the only costs that may be incurred by a local agency or

school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

PHYSICAL THERAPY BOARD OF CALIFORNIA

Legislative Analysis

Bill Number	AB 1057	Version	Amd. 6/3/13
Author	Medina	Sponsor	Author Sponsored
Subject	Professions and Vocations: Licenses: Military Services	Status	Senate Floor
Adopted Position	Watch		

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Enrolled	Vetoed	Chaptered	Effective	2 yr./ Dead
1 st House				2 nd House								

Existing Law

1. Requires boards under the Department of Consumer Affairs (DCA) to promulgate regulations to evaluate military education, training, and experience in meeting licensure requirements, if the military education, training, and experience are applicable to the profession (BPC¹ § 35).
2. Authorizes a licensee whose license expired while serving on active military duty to reinstate his or her license without examination, as specified (BPC 114).
3. Requires boards under the DCA to waive the renewal fee(s), continuing education requirements, and other renewal requirements, if applicable, for any licensee called to active duty, as specified. A licensee whose renewal requirements have been waived pursuant to this section shall not practice until he or she meets the renewal requirements, as specified (BPC § 114.3).
AB 1588 (Atkins) Chapter 742, Statutes of 2012
4. Requires boards under the DCA to expedite the licensure process for an applicant who is the spouse of, in a domestic partnership with, or in any other legal union with, an active member of the military who is assigned to a duty station in California under official active duty military orders; and, who holds a current license in another state. (BPC § 115.5)
AB 1904 (Block) Chapter 399, Statutes of 2012

¹ Business and Professions Code

This Bill

Would require, commencing January 1, 2015, that each board under the DCA inquire on every application for licensure if the applicant is serving in, or has previously served in, the military.

Background/Purpose

According to the author, “Thousands of military veterans return to California from service in the United States Armed Forces each year. For many veterans, finding civilian employment can be difficult. Most veterans possess valuable professional and occupational skills that [are] highly sought by California employers and consumers. Ensuring a successful transition from military to civilian life includes creating an efficient process for licensing veterans in professional careers who have learned valuable work skills while in the military.”

This bill also addresses other concerns with the current provisions in place to facilitate licensure for veterans, current members of the military, and military spouses or domestic partners. Since the regulatory boards under the DCA are semiautonomous, each board has its own policies in determining if and how military education, training, and experience may qualify towards licensure; therefore, there is no uniformity among boards. Moreover, with the varying military qualification policies, the boards have no consistent data collection method for military applicants.

Related Legislation

1. **AB 186** (Maienschein, 2013) would require a board under the DCA to issue a temporary permit to practice in California to spouses or domestic partners of members of the military who are currently licensed in another state.

Status: Senate Business, Professions, and Economic Development Committee

2. **AB 213** (Logue, 2013) would require boards under the DCA who accredit school programs to require those programs to provide proof that there are procedures in place to evaluate military education, training, and experience toward completion of a degree that would qualify a person for licensure.

Status: Assembly Appropriations: Held under Submission

3. **AB 258** (Chavez, 2013) would require boards under the DCA to, if requesting whether the person is a veteran on any form, to specifically ask the following question, “have you ever served in the United States military?” Boards would be required to implement this format by July 1, 2014.

Status: Senate Floor: Third Reading

Fiscal Impact

According to the Assembly Appropriations Committee's analysis dated April 17, 2013, "costs should be minor and absorbable within existing resources."

Board staff concurs with this determination.

Support and Opposition

Support

None on file.

Opposition

None on file.

Comments

Board Policies Relating to Military Education, Training, and Experience

Currently, applicants applying for a physical therapist assistant license may qualify to sit for the licensing examination based upon military training, education, or a combination of both. The authority to allow physical therapist assistant applicants to qualify for licensure based upon military training, education, or a combination of both was included in the drafting of BPC section 2655.3. The Legislature wanted to ensure that veterans could utilize the skills they learned during their period of service when they return to civilian life. This authority was not included for physical therapist license applicants; however, most branches of the military require completion of a Commission on Accreditation in Physical Therapy Education (CAPTE) accredited physical therapy program to hold a physical therapist position while serving.

BreEZe

This version of the bill includes a previous amendment to specify the commencement date of January 1, 2015 for this provision. This amendment was made to accommodate the implementation deadlines for the DCA's BreEZe project.

The question format put forth in this bill would be a standard question on the application for licensure, which will, ideally, be incorporated into BreEZe. BreEZe will then be able to track military application statistics.

AB-1057 Professions and vocations: licenses: military service.

Bill last amended June 3, 2013.

Author: Medina

TODAY'S LAW AS AMENDED

SECTION 1.

Section 114.5 is added to the Business and Professions Code, to read:

114.5.

Commencing January 1, 2015, each board shall inquire in every application for licensure if the individual applying for licensure is serving in, or has previously served in, the military.

PHYSICAL THERAPY BOARD OF CALIFORNIA

Legislative Analysis

Bill Number	SB 198	Version	Amd. 6/18/13
Author	Price	Sponsor	Physical Therapy Board of California (Board)
Subject	Revisions to the Physical Therapy Practice Act	Status	Assembly Appropriations
Adopted Position	Support		

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Enrolled	Vetoed	Chaptered	Effective	2 yr./Dead
1 st House				2 nd House								

Note: Since this bill is sponsored by the Board, this is an abbreviated analysis specifically to update the Board on changes since the May meeting.

Existing Law

Establishes the Physical Therapy Practice Act (Act) which provides for the licensing and regulation of physical therapists and physical therapist assistants by the Board (BPC¹ 2600 et seq).

Amendments Since the Last Board Meeting

As requested by the Board, the following amendments were made to the bill:

1. Specifies that professional members of the Board must possess a valid and unrestricted license in California issued by the Board (BPC § 2603.5(a)(2)).
2. Eliminates proposed BPC § 2620.2 which provides that nothing in the Practice Act shall restrict other healing arts practitioners from practice, as specified. This language is in existing BPC § 2630.
3. Specifies that a person is exempt from licensure requirements for specified reasons if the physical therapist holds a valid and unrestricted license in another jurisdiction of the United States or who is credentialed to practice physical therapy in another country (BPC § 2630.5).
4. Specifies that a person is exempt from licensure for 60 days if the physical therapist holds a valid and unrestricted license in another jurisdiction of the

¹ Business and Professions Code

United States and is forced to leave his or her residence in a state other than California due to a governmentally declared emergency (BPC § 2630.5).

5. Removes that an applicant may be issued a license without a written examination if he or she has met the requirements to apply as an equivalency applicant or as a foreign-education physical therapist applying for physical therapist assistant licensure (BPC § 2636.5(a)(2)).
6. Specifies that an applicant who is eligible to receive a license without a written examination may perform as a physical therapist license applicant or a physical therapist assistant license applicant, as specified (BPC § 2636.5).
7. Clarifies that an applicant who fails to pass the licensing examinations required by the Board may retake the same examinations (BPC § 2638).
8. Eliminates that a person who has filed a complete application pursuant to the section may be issued license applicant status authorizing that individual to practice, as specified in the section. This was duplicative as § 2636.5 already includes license applicant status authority (BPC § 2639).
9. Eliminates specific application requirements that are already set forth in Section 2635 and adds a reference to Section 2635 instead (BPC § 2639.1).
10. The name of the Test of Spoken English was updated to the Test of English as a Foreign Language (BPC § 2653).
11. Eliminates that the Board may issue a public letter of reprimand to an applicant in accordance with the requirements set forth in § 2660.3. This reference was no longer needed after the addition of subdivision (c), which set forth the guidelines in how the Board may issue the public letter of reprimand to an applicant (BPC § 2660.2(a)).

Other Amendments (not adopted by the Board):

1. The name of the Accreditation Council of Canadian Physiotherapy was updated to Physiotherapy Education Accreditation Canada (BPC § 2650 & § 26561).
2. Other minor, non-substantive changes to the following sections: BPC § 2660, BPC § 2665(b), GOV² § 12529.5(b).

Background/Purpose

In response to public and licensee concerns that the Physical Therapy Practice Act (Act) was complex and difficult to use, the Board established the Physical Therapy Practice Act Review Task Force (Task Force) in 2004. The Task Force was charged

² Government Code

with reviewing the Act for accuracy and currency. The Task Force referenced the Model Practice Act developed by the Federation of State Boards of Physical Therapy (FSBPT) and the American Physical Therapy Association's (APTA) revised Guide to Physical Therapist Practice in developing the proposed revisions to recommend to the Board.

The Task Force was comprised of various individual licensees and representatives from the California Physical Therapy Association (CPTA), as well as Board staff and legal counsel. The CPTA was involved in drafting the proposed revisions initially, and recently has stated it supports the updated proposed revisions. In addition to collaboration with the profession, the Board also exercised all available efforts to ensure public access.

The proposed revisions primarily reorganize the provisions within the Act for clarity, and clean-up outdated provisions. Due to the extensiveness and complexity of the revisions, they are being carried in a stand-alone bill rather than a bill such as an omnibus bill.

Related Legislation

SB 305 (Price, 2013) would extend, among other boards, the Physical Therapy Board of California and the regulation of the physical therapy profession by the Board.

Fiscal Impact

According to the Senate Appropriations Committee's analysis dated May 6, 2013, there will be "annual costs of \$90,000 for two years to revise existing regulation by the Physical Therapy Board (Physical Therapy Fund)."

This is consistent with the fiscal impact staff identified. This cost is to employ a 2-year limited-term AGPA³ position to assist in the making the regulatory changes prompted by the changes to the Practice Act.

At this time, all other workload that may result from the changes to the Practice Act have been identified by staff as minor and will be absorbed using existing resources.

Support and Opposition

Support

Physical Therapy Board of California (Sponsor)
California Physical Therapy Association

Opposition

None on file

³ Associate Governmental Program Analyst

SB-198 Physical Therapy Board of California.

Bill last amended June 18, 2013.

Author: Price

TODAY'S LAW AS AMENDED^{1,2}

SECTION 1.

Section 2071 of the Business and Professions Code is amended to read:

2071.

The ~~Division of Licensing~~ *board* shall adopt and administer regulations that establish standards for technical supportive services that may be performed by a medical assistant. Nothing in this section shall prohibit the board ~~or division~~ from amending or repealing regulations covering medical assistants. The board ~~or division~~ shall, prior to the adoption of any regulations, request recommendations regarding these standards from appropriate public agencies, including, but not limited to, the State Board of Optometry, the Board of Registered Nursing, the Board of Vocational Nursing and Psychiatric Technicians, the Laboratory Field Services division of the State Department of ~~Health Services~~, *Public Health*, those divisions of the State Department of Education that pertain to private postsecondary education and career and vocational preparation, the Chancellor of the California Community Colleges, the California Board of Podiatric Medicine, the Physician Assistant Examining Committee, and the Physical Therapy ~~Examining Committee~~. ~~The Division of Licensing~~ *Board of California*. ~~The board~~ shall also request recommendations regarding these standards from associations of medical assistants, ~~physicians~~, *physicians and surgeons*, nurses, doctors of podiatric medicine, physician assistants, physical therapists, laboratory technologists, optometrists, and others as the board ~~or division~~ finds appropriate, including, but not limited to, the California Optometric Association, the California Nurses Association, the California Medical Association, the California Society of Medical Assistants, the California Medical ~~Assistants'~~ *Assistants* Association, and the California ~~Chapter of the American~~ Physical Therapy Association. Nothing in this section shall be construed to supersede or modify that portion of the Administrative Procedure Act ~~which that~~ relates to the procedure for the adoption of regulations and which is set forth in Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 2.

The heading of Article 1 (commencing with Section 2600) of Chapter 5.7 of Division 2 of the Business and Professions Code is amended to read:

Article 1. Administration and General Provisions

SEC. 3.

Section 2601 of the Business and Professions Code is repealed.

¹ The text in this document shows how existing law would be amended by the most current version of the bill.

² Blue, Italic text is added to existing law; and, red, strikethrough text is being repealed from existing law.

2601.

~~“Board” as used in this chapter means the Physical Therapy Board of California.~~

SEC. 4.

Section 2601 is added to the Business and Professions Code, to read:

2601.

For the purpose of this chapter, the following terms shall have the following meanings, unless otherwise specified:

(a) “Board” means the Physical Therapy Board of California.

(b) “Physical therapist” means a person who is licensed pursuant to this chapter to practice physical therapy.

(c) “Physical therapist assistant” means a person who is licensed pursuant to this chapter to assist in the provision of physical therapy under the supervision of a licensed physical therapist. “Physical therapy assistant” and “physical therapist assistant” shall be deemed identical and interchangeable terms.

(d) “Physical therapist technician” and “physical therapy aide,” as described in Section 2630.4, shall be deemed identical and interchangeable terms.

(e) “Physiotherapy” shall be synonymous with “physical therapy.”

SEC. 5.

Section 2603 of the Business and Professions Code is amended to read:

2603.

The members of the board shall consist of the following: ~~one physical therapist involved in the education of physical therapists, three physical therapists who shall have practiced physical therapy for five years and shall be licensed by the board, and three public members who shall not be licentiates of the board or of any other board under the Medical Board of California or of any board referred to in Sections 1000 and 3600.~~ four physical therapists, only one of whom shall be involved in physical therapy education, and three public members.

SEC. 6.

Section 2603.5 is added to the Business and Professions Code, to read:

2603.5.

(a) The physical therapist members of the board shall be appointed from persons having all of the following qualifications:

(1) Be a resident of California.

(2) Possess a valid and unrestricted license in California issued pursuant to this chapter.

(3) Have been licensed pursuant to this chapter and practicing in California for at least five years prior to appointment to the board.

(b) (1) The public members of the board shall have both of the following qualifications:

(A) Be appointed from persons having all of the qualifications as set forth in Chapter 6 (commencing with Section 450) of Division 1.

(B) Be a resident of California.

(2) No public member of the board shall be, nor have been, any of the following:

(A) An officer or faculty member of any college, school, or institution involved in physical therapy education.

(B) A licentiate of the Medical Board of California or of any board under this division or of any board referred to in Section 1000 or 3600.

SEC. 7.

Section 2604 of the Business and Professions Code is amended to read:

2604.

The members of the board shall be appointed for a term of four years, expiring on the first day of June of each year.

The Governor shall appoint one of the public members and the four physical therapist members of the board qualified as provided in ~~Section 2603.~~ *Sections 2603 and 2603.5.* The Senate ~~Rules~~ Committee *on Rules* and the Speaker of the Assembly shall each appoint a public ~~member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.~~ *member qualified as provided in Section 2603.5.*

~~Not more than one member of the board shall be appointed from the full-time faculty of any university, college, or other educational institution.~~

No person may serve as a member of the board for more than two consecutive terms. Vacancies shall be filled by appointment for the unexpired term. Annually, the board shall elect one of its members as *president and one of its members as vice* president.

The appointing power shall have the power to remove any member of the board from office for neglect of any duty required by law or for incompetency or unprofessional or dishonorable conduct.

SEC. 8.

Section 2604.5 of the Business and Professions Code is repealed.

~~**2604.5.**~~

~~The public members shall be appointed from persons having all of the following qualifications:~~

~~(a) Be a citizen of California.~~

~~(b) Shall not be an officer or faculty member of any college, school or institution engaged in physical therapy education.~~

~~(c) Shall not be a licentiate of the Medical Board of California or of any board under this division or of any board referred to in Sections 1000 and 3600.~~

SEC. 9.

Section 2605 is added to the Business and Professions Code, to read:

2605.

The board shall do all of the following:

(a) Evaluate the qualifications of applicants for licensure.

(b) Provide for the examinations of physical therapists and physical therapist assistants and establish a passing score for each examination.

(c) Issue all licenses for the practice of physical therapy in California. Except as otherwise required by the director pursuant to Section 164, the license issued by the board shall describe the licensee as a "physical therapist" or "physical therapist assistant" licensed by the Physical Therapy Board of California.

(d) Suspend and revoke licenses and otherwise enforce the provisions of this chapter.

(e) Administer a continuing competency program.

(f) Participate, as a member, in the Delegate Assembly, and in applicable committee meetings, of the Federation of State Boards of Physical Therapy.

(g) Publish, at least annually, a newsletter that includes, but is not limited to, actions taken by the board, disciplinary actions, and relevant statutory and regulatory changes.

(h) Provide for the timely orientation and training of new professional and public member appointees to the board directly related to board licensing and disciplinary functions and board rules, policies, and procedures.

(i) Adopt and administer a program of education in matters relevant to the regulation of physical therapy.

SEC. 10.

Section 2607 of the Business and Professions Code is amended to read:

2607.

The board may employ, subject to law, such clerical assistants and, except as provided in Section 159.5, other employees as it may deem necessary to carry out its powers and duties.

The board may *enter into contracts for services necessary for enforcement of this chapter and may* as necessary select and contract with physical therapy consultants who are licensed physical therapists to assist it in its programs on an intermittent basis. Notwithstanding any other provision of law, the board may contract with these consultants on a sole source basis. For the purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, any consultant under contract with the board shall be considered a public employee.

SEC. 11.

Section 2607.5 of the Business and Professions Code is amended to read:

2607.5.

(a) The board may ~~appoint a person exempt from civil service who shall be designated as employ~~ an executive officer ~~and who shall exercise the powers and perform the duties delegated- exempt from the provisions of the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code) and may also employ investigators, legal counsel, physical therapist consultants, and other assistance as it may deem necessary to carry out this chapter. The board may fix the compensation to be paid for services and may incur other expenses as it may deem necessary. Investigators employed~~ by the board ~~and vested in him or her by this chapter. shall be provided special training in investigating physical therapy practice activities.~~

(b) *The Attorney General shall act as legal counsel for the board for any judicial and administrative proceedings and his or her services shall be a charge against it.*

~~(b)~~ (c) This section shall remain in effect only until January 1, ~~2014, 2018~~, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2014, 2018~~, deletes or extends that date.

SEC. 12.

Section 2608 of the Business and Professions Code is amended to read:

2608.

The procedure in all matters and proceedings relating to the denial, suspension, *revocation*, or ~~revocation- probationary restriction~~ of licenses *issued by the board* under this chapter shall be governed by the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 13.

Section 2608.5 of the Business and Professions Code is amended to read:

2608.5.

Each member of the board, or any licensed physical therapist appointed by the board, may inspect, or require reports from, a general or specialized hospital or any other facility providing physical therapy care, treatment or services and the physical therapy staff thereof, with respect to the physical therapy care, treatment, services, or facilities

provided therein, and may inspect physical therapy patient records with respect to the care, treatment, services, or facilities. The authority to make inspections and to require reports as provided by this section shall not be delegated by a member of the board to any person other than a physical therapist and shall be subject to the restrictions against disclosure described in ~~Section 2263.~~ *subdivision (u) of Section 2660.*

SEC. 14.

Section 2609 of the Business and Professions Code is repealed.

~~**2609.**~~

~~The board shall issue, suspend, and revoke licenses and approvals to practice physical therapy as provided in this chapter.~~

SEC. 15.

Section 2611 of the Business and Professions Code is amended to read:

2611.

The board shall *hold meet* at least ~~one regular meeting annually in the Cities of Sacramento, Los Angeles and San Francisco.~~ *three times each calendar year, meeting at least once each calendar year in northern California and once each calendar year in southern California.* The board may convene from time to time until its business is concluded. Special meetings of the board may be held at any time and place as the board may designate. *Four members of the board shall constitute a quorum for the transaction of business.*

SEC. 16.

Section 2612 of the Business and Professions Code is amended to read:

2612.

~~Notice of each meeting of the board shall be given in accordance.~~ *The board shall comply* with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

SEC. 17.

Section 2614 of the Business and Professions Code is amended to read:

2614.

~~(a)~~ -The board shall hear all matters, ~~including~~ *including*, but not limited to, any contested case or any petition for reinstatement, restoration, or modification of probation. Except as otherwise provided in this chapter, all hearings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. If a contested case is heard by the board the hearing officer who presided at the hearing shall be present during the board's consideration of the case and, if requested, shall assist and advise the board. *The board shall issue its decision pursuant to Section 11517 of the Government Code.*

~~(b) At the conclusion of the hearing, the board shall deny an application for, or suspend or revoke, or impose probation conditions upon, a license or approval.~~

SEC. 18.

Section 2615 of the Business and Professions Code is amended to read:

2615.

The board shall ~~from time to time adopt regulations that~~ *adopt those regulations as* may be necessary to effectuate this chapter. In adopting regulations the board shall comply with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 19.

