

MEETING MINUTES

November 4, 2019
PHYSICIAN ASSISTANT BOARD
2005 Evergreen Street
Hearing Room #1150
Sacramento, CA 95815
8:30 A.M. – 5:00 P.M.

1. Call to Order by President

President Grant called the meeting to order at 8:35 a.m.

2. Roll Call

Staff called the roll. A quorum was present.

Board Members Present: Charles Alexander, PhD
Juan Armenta, Esq.
Jennifer Carlquist, PA-C
Sonya Earley, PA-C
Javier Esquivel-Acosta, PA-C
Jed Grant, PA-C
Xavier Martinez
Robert Sachs, PA
Mary Valencia

Staff Present: Maureen L. Forsyth, Executive Officer
Kristy Schieldge, Attorney IV
Julie Caldwell, Administrative Analyst
Sarah Fletcher, Licensing Analyst
Rozana Khan, Enforcement Analyst
Kristy Voong, Probation Monitor
Anita Winslow, Lead Licensing Analyst

3. Approval of August 9, 2019 Meeting Minutes

M/ Robert Sachs S/ Sonya Earley to:

Approve the August 9, 2019 Meeting Minutes.

Member	Yes	No	Abstain	Absent	Recusal
Charles Alexander	X				
Juan Armenta	X				
Jennifer Carlquist	X				
Sonya Earley	X				
Javier Esquivel-Acosta	X				
Jed Grant	X				
Xavier Martinez	X				
Robert Sachs	X				
Mary Valencia	X				

Motion approved with the condition to correct the verbiage on line 652 to read AB241.

No public comment.

4. Public Comment on items not on the Agenda

(Note: The Board may not discuss or take action on any matter raised during this public comment section that is not included on this agenda, except to decide whether to place the matter on the agenda for a future meeting. [Government Code Sections 11125, 11125.7(a).])

There was no public comment for this item.

5. Nomination and Election of Physician Assistant Board Officers

Ms. Forsyth stated Business and Professions Code section 3509.5 states that the board shall elect annually a president and vice-president from among its members. Typically the nomination and election of board officials is held at the last meeting of the year.

M/ Robert Sachs S/ Xavier Martinez to:

Nominate Jed Grant as president of the Physician Assistant Board (Board) for 2020. No other nominations were made.

Member	Yes	No	Abstain	Absent	Recusal
Charles Alexander	X				
Juan Armenta	X				
Jennifer Carlquist	X				
Sonya Earley	X				
Javier Esquivel-Acosta	X				
Jed Grant			X		
Xavier Martinez	X				
Robert Sachs	X				
Mary Valencia	X				

Motion approved.

No public comment.

M/ Robert Sachs S/ Jed Grant to:

Nominate Xavier Martinez as vice-president of the Physician Assistant Board for 2020. No other nominations were made.

Member	Yes	No	Abstain	Absent	Recusal
Charles Alexander	X				
Juan Armenta	X				
Jennifer Carlquist	X				

Sonya Earley	X				
Javier Esquivel-Acosta	X				
Jed Grant	X				
Xavier Martinez			X		
Robert Sachs	X				
Mary Valencia	X				

In response to Mr. Martinez’s question of what happens if he is not reappointed, Ms. Schieldge replied that the Board could make a backup motion appointing members who are current in their terms, or the Board could hold a teleconference if it looks as if there will be a problem with reappointments.

Motion approved.

No public comment.

6. Reports

a. President’s Report

Mr. Grant reported that he will be attending a meeting in a few weeks with the stakeholders of the Federation of State Medical Boards regarding telemedicine and will report the outcome of the meeting to the Board in January of 2020.

Board Member Appointments

Mr. Grant reported that the Board currently has four members whose terms expire December 31, 2019. The Board has been in communication with the Department of Consumer Affairs (DCA) and the Governor’s office, but has had no word of reappointments.

Board Member Recognition and Commendations

Mr. Grant commented that after twenty-five years of service to his country, his community and the consumers of California, Mr. Sachs is leaving the Board. In addition to being one of California’s first licensed PAs, Mr. Sachs’ history of service includes serving as a Navy corpsman in Vietnam, a Los Angeles police officer, a former president of the California PA professional organization, and a member of the Board for twenty-five years.

In recognition and gratitude for Mr. Sachs’ service and mentorship, Mr. Grant presented Mr. Sachs with a jacket embroidered with the PA Board’s logo.

Mr. Sachs thanked everyone for their service and is appreciative of the phenomenal team he has had an opportunity to be a part of.

Ms. Schieldge stated that she has worked for DCA for twenty years and Mr. Sachs is one of the most passionate, involved presidents she has worked with. She commended Mr. Sachs for staying dedicated to his truth and passionate dedication to the protection of consumers and his profession. She

is aware of the difficulty of maintaining such a position when one is also a member of the profession, but Mr. Sachs' ethics were always at a high standard and he understood the mission and the purpose behind everything. As a consumer of the state of California and as counsel, she thanked him for his dedication and service.

b. Executive Officer's Report

Staffing and Potential Office Space

Ms. Forsyth reported that she is hopeful to relocate the