The heading of Article 2 (commencing with Section 2620) of Chapter 5.7 of Division 2 of the Business and Professions Code is amended to read:

Article 2. Scope of Regulation and Exemptions

~~SEC. 21.~~ **SEC. 20.**

Section 2620.7 of the Business and Professions Code is amended to read:

2620.7.

(a) ~~A physical therapist shall document his or her evaluation, goals, treatment plan, and summary of treatment in the patient record.~~ *Patient records shall be documented as required in regulations promulgated by the board.*

~~(b) A physical therapist shall document the care actually provided to a patient in the patient record.~~

~~(c) A physical therapist shall sign the patient record legibly.~~

~~(d)~~ (b) Patient records shall be maintained for a period of no less than seven years following the discharge of the patient, except that the records of unemancipated minors shall be maintained at least one year after the minor has reached ~~the age of 18 years,~~ *18 years of age*, and not in any case less than seven years.

~~SEC. 22.~~ **SEC. 21.**

Section 2622 of the Business and Professions Code is repealed.

~~2622.~~

~~“Physical therapist” and “physical therapist technician” mean a person who is licensed pursuant to this chapter to practice physical therapy. For purposes of this chapter, the term “physical therapy” and “physiotherapy” shall be deemed identical and interchangeable.~~

SEC. 22.

Section 2622 is added to the Business and Professions Code, to read:

2622.

(a) A physical therapist shall be responsible for managing all aspects of the care of each patient as set forth in regulations promulgated by the board.

(b) A physical therapist shall not supervise more than two physical therapist assistants at one time to assist the physical therapist in his or her practice of physical therapy.

(c) A physical therapist may utilize the services of one aide engaged in patient-related tasks to aid the physical therapist in his or her practice of physical therapy.

SEC. 23.

Section 2623 is added to the Business and Professions Code, to read:

2623.

The board may, by regulation, prescribe, amend, or repeal any rules contained within a code of professional conduct appropriate to the establishment and maintenance of integrity and dignity in the profession of physical therapy. Every licensee of the board shall be governed and controlled by the rules and standards adopted by the board.

SEC. 24.

The heading of Article 3 (commencing with Section 2630) of Chapter 5.7 of Division 2 of the Business and Professions Code is repealed.

~~SEC. 26.~~ SEC. 25.

Section 2630 of the Business and Professions Code is amended to read:

2630.

It is unlawful for any person or persons to practice, or offer to practice, physical therapy in this state for compensation received or expected, or to hold himself or herself out as a physical therapist, unless at the time of so doing the person holds a valid, unexpired, and unrevoked *physical therapist* license issued under this ~~chapter.~~ *chapter, except as authorized by subdivisions (c), (d), (e), and (g) of Section 2630.5.*

~~Nothing in this section shall restrict the activities authorized by their licenses on the part of any persons licensed under this code or any initiative act, or the activities authorized to be performed pursuant to Article 4.5 (commencing with Section 2655) or Chapter 7.7 (commencing with Section 3500).~~

~~A physical therapist licensed pursuant to this chapter may utilize the services of one aide engaged in patient-related tasks to assist the physical therapist in his or her practice of physical therapy. "Patient-related task" means a physical therapy service rendered directly to the patient by an aide, excluding non-patient-related tasks. "Non-patient-related task" means a task related to observation of the patient, transport of the patient, physical support only during gait or transfer training, housekeeping duties, clerical duties, and similar functions. The aide shall at all times be under the orders, direction, and immediate supervision of the physical therapist. Nothing in this section shall authorize an aide to independently perform physical therapy or any physical therapy procedure. The board shall adopt regulations that set forth the standards and requirements for the orders, direction, and immediate supervision of an aide by a physical therapist. The physical therapist shall provide continuous and immediate supervision of the aide. The physical therapist shall be in the same facility as, and in proximity to, the location where the aide is performing patient-related tasks, and shall be~~

~~readily available at all times to provide advice or instruction to the aide. When patient-related tasks are provided to a patient by an aide, the supervising physical therapist shall, at some point during the treatment day, provide direct service to the patient as treatment for the patient's condition, or to further evaluate and monitor the patient's progress, and shall correspondingly document the patient's record.~~

~~The administration of massage, external baths, or normal exercise not a part of a physical therapy treatment shall not be prohibited by this section.~~

SEC. 26.

Section 2630.3 is added to the Business and Professions Code, to read:

2630.3.

(a) A licensed physical therapist assistant holding a valid, unexpired, and unrevoked physical therapist assistant license may assist in the provision of physical therapy services only under the supervision of a physical therapist licensed by the board. A licensed physical therapist shall at all times be responsible for the extent, kind, quality, and documentation of all physical therapy services provided by the physical therapist assistant.

(b) It is unlawful for any person or persons to hold himself or herself out as a physical therapist assistant, unless at the time of so doing the person holds a valid, unexpired, and unrevoked physical therapist assistant license issued under this chapter, except as authorized in subdivisions (f) and (g) of Section 2630.5.

(c) Physical therapist assistants shall not be independently supervised by a physical therapist license applicant, as defined in Section 2639, or a physical therapist student, as defined in Section 2633.7.

(d) A physical therapist assistant shall not perform any evaluation of a patient or prepare a discharge summary. The supervising physical therapist shall determine which elements of the treatment plan, if any, shall be assigned to the physical therapist assistant. Assignment of patient care shall be commensurate with the competence of the physical therapist assistant.

SEC. 27.

Section 2630.4 is added to the Business and Professions Code, to read:

2630.4.

(a) A "physical therapy aide" is an unlicensed person, at least 18 years of age, who aids a licensed physical therapist consistent with subdivision (b).

(b) The aide shall at all times be under the supervision of the physical therapist. An aide shall not independently perform physical therapy or any physical therapy procedure. The board shall adopt regulations that set forth the standards and requirements for the supervision of an aide by a physical therapist.

(c) Physical therapy aides shall not be independently supervised by a physical therapist license applicant, as defined in Section 2639, or a physical therapist student, as defined in Section 2633.7.

(d) This section does not prohibit the administration by a physical therapy aide of massage, external baths, or normal exercise not a part of a physical therapy treatment.

SEC. 28.

Section 2630.5 is added to the Business and Professions Code, to read:

2630.5.

The following persons are exempt from the licensure requirements of this chapter when engaged in the following activities:

(a) A regularly matriculated physical therapist student undertaking a course of professional instruction in an approved entry-level physical therapy education program or enrolled in a program of supervised clinical education under the direction of an approved physical therapy education program as described in Section 2651. These physical therapist students may perform physical therapy as a part of their course of study.

(b) A regularly matriculated physical therapist assistant student undertaking a course of instruction in an approved physical therapy education program or enrolled in a program of supervised clinical education under the direction of an approved physical therapy education program as described in Section 2651. These physical therapist assistant students may perform physical therapy techniques as a part of their course of study.

(c) A physical therapist who holds a valid and unrestricted license in another jurisdiction of the United States or who is credentialed to practice physical therapy in another country if that person is researching, demonstrating, or providing physical therapy in connection with teaching or participating in an educational seminar of no more than 60 days in a calendar year.

(d) A physical therapist located outside this state, when in actual consultation, whether within this state or across state lines, with a licensed physical therapist of this state, or when he or she is an invited guest of the American Physical Therapy Association or one of its components, or an invited guest of an approved physical therapy school or college for the sole purpose of engaging in professional education through lectures, clinics, or demonstrations, if, at the time of the consultation, lecture, or demonstration, he or she holds a valid and unrestricted physical therapist license in the state or country in which he or she resides. The physical therapist shall not open an office, appoint a place to meet patients, receive calls from patients within the limits of this state, give orders, or have ultimate authority over the care of a physical therapy patient who is located within this state.

(e) A physical therapist who holds a valid and unrestricted license in another jurisdiction of the United States or credentialed to practice physical therapy in another country if that person, by contract or employment, is providing physical therapy to individuals

affiliated with or employed by established athletic teams, athletic organizations, or performing arts companies temporarily practicing, competing, or performing in the state for no more than 60 days in a calendar year.

(f) A physical therapist assistant who holds a valid and unrestricted license in another jurisdiction of the United States and is assisting a physical therapist engaged in activities described in subdivision (c), (d), or (e).

(g) A physical therapist or physical therapist assistant who has a valid and unrestricted license in a jurisdiction of the United States who is forced to leave his or her residence in a state other than California due to a governmentally declared emergency. This exemption applies for no more than 60 days following the declaration of the emergency. In order to be eligible for this exemption, the physical therapist or physical therapist assistant shall notify the board of his or her intent to practice in this state and provide a valid mailing address, telephone number, and email address.

~~SEC. 30.~~ SEC. 29.

Section 2632 of the Business and Professions Code is repealed.

~~2632.~~

~~All licenses for the practice of physical therapy in this state shall be issued by the board, and all applications for the licenses shall be filed with the board. Excepting as otherwise required by the director pursuant to Section 164, the license issued by the board shall describe the licensee as a "physical therapist licensed by the Physical Therapy Board of California."~~

~~Each application shall be accompanied by the application fee prescribed by Section 2688, shall be signed by the applicant, and shall contain a statement under oath of the facts entitling the applicant to receive a license without examination or to take an examination.~~

SEC. 30.

Section 2633.5 is added to the Business and Professions Code, to read:

2633.5.

(a) Only a person licensed as a physical therapist assistant by the board may use the title "physical therapist assistant" or "physical therapy assistant" or the letters "PTA" or any other words, letters, or figures that indicate that the person is a physical therapist assistant licensed pursuant to this chapter.

(b) The license of a physical therapist assistant shall not authorize the use of the prefix "LPT," "RPT," "PT," or "Dr.," or the title "physical therapist," "therapist," "doctor," or any affix indicating or implying that the physical therapist assistant is a physical therapist or doctor.

SEC. 31.

Section 2633.7 is added to the Business and Professions Code, to read:

2633.7.

During a period of clinical practice described in Section 2650 or in any similar period of observation of related educational experience involving recipients of physical therapy, a person so engaged shall be identified only as a “physical therapist student” or a “physical therapist assistant student,” as authorized by the board in its regulations.

SEC. 32.

The heading of Article 3 (commencing with Section 2635) is added to Chapter 5.7 of Division 2 of the Business and Professions Code, to read:

Article 3. Qualifications and Requirements for Licensure

~~SEC. 34.~~ **SEC. 33.**

Section 2636 of the Business and Professions Code is amended to read:

2636.

(a) Except as otherwise provided in this chapter, no person shall receive a license under this chapter without first successfully passing the following ~~examinations:~~ *examinations, where success is determined based on the examination passing standard set by the board:*

(1) An examination under the direction of the board to demonstrate the applicant’s knowledge of the laws and regulations related to the practice of physical therapy in California. The examination shall reasonably test the applicant’s knowledge of these laws and regulations.

(2) The ~~national-~~ physical therapy examination for the applicant’s licensure category. The examination for licensure as a physical therapist shall test entry-level competence to practice physical therapy. The examination for licensure as a physical therapist assistant shall test entry-level competence to practice as a physical therapist assistant in the technical application of physical therapy services.

(b) An applicant may take the examinations for licensure as a physical therapist or for licensure as a physical therapist assistant after the applicant has met the educational requirements for that particular category of licensure.

(c) The examinations required by the board for a license under this chapter may be conducted by the board or by a public or private organization specified by the board. The examinations may be conducted under a uniform examination system and, for that purpose, the board may make arrangements with organizations furnishing examination materials as may, in its discretion, be desirable.

~~(d) The board shall establish a passing score for the examinations for licensure as a physical therapist and for the examinations for licensure as a physical therapist assistant. The board shall issue a license to an applicant who is otherwise qualified for licensure under this chapter and who receives a passing score as established by the board on the examinations.~~

~~SEC. 35.~~ **SEC. 34.**

Section 2636.5 of the Business and Professions Code is amended to read:

2636.5.

(a) An applicant may be issued a license without a written examination if he or she meets all of the following:

(1) He or she is at the time of application licensed ~~or registered~~ as a physical therapist *or physical therapist assistant* in a state, district, or territory of the United States having, in the opinion of the board, requirements for licensing ~~or registration~~ equal to or higher than those in California, and he or she has passed, to the satisfaction of the board, an examination for licensing ~~or registration~~ that is, in the opinion of the board, comparable to the examination used in this state.

(2) He or she is a graduate of a physical therapist *or physical therapist assistant* education program approved by the board, or has met the requirements of Section 2653.

(3) He or she files an application ~~as provided in Section 2632~~ *with the board* and meets the requirements prescribed by Sections 2635 and 2650.

(b) An applicant for licensure under subdivision (a), whose application is based on a certificate issued by a physical therapy licensing authority of another state may be required to ~~pass an oral examination given by the board and~~ file a statement of past work activity.

(c) An applicant who has filed a physical therapy application under this section with the board for the first time may, between the date of receipt of notice that his or her application is on file and the date of receipt of his or her license, perform as a physical therapist ~~under the direct and immediate~~ *or physical therapist assistant, as appropriate, under the* supervision of a physical therapist licensed in this state.

During this period the applicant shall identify himself or herself only as a "physical therapist license ~~applicant.~~" *applicant" or "physical therapist assistant license applicant," as appropriate.*

If the applicant under this section does not qualify and receive a license as provided in this section and does not qualify under Section ~~2639~~ *2639*, all privileges under this section shall terminate upon notice by ~~certified mail, return receipt requested.~~ *the board.* An applicant may only qualify once to perform as a physical therapist license *applicant or physical therapist assistant license* applicant.

~~SEC. 36.~~ **SEC. 35.**

Section 2638 of the Business and Professions Code is amended to read:

2638.

Any applicant for licensure as a physical therapist *or physical therapist assistant* who fails to pass the examination required by the board may ~~take another~~ *retake the licensing* examination and shall pay the reexamination fee.

SEC. 37. SEC. 36.

Section 2639 of the Business and Professions Code is repealed.

2639.

~~Every graduate of an approved physical therapist education program who has filed a complete application for licensure with the board for the first time may, following receipt of a letter of authorization to perform as a "physical therapist license applicant," perform as a physical therapist under the direct and immediate supervision of a physical therapist licensed in this state pending the results of the first licensing examination administered for which he or she is eligible following graduation from an approved physical therapist education program. During this period the applicant shall identify himself or herself only as a "physical therapist license applicant." If the applicant passes the examination, the physical therapist license applicant status shall remain in effect until a regular renewable license is issued, or licensure is denied, by the board. If the applicant fails the licensing examination, or if he or she passes the examination but licensure is denied, the applicant shall be prohibited from performing as a physical therapist license applicant at any time in the future.~~

~~A person shall not be considered a graduate unless he or she has successfully completed all the clinical training and internships required for graduation from the program.~~

~~If the applicant fails to take the next succeeding examination without due cause or fails to pass the examination or receive a license, all privileges under this section shall terminate upon notice by certified mail, return receipt requested. An applicant may only qualify once to perform as a physical therapist license applicant.~~

SEC. 37.

Section 2639 is added to the Business and Professions Code, to read:

2639.

(a) (1) Every graduate of an approved physical therapy education program who has filed a complete application, as defined in regulation, for licensure with the board and has been awarded either physical therapist license applicant status or physical therapist assistant license applicant status shall practice under the supervision of a licensed physical therapist pursuant to this chapter for no more than 120 days pending the results of the first licensing examination administered. If the applicant passes the examination, the physical therapist license applicant status or physical therapist assistant license applicant status shall remain in effect until a regular renewable license is issued, or licensure is denied, by the board. A supervising physical therapist shall document receipt of the letter authorizing the physical therapist license applicant status or physical therapist assistant license applicant status and record the expiration date of that status in the employee record. A supervising physical therapist shall require the applicant to provide documentation of the license issued at the conclusion of the physical therapist license applicant status or physical therapist assistant license applicant status. During this period the applicant shall identify himself or herself only as

“physical therapist license applicant” or “physical therapist assistant license applicant,” as appropriate.

(2) A person shall not be considered a graduate unless he or she has successfully completed all the clinical training and internship required for graduation from the education program.

(b) A physical therapist license applicant who has been awarded license applicant status may perform as a physical therapist if he or she is under the supervision of a physical therapist licensed by the board. A physical therapist assistant license applicant who has been awarded license applicant status may perform as a physical therapist assistant if he or she is under the supervision of a physical therapist licensed by the board. The applicant shall comply with any requirements applicable to the license for which he or she applied. An applicant may not perform in those capacities if he or she fails the first examination attempt.

SEC. 38.

Section 2639.1 is added to the Business and Professions Code, to read:

2639.1.

A person having, in the opinion of the board, training or experience, or a combination of training and experience, equivalent to that obtained in an approved physical therapist assistant education program and who meets the requirements of Section 2635 may apply for licensure as a physical therapist assistant.

~~SEC. 40.~~ SEC. 39.

Section 2640 of the Business and Professions Code is repealed.

~~2640.~~

~~(a) If the board uses computer administered testing for the administration of the licensing examination, this section shall apply and Section 2639 shall not apply.~~

~~(b) Every graduate of an approved physical therapist education program who has filed a complete application for licensure with the board for the first time may, following receipt of a letter of authorization to take the licensing examination and perform as a “physical therapist license applicant,” perform as a physical therapist under the direct and immediate supervision of a physical therapist licensed in this state, for 90 days pending the results of the first licensing examination administered. During this period, the applicant shall identify himself or herself only as a “physical therapist license applicant.” If the applicant passes the examination, the physical therapist license applicant status shall remain in effect until a regular renewable license is issued, or licensure is denied, by the board.~~

~~(c) A person shall not be considered a graduate unless he or she has successfully completed all the clinical training and internships required for graduation from the program.~~

~~(d) If the applicant fails to take the examination within 90 days or fails to pass the examination or receive a license, all privileges under this section shall terminate. An applicant may only qualify once to perform as a physical therapist license applicant.~~

SEC. 40.

Article 4 (commencing with Section 2644) is added to Chapter 5.7 of Division 2 of the Business and Professions Code, to read:

Article 4. Renewal of Licenses

2644.

(a) Every license issued under this chapter shall expire at 12 a.m. on the last day of the birth month of the licensee during the second year of a two-year term, if not renewed.

(b) To renew an unexpired license, the licensee shall, on or before the date on which it would otherwise expire, apply for renewal on a form prescribed by the board, pay the prescribed renewal fee, and submit proof of the completion of continuing competency required by the board pursuant to Section 2649. The licensee shall disclose on his or her license renewal application any misdemeanor or other criminal offense for which he or she has been found guilty or to which he or she has pleaded guilty or no contest.

2645.

At least 60 days before the expiration of any license, the board shall mail to each licensee under this chapter, at the latest address furnished by the licensee to the board, a notice stating the amount of the renewal fee and the date on which it is due, and that failure to pay it on or before the due date shall result in expiration of the license.

2646.

A license that has expired may be renewed at any time within five years after its expiration by applying for renewal as set forth in Section 2644. Renewal under this section shall be effective on the date on which the renewal application is filed, on the date on which the renewal fee or accrued renewal fees are paid, or on the date on which the delinquency fee and penalty fee, if any, are paid, whichever last occurs. A renewed license shall continue in effect through the expiration date set forth in Section 2644 that next occurs after the effective date of the renewal, at which time it shall expire and become invalid if it is not so renewed.

2647.

A person who fails to renew his or her license within five years after its expiration may not renew it, and it shall not be reissued, reinstated, or restored thereafter. However, the person may apply for a new license if he or she satisfies the requirements set forth in Article 3 (commencing with Section 2635).

2648.

(a) A licensee is exempt from the payment of the renewal fee while engaged in full-time training or active service in the United States Army, Navy, Air Force, Marines, or Coast Guard, or in the United States Public Health Service.

(b) A person exempted from the payment of the renewal fee by this section shall not engage in any practice of, or assistance in the provision of, physical therapy not related to his or her military service and shall become liable for payment of the fee for the current renewal period upon his or her discharge from full-time active service and shall have a period of 60 days after becoming liable within which to pay the renewal fee before the delinquency fee is required. Any person who is discharged from active service within 60 days of the end of the renewal period is exempt from the payment of the renewal fee for that period.

(c) The time spent in full-time active service or training shall not be included in the computation of the five-year period for renewal and reinstatement of licensure provided in Section 2646.

(d) A person exempt from renewal fees under this section shall not be exempt from meeting the requirements of Section 2649.

2648.3.

A licensee who demonstrates to the satisfaction of the board that he or she is unable to practice, or assist in the provision of, physical therapy due to a disability may request a waiver of the license renewal fee. The granting of a waiver shall be at the discretion of the board and may be terminated at any time. Waivers shall be based on the inability of a licensee to practice, or assist in the provision of, physical therapy. A licensee whose renewal fee has been waived pursuant to this section shall not engage in the practice of, or assist in the provision of, physical therapy unless and until the licensee pays the current renewal fee and does either of the following:

(a) Establishes to the satisfaction of the board, on a form prescribed by the board and signed under penalty of perjury, that the licensee's disability either no longer exists or does not affect his or her ability to practice, or assist in the provision of, physical therapy safely.

(b) Signs an agreement, on a form prescribed by the board and signed under penalty of perjury, to limit his or her practice of, or assistance in the provision of, physical therapy in the manner prescribed by his or her reviewing physician.

(c) A person exempt from renewal fees under this section shall not be exempt from meeting the requirements of Section 2649.

2648.5.

(a) The renewal fee shall be waived for licensees residing in California who certify to the board that license renewal is for the sole purpose of providing voluntary, unpaid physical therapy services.

(b) A person exempt from renewal fees under this section shall not be exempt from meeting the requirements of Section 2649.

2648.7.

A licensee is exempt from the payment of the renewal fee and from meeting the requirements set forth in Section 2649 if he or she has applied to the board for retired

license status. A holder of a license in retired status pursuant to this section shall not engage in the practice of, or assist in the provision of, physical therapy unless the licensee applies for renewal and meets all of the requirements as set forth in Section 2644.

SEC. 41.

The heading of Article 4 (commencing with Section 2650) of Chapter 5.7 of Division 2 of the Business and Professions Code is amended and renumbered to read:

Article 5. Educational Standards

~~SEC. 43.~~ **SEC. 42.**

Section 2650 of the Business and Professions Code is repealed.

~~2650.~~

~~(a) Except as otherwise provided in this chapter, each applicant for a license as a physical therapist shall be a graduate of a professional degree program of an accredited postsecondary institution or institutions approved by the board, and shall have completed a professional education including academic coursework and clinical internship in physical therapy.~~

~~(b) As referenced in the evaluative criteria of the Commission on Accreditation in Physical Therapy Education of the American Physical Therapy Association, the curriculum shall consist of a combination of didactic, clinical, and research experiences in physical therapy using critical thinking and weighing of evidence, and shall include, at a minimum, all of the following:~~

~~(1) The sciences basic to physical therapy including biomedical, physical, physiological, neurobiological, anatomical, social and behavioral sciences.~~

~~(2) Clinical sciences including laboratory or other practical experiences involving quantitative and qualitative evaluation within the scope of physical therapy practice including kinesiology, neuroscience, pathology, human development, and gerontology.~~

~~(3) Treatment that constitutes the practice of physical therapy.~~

~~(4) Learning experiences provided in the areas of administration, education, and consultation.~~

~~(5) Research methods including the review and critical analysis of research reports.~~

~~(6) Ethical, legal, and economical concepts of physical therapy practice.~~

~~(c) Each applicant shall have at least 18 weeks of full-time clinical experience with a variety of patients.~~

SEC. 43.

Section 2650 is added to the Business and Professions Code, to read:

2650.

(a) The physical therapist education requirements are as follows:

(1) Except as otherwise provided in this chapter, each applicant for a license as a physical therapist shall be a graduate of a professional degree program of an accredited postsecondary institution or institutions approved by the board and shall have completed a professional education program including academic course work and clinical internship in physical therapy.

(2) Unless otherwise specified by the board by regulation, the educational requirements shall include instruction in the subjects prescribed by the Commission on Accreditation in Physical Therapy Education (CAPTE) of the American Physical Therapy Association or Physiotherapy Education Accreditation Canada and shall include a combination of didactic and clinical experiences. The clinical experience shall include at least 18 weeks of full-time experience with a variety of patients.

(b) The physical therapist assistant educational requirements are as follows:

(1) Except as otherwise provided in this chapter, each applicant for a license as a physical therapist assistant shall be a graduate of a physical therapist assistant program of an accredited postsecondary institution or institutions approved by the board, and shall have completed both the academic and clinical experience required by the physical therapist assistant program, and have been awarded an associate degree.

(2) Unless otherwise specified by the board by regulation, the educational requirements shall include instruction in the subjects prescribed by the CAPTE of the American Physical Therapy Association or Physiotherapy Education Accreditation Canada or such other body as may be approved by the board by regulation and shall include a combination of didactic and clinical experiences. The clinical experience shall include at least 18 weeks of full-time experience with a variety of patients.

~~SEC. 45.~~ SEC. 44.

Section 2650.1 of the Business and Professions Code is repealed.

~~2650.1.~~

~~During the period of clinical practice referred to in Section 2650 or in any similar period of observation or related educational experience involving recipients of physical therapy, a person so engaged shall be identified only as a "physical therapy student," or as a "physical therapy intern" as authorized by the board in its regulations.~~

~~SEC. 46.~~ SEC. 45.

Section 2650.2 of the Business and Professions Code is repealed.

~~2650.2.~~

~~Nothing in this chapter shall be construed to prevent a regularly matriculated student undertaking a course of professional instruction in an approved physical therapist education program or a student enrolled in a program of supervised clinical training under the direction of an approved physical therapist education program pursuant to Section 2651, from performing physical therapy as a part of his or her course of study.~~

SEC. 47. SEC. 46.

Section 2651 of the Business and Professions Code is amended to read:

2651.

The board ~~may~~ *shall* approve only those physical therapist *and physical therapist assistant* education programs that prove to the satisfaction of the board that they comply with the minimum physical ~~therapy~~ *therapist or physical therapist assistant* educational requirements set forth in this chapter and adopted by the board pursuant to this chapter. Physical therapist *and physical therapist assistant* education programs that are accredited by the Commission on Accreditation in Physical Therapy Education of the American Physical Therapy Association *Physiotherapy Education Accreditation Canada or such other body as may be approved by the board by regulation*, shall be deemed approved by the board unless the board determines otherwise. *This chapter shall not prohibit the board from disapproving any foreign physical therapist or physical therapist assistant educational program or from denying an applicant if, in the opinion of the board, the instruction received by the applicant or the courses offered by the program were not equivalent to that which is required by this chapter.*

SEC. 48. SEC. 47.

Section 2652 of the Business and Professions Code is repealed.

2652.

~~All physical therapist education programs, whether situated in this state or not, furnishing courses of study meeting the standards required by Sections 2650 and 2651 and the regulations of the board adopted pursuant to this chapter shall be approved by the board and shall be entitled to compel this approval, if it is denied, by action in the Superior Court of the State of California, the procedure and power of the court in which action shall be the same as provided in Section 2087.~~

SEC. 49. SEC. 48.

Section 2653 of the Business and Professions Code is repealed.

2653.

~~(a) An applicant for a license as a physical therapist who was issued a diploma by a physical therapist education program that is not an approved program and is not located in the United States shall meet all of the following requirements in order to be licensed as a physical therapist:~~

~~(1) Furnish documentary evidence satisfactory to the board, that he or she has completed the equivalent professional degree to that issued by a United States accredited physical therapist education program in a physical therapist education program that entitles the applicant to practice as a physical therapist in the country where the diploma was issued. The physical therapy education received by the applicant shall meet the criteria set forth in subdivisions (b) and (c) of Section 2650. The board may require an applicant to submit documentation of his or her education to a credentials evaluation service for review and a report to the board.~~

~~(2) Pass the written examination required by Section 2636. The requirements to pass the written examination shall not apply to an applicant who at the time of application has passed, to the satisfaction of the board, an examination for licensure in another state, district, or territory of the United States, that is, in the opinion of the board, comparable to the examination given in this state.~~

~~(3) Complete a period of clinical service under the direct and immediate supervision of a physical therapist licensed by the board which does not exceed nine months in a location approved by the board, in a manner satisfactory to the board. The applicant shall have passed the written examination required in subdivision (b) prior to commencing the period of clinical service. The board shall require the supervising physical therapist to evaluate the applicant and report his or her findings to the board. The board may in its discretion waive all or part of the required clinical service pursuant to guidelines set forth in its regulations. During the period of clinical service until he or she is issued a license as a physical therapist by the board, the applicant shall be identified as a "physical therapist license applicant."~~

~~(4) An applicant for licensure under this subdivision, whose application is based on a certificate issued by a physical therapist licensing authority of another state, may be required to pass an oral examination given by the board, and to file a statement of past work activity.~~

~~(b) Nothing contained in this section shall prohibit the board from disapproving any foreign physical therapist education program or from denying the applicant if, in the opinion of the board, the instruction received by the applicant or the courses were not equivalent to that required by this chapter. If the applicant does not qualify to take the physical therapist examination, his or her education may be evaluated and the applicant may be eligible to take the physical therapist assistant examination.~~

SEC. 49.

Section 2653 is added to the Business and Professions Code, to read:

2653.

An applicant for a license as a physical therapist who has graduated from a physical therapist education program that is not approved by the board and is not located in the United States shall do all of the following:

(a) Furnish documentary evidence satisfactory to the board, that he or she has completed a professional degree in a physical therapist educational program substantially equivalent at the time of his or her graduation to that issued by a board approved physical therapist education program. The professional degree must entitle the applicant to practice as a physical therapist in the country where the diploma was issued. The applicant shall meet the educational requirements set forth in paragraph (2) of subdivision (a) of Section 2650. The board may require an applicant to submit documentation of his or her education to a credentials evaluation service for review and a report to the board.

(b) Demonstrate proficiency in English by achieving a score specified by the board on the Test of English as a Foreign Language administered by the Educational Testing Services or such other examination as may be specified by the board by regulation.

(c) Complete nine months of clinical service in a location approved by the board under the supervision of a physical therapist licensed by a United States jurisdiction, in a manner satisfactory to the board. The applicant shall have passed the written examination required in Section 2636 prior to commencing the period of clinical service. The board shall require the supervising physical therapist to evaluate the applicant and report his or her findings to the board. The board may in its discretion waive all or part of the required clinical service pursuant to guidelines set forth in its regulations. During the period of clinical service, the applicant shall be identified as a physical therapist license applicant. If an applicant fails to complete the required period of clinical service, the board may, for good cause shown, allow the applicant to complete another period of clinical service.

SEC. 50.

Section 2654 is added to the Business and Professions Code, to read:

2654.

If an applicant who has graduated from a physical therapist education program that is not approved by the board and is not located in the United States does not qualify to take the physical therapist examination, his or her education may be evaluated by the board and the applicant may be eligible to take the physical therapist assistant examination.

SEC. 51.

Article 4.5 (commencing with Section 2655) of Chapter 5.7 of Division 2 of the Business and Professions Code is repealed.

SEC. 52.

The heading of Article 5 (commencing with Section 2660) of Chapter 5.7 of Division 2 of the Business and Professions Code is amended and renumbered to read:

Article 6. Enforcement

~~SEC. 54.~~ SEC. 53.

Section 2660 of the Business and Professions Code is amended to read:

2660.

Unprofessional conduct constitutes grounds for citation, discipline, denial of a license, or issuance of a probationary license. The board may, after the conduct of appropriate proceedings under the Administrative Procedure ~~Act,~~ Act (Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code), issue a citation, impose discipline, deny a license, suspend for not more than 12 months, or revoke, or impose probationary conditions upon any ~~license, certificate, or approval-~~ license issued under this chapter for unprofessional conduct that includes, in

addition to other provisions of this chapter, but is not limited to, ~~one or any combination of the following causes:~~ the following:

~~(a)~~ *Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter, any regulations duly adopted under this chapter, or the Medical Practice Act (Chapter 5 (commencing with Section 2000)).*

~~(a)~~ *(b) Advertising in violation of Section 17500.*

~~(b)~~ *(c) Fraud in the procurement of any license under this chapter. Obtaining or attempting to obtain a license by fraud or misrepresentation.*

~~(c)~~ *(d) Procuring Practicing or aiding or offering to procure or aid in criminal abortion. offering to practice beyond the scope of practice of physical therapy.*

~~(d)~~ *(e) Conviction of a crime that substantially relates to the qualifications, functions, or duties of a physical therapist or physical therapist assistant. The record of conviction or a certified copy thereof shall be conclusive evidence of that conviction.*

~~(e)~~ *(f) Habitual intemperance. Unlawful possession or use of, or conviction of a criminal offense involving, a controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Article 2 (commencing with Section 4015) of Chapter 9, as follows:*

~~(f)~~ *(1) Addiction to the excessive use of any habit-forming. 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.*

~~(g)~~ *(2) Gross negligence in his or her practice as a physical therapist or physical therapist assistant. Using any controlled substance or any dangerous drug.*

~~(h)~~ *(3) Conviction of a violation of any of the provisions of this chapter or of the Medical Practice Act, or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter or of the Medical Practice Act. criminal offense involving the consumption or self-administration of, or the possession of, or falsification of a record pertaining to, any controlled substance or any dangerous drug, in which event the record of the conviction is conclusive evidence thereof.*

~~(i)~~ *(g) The aiding or abetting of any person to violate this chapter or any regulations duly adopted under this chapter. Failure to maintain adequate and accurate records relating to the provision of services to his or her patients.*

~~(h)~~ *Gross negligence or repeated acts of negligence in practice or in the delivery of physical therapy care.*

~~(j)~~ *(i) The aiding. Aiding or abetting of any person to engage in the unlawful practice of physical therapy.*

~~(k)~~ (j) The commission of any fraudulent, dishonest, or corrupt act that is substantially related to the qualifications, functions, or duties of a physical therapist or physical therapist assistant.

~~(k)~~ (k) Except for good cause, the knowing failure to protect patients by failing to follow infection control guidelines of the board, thereby risking transmission of blood-borne infectious diseases from licensee to patient, from patient to patient, and from patient to licensee. In administering this subdivision, the board shall consider referencing the standards, regulations, and guidelines of the State Department of Public Health developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, regulations, and guidelines pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 6300) of Division 5 of the Labor Code) for preventing the transmission of HIV, hepatitis B, and other blood-borne pathogens in health care settings. As necessary, the board shall consult with the Medical Board of California, the California Board of Podiatric Medicine, the Dental Board of California, the Board of Registered Nursing, and the Board of Vocational Nursing and Psychiatric Technicians of the State of California, to encourage appropriate consistency in the implementation of this subdivision.

(l) The commission of verbal abuse or sexual harassment.

(m) Engaging in sexual misconduct or violating Section 726.

(n) Permitting a physical therapist assistant or physical therapy aide under one's supervision or control to perform, or permitting the physical therapist assistant or physical therapy aide to hold himself or herself out as competent to perform, professional services beyond the level of education, training, and experience of the physical therapist assistant or aide.

~~(o) The board shall seek to ensure that licensees are informed of the responsibility of licensees and others to follow infection control guidelines, and of the most recent scientifically recognized safeguards for minimizing the risk of transmission of blood-borne infectious diseases. revocation, suspension, or other discipline, restriction, or limitation imposed by another state upon a license or certificate to practice physical therapy issued by that state, or the revocation, suspension, or restriction of the authority to practice physical therapy by any agency of the federal government.~~

(p) Viewing a completely or partially disrobed patient in the course of treatment if the viewing is not necessary to patient evaluation or treatment under current standards.

(q) Engaging in any act in violation of Section 650, 651, or 654.2.

(r) Charging a fee for services not performed.

(s) Misrepresenting documentation of patient care or deliberate falsifying of patient records.

(t) Except as otherwise allowed by law, the employment of runners, cappers, steerers, or other persons to procure patients.

(u) The willful, unauthorized violation of professional confidence.

~~(m) (v) The commission of verbal abuse or sexual harassment.~~ *Failing to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been received from a patient in confidence during the course of treatment and all information about the patient that is obtained from tests or other means.*

(w) Habitual intemperance.

~~SEC. 55.~~ SEC. 54.

Section 2660.2 of the Business and Professions Code is amended to read:

2660.2.

(a) The board may refuse a license to any applicant guilty of unprofessional conduct or sexual activity referred to in Section 2660.1. 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. The board may issue the license subject to any terms or conditions not contrary to public policy, including, but not limited to, the following:

- (1) Medical or psychiatric evaluation.
- (2) Continuing medical or psychiatric treatment.
- (3) Restriction of the type or circumstances of practice.
- (4) Continuing participation in a board-approved rehabilitation program.
- (5) Abstention from the use of alcohol or drugs.
- (6) Random fluid testing for alcohol or drugs.
- (7) Compliance with laws and regulations governing the practice of physical therapy.

(b) The applicant shall have the right to appeal the denial, or the issuance with terms and conditions, of any license 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. The action shall be final, except that the propriety of the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil Procedure.

(c) In lieu of refusing a license, the board may, upon stipulation or agreement by the licensee, issue a public letter of reprimand after it has conducted an investigation or inspection as provided for in this chapter. The public letter of reprimand may include a requirement for specified training or education, and cost recovery for investigative costs. The board shall notify the licensee of its intention to issue the letter 30 days before the intended issuance date of the letter. The licensee shall indicate in writing at least 15 days prior to the letter's intended issuance date whether he or she agrees to the issuance of the letter. The board, at its option, may extend the time within which the licensee may respond to its notification. If the licensee does not agree to the issuance of

the letter, the board shall not issue the letter and may proceed to file the accusation. The board may use a public letter of reprimand only for minor violations, as defined by the board, committed by the applicant. A public letter of reprimand issued pursuant to this section shall be disclosed by the board to an inquiring member of the public and shall be posted on the board's Internet Web site.

~~SEC. 56.~~ SEC. 55.

Section 2660.3 of the Business and Professions Code is amended to read:

2660.3.

In lieu of filing or prosecuting a formal accusation against a licensee, the board may, upon stipulation or agreement by the licensee, issue a public letter of reprimand after it has conducted an investigation or inspection as provided for in this chapter. The *public letter of reprimand may include a requirement for specified training or education, and cost recovery for investigative costs.* The board shall notify the licensee of its intention to issue the letter 30 days before the intended issuance date of the letter. The licensee shall indicate in writing at least 15 days prior to the letter's intended issuance date whether he or she agrees to the issuance of the letter. The board, at its option, may extend the time within which the licensee may respond to its notification. If the licensee does not agree to the issuance of the letter, the board shall not issue the letter and may proceed to file the accusation. The board may use a public letter of reprimand only for minor violations, as defined by the board, committed by the licensee. A public letter of reprimand issued pursuant to this section shall be disclosed by the board to an inquiring member of the public and shall be posted on the board's Internet Web site.

SEC. 56.

Section 2660.4 is added to the Business and Professions Code, to read:

2660.4.

A licensee who fails or refuses to comply with a request from the board for the medical records of a patient, that is accompanied by that patient's written authorization for release of records to the board, within 15 days of receiving the request and authorization shall pay to the board a civil penalty of one thousand dollars (\$1,000) per day for each day that the records have not been produced after the 15th day, unless the licensee is unable to provide the records within this time period for good cause.

~~SEC. 58.~~ SEC. 57.

Section 2660.5 of the Business and Professions Code is amended to read:

2660.5.

The board shall deny a physical therapist license or physical therapist assistant ~~approval~~ *license* to an applicant who is required to register pursuant to Section 290 of the Penal Code. This section does not apply to an applicant who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code.

SEC. 58.

Section 2660.8 is added to the Business and Professions Code, to read:

2660.8.

A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

(a) Have his or her license revoked upon order of the board.

(b) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

(c) Be placed on probation and required to pay the costs of probation monitoring upon order of the board.

(d) Be publicly reprimanded by the board.

(e) Be required to surrender his or her license based on an order of the board.

(f) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

~~SEC. 60.~~ SEC. 59.

Section 2661 of the Business and Professions Code is amended to read:

2661.

A plea or verdict of guilty or a conviction following a plea of nolo contendere ~~made to a charge of a felony or of any offense which substantially relates to the qualifications, functions, or duties of a physical therapist~~ is deemed to be a conviction within the meaning of this article. The board may order ~~the license suspended or revoked, or may decline to issue a license,~~ *discipline of the licensee in accordance with Section 2660 or the board may take action as authorized in Section 2660.2 on an application* 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 Section 1203.4 of the Penal Code allowing that person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

~~SEC. 61.~~ SEC. 60.

Section 2661.7 of the Business and Professions Code is amended to read:

2661.7.

(a) A person whose license ~~or approval~~ has been revoked or suspended, or who has been placed on probation, may petition the ~~Physical Therapy Board of California~~ *board* for reinstatement or modification of penalty, including modification or termination of probation, after a period of not less than the following minimum periods has elapsed from the effective date of the decision ordering that disciplinary action:

(1) At least three years for reinstatement of a license or approval revoked for unprofessional conduct, except that the board may, for good cause shown, specify in a revocation order that a petition for reinstatement may be filed after two years.

(2) At least two years for early termination ~~of~~ *or one year for modification of a condition of* probation of three years or more.

(3) At least one year for ~~modification of a condition, or~~ reinstatement of a license ~~or approval~~ revoked for mental or physical illness, or *for modification of a condition, or* termination of probation of less than three years.

(b) The petition shall state any facts as may be required by the board. The petition shall be accompanied by at least two verified recommendations from physical therapists licensed by the board who have personal knowledge of the activities of the petitioner since the disciplinary penalty was imposed.

(c) The petition may be heard by the board. The board may assign the petition to an administrative law judge designated in Section 11371 of the Government Code. After a hearing on the petition, the administrative law judge shall provide a proposed decision to the ~~committee~~ *board* that shall be acted upon in accordance with the Administrative Procedure Act.

(d) The board or the administrative law judge hearing the ~~petition,~~ *petition* may consider all activities of the petitioner since the disciplinary action was taken, the offense for which the petitioner was disciplined, the petitioner's activities during the time the license was in good standing, and the petitioner's rehabilitative efforts, general reputation for truth, and professional ability. The hearing may be continued, as the *board or the* administrative law judge designated in Section 11371 of the Government Code finds necessary.

(e) The administrative law judge designated in Section 11371 of the Government Code when hearing a petition for reinstating a ~~license~~ *license*, or ~~approval,~~ *or* modifying a penalty, may recommend the imposition of any terms and conditions deemed necessary.

(f) No petition shall be considered while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole. No petition shall be considered while there is an accusation or petition to revoke probation pending against the ~~person,~~ *petitioner*. The board may deny, without a hearing or argument, any petition filed pursuant to this section within a period of two years from the effective date of the prior decision following a hearing under this section.

(g) Nothing in this section shall be deemed to alter Sections 822 and 823.

SEC. 61.

The heading of Article 5.5 (commencing with Section 2662) of Chapter 5.7 of Division 2 of the Business and Professions Code is amended and renumbered to read:

Article 7. Substance Abuse Rehabilitation Program

~~SEC. 63.~~ **SEC. 62.**

Section 2663 of the Business and Professions Code is amended to read:

2663.

The board shall establish and administer a ~~diversion program~~ *substance abuse rehabilitation program, hereafter referred to as the rehabilitation program*, for the rehabilitation of physical therapists and physical therapist assistants whose competency is impaired due to the abuse of drugs or alcohol. The board may contract with any other state agency or a private organization to perform its duties under this article. The board may establish one or more ~~diversion~~ *rehabilitation* evaluation committees to assist it in carrying out its duties under this article. Any ~~diversion~~ *rehabilitation* evaluation committee established by the board shall operate under the direction of the ~~diversion~~ *rehabilitation* program manager, as designated by the executive officer of the board. The program manager has the primary responsibility to review and evaluate recommendations of the committee.

~~SEC. 64.~~ **SEC. 63.**

Section 2664 of the Business and Professions Code is amended to read:

2664.

(a) Any ~~diversion~~ *rehabilitation* evaluation committee established by the board shall have at least three members. In making appointments to a ~~diversion~~ *rehabilitation* evaluation committee, the board shall consider the appointment of persons who are either recovering from substance abuse and have been free from substance abuse for at least three years immediately prior to their appointment or who are knowledgeable in the treatment and recovery of substance abuse. The board also shall consider the appointment of a physician and surgeon who is board certified in psychiatry.

(b) Appointments to a ~~diversion~~ *rehabilitation* evaluation committee shall be by the affirmative vote of a majority of members appointed to the board. Each appointment shall be at the pleasure of the board for a term not to exceed four years. In its discretion, the board may stagger the terms of the initial members so appointed.

(c) A majority of the members of a ~~diversion~~ *rehabilitation* evaluation committee shall constitute a quorum for the transaction of business. Any action requires an affirmative vote of a majority of those members present at a meeting constituting at least a quorum. Each ~~diversion~~ *rehabilitation* evaluation committee shall elect from its membership a chairperson and a vice chairperson. Notwithstanding the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code), relating to public meetings, a ~~diversion~~ *rehabilitation* evaluation committee may convene in closed session to consider matters relating to any physical therapist or physical therapist assistant applying for or participating in a ~~diversion~~ *rehabilitation* program, and a meeting which will be convened entirely in closed session need not comply with Section 11125 of the Government Code. A ~~diversion~~ *rehabilitation* evaluation committee shall only convene in closed session to the extent it is necessary to protect the privacy of an applicant or

participant. Each member of a ~~diversion~~ *rehabilitation* evaluation committee shall receive a per diem and shall be reimbursed for expenses as provided in Section 103.

~~SEC. 65.~~ **SEC. 64.**

Section 2665 of the Business and Professions Code is amended to read:

2665.

Each ~~diversion~~ *rehabilitation* evaluation committee has the following duties and responsibilities:

- (a) To evaluate physical therapists and physical therapist assistants who request participation in the *rehabilitation* program and to make recommendations. In making recommendations, the committee shall consider any recommendations from professional consultants on the admission of applicants to the ~~diversion~~ *rehabilitation* program.
- (b) To review and ~~designation of~~ *designate* treatment facilities to which physical therapists and physical therapist assistants in the ~~diversion~~ *rehabilitation* program may be referred.
- (c) To receive and review information concerning physical therapists and physical therapist assistants participating in the program.
- (d) Calling meetings as necessary to consider the requests of physical therapists and physical therapist assistants to participate in the ~~diversion~~ *rehabilitation* program, to consider reports regarding participants in the program, and to consider any other matters referred to it by the board.
- (e) To consider whether each participant in the ~~diversion~~ *rehabilitation* program may with safety continue or resume the practice of physical therapy.
- (f) To set forth in writing the terms and conditions of the ~~diversion~~ *rehabilitation* agreement that is approved by the program manager for each physical therapist and physical therapist assistant participating in the program, including treatment, supervision, and monitoring requirements.
- (g) ~~Holding~~ *To hold* a general meeting at least twice a year, which shall be open and public, to evaluate the ~~diversion~~ *rehabilitation* program's progress, to prepare reports to be submitted to the board, and to suggest proposals for changes in the ~~diversion~~ *rehabilitation* program.
- (h) For the purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, any member of a ~~diversion~~ *rehabilitation* evaluation committee shall be considered a public employee. No board or ~~diversion~~ *rehabilitation* evaluation committee member, contractor, or agent thereof, shall be liable for any civil damage because of acts or omissions which may occur while acting in good faith in a program established pursuant to this article.

~~SEC. 66.~~ **SEC. 65.**

Section 2666 of the Business and Professions Code is amended to read:

2666.

(a) Criteria for acceptance into the ~~diversion~~ *rehabilitation* program shall include all of the following:

- (1) The applicant shall be licensed as a physical therapist or ~~approved~~ as a physical therapist assistant by the board and shall be a resident of California.
- (2) The applicant shall be found to abuse dangerous drugs or alcoholic beverages in a manner ~~which~~ *that* may affect his or her ability to practice physical therapy safely or competently.
- (3) The applicant shall have voluntarily requested admission to the program or shall be accepted into the program in accordance with terms and conditions resulting from a disciplinary action.
- (4) The applicant shall agree to undertake any medical or psychiatric examination ordered to evaluate the applicant for participation in the program.
- (5) The applicant shall cooperate with the program by providing medical information, disclosure authorizations, and releases of liability as may be necessary for participation in the program.
- (6) The applicant shall agree in writing to cooperate with all elements of the treatment program designed for him or her.

Any applicant may be denied participation in the program if the board, the program manager, or a ~~diversion~~ *rehabilitation* evaluation committee determines that the applicant will not substantially benefit from participation in the program or that the applicant's participation in the program creates too great a risk to the public health, safety, or welfare.

(b) A participant may be terminated from the program for any of the following reasons:

- (1) The participant has successfully completed the treatment program.
- (2) The participant has failed to comply with the treatment program designated for him or her.
- (3) The participant fails to meet any of the criteria set forth in subdivision (a) or (c).
- (4) It is determined that the participant has not substantially benefited from participation in the program or that his or her continued participation in the program creates too great a risk to the public health, safety, or welfare. Whenever an applicant is denied participation in the program or a participant is terminated from the program for any reason other than the successful completion of the program, and it is determined that the continued practice of physical therapy by that individual creates too great a risk to the public health, safety, and welfare, that fact shall be reported to the executive officer of the board and all documents and information pertaining to and supporting that

conclusion shall be provided to the executive officer. The matter may be referred for investigation and disciplinary action by the board. Each physical therapist or physical therapy assistant who requests participation in a ~~diversion~~ *rehabilitation* program shall agree to cooperate with the recovery program designed for him or her. Any failure to comply with that program may result in termination of participation in the program.

The ~~diversion~~ *rehabilitation* evaluation committee shall inform each participant in the program of the procedures followed in the program, of the rights and responsibilities of a physical therapist or physical therapist assistant in the program, and the possible results of noncompliance with the program.

(c) In addition to the criteria and causes set forth in subdivision (a), the board may set forth in its regulations additional criteria for admission to the program or causes for termination from the program.

~~SEC. 67.~~ **SEC. 66.**

Section 2667 of the Business and Professions Code is amended to read:

2667.

All board and ~~diversion~~ *rehabilitation* evaluation committee records and records of proceedings and participation of a physical therapist or physical therapist assistant in a program shall be confidential and are not subject to discovery or subpoena.

~~SEC. 68.~~ **SEC. 67.**

Section 2668 of the Business and Professions Code is amended to read:

2668.

(a) A fee to cover the actual cost of administering the program shall be charged for participation in the program. If the board contracts with any other entity to carry out this article, at the discretion of the board, the fee may be collected and retained by that entity.

(b) If the board contracts with any other entity to carry out this section, the executive officer of the board, or his or her designee, shall review the activities and performance of the contractor on a biennial basis. As part of this review, the board shall review files of participants in the program. However, the names of participants who entered the program voluntarily shall remain confidential, except when the review reveals misdiagnosis, case mismanagement, or noncompliance by the participant.

(c) Subdivision (a) shall apply to all new participants entering into the board's ~~diversion~~ *rehabilitation* program on or after January 1, 2007. Subdivision (a) shall apply on and after January 1, 2008, to participants currently enrolled as of December 31, 2007.

~~SEC. 69.~~ **SEC. 68.**

Section 2669 of the Business and Professions Code is amended to read:

2669.

Participation in a ~~diversion~~ *rehabilitation* program shall not be a defense to any disciplinary action ~~which that~~ may be taken by the board. This section does not preclude the board from commencing disciplinary action against a physical therapist or physical therapist assistant who is terminated unsuccessfully from the ~~program under this section-~~ *program*. That disciplinary action may not include as evidence any confidential information.

SEC. 69.

The heading of Article 6 (commencing with Section 2670) of Chapter 5.7 of Division 2 of the Business and Professions Code is amended and renumbered to read:

Article 8. Offenses Against this Chapter

~~SEC. 71.~~ **SEC. 70.**

Section 2672 of the Business and Professions Code is amended to read:

2672.

Whenever any person has engaged or is about to engage in any acts or practices ~~which that~~ constitute or will constitute an offense against this chapter, the superior court of any county, on application of the ~~Medical Board of California, the~~ board, or 10 or more persons holding physical therapist licenses issued under this chapter, may issue an injunction or other appropriate order restraining the conduct. Proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

SEC. 71.

The heading of Article 6.5 (commencing with Section 2676) of Chapter 5.7 of Division 2 of the Business and Professions Code is repealed.

~~SEC. 73.~~ **SEC. 72.**

Section 2676 of the Business and Professions Code is amended and renumbered to read:

~~2676.~~ **2649.**

(a) A person renewing his or her license ~~or approval~~ shall submit proof satisfactory to the board that, during the preceding two years, he or she has completed the required number of continuing education hours established by regulation by the board, or such other proof of continuing competency as the board may establish by regulation. Required continuing education shall not exceed 30 hours every two years.

(b) The board shall adopt and administer regulations including, but not limited to, continuing education intended to ensure the continuing competency of persons licensed ~~or approved~~ pursuant to this chapter. The board may establish different requirements for physical therapists and physical therapist assistants. The board may not require the completion of an additional postsecondary degree or successful completion of an examination as a condition of renewal, but may recognize these as demonstrative of continuing competency. This program shall include provisions requiring random audits of licensees ~~and holders of approval~~ in order to ensure compliance.

(c) The administration of this section may be funded through professional license fees, continuing education provider *fees*, and ~~course approval fees, or both.~~ *recognized approval agency fees*. The fees shall not exceed the amounts necessary to cover the actual costs of administering this section.

SEC. 73.

The heading of Article 7 (commencing with Section 2680) of Chapter 5.7 of Division 2 of the Business and Professions Code is amended and renumbered to read:

Article 9. Fiscal Administration

~~SEC. 75.~~ **SEC. 74.**

Section 2682 of the Business and Professions Code is amended to read:

2682.

There is in the State Treasury the Physical Therapy Fund. All collections from persons licensed or ~~approved or~~ seeking to be licensed ~~or approved~~ shall be paid by the board into the fund after reporting to the Controller at the beginning of each month the amount and source of the collections. All money in the Physical Therapy Fund is appropriated ~~to carry out the purposes of~~ *for the exclusive purpose of executing* this chapter.

~~SEC. 76.~~ **SEC. 75.**

Section 2683 of the Business and Professions Code is repealed.

~~2683.~~

~~Except as provided in Section 2684, the provisions of Article 19 (commencing with Section 2420) of Chapter 5 apply to the issuance and govern the expiration and renewal of licenses issued under this chapter.~~

~~SEC. 77.~~ **SEC. 76.**

Section 2684 of the Business and Professions Code is repealed.

~~2684.~~

~~(a) Notwithstanding Section 2422, any license or approval for the practice of physical therapy shall expire at midnight on the last day of the birth month of the licensee or holder of the approval during the second year of a two-year term, if not renewed.~~

~~(b) To renew an unexpired license or approval, the licensee or the holder of the approval shall, on or before the dates on which it would otherwise expire, apply for renewal on a form prescribed by the board, pay the prescribed renewal fee, and submit proof of the completion of continuing education or competency required by the board pursuant to Article 6.5 (commencing with Section 2676). The licensee or holder of the approval shall disclose on his or her license renewal application any misdemeanor or other criminal offense for which he or she has been found guilty or to which he or she has pleaded guilty or no contest.~~

~~(c) A license or approval that has expired may be renewed within five years upon payment of all accrued and unpaid renewal fees and satisfaction of the requirements described in subdivision (b).~~

~~SEC. 78.~~ **SEC. 77.**

Section 2685 of the Business and Professions Code is repealed.

~~2685.~~

~~At least 60 days before the expiration of any license or approval, the board shall mail to each licensee under this chapter, at the latest address furnished by the licensee to the executive officer, a notice stating the amount of the renewal fee and the date on which it is due, and that failure to pay it on or before the due date will result in expiration of the license.~~

SEC. 78.

The heading of Article 8 (commencing with Section 2690) of Chapter 5.7 of Division 2 of the Business and Professions Code is amended and renumbered to read:

Article 10. Physical Therapy Corporations

~~SEC. 80.~~ **SEC. 79.**

Section 12529 of the Government Code, as amended by Section 113 of Chapter 332 of the Statutes of 2012, is amended to read:

12529.

(a) There is in the Department of Justice the Health Quality Enforcement Section. The primary responsibility of the section is to prosecute proceedings against licensees and applicants within the jurisdiction of the Medical Board of California, the California Board of Podiatric Medicine, the Board of Psychology, *the Physical Therapy Board of California*, or any committee under the jurisdiction of the Medical Board of California, and to provide ongoing review of the investigative activities conducted in support of those prosecutions, as provided in subdivision (b) of Section 12529.5.

(b) The Attorney General shall appoint a Senior Assistant Attorney General of the Health Quality Enforcement Section. The Senior Assistant Attorney General of the Health Quality Enforcement Section shall be an attorney in good standing licensed to practice in the State of California, experienced in prosecutorial or administrative disciplinary proceedings and competent in the management and supervision of attorneys performing those functions.

(c) The Attorney General shall ensure that the Health Quality Enforcement Section is staffed with a sufficient number of experienced and able employees that are capable of handling the most complex and varied types of disciplinary actions against the licensees of the ~~board.~~ *boards.*

(d) Funding for the Health Quality Enforcement Section shall be budgeted in consultation with the Attorney General from the special funds financing the operations of the Medical Board of California, the California Board of Podiatric Medicine, the Board of Psychology, *the Physical Therapy Board of California*, and the committees under the jurisdiction of the Medical Board of California, with the intent that the expenses be proportionally shared as to services rendered.

(e) This section shall become operative *on* January 1, 2014.

SEC. 81. SEC. 80.

Section 12529.5 of the Government Code, as amended by Section 115 of Chapter 332 of the Statutes of 2012, is amended to read:

12529.5.

(a) All complaints or relevant information concerning licensees that are within the jurisdiction of the Medical Board of California, the California Board of Podiatric Medicine, ~~or the Board of Psychology~~ *Psychology, or the Physical Therapy Board of California*, shall be made available to the Health Quality Enforcement Section.

(b) The Senior Assistant Attorney General of the Health Quality Enforcement Section shall assign attorneys to assist the boards in intake and investigations and to direct discipline-related prosecutions. Attorneys shall be assigned to work closely with each major intake and investigatory unit of the boards, to assist in the evaluation and screening of complaints from receipt through ~~disposition~~ *disposition*, and to assist in developing uniform standards and procedures for the handling of complaints and investigations.

A deputy attorney general of the Health Quality Enforcement Section shall frequently be available on location at each of the working offices at the major investigation centers of the boards, to provide consultation and related services and engage in case review with the boards' investigative, medical advisory, and intake staff. The Senior Assistant Attorney General and *his or her* deputy attorneys general working at his or her direction shall consult as appropriate with the investigators of the boards, medical advisors, and executive staff in the investigation and prosecution of disciplinary cases.

(c) The Senior Assistant Attorney General or his or her deputy attorneys general shall assist the boards ~~or committees~~ in designing and providing initial and in-service training programs for staff of the ~~boards or committees,~~ *boards*, including, but not limited to, information collection and investigation.

(d) The determination to bring a disciplinary proceeding against a licensee of the boards shall be made by the executive officer of the boards ~~or committees~~ as appropriate in consultation with the senior assistant.

(e) This section shall become operative *on* January 1, 2014.

SEC. 81.

No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

PHYSICAL THERAPY BOARD OF CALIFORNIA

Legislative Analysis

Bill Number	SB 305	Version	Amd. 6/19/13
Author	Price	Sponsor	Author Sponsored
Subject	Healing Arts: Boards	Status	Assembly Appropriations
Adopted Position	Support		

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Enrolled	Vetoed	Chaptered	Effective	2 yr./ Dead
1 st House				2 nd House								

Existing Law

1. Establishes various regulatory boards¹ under the Department of Consumer Affairs (DCA), including the Physical Therapy Board of California (Board) (Physical Therapy Board: B&P Code² § 2602).
2. Authorizes the Board to employ an executive officer (B&P Code § 2607.5).
3. Sets forth that boards under the DCA shall require an applicant to furnish a full set of fingerprints for purposes of conducting criminal history record checks, and specifies that the boards may obtain and receive criminal history information from the Department of Justice and the United States Federal Bureau of Investigation (B&P Code § 144).
4. Specifies acts that are not prohibited by the Respiratory Care Act (B&P Code § 3765).

This Bill

1. Extends, until January 1, 2018, the sunset date for the provisions establishing the following boards:
 - (A) Naturopathic Medicine Committee
 - (B) Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board
 - (C) California Board of Occupational Therapy

¹ B&P Code section 22 states, "board," as used in any provision of this code [B&P Code], refers to the board in which the administration of the provision is vested, and unless otherwise expressly provided, shall include "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency."

² Business and Professions Code

- (D) The Physical Therapy Board of California
 - (E) The Board of Optometry
 - (F) The Respiratory Care Board of California
 - (G) Osteopathic Medical Board of California (non-sunset)
 - (H) Board of Chiropractic Examiners (non-sunset)
2. Specifies that any board under the DCA is authorized to receive, from a local or state agency, certified records of all arrests and convictions, certified records regarding probation, and any and all other related documentation needed to complete an applicant or licensee investigation, and further specifies that a local or state agency may provide the records to the board upon request.
 3. Authorizes persons who are currently employed by Los Angeles County hospitals and have performed pulmonary function testing for at least 15 years to practice without obtaining licensure.

Background/Purpose

Sunset

The sunset review process provides a formal opportunity and mechanism for the DCA, the Legislature, boards, interested parties and stakeholders to discuss the performance of the boards and make recommendations for improvements. This is performed on a four-year cycle and was mandated by SB 2036 (McCorquodale, Chapter 908, Statutes of 1994).

In March 2013, the Assembly Business, Professions and Consumer Protection (BP&CP) Committee and the Senate Business Professions, and Economic Development (BP&ED) Committee conducted a joint oversight hearing to review 14 regulatory boards within DCA. The Committees began their review of these licensing agencies in March and conducted three days of hearings. This bill, like the accompanying sunset bills, is intended to implement legislative changes as recommended in the background reports authored by the Senate BP&ED Committee for all of the agencies reviewed by the Committees this year.

Respiratory Care Licensure Exemption

According to the Service Employees International Union (SEIU), "The affected pulmonary technicians at the Los Angeles County + University of Southern California Healthcare Network and Harbor-University of California Los Angeles Medical Center average 25 years' worth of experience in pulmonary function testing at the two largest public hospitals in Southern California. These professionals are an integral part of the care team. According to the Los Angeles County Department of Health, this group began their careers in pulmonary function testing prior to the California Respiratory Care Board's requirement for licensure, and worked for decades before DHS determined that the affected employees are technically practicing without appropriate

licensure. Despite their years of service and contributions to the delivery of health care, they have been temporarily reassigned to different roles pending resolution of the matter. SB 305 would narrowly apply to this cohort and remedy this oversight by providing that they can resume their work in pulmonary function testing. Failure to do so would adversely impact the quality of access of patients.”

Related Legislation

SB 198 (Price, 2013) would reorganize and update the Physical Therapy Practice Act.

Status: Assembly Appropriations

Other Sunset Bills

SB 304 (Price, 2013) – Medical Board of California

SB 308 (Price, 2013) – Interior Design Law, Board of Guide Dogs for the Blind, and Board of Barbering and Cosmetology

SB 309 (Price, 2013) – State Athletic Commission

Fiscal Impact

Board staff has not identified a fiscal impact.

Support and Opposition

Support

California Naturopathic Doctors Association
California Optometric Association
California State Board of Optometry
Naturopathic Medicine Committee
Osteopathic Physicians and Surgeons of California
Physical Therapy Board of California
SEIU California

Opposition

None on file

SB-305 Healing arts: boards.

Bill last amended June 19, 2013.

Author: Price

TODAY'S LAW AS AMENDED^{1,2}

SECTION 1.

Section 144.5 is added to the Business and Professions Code, to read:

144.5.

Notwithstanding any other law, a board described in Section 144 may request, and is authorized to receive, from a local or state agency certified records of all arrests and convictions, certified records regarding probation, and any and all other related documentation needed to complete an applicant or licensee investigation. A local or state agency may provide those records to the board upon request.

SEC. 2.

Section 1000 of the Business and Professions Code is amended to read:

1000.

(a) The law governing practitioners of chiropractic is found in an initiative act entitled "An act prescribing the terms upon which licenses may be issued to practitioners of chiropractic, creating the State Board of Chiropractic Examiners and declaring its powers and duties, prescribing penalties for violation hereof, and repealing all acts and parts of acts inconsistent herewith," adopted by the electors November 7, 1922.

(b) The State Board of Chiropractic Examiners is within the Department of Consumer Affairs.

(c) Notwithstanding any other law, the powers and duties of the State Board of Chiropractic Examiners, as set forth in this article and under the act creating the board, shall be subject to review by the appropriate policy committees of the Legislature. The review shall be performed as if this chapter were scheduled to be repealed as of January 1, 2018.

SEC. 3.

Section 2450 of the Business and Professions Code is amended to read:

2450.

There is a Board of Osteopathic Examiners of the State of California, established by the Osteopathic Act, which shall be known as the Osteopathic Medical Board of California which enforces this chapter relating to persons holding or applying for physician's and surgeon's certificates issued by the Osteopathic Medical Board of California under the Osteopathic Act.

¹ The text in this document shows how existing law would be amended by the most current version of the bill.

² Blue, italic text is added to existing law; and, red, strikethrough text is being repealed from existing law.

Persons who elect to practice using the term of suffix “M.D.,” as provided in Section 2275, shall not be subject to this article, and the Medical Board of California shall enforce the provisions of this chapter relating to persons who made the election.

Notwithstanding any other law, the powers and duties of the Osteopathic Medical Board of California, as set forth in this article and under the Osteopathic Act, shall be subject to review by the appropriate policy committees of the Legislature. The review shall be performed as if this chapter were scheduled to be repealed as of January 1, 2018.

SEC. 4.

Section 2450.3 of the Business and Professions Code is amended to read:

2450.3.

There is within the jurisdiction of the Osteopathic Medical Board of California a Naturopathic Medicine Committee authorized under the Naturopathic Doctors Act (Chapter 8.2 (commencing with Section 3610)). This section shall become inoperative on January 1, ~~2014~~, ~~2018~~, and, as of that date is repealed, unless a later enacted statute that is enacted before January 1, ~~2014~~, ~~2018~~, deletes or extends that date. Notwithstanding any other provision of law, the repeal of this section renders the Naturopathic Medicine Committee subject to review by the appropriate policy committees of the Legislature.

SEC. 5.

Section 2530.2 of the Business and Professions Code is amended to read:

2530.2.

As used in this chapter, unless the context otherwise requires:

(a) “Board” means the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board. ~~As used in this chapter or any other provision of law, “Speech-Language Pathology and Audiology Board” shall be deemed to refer to the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board or any successor.~~

(b) “Person” means any individual, partnership, corporation, limited liability company, or other organization or combination thereof, except that only individuals can be licensed under this chapter.

(c) A “speech-language pathologist” is a person who practices speech-language pathology.

(d) The practice of speech-language pathology means all of the following:

(1) The application of principles, methods, instrumental procedures, and noninstrumental procedures for measurement, testing, screening, evaluation, identification, prediction, and counseling related to the development and disorders of speech, voice, language, or swallowing.

(2) The application of principles and methods for preventing, planning, directing, conducting, and supervising programs for habilitating, rehabilitating, ameliorating, managing, or modifying disorders of speech, voice, language, or swallowing in individuals or groups of individuals.

(3) Conducting hearing screenings.

(4) Performing suctioning in connection with the scope of practice described in paragraphs (1) and (2), after compliance with a medical facility's training protocols on suctioning procedures.

(e) (1) Instrumental procedures referred to in subdivision (d) are the use of rigid and flexible endoscopes to observe the pharyngeal and laryngeal areas of the throat in order to observe, collect data, and measure the parameters of communication and swallowing as well as to guide communication and swallowing assessment and therapy.

(2) Nothing in this subdivision shall be construed as a diagnosis. Any observation of an abnormality shall be referred to a physician and surgeon.

(f) A licensed speech-language pathologist shall not perform a flexible fiberoptic nasendoscopic procedure unless he or she has received written verification from an otolaryngologist certified by the American Board of Otolaryngology that the speech-language pathologist has performed a minimum of 25 flexible fiberoptic nasendoscopic procedures and is competent to perform these procedures. The speech-language pathologist shall have this written verification on file and readily available for inspection upon request by the board. A speech-language pathologist shall pass a flexible fiberoptic nasendoscopic instrument only under the direct authorization of an otolaryngologist certified by the American Board of Otolaryngology and the supervision of a physician and surgeon.

(g) A licensed speech-language pathologist shall only perform flexible endoscopic procedures described in subdivision (e) in a setting that requires the facility to have protocols for emergency medical backup procedures, including a physician and surgeon or other appropriate medical professionals being readily available.

(h) "Speech-language pathology aide" means any person meeting the minimum requirements established by the board, who works directly under the supervision of a speech-language pathologist.

(i) (1) "Speech-language pathology assistant" means a person who meets the academic and supervised training requirements set forth by the board and who is approved by the board to assist in the provision of speech-language pathology under the direction and supervision of a speech-language pathologist who shall be responsible for the extent, kind, and quality of the services provided by the speech-language pathology assistant.

(2) The supervising speech-language pathologist employed or contracted for by a public school may hold a valid and current license issued by the board, a valid, current, and professional clear clinical or rehabilitative services credential in language, speech, and hearing issued by the Commission on Teacher Credentialing, or other credential

authorizing service in language, speech, and hearing issued by the Commission on Teacher Credentialing that is not issued on the basis of an emergency permit or waiver of requirements. For purposes of this paragraph, a “clear” credential is a credential that is not issued pursuant to a waiver or emergency permit and is as otherwise defined by the Commission on Teacher Credentialing. Nothing in this section referring to credentialed supervising speech-language pathologists expands existing exemptions from licensing pursuant to Section 2530.5.

(j) An “audiologist” is one who practices audiology.

(k) “The practice of audiology” means the application of principles, methods, and procedures of measurement, testing, appraisal, prediction, consultation, counseling, instruction related to auditory, vestibular, and related functions and the modification of communicative disorders involving speech, language, auditory behavior or other aberrant behavior resulting from auditory dysfunction; and the planning, directing, conducting, supervising, or participating in programs of identification of auditory disorders, hearing conservation, cerumen removal, aural habilitation, and rehabilitation, including, hearing aid recommendation and evaluation procedures including, but not limited to, specifying amplification requirements and evaluation of the results thereof, auditory training, and speech reading, and the selling of hearing aids.

(l) A “dispensing audiologist” is a person who is authorized to sell hearing aids pursuant to his or her audiology license.

(m) “Audiology aide” means any person meeting the minimum requirements established by the board. An audiology aide may not perform any function that constitutes the practice of audiology unless he or she is under the supervision of an audiologist. The board may by regulation exempt certain functions performed by an industrial audiology aide from supervision provided that his or her employer has established a set of procedures or protocols that the aide shall follow in performing these functions.

(n) “Medical board” means the Medical Board of California.

(o) A “hearing screening” performed by a speech-language pathologist means a binary puretone screening at a preset intensity level for the purpose of determining if the screened individuals are in need of further medical or audiological evaluation.

(p) “Cerumen removal” means the nonroutine removal of cerumen within the cartilaginous ear canal necessary for access in performance of audiological procedures that shall occur under physician and surgeon supervision. Cerumen removal, as provided by this section, shall only be performed by a licensed audiologist. Physician and surgeon supervision shall not be construed to require the physical presence of the physician, but shall include all of the following:

(1) Collaboration on the development of written standardized protocols. The protocols shall include a requirement that the supervised audiologist immediately refer to an appropriate physician any trauma, including skin tears, bleeding, or other pathology of the ear discovered in the process of cerumen removal as defined in this subdivision.

- (2) Approval by the supervising physician of the written standardized protocol.
- (3) The supervising physician shall be within the general vicinity, as provided by the physician-audiologist protocol, of the supervised audiologist and available by telephone contact at the time of cerumen removal.
- (4) A licensed physician and surgeon may not simultaneously supervise more than two audiologists for purposes of cerumen removal.

SEC. 6.

Section 2531 of the Business and Professions Code is amended to read:

2531.

(a) There is in the Department of Consumer Affairs ~~a~~ *the* Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board in which the enforcement and administration of this chapter are vested. The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board shall consist of nine members, three of whom shall be public members.

(b) This section shall remain in effect only until January 1, ~~2014, 2018~~, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2014, 2018~~, deletes or extends that date. ~~The~~ *Notwithstanding any other law, the* repeal of this section renders the board subject to ~~the~~ review ~~required by Division 1.2 (commencing with Section 473).~~ *by the appropriate policy committees of the Legislature.*

SEC. 7.

Section 2531.75 of the Business and Professions Code is amended to read:

2531.75.

(a) The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.

(b) This section shall remain in effect only until January 1, ~~2014, 2018~~, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2014, 2018~~, deletes or extends that date.

SEC. 8.

Section 2533 of the Business and Professions Code is amended to read:

2533.

The board may refuse to issue, or issue subject to terms and conditions, a license on the grounds specified in Section 480, or may suspend, revoke, or impose terms and conditions upon the license of any licensee for any of the following:

(a) Conviction of a crime substantially related to the qualifications, functions, and duties of a speech-language pathologist or audiologist or hearing aid dispenser, as the case may be. The record of the conviction shall be conclusive evidence thereof.

(b) Securing a license by fraud or deceit.

(c) (1) The use or administering to himself or ~~herself~~, *herself* of any controlled substance; (2) the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the ~~extent~~, *extent* or in a manner as to be dangerous or injurious to the licensee, to any other person, or to the public, or to the extent that the use impairs the ability of the licensee to practice speech-language pathology or audiology safely; (3) more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section; or (4) any combination of paragraph (1), (2), or (3). The record of the conviction shall be conclusive evidence of unprofessional conduct.

(d) Advertising in violation of Section 17500. Advertising an academic degree that was not validly awarded or earned under the laws of this state or the applicable jurisdiction in which it was issued is deemed to constitute a violation of Section 17500.

(e) Committing a dishonest or fraudulent act that is substantially related to the qualifications, functions, or duties of a licensee.

(f) Incompetence, gross negligence, or repeated negligent acts.

(g) Other acts that have endangered or are likely to endanger the health, welfare, and safety of the public.

(h) Use by a hearing aid dispenser of the term “doctor” or “physician” or “clinic” or “audiologist,” or any derivation thereof, except as authorized by law.

(i) The use, or causing the use, of any advertising or promotional literature in a manner that has the capacity or tendency to mislead or deceive purchasers or prospective purchasers.

(j) Any cause that would be grounds for denial of an application for a license.

(k) Violation of Section 1689.6 or 1793.02 of the Civil Code.

(l) Violation of a term or condition of a probationary order of a license issued by the board pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 9.

Section 2570.19 of the Business and Professions Code is amended to read:

2570.19.

(a) There is hereby created a California Board of Occupational Therapy, hereafter referred to as the board. The board shall enforce and administer this chapter.

(b) The members of the board shall consist of the following:

(1) Three occupational therapists who shall have practiced occupational therapy for five years.

(2) One occupational therapy assistant who shall have assisted in the practice of occupational therapy for five years.

(3) Three public members who shall not be licentiates of the board, of any other board under this division, or of any board referred to in Section 1000 or 3600.

(c) The Governor shall appoint the three occupational therapists and one occupational therapy assistant to be members of the board. The Governor, the Senate Committee on Rules, and the Speaker of the Assembly shall each appoint a public member. Not more than one member of the board shall be appointed from the full-time faculty of any university, college, or other educational institution.

(d) All members shall be residents of California at the time of their appointment. The occupational therapist and occupational therapy assistant members shall have been engaged in rendering occupational therapy services to the public, teaching, or research in occupational therapy for at least five years preceding their appointments.

(e) The public members may not be or have ever been occupational therapists or occupational therapy assistants or in training to become occupational therapists or occupational therapy assistants. The public members may not be related to, or have a household member who is, an occupational therapist or an occupational therapy assistant, and may not have had, within two years of the appointment, a substantial financial interest in a person regulated by the board.

(f) The Governor shall appoint two board members for a term of one year, two board members for a term of two years, and one board member for a term of three years. Appointments made thereafter shall be for four-year terms, but no person shall be appointed to serve more than two consecutive terms. Terms shall begin on the first day of the calendar year and end on the last day of the calendar year or until successors are appointed, except for the first appointed members who shall serve through the last calendar day of the year in which they are appointed, before commencing the terms prescribed by this section. Vacancies shall be filled by appointment for the unexpired term. The board shall annually elect one of its members as president.

(g) The board shall meet and hold at least one regular meeting annually in the Cities of Sacramento, Los Angeles, and San Francisco. The board may convene from time to time until its business is concluded. Special meetings of the board may be held at any time and place designated by the board.

(h) Notice of each meeting of the board shall be given in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

(i) Members of the board shall receive no compensation for their services, but shall be entitled to reasonable travel and other expenses incurred in the execution of their powers and duties in accordance with Section 103.

(j) The appointing power shall have the power to remove any member of the board from office for neglect of any duty imposed by state law, for incompetency, or for unprofessional or dishonorable conduct.

(k) This section shall remain in effect only until January 1, ~~2014, 2018~~, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2014, 2018~~, deletes or extends that date. ~~The Notwithstanding any other law, the~~ repeal of this section renders the board subject to ~~the~~ review ~~required by Division 4.2 (commencing with Section 473).~~ *by the appropriate policy committees of the Legislature.*

SEC. 10.

Section 2602 of the Business and Professions Code is amended to read:

2602.

The Physical Therapy Board of California, hereafter referred to as the board, shall enforce and administer this chapter.

This section shall remain in effect only until January 1, ~~2014, 2018~~, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2014, 2018~~, deletes or extends that date.

Notwithstanding any other provision of law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

SEC. 11.

Section 2607.5 of the Business and Professions Code is amended to read:

2607.5.

(a) The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.

(b) This section shall remain in effect only until January 1, ~~2014, 2018~~, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2014, 2018~~, deletes or extends that date.

SEC. 12.

Section 3010.5 of the Business and Professions Code is amended to read:

3010.5.

(a) There is in the Department of Consumer Affairs a State Board of Optometry in which the enforcement of this chapter is vested. The board consists of 11 members, five of whom shall be public members.

Six members of the board shall constitute a quorum.

(b) The board shall, with respect to conducting investigations, inquiries, and disciplinary actions and proceedings, have the authority previously vested in the board as created

pursuant to Section 3010. The board may enforce any disciplinary actions undertaken by that board.

(c) This section shall remain in effect only until January 1, ~~2014, 2018~~, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2014, 2018~~, deletes or extends that date. ~~The Notwithstanding any other law, the~~ repeal of this section renders the board subject to ~~the~~ review ~~required by Division 1.2 (commencing with Section 473):~~ *by the appropriate policy committees of the Legislature.*

SEC. 13.

Section 3014.6 of the Business and Professions Code is amended to read:

3014.6.

(a) The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.

(b) This section shall remain in effect only until January 1, ~~2014, 2018~~, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2014, 2018~~, deletes or extends that date.

SEC. 14.

Section 3685 of the Business and Professions Code is amended to read:

3685.

~~(a) Notwithstanding The any other law, the~~ repeal of this chapter renders the committee subject to ~~the~~ review ~~required by Division 1.2 (commencing with Section 473):~~ *by the appropriate policy committees of the Legislature.*

~~(b) The committee shall prepare the report required by Section 473.2 no later than September 1, 2012.~~

SEC. 15.

Section 3686 of the Business and Professions Code is amended to read:

3686.

This chapter shall remain in effect only until January 1, ~~2014, 2018~~, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2014, 2018~~, deletes or extends that date.

SEC. 16.

Section 3710 of the Business and Professions Code is amended to read:

3710.

(a) The Respiratory Care Board of California, hereafter referred to as the board, shall enforce and administer this chapter.

(b) This section shall remain in effect only until January 1, ~~2014, 2018~~, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2014, 2018~~, deletes or extends that date. ~~The- Notwithstanding any other law, the~~ repeal of this section renders the board subject to ~~the~~ review ~~required by Division 1.2 (commencing with Section 473).~~ *by the appropriate policy committees of the Legislature.*

SEC. 17.

Section 3716 of the Business and Professions Code is amended to read:

3716.

The board may employ an executive officer exempt from civil service and, subject to the provisions of law relating to civil service, clerical assistants and, except as provided in Section 159.5, other employees as it may deem necessary to carry out its powers and duties.

This section shall remain in effect only until January 1, ~~2014, 2018~~, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2014, 2018~~, deletes or extends that date.

SEC. 18.

Section 3765 of the Business and Professions Code is amended to read:

3765.

This act does not prohibit any of the following activities:

(a) The performance of respiratory care that is an integral part of the program of study by students enrolled in approved respiratory therapy training programs.

(b) Self-care by the patient or the gratuitous care by a friend or member of the family who does not represent or hold himself or herself out to be a respiratory care practitioner licensed under the provisions of this chapter.

(c) The respiratory care practitioner from performing advances in the art and techniques of respiratory care learned through formal or specialized training.

(d) The performance of respiratory care in an emergency situation by paramedical personnel who have been formally trained in these modalities and are duly licensed under the provisions of an act pertaining to their speciality.

(e) Respiratory care services in case of an emergency. "Emergency," as used in this subdivision, includes an epidemic or public disaster.

(f) Persons from engaging in cardiopulmonary research.

(g) Formally trained licensees and staff of child day care facilities from administering to a child inhaled medication as defined in Section 1596.798 of the Health and Safety Code.

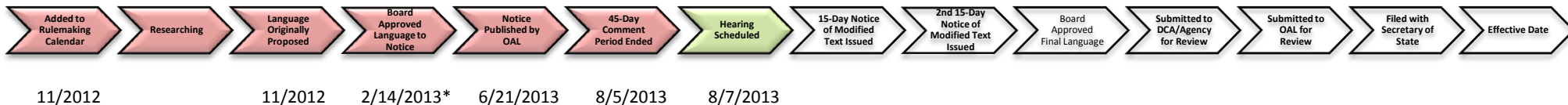
(h) The performance by a person employed by a home medical device retail facility or by a home health agency licensed by the State Department of *Public Health Services* of specific, limited, and basic respiratory care or respiratory care related services that have been authorized by the board.

(i) The performance of pulmonary function testing by persons who are currently employed by Los Angeles County hospitals and have performed pulmonary function testing for at least 15 years.

SEC. 19.

The Legislature finds and declares that a special law, as set forth in Section 18 of this act, is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances relating to persons who are currently employed by Los Angeles County hospitals and have performed pulmonary function testing for at least 15 years.

Guidelines for Issuing Citations and Imposing Discipline/Uniform Standards Regarding Substance-Abusing Healing Arts Licensees

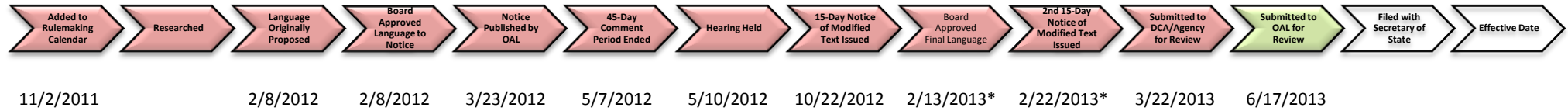


OAL No.: Notice File No. Z-2013-0611-02

Priority: *Recommend 1*

Notes: *The Board approved the proposed regulatory language to notice at the Nov. 2012 meeting; however, the terms implementing the Uniform Standards were not incorporated into the Guidelines at that time. In preparing the Guidelines, staff and legal counsel identified items for Board consideration; therefore, the Guidelines were presented, discussed and revised at the 5/2013 meeting. Please see agenda item --- for additional information.

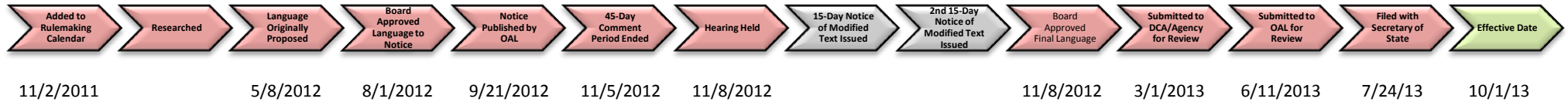
Mandatory Fingerprinting



OAL No.: Notice File No. Z-2012-0313-10/Regulatory Action No. 2013-0617-065

Notes: *The Board modified the first modified text at the February 2013 meeting and authorized the Executive Officer to adopt the regulatory changes, as modified, if no adverse comments were received during the public comment period; no adverse comments were received. The DCA extended the one-year deadline to submit the file to the OAL by 90 days on 3/22/2013; therefore, the file must be submitted to the OAL by 6/20/2013. The file was submitted to the OAL 6/17/13.

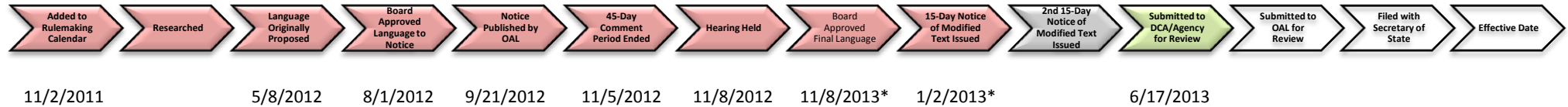
Notice to Consumers



OAL No.: Notice File No. Z-2012-0911-05/Regulatory Action No. 2013-0611-015

Notes:

Required E-mail Filing



OAL No.: Notice File No. Z-2012-0911-06

Notes: *The Board modified the proposed language at the November 2012 meeting and authorized the Executive Officer to adopt the regulatory changes, as modified, if no adverse comments were received during the public comment period; no adverse comments were received.

Processing Times

- At the last meeting of each calendar year, the Board adopts its Rulemaking Calendar for the following year; the meeting date is the “Added to Rulemaking Calendar” date.
- 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 Dept. 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 Statute of 2012 (SB 1099, Wright), regulation effective dates are as follows:

<u>Date Filed with the Secretary of State</u>	<u>Effective Date</u>
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 1st

Rulemaking “Parking Lot”

- Delegation Authority for Citation Informal Conferences (Cite and Fine)
- Review and/or Update of Application and Licensing Regulations
- Continuing Competency
- Telehealth
- Physical Therapy Business Requirements

DRAFT
Physical Therapy Board of California
2014 RULEMAKING CALENDAR

SCHEDULE A: PROPOSED REGULATIONS IMPLEMENTING STATUTES ENACTED DURING THE YEAR 2013

Subject: Update of Regulations		CCR Title & Sections Affected: Title 16, Division 13.2		Statute(s) Being Implemented: Business and Professions (B&P) Code, Division 2, Chapter 5.7			
Responsible Agency Unit: Administrative Services		Contact Person & Phone Number: Sarah Conley (916) 561-8210		Projected Dates:			
				Notice Published: 9/2014	Public Hearing: 11/2014	Adoption by your agency: 11/2014	To OAL for review: 1/2015

Subject: Physical Therapy Business Requirements		CCR Title & Sections Affected: Title 16, Division 13.2, Section(s) to be Determined		Statute(s) Being Implemented: B&P Code, Division 2, Chapter 5.7, Article 8			
Responsible Agency Unit: Administrative Services		Contact Person & Phone Number: Sarah Conley (916) 561-8210		Projected Dates:			
				Notice Published: 3/2014	Public Hearing: 5/2014	Adoption by your agency: 5/2014	To OAL for review: 7/2014

**Physical Therapy Board of California
2014 RULEMAKING CALENDAR**

SCHEDULE B: PROPOSED REGULATIONS IMPLEMENTING STATUTES ENACTED PRIOR TO THE YEAR 2013

Subject: Continuing Competency		CCR Title & Sections Affected: Title 16, Division 13.2, Article 13		Statute(s) Being Implemented: B&P Code, Division 2, Chapter 5.7, Section 2676			
Responsible Agency Unit: Administrative Services	Contact Person & Phone Number: Sarah Conley (916) 561-8210	Projected Dates:					
		Notice Published: 9/2014	Public Hearing: 11/2014	Adoption by your agency: 11/2014	To OAL for review: 1/2015		

Subject: Delegation Authority for Citation Informal Conferences (Cite and Fine)		CCR Title & Sections Affected: Title 16, Division 13.2, Section 1399.29		Statute(s) Being Implemented: B&P Code, Division 1, Chapter 1, Sections 125.9			
Responsible Agency Unit: Administrative Services	Contact Person & Phone Number: Sarah Conley (916) 561-8210	Projected Dates:					
		Notice Published: 12/2013	Public Hearing: 2/2014	Adoption by your agency: 2/2014	To OAL for review: 4/2014		

**Physical Therapy Board of California
2014 RULEMAKING CALENDAR**

Subject: Telehealth		CCR Title & Sections Affected: Title 16, Division 13.2, Section(s) to be Determined		Statute(s) Being Implemented: B&P Code, Division 2, Chapter 5, Section 2290.5 B&P Code, Division 2, Chapter 5.7, Section 2620			
Responsible Agency Unit: Administrative Services		Contact Person & Phone Number: Sarah Conley (916) 561-8210		Projected Dates:			
				Notice Published: 6/2014	Public Hearing: 8/2014	Adoption by your agency: 8/2014	To OAL for review: 10/2014

Physical Therapy Board of California
2014 RULEMAKING CALENDAR

Report on the status of all uncompleted rulemaking described on previous calendars:

Review and/or Update of Application and Licensing Regulations

CCR Section(s) Affected: Title 16, Division 13.2, Section(s) specifically identified:

1398.21, 1398.21.1, 1398.22, 1398.23, 1398.24, 1398.25, 1398.26, 1398.26.5, 1398.27, 1398.28, 1398.42, 1398.47, 1399.10, 1399.12

TBD section number – processing time for applicants completing application process, TBD section number – establishing exam scores

Status: Proposal Inactive – Reintroduced on 2014 Rulemaking Calendar. The Board postponed review of these regulations in anticipation of the passage of SB 198, which would revise of the Physical Therapy Practice Act.

Continuing Competency

CCR Section(s) Affected: Title 16, Division 13.2, Article 13, Section(s) 1399.90-1399.98

Status: Proposal Inactive – Reintroduced on 2014 Rulemaking Calendar.

Delegation Authority for Citation Informal Conferences (Cite and Fine)

CCR Section(s) Affected: Title 16, Division 13.2, Article 13, Section 1399.29

Status: Proposal Inactive – Reintroduced on 2014 Rulemaking Calendar.

Evaluation Elements

CCR Section(s) Affected: To be determined

Status: Proposal Abandoned – Determined unnecessary at this time.

Physical Therapy Business Requirements

CCR Section(s) Affected: To be determined

Status: Proposal Inactive – Reintroduced on 2014 Rulemaking Calendar.

Telehealth

CCR Section(s) Affected: To be determined

Status: Proposal Inactive – Reintroduced on 2014 Rulemaking Calendar.

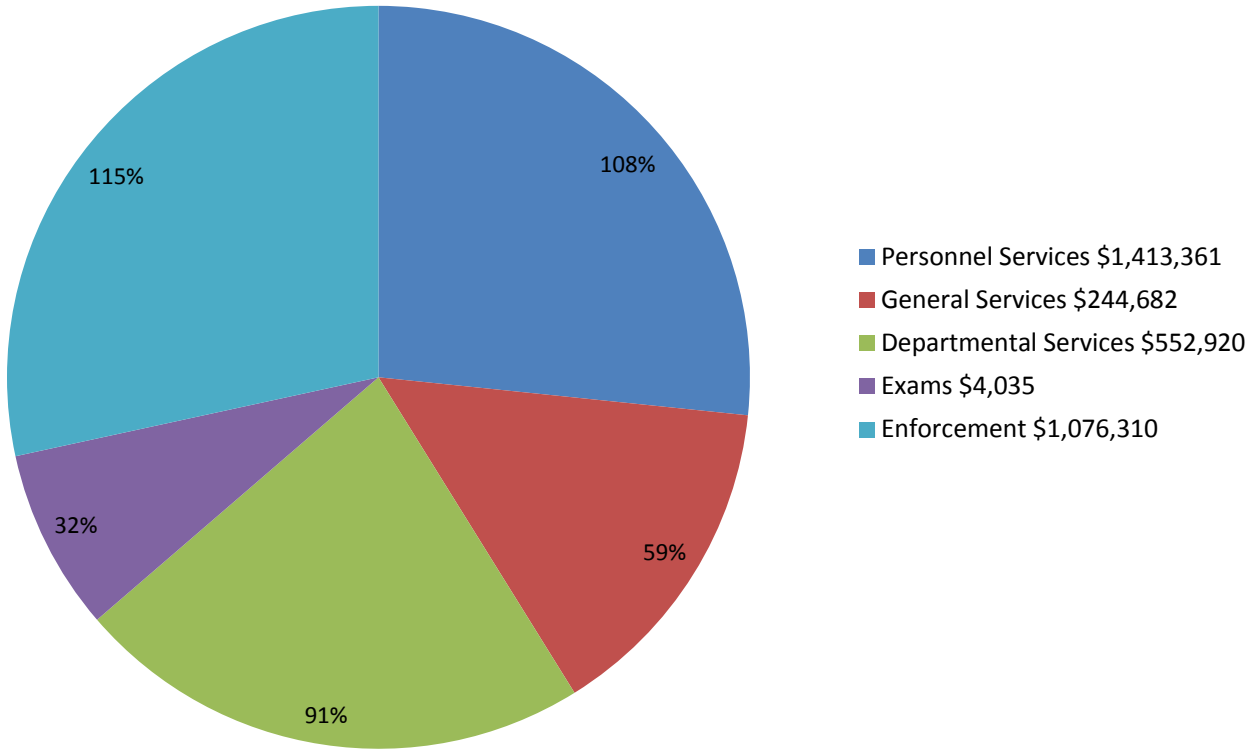
**Physical Therapy Board of California
Budget Expenditure Report (FY 12/13)
(As of 6/30/2013)**

Agenda Item #13(A)
Budget Report

Description	Budget	Expended	% Budget	Balance
<u>Personnel Services</u>				
Personnel Services Totals	1,312,556	1,413,361	108%	-100,805
Civil Services Permanent	690,546	717,649	104%	-27,103
Statutory Exempt	77,196	72,816	94%	4,380
Temp help	153,767	141,194	92%	12,573
Board Member	11,786	24,500	208%	-12,714
Overtime	0	4,042	-	-4,042
Staff Benefits	379,261	453,160	119%	-73,899
*TOTALS, PERSONNEL SERVICES	1,312,556	1,413,361	108%	(100,805)
<u>Operating Expense & Equipment</u>				
General Services Totals	416,861	244,682	59%	172,179
Fingerprints	99,090	26,338	27%	72,752
General Expense	18,085	12,982	72%	5,103
Minor Equipment	10,150	8,296	82%	1854
Printing	16,892	13,389	79%	3,503
Communication	11,712	9,229	79%	2,483
Postage	28,926	29,905	103%	-979
Travel in State	28,865	9,616	33%	19,249
Training	5,204	0	0%	5,204
Facilities Ops	118,121	112,682	95%	5,439
C&P Services Internal	2,000	40	2%	1,960
C&P Services External	77,816	22,205	29%	55,611
Departmental Services Totals	606,919	552,920	91%	53,999
OIS Pro Rata	248,855	248,855	100%	0
Indirect Dist. Cost	132,159	132,159	100%	0
Interagency Services	37,136	0	0%	37,136
DOI Pro Rata	5,371	5,370	100%	1
Public Affairs Pro Rata	7,530	7,530	100%	0
CCED Pro Rata	9,669	9,669	100%	0
Consolidated Data Center	2,882	928	32%	1,954
Data Processing	15,493	585	4%	14,908
Central Admin Services	147,824	147,824	100%	0
Exams Totals	12,616	4,035	32%	8,581
Admin and C/P Services	0	0	-	0
Exam Contracts	9,931	4,035	41%	5,896
Exam Subject Matter Experts	2,685	0	0%	2,685
Enforcement Totals	1,107,051	1,076,310	97%	30,741
Attorney General	455,668	437,185	96%	18483
Office of Admin Hearings	59,584	78,746	132%	-19,162
Evidence/Witness	100,145	64,005	64%	36,140
Court Reporters	0	4,720	-	-4,720
DOI Investigation	491,654	491,654	100%	0
*TOTALS, OE & E	2,143,447	1,877,947	88%	265,500
Scheduled Reimbursements	(99,000)			
**TOTALS	3,357,003	3,291,308	98%	65,695

* The total reflects by line item. ** Total reflects overall expenditures of entire budget.

**Physical Therapy Board of California
Budget Expenditures (FY 2012/13)
(As of 6/30/13)**



Personnel Services : Salary and Wages, Board Member Per Diem, Temp Help, Overtime, Benefits.

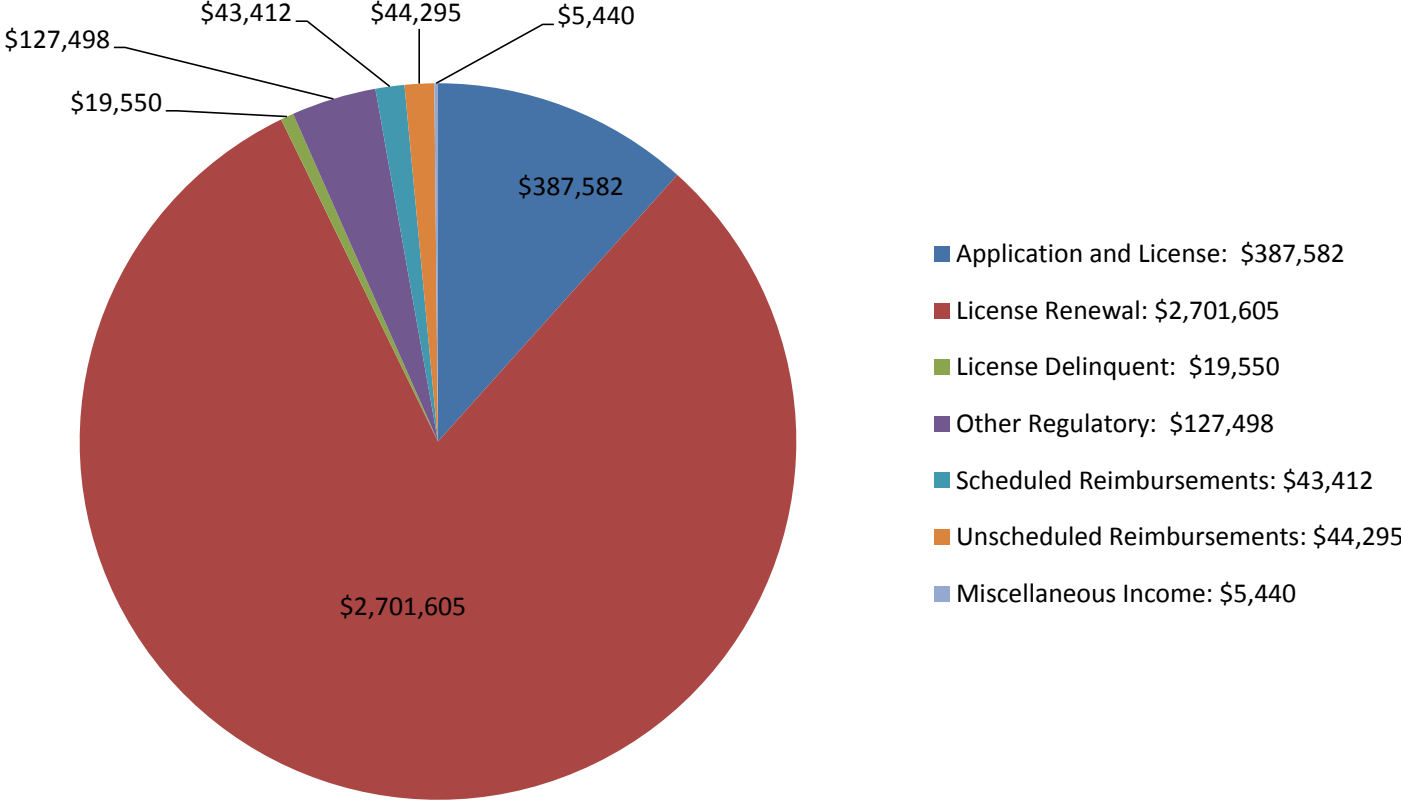
General Services : Fingerprint Reports, General Expense, Printing, Communication, Postage, Travel, Training, Facility, C&P Services, Equipment.

Departmental Services: Pro Rata ,Interagency Services, Consolidated Data, Data Processing, Central Admin.

Exams: Examination Contracts, Subject Matter Experts Contracts.

Enforcement: Attorney General, Office of Administrative Hearing, Evidence/Witness (Expert Consultants), Court Reporter, DOI.

**Physical Therapy Board of California
Budget Revenues (FY 2012/13)
(As of 6/30/2013)**



Application, Examination and License: New Application, Examination, and Initial License Fees.

License Renewal: Licensee Renewal Fees.

License Delinquent: Licensee Delinquent Fees.

Other Regulatory: Administrative Citation Fines, Endorsement Fees, Duplicate License/Cert Fees.

Scheduled Reimbursements: Fingerprint reports processed through DOJ.

Unscheduled Reimbursements: Investigative Cost Recovery, Probation Monitoring Fees.

Miscellaneous Income: Investments, Unclaimed, Cancelled and Dishonored Warrants.

**Physical Therapy Board of California
Web site, Twitter, and Facebook Statistics**

Web Hit Statistics

Category	Web Hits During 1/1/2013 – 3/31/2013	Web Hits During 4/1/2013 – 6/30/2013	% Increase/Decrease
Home	82,933	82,024	-1% ↓
Consumers	321,174	353,707	10% ↑
Applicants	107,900	118,252	9% ↑
Licensees	54,046	50,461	-7% ↓
Laws/Regs	65,365	68,486	5% ↑
Forms	98,811	69,785	-29% ↓
Publications	0	4,368	100% ↑
About Us	78,701	78,528	.20% ↓
Continuing Competency	9,328	8,328	-11% ↓

Twitter Statistics

Category	Data As of 4/2/2013	Data as of 7/3/2013	% Increase/Decrease
Number of Tweets	195	201	3% ↑
Number of Followers	130	146	12% ↑

*Account opened on 2/27/2011

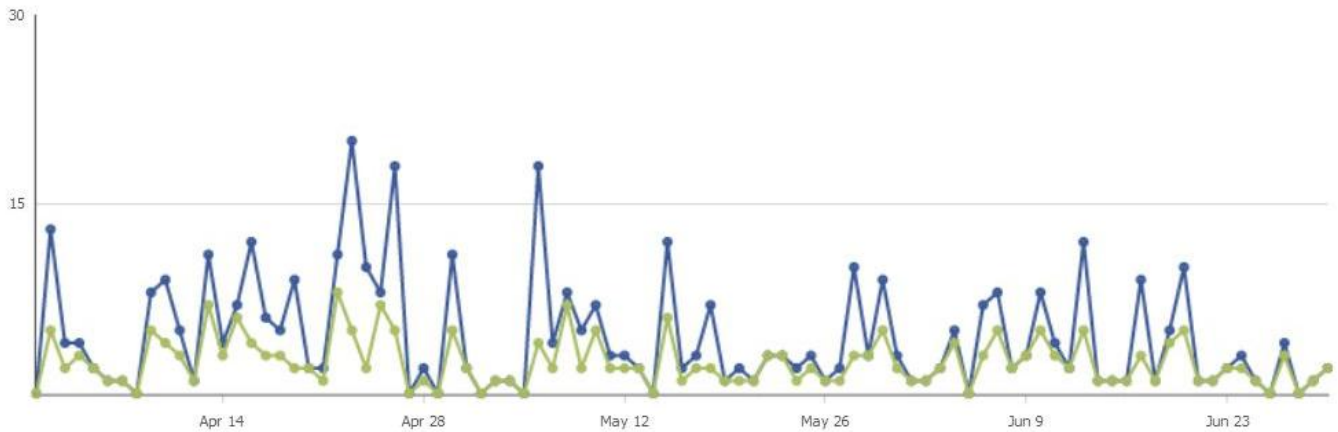
Facebook Statistics

Category	Data During 1/1/2013 - 3/31/2013	Data During 4/1/2013 – 6/30/2013	% Increase/Decrease
Total Likes	1,270	1,334	5% ↑
Friend of Fans	424,092	475,463	12% ↑
People Talking About Page	205	168	18% ↑

Facebook Page Visits: 4/1/2013 – 6/30/2013

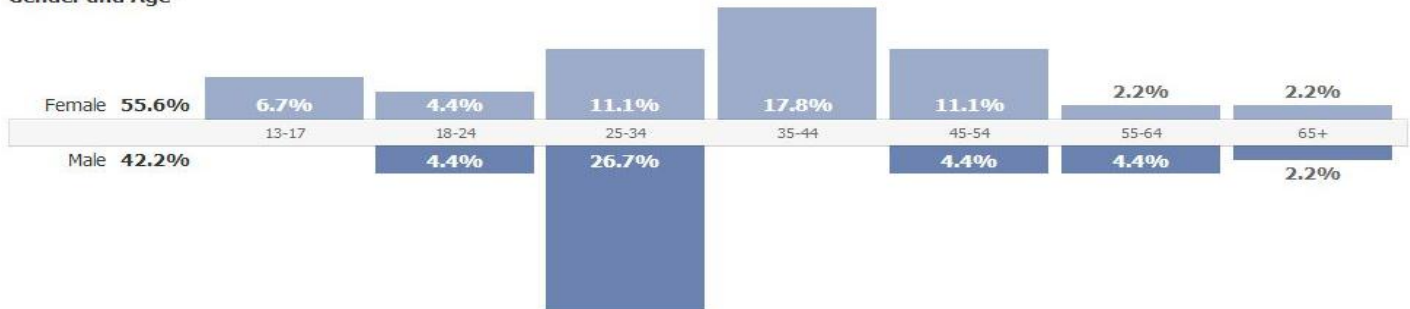
Page Views

Page Views? Unique Visitors?



Facebook Demographic Users: 4/1/2013 - 6/30/2013

Gender and Age?



APPLICATION AND LICENSING SERVICES STATISTICS FY 2012/13

Application Statistics

APPLICATIONS RECEIVED													
Application Type	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	FY Total
PT	37	112	152	58	58	117	77	53	54	70	171	168	1,127
FOREIGN PT	22	22	25	10	19	22	24	27	31	30	26	51	309
FOREIGN PTA*	2	7	3	3	3	3	2	1	6	5	6	7	48
PTA	14	22	20	26	49	9	15	39	20	17	69	100	400
EQUIV PTA	2	0	2	0	4	1	1	2	1	1	4	1	19
EK	0	0	0	0	0	0	1	0	0	0	0	0	1
EN	0	0	0	1	0	0	1	0	0	0	0	0	2
Total	77	163	202	98	133	152	121	122	112	123	276	327	1,906

*15 Applicants downgraded from PT to PTA April - June 2013.

Licensing Statistics

LICENSES ISSUED*													
License Type	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	FY Total
PT	203	163	37	78	201	53	40	159	60	25	93	38	1,150
PTA	27	63	22	22	27	17	41	12	12	3	22	13	281
EK	0	0	0	0	0	0	0	0	0	0	0	0	0
EN	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	230	226	59	100	228	70	81	171	72	28	115	51	1,431

*The Licensing Statistics will not match the Application Statistics due to the length of time an application may remain on file.

License Renewal Statistics

LICENSES RENEWED													
License Type	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	FY Total
PT	1,334	918	1,750	970	786	892	854	853	940	922	528	123	10,870
PTA	293	250	434	244	149	219	204	198	231	241	136	28	2,627
EK	4	1	0	0	1	1	1	1	0	0	0	0	9
EN	1	2	0	1	0	0	2	3	2	0	1	0	12
Total	1,632	1,171	2,184	1,215	936	1,112	1,061	1,055	1,173	1,163	665	151	13,518

APPLICATION AND LICENSING SERVICES STATISTICS FY 2012/13

License Status Statistics

ACTIVE LICENSES												
License Type	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
PT	21,585	21,495	21,504	21,471	21,493	21,603	21,572	21,570	21,662	21,652	21,661	21,754
PTA	5,262	5,228	5,222	5,219	5,239	5,238	5,239	5,258	5,247	5,257	5,247	5,267
EK	28	29	29	29	29	29	29	29	29	29	30	30
EN	21	21	21	21	21	21	21	21	21	21	21	21
Total	26,896	26,773	26,776	26,740	26,782	26,891	26,861	26,878	26,959	26,959	26,959	27,072

INACTIVE LICENSES												
License Type	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
PT	1,054	1,142	1,192	1,254	1,257	1,287	1,334	1,338	1,352	1,390	1,402	1,418
PTA	288	319	342	356	356	370	383	383	390	385	403	406
Total	1,342	1,461	1,534	1,610	1,613	1,657	1,717	1,721	1,742	1,775	1,805	1,824

DELINQUENT LICENSES												
License Type	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
PT	3,080	3,239	3,293	3,281	3,269	3,311	3,323	3,349	3,377	3,386	3,435	3,340
PTA	868	906	926	929	921	928	924	947	954	968	961	941
EK	5	4	4	4	4	4	4	4	4	4	3	3
EN	6	5	5	5	5	5	5	5	5	5	5	5
Total	3,959	4,154	4,228	4,219	4,199	4,248	4,256	4,305	4,340	4,363	4,404	4,289

Licenses in delinquent status are eligible to renew their license and make it active/valid.

APPLICATION AND LICENSING SERVICES STATISTICS FY 2012/13

National Physical Therapist (PT) Examination - CALIFORNIA STATISTICS

Accredited PT Program & Foreign Educated PT Combined Pass/Fail

	Jul	Aug*	Sept*	Oct	Nov*	Dec*	Jan	Feb*	Mar*	Apr	May*	Jun*	FY Total
Pass	293			189			152			61			695
Fail	126			103			87			66			382
Total	419			292			239			127			1077
Pass Rate	70%			65%			64%			48%			65%

Accredited PT Program Pass/Fail

	Jul	Aug*	Sept*	Oct	Nov*	Dec*	Jan	Feb*	Mar*	Apr	May*	Jun*	FY Total
Pass	282			179			144			54			659
Fail	42			45			42			28			157
Total	324			224			186			82			816
Pass Rate	87%			80%			77%			66%			81%

Foreign Educated PT Pass/Fail

	Jul	Aug*	Sept*	Oct	Nov*	Dec*	Jan	Feb*	Mar*	Apr	May*	Jun*	FY Total
Pass	11			10			8			7			36
Fail	84			58			45			38			225
Total	95			68			53			45			261
Pass Rate	12%			15%			15%			16%			14%

*No examination was given during this month.

APPLICATION AND LICENSING SERVICES STATISTICS FY 2012/13

National Physical Therapist Assistant (PTA) Examination - CALIFORNIA STATISTICS

Accredited PTA Program, Foreign Educated PTA, & Equivalency Combined Pass/Fail

	Jul	Aug*	Sept*	Oct	Nov*	Dec*	Jan	Feb*	Mar*	Apr	May*	Jun*	FY Total
Pass	87			34			39			34			194
Fail	50			58			40			41			189
Total	137			92			79			75			383
Pass Rate	64%			37%			49%			45%			51%

Accredited PTA Program Pass/Fail

	Jul	Aug*	Sept*	Oct	Nov*	Dec*	Jan	Feb*	Mar*	Apr	May*	Jun*	FY Total
Pass	75			28			35			29			167
Fail	26			30			32			27			115
Total	101			58			67			56			282
Pass Rate	74%			48%			52%			52%			59%

Foreign Educated PTA Pass/Fail

	Jul	Aug*	Sept*	Oct	Nov*	Dec*	Jan	Feb*	Mar*	Apr	May*	Jun*	FY Total
Pass	12			6			4			5			27
Fail	24			28			8			14			74
Total	36			34			12			19			101
Pass Rate	33%			18%			33%			26%			27%

Equivalency PTA Pass/Fail

	Jul	Aug*	Sept*	Oct	Nov*	Dec*	Jan	Feb*	Mar*	Apr	May*	Jun*	FY Total
Pass	0			0			0			0			0
Fail	0			0			0			0			0
Total	0			0			0			0			0
Pass Rate	0%			0%			0%			0%			0%

*No examination was given during this month.

APPLICATION AND LICENSING SERVICES STATISTICS FY 2012/13

California Law Examination (CLE)

Accredited & Foreign Educated Combined Pass/Fail

	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	FY Total
Pass	223	191	103	205	95	99	113	138	36	52	75	79	1409
Fail	21	9	7	12	7	7	14	5	44	64	80	88	358
Total	244	200	110	217	102	106	127	143	80	116	155	167	1767
Pass Rate	91%	96%	94%	94%	93%	93%	89%	97%	45%	45%	48%	47%	80%

Accredited Pass/Fail

	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	FY Total
Pass	200	155	88	190	85	86	104	118	26	42	66	69	1229
Fail	17	6	6	5	4	7	10	2	32	52	65	67	273
Total	217	161	94	195	89	93	114	120	58	94	131	136	1502
Pass Rate	92%	96%	94%	97%	96%	92%	91%	98%	45%	45%	50%	51%	82%

Foreign Educated Pass/Fail

	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	FY Total
Pass	23	36	15	15	10	13	9	20	10	10	9	10	180
Fail	4	3	1	7	3	0	4	3	12	12	15	21	85
Total	27	39	16	22	13	13	13	23	22	22	24	31	265
Pass Rate	85%	92%	94%	68%	77%	100%	69%	87%	45%	45%	38%	32%	68%

APPLICATION AND LICENSING SERVICES STATISTICS FY 2012/13

National Physical Therapist (PT) Examination - NATIONAL STATISTICS

Accredited PT Program & Foreign Educated PT Combined Pass/Fail

	Jul	Aug*	Sept*	Oct	Nov*	Dec*	Jan	Feb*	Mar*	Apr	May*	Jun*	FY Total
Pass	5178	6	1	1674	0		1247			1531	6		9643
Fail	2030	13	2	1676	1		1356			1351	2		6431
Total	7208	19	3	3350	1		2603			2882	8		16074
Pass Rate	72%	32%	33%	50%	0%		48%			53%	75%		60%

Accredited PT Program Pass/Fail

	Jul	Aug*	Sept*	Oct	Nov*	Dec*	Jan	Feb*	Mar*	Apr	May*	Jun*	FY Total
Pass	4813	6	1	1365			1051			1288	6		8530
Fail	794	4	0	533			441			367	0		2139
Total	5607	10	1	1898			1492			1655	6		10669
Pass Rate	86%	60%	100%	72%			70%			78%	100%		80%

Foreign Educated PT Pass/Fail

	Jul	Aug*	Sept*	Oct	Nov*	Dec*	Jan	Feb*	Mar*	Apr	May*	Jun*	FY Total
Pass	365	0	1	309	0		196			243	0		1114
Fail	1236	9	2	1143	1		915			984	2		4292
Total	1601	9	3	1452	1		1111			1227	2		5406
Pass Rate	23%	0%	33%	21%	0%		18%			20%	0%		21%

APPLICATION AND LICENSING SERVICES STATISTICS FY 2012/13

National Physical Therapist Assistant (PTA) Examination - NATIONAL STATISTICS

Accredited PTA Program, Foreign Educated PTA, & Equivalency Combined Pass/Fail

	Jul	Aug*	Sept*	Oct	Nov*	Dec*	Jan	Feb*	Mar*	Apr	May*	Jun*	FY Total
Pass	3078			1056	223	112	649	0		947			6065
Fail	733			606	94	119	478	1		576			2607
Total	3811			1662	317	231	1127	1		1523			8672
Pass Rate	81%			64%	70%	48%	58%	0%		62%			70%

Accredited PTA Program Pass/Fail

	Jul	Aug*	Sept*	Oct	Nov*	Dec*	Jan	Feb*	Mar*	Apr	May*	Jun*	FY Total
Pass	2991			1011	206	91	603	0		856			5758
Fail	635			545	71	79	424	1		480			2235
Total	3626			1556	277	170	1027	1		1336			7993
Pass Rate	82%			65%	74%	54%	59%	0%		64%			72%

Foreign Educated PTA Pass/Fail

	Jul	Aug*	Sept*	Oct	Nov*	Dec*	Jan	Feb*	Mar*	Apr	May*	Jun*	FY Total
Pass	87			45	17	21	46			91			307
Fail	98			61	23	40	54			96			372
Total	185			106	40	61	100			187			679
Pass Rate	47%			42%	43%	34%	46%			49%			45%

Equivalency PTA Pass/Fail

	Jul	Aug*	Sept*	Oct	Nov*	Dec*	Jan	Feb*	Mar*	Apr	May*	Jun*	FY Total
Pass	0			0			0			0			0
Fail	0			0			0			0			0
Total	0			0			0			0			0
Pass Rate	0%			0%			0%			0%			0%

*No examination was given during this month.

Agenda Item #14

APPLICATION AND LICENSING SERVICES STATISTICS FY 2012/13

Law Examination - NATIONAL STATISTICS

Law Examination Pass/Fail

	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	FY Total
Pass	898	656	468	566	388	295	417	371	212	271	766	695	6003
Fail	106	76	65	57	80	47	63	57	76	122	162	170	1081
Total	1004	732	533	623	468	342	480	428	288	393	928	865	7084
Pass Rate	89%	90%	88%	91%	83%	86%	87%	87%	74%	69%	83%	80%	85%

Accredited Program Pass/Fail

	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	FY Total
Pass	853	589	425	535	355	268	394	334	180	245	737	666	5581
Fail	88	61	59	45	68	44	56	49	62	102	138	146	918
Total	941	650	484	580	423	312	450	383	242	347	875	812	6499
Pass Rate	91%	91%	88%	92%	84%	86%	88%	87%	74%	71%	84%	82%	86%

Foreign Educated Pass/Fail

	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	FY Total
Pass	45	67	43	31	33	27	23	37	32	26	29	29	422
Fail	18	15	6	12	12	3	7	8	14	20	24	24	163
Total	63	82	49	43	45	30	30	45	46	46	53	53	585
Pass Rate	71%	82%	88%	72%	73%	90%	77%	82%	70%	57%	55%	55%	72%

CONSUMER PROTECTION SERVICES REPORT FY 2012/2013

Complaint Intake													
<i>Complaints Received by the Board.</i>													
<i>Measured from date received to assignment for investigation or closure without action.</i>													
Complaints	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	FY Total
Received	115	126	169	158	50	40	168	87	116	67	218	33	1347
Closed without Assignment for Investigation	2	1	0	1	1	2	3	0	3	3	3	2	21
Assigned for Investigation - <i>Note: Number of assigned cases may include cases from previous month; therefore totals will not add up.</i>	109	133	163	156	44	41	158	46	128	83	212	38	1311
Average Days to Close or Assigned for Investigation	2	3	3	4	4	4	8	8	13	26	9	9	7.75
Pending	16	5	11	10	16	12	23	64	49	30	15	11	

Convictions/Arrest Reports	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	FY Total
Received	13	17	19	11	14	10	2	13	11	15	31	25	181
Closed / Assigned for Investigation	12	15	23	8	16	11	2	11	12	10	27	27	174
Average Days to Close	9	3	5	1	4	3	5	4	4	3	6	7	4.5
Pending	3	4	0	3	1	0	0	2	1	6	10	8	

Total Intake	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	FY Total
Received	128	143	188	169	64	50	170	100	127	82	249	58	1528
Closed w/o Inv. Assignment	3	1	0	1	1	2	3	0	3	3	3	3	23
Assigned for Investigation	120	148	186	164	60	52	160	57	140	93	239	64	1483
Avg. Days to Close or Assign	3	3	3	4	4	4	8	7	12	23	8	8	7.25
Pending	19	9	11	13	17	12	23	66	50	36	25	19	300

Investigation *Complaints investigated by the program whether by desk investigation or by field investigation.*
Measured by date the complaint is received to the date the complaint is closed or referred for enforcement action.
If a complaint is never referred for Field Investigation, it will be counted as 'Closed' under Desk Investigation.
If a complaint is referred for Field Investigation, it will be counted as 'Closed' under Non-Sworn or Sworn.

Desk Investigation	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	FY Total
Initial Assignment for Desk Investigation	119	147	187	164	60	52	160	57	140	93	239	64	1482
Closed	142	117	134	474	84	39	65	57	66	118	123	103	1522
Average Days to Close	76	40	58	367	95	228	135	77	58	93	228	79	127.83
Pending	517	552	601	301	286	292	386	370	431	400	517	463	

Field Investigation (Non-Sworn)	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	FY Total
Assignment for Non-Sworn Field Investigation	N/A												0
Closed													0
Average Days to Close													0
Pending													

Field Investigation (Sworn)	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	FY Total
Assignment for Sworn Field Investigation	7	8	3	5	4	7	7	16	13	6	8	14	98
Closed	7	5	3	4	7	4	4	1	6	8	12	6	67
Average Days to Close	458	335	197	374	752	709	448	462	486	487	570	725	500.25
Pending	60	64	64	65	63	66	71	86	93	91	89	96	

All Investigations	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	FY Total
First Assignments	120	147	187	164	60	52	160	57	140	93	239	64	1483
Closed	149	122	137	478	91	43	69	58	72	126	135	109	1589
Average Days to Close	94	52	61	367	145	272	153	84	94	118	258	114	151
Pending	577	616	665	366	349	358	457	456	524	491	606	559	

All Investigations Aging/Closed	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	FY Total
Up to 90 Days	129	96	120	208	68	22	44	40	56	86	62	79	1010
91 to 180 Days	5	20	6	6	7	6	12	11	3	14	29	15	134
181 Days to 1 Year	7	3	9	6	6	8	3	5	7	16	24	5	99
1 to 2 Years	4	3	2	173	9	3	8	2	6	9	13	7	239
2 to 3 Years	1	0	0	85	0	1	1	0	0	1	2	1	92
Over 3 Years	3	0	0	0	1	3	1	0	0	0	5	2	15

Disciplinary Actions													
<i>This section DOES NOT include subsequent discipline on a license. Data from complaint records combined/consolidated into a single case will not appear in this section.</i>													
	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	FY Total
AG Cases Initiated	11	2	3	4	7	8	5	1	3	3	9	3	59
AG Cases Pending	92	86	84	84	83	84	85	78	75	74	79	82	82
SOIs Filed	0	0	1	0	0	0	1	0	0	0	1	1	4
Accusations Filed	0	0	2	7	3	4	3	1	3	4	3	3	33
ACC Decisions/Stips	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	FY Total
Prop/Default Decisions	0	0	1	0	2	0	0	1	1	1	0	1	7
Stipulations	2	2	2	2	1	0	2	4	5	1	2	0	23

SOI Disciplinary Orders	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	FY Total
SOI Final Orders (Dec/Stips)	1	0	0	0	1	0	0	0	0	0	0	0	2
Average Days to Complete	630	0	0	0	446	0	0	0	0	0	0	0	89.667
ACC Disciplinary Orders	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	FY Total
ACC Final Orders (Dec/Stips)	2	2	3	2	3	3	2	5	6	2	2	1	33
Average Days to Complete	312	469	384	1382	680	815	839	958	851	445	1964	961	838.33

Total Disciplinary Orders	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	FY Total
Total Final Orders (Dec/Stips)	3	2	3	2	4	3	2	5	6	2	2	1	35
Total Average Days to Complete	418	469	384	1382	622	815	839	958	851	445	1964	961	842.33

Total Orders Aging/Final Decision	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	FY Total
Up to 90 Days	0	0	0	0	0	0	0	0	0	0	0	0	0
91 to 180 Days	0	0	0	0	0	0	0	0	0	0	0	0	0
181 Days to 1 Year	2	1	1	0	0	0	0	0	1	0	0	0	5
1 to 2 Years	1	1	2	0	3	1	1	2	2	2	0	0	15
2 to 3 Years	0	0	0	0	1	2	0	1	0	0	0	1	5
Over 3 Years	0	0	0	2	0	0	1	2	3	0	2	0	10

Disciplinary Orders	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	FY Total
Final Orders (Proposed Decisions, Default Decisions, Stipulations)	3	2	3	2	4	3	2	5	6	2	2	1	35
Average Days to Complete*	418	469	384	1382	622	815	839	958	851	445	1964	961	842.33

Citations	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	FY Total
Final Citations	31	27	51	25	25	7	1	9	9	27	26	20	258
Average Days to Complete*	39	53	57	81	147	286	68	114	260	166	128	121	126.67

Other Legal Actions	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	FY Total
Interim Suspension & PC 23 Ordered	0	1	0	1	1	1	0	0	0	0	0	0	4

Probation													
	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	
Entered Probationer	Did not collect data during this period					2	0	1	3	1	1	1	
Completed Probation						4	4	0	0	0	0	0	
Entered Maximus						2	0	1	0	0	1	0	
Completed Maximus						0	0	2	0	0	0	0	
Non-Compliant w/Probation						0	1	0	1	0	0	0	
Total Probationers						67	67	65	68	69	66	67	
Total Maximus Participants						15	14	12	12	12	12	12	

Performance Measures													
	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	FY Total
PM1 Volume - Number of Complaints Received within the specified time period.	115	126	169	158	50	40	163	46	116	67	218	33	1301
PM1 Volume - Conviction/Arrest Reports Received	13	17	19	11	14	10	2	13	11	15	31	25	181
PM2 Cycle Time - Intake Median number of days to complete complaint intake during the specified time period.	3	3	3	4	4	4	8	7	12	23	8	8	5.5
PM3 Cycle Time-No Discipline (Target 90 Days) Average number of days to complete complaint intake and investigation steps of the enforcement process for Closed Complaints not resulting in Formal Discipline.	36	45	56	370	84	136	97	84	80	113	128	106	111.25
PM 4 Cycle Time-Discipline (Target 540 Days) Average number of days to complete the enforcement process (Complaint intake, Investigation, and Formal Discipline steps) for cases closed with Formal Discipline.	418	383	384	1029	453	617	591	958	851	485	1182	961	692.67

1
2 The following is a list of disciplinary actions taken by the Physical Therapy Board of California, in **May, June, and**
3 **July 2013**. The Decisions become operative on the Effective Date, with the exception of situations where the
4 licensee has obtained a court ordered stay. Stay orders do not occur in stipulated decisions, which are negotiated
5 settlements waiving court appeals.
6

7 Copies of Accusations, Decisions, or Citations may be obtained by visiting our website at www.ptbc.ca.gov. In
8 addition to obtaining this information from our website, you may also request it by telephone, fax, or mail. Please
9 address your request to:

10
11 Physical Therapy Board of California
12 2005 Evergreen Street, Suite 1350
13 Sacramento, CA 95815
14 (916) 561-8200/ FAX (916) 263-2560
15

16 Physical Therapy Board of California Disciplinary Summary

17
18
19

20 May 2013

21 **KLINE, RAYNA (PT 10192)**

22 Accusation Filed 11/07/11. Violation of B & P Codes: 725 Excessive Prescribing/Treatment, 2620.7 Patient Record
23 Documentation & Retention, 2665 Inadequate Supervision of PTA, 2660(g) Gross Negligence, 2660(i) Aiding and
24 Abetting, 2660(k) Commit Fraud, Dishonest Act. Violation of CCR: 1398.44 Supervision of PTA. Stipulated
25 Settlement and Disciplinary Order Effective 05/22/13, Revocation Stayed, 35 Months Prob.
26

27 **MAGGIORA, KELSEY (PT 39467)**

28 Violation of B & P Code: 480 Grounds for Denial of License. Initial Probationary License Issued 09/27/12.pdf, 3
29 Yrs. Prob. or Diversion Plus 1 Yr., whichever is longer. Statement of Issues Filed 01/04/13. Decision and Order
30 Effective 05/29/13, Unrestricted License Granted.
31

32 **PENNINGTON, MICHAEL (PT 24558)**

33 Violation of B & P Code: 141 Discipline Action Taken By Others. In House Public Letter of Reprimand Issued
34 05/16/13.
35

36 **SPHAR, WESLEY (AT 4249)**

37 Accusation Filed 11/07/11. Violation of B & P Codes: 725 Excessive Prescribing/Treatment, 2620.7 Patient Record
38 Documentation & Retention, 2660(g) Gross Negligence, 2660(i) Aiding and Abetting, 2660(k) Commit Fraud,
39 Dishonest Act. Stipulated Surrender of License and Order Effective 05/22/13, License Surrendered.
40

41 **TOMLINSON, SHARON (PT 7783)**

42 Violation of B & P Code: 141 Discipline Action Taken by Others. In House Public Letter of Reprimand Issued
43 05/07/13.
44

45 June 2013

46 **PARSONS, BRIAN (PT 25351)**

47
48 Accusation Filed 01/25/12. Violation of B & P Codes: 2660(d) Conviction of Criminal Offense, 2661 Conviction of
49 a Crime. Violation of CCR: 1398.6 Filing of Address. Decision and Order Effective 06/20/13, Revocation Stayed, 3
50 Yrs. Prob.
51
52
53

54 **July 2013**

55
56 **HAZEN, SARA (PT 32291)**
57 Accusation Filed 09/12/12. Violation of B & P Codes: 490 Conviction of a Crime, 2660(d) Conviction of Criminal
58 Offense, 2661 Conviction of a Crime. Violation of CCR: 1398.6 Filing of Address. Default Decision and Order
59 Effective 07/08/13, License Revoked.

60
61 **MARTY, CHARLES (PT 8081)**
62 Accusation Filed 02/10/12. Violation of B & P Codes: 2234(c) Repeated Negligent Acts, 2620.7 PT Record
63 Documentation and Retention, 2660 Unprofessional Conduct, 2660(g) Gross Negligence, 2660(h) Gross
64 Negligence. Violation of CCR: 1398.13 Patient Record Documentation, 1399.85 Patient Records. Stipulated
65 Decision and Disciplinary Order Effective 07/06/13, Revocation Stayed, 1 Yr. Prob.

66
67 **SLUDER, ERNEST (PT 20795)**
68 Accusation Filed 04/08/10. Amended Accusation Filed 05/10/10. Violation of B & P Codes: 2234 Unprofessional
69 Conduct, 2660(d) Conviction of Criminal Offense, 2660(h) Gross Negligence, 2661 Conviction of a Crime
70 Proposed Decision Effective 03/10/11, Revocation, Stayed, 3 Yrs. Prob. Accusation and Petition to Revoke
71 Probation Filed 12/06/12. Default Decision and Order Effective 07/05/13, License Revoked.

72
73 **Administrative Citations and Fines Paid**



77 **May 2013**

78
79 **HAMPTON, MICHAEL (PT 19916)**
80 Violation of CCR: 1399.93 Cont Comp Requir & Limitations. Citation and Fine Ordered 04/24/13. Citation Paid in
81 Full 05/06/13.

82
83 **MICHIHIRA, KATHY (PT 21320)**
84 Violation of CCR: 1399.91 Continuing Comp Required. Citation and Fine Ordered 02/22/13. Citation Paid in Full
85 05/17/13.

86
87 **NEILSON, SHEILA (AT 2906)**
88 Violation of CCR: 1399.91 Continuing Comp Required, 1399.93 Cont Comp Requir & Limitations. Citation and
89 Fine Ordered 03/26/13. Citation Paid in Full 05/01/13.

90
91 **PAUL, LOUIS (PT 2580)**
92 Violation of B & P Code: 2620.7 Pt. Record Docum & Retention. Violation of CCR: 1398.44 Supervision of PTA,
93 1399.85 Patient Records. Citation and Fine Ordered 04/12/13. Citation Paid in Full 05/06/13.

94
95 **PERRY, PAULA (AT 2846)**
96 Violation of CCR: 1399.91 Continuing Comp Required, 1399.97 Required Reord Keeping for CC. Citation and
97 Fine Ordered 05/14/13. Citation Paid in Full 05/28/13.

98
99 **PETULLA, ANDREW (PT 15558)**
100 Violation of B & P Code: 2660 Unprofessional Conduct. Citation and Fine Ordered 05/14/13. Citation Paid in Full
101 05/20/13.

102
103 **ROGERS, TIFFANY (PT 18237)**
104 Violation of CCR: 1398.6 Filing of Addresses, 1399.91 Continuing Comp Required, 1399.93 Cont Comp Requir &
105 Limitations. Citation and Fine Ordered 04/19/13. Citation Paid in Full 05/06/13.

106
107
108

109 **RUDE, MELANI (AT 2272)**
110 Violation of CCR: 1399.91 Continuing Comp Required, 1399.93 Cont Comp Requir & Limitations. Citation and
111 Fine Ordered 05/14/13. Citation Paid in Full 05/31/13.

112
113 **SANTINI, KATHRYN (AT 8552)**
114 Violation of B & P Code: 2305 Discipline by Another State. Citation and Fine Ordered 01/28/13. Citation Paid in
115 Full 05/16/13.

116
117 Violation of CCR: 1398.6 Filing of Address
118 Citations Paid in Full in May 2013

119
120 AIDAROV, IRINA (PT 25990)
121 FRIJAS-NEFF, JANICE (PT 22775)
122 GONZALEZ, CLAUDIA (PT 28988)
123 LIM, ROBERT (PT 24281)
124 MACK, CARISSA (AT 8208)
125 MCGINNIS, KEITH (AT 8872)
126 ORTIZ, ANGELITO (AT 6918)
127 RAO, LOCATELLI (PT 27694)
128 SHEKER, MARIA (PT 19646)
129 STEWART, JILL (PT 27502)
130 SURRIGA, MARYEL (PT 33586)
131 TAN, JOYCE (PT 6470)

132
133 **June 2013**

134
135 **ACHARYA, GAYATRI (PT 36109)**
136 Violation of B & P Code: 141(a) Disciplinary Actions Taken by Others. Citation and Ordered 05/31/13. Citation
137 Paid in Full 06/19/13.

138
139 **BISELMAN, TALI (PT 37658)**
140 Violation of CCR: 1399.91 Continuing Comp Required. Citation and Fine Ordered 05/23/13. Citation Paid in Full
141 06/03/13.

142
143 **BLANCHARD, BRENDA (AT 5817)**
144 Violation of CCR: 1399.91 Continuing Comp Required, 1399.93 Cont Comp Requir & Limitations. Citation and
145 Fine Ordered 06/18/13. Citation Paid in Full 06/26/13.

146
147 **CARO, JASON (PT 24602)**
148 Violation of B & P Codes: 2239 Self-Use of Drugs/Alcohol, 2660(d) Unprofessional Conduct, 2660(h) Violating the
149 Code. Citation and Fine Ordered 03/08/13.Citation Paid in Full 06/10/13.

150
151 **CLARK, AMY (PT 25010)**
152 Violation of CCR: 1399.91 Continuing Comp Required, 1399.93 Cont Comp Requir & Limitations, 1399.97
153 Required Reord Keeping for CC. Citation and Fine Ordered 05/23/13. Citation Paid in Full 06/17/13.

154
155 **CUMMINGS, CHARLES (PT 35437)**
156 Violation of B & P Codes: 2239 Self-Use of Drugs/Alcohol, 2660(d) Unprofessional Conduct, 2660(h) Violating the
157 Code. Citation and Fine Ordered 06/07/13.Citation Paid in Full 06/20/13.

158
159 **GRESH, ADAM (PT 39871)**
160 Violation of B & P Codes: 2239 Self-Use of Drugs/Alcohol, 2660(d) Unprofessional Conduct, 2660(h) Violating the
161 Code. Citation and Fine Ordered 06/10/13.Citation Paid in Full 06/24/13.

162
163
164

165 **KIM, HENRY (PT 25211)**
 166 Violation of CCR: 1399.91 Continuing Comp Required, 1399.93 Cont Comp Requir & Limitations, 1399.97
 167 Required Reord Keeping for CC. Citation and Fine Ordered 04/05/13. Citation Paid in Full 06/24/13.
 168
 169 **LOPEZ, RAUL (AT 10093)**
 170 Violation of B & P Codes: 2239 Self-Use of Drugs/Alcohol, 2660(d) Unprofessional Conduct, 2660(h) Violating the
 171 Code, 2661 Conviction of a Crime. Citation and Fine Ordered 05/14/13. Citation Paid in Full 06/06/13.
 172
 173 **RIVAS, MARY (PT 2812)**
 174 Violation of CCR: 1399.91 Continuing Comp Required, 1399.93 Cont Comp Requir & Limitations. Citation and
 175 Fine Ordered 06/10/13. Citation Paid in Full 06/24/13.
 176
 177 Violation of CCR: 1398.6 Filing of Address
 178 Citations Paid in Full June 2013
 179
 180 ADVINCULA, GEOFFREY (PT 28135)
 181 AYALA, JESUS (PT 34352)
 182 BAXTER, THERESA (PT 12659)
 183 COOKINGHAM, CURTIS (PT 15987)
 184 DESIERTO, JACQUELINE (AT 8741)
 185 DUKHON, IRINA (PT 37793)
 186 GONZALES, KARRIE (PT 13201)
 187 HONE, KRISTEN (PT 21091)
 188 MANTHEY, TALI (PT 25665)
 189 NEWSOME-GRAYSON, ANTOINETTE (AT 3775)
 190 NICKELL, TERRI (PT 19148)
 191 SANCHEZ, MARY ANN (AT 8636)
 192 SCHMUTZLER, CANDICE (PT 37318)
 193 VEDAMANI, SYLVIA (PT 37699)
 194 YU, LORI (PT 26952)
 195

196 **July 2013**

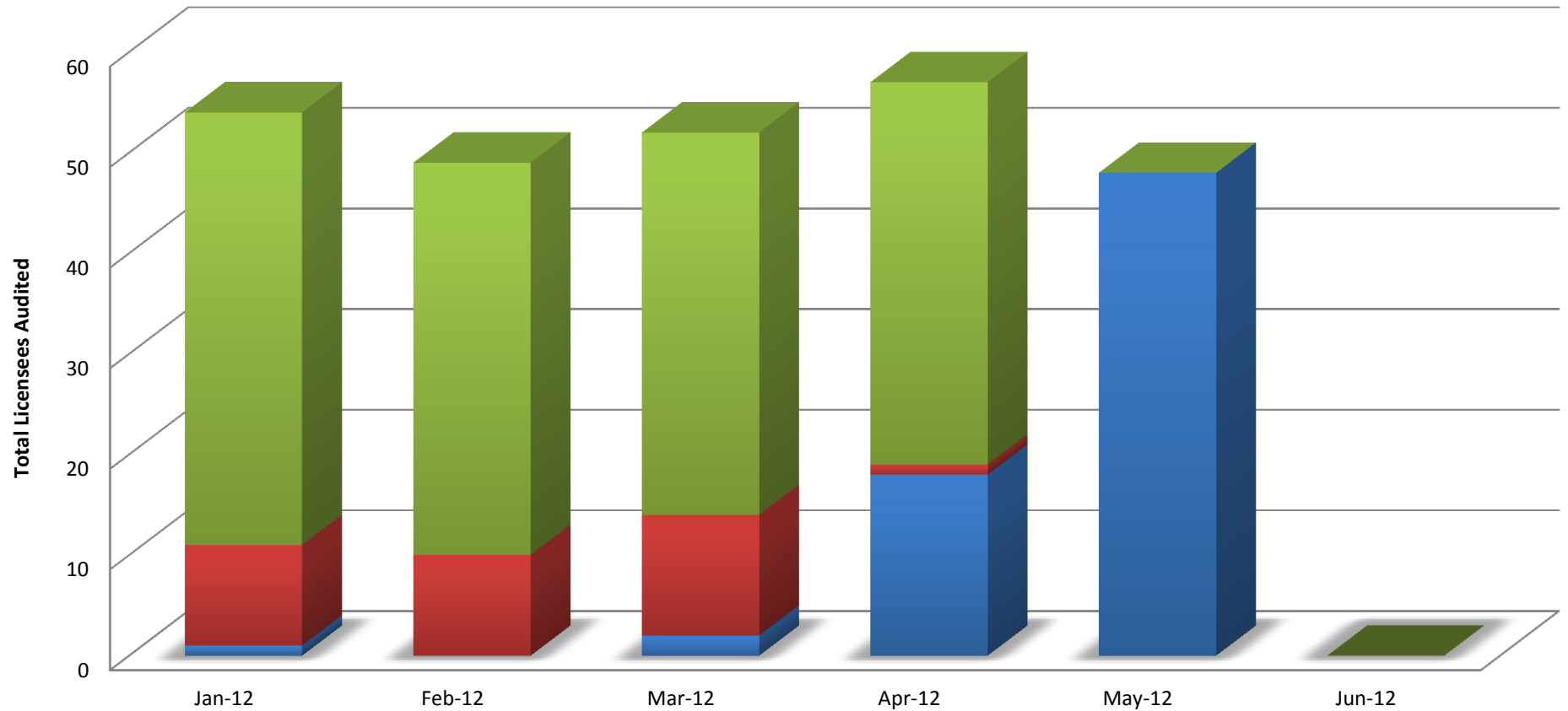
197
 198 Violation of CCR: 1398.6 Filing of Address
 199 Citations Paid in Full July 2013
 200
 201 MURRAY, JERRET (PT 35328)
 202 THOMPSON, KENNETH (PT 32699)
 203

204 **Glossary of Terms**

205
 206 B & P Code – Business and Professions Code
 207 H & S Code – Health and Safety Code
 208 R & R – Rules and Regulations
 209 CCR – California Code Regulations
 210 Accusations: Charges and allegations, which still must undergo rigorous tests of proof at later administrative
 211 hearings.
 212 Citation & Fine: An alternative means to address relatively minor violations that are not discipline in order to
 213 protect the public. Citations and Fine Orders are not disciplinary actions, but are matters of public record.
 214
 215 Petition to Revoke Probation: A Petition to Revoke Probation is filed when a licensee is charged with violation of a
 216 prior disciplinary decision.
 217
 218 Probationary License: Where good cause exists to deny a license, the licensing agency has the option to issue a
 219 conditional license subject to probationary terms and conditions.

220
221 Statement of Issues Filed: When an applicant for licensure is informed the license will be denied for cause, the
222 applicant has a right to demand a formal hearing, usually before an Administrative Law Judge. The process is
223 initiated by the filing of a Statement of Issues, which is similar to an accusation.
224
225 Surrender of License: License surrenders are accepted in lieu of further proceedings.
226
227 Statement of Issues Decision: These are decisions rendered after the filing of a Statement of Issues.
228
229 Stipulated Decision: Negotiated settlements waiving court appeals.

Continuing Competency Audits 2011-2012



	Jan-12	Feb-12	Mar-12	Apr-12	May-12	Jun-12
Pass	43	39	38	38	0	0
Fail	10	10	12	1	0	0
Pending	1	0	2	18	48	0

Agenda Item # 16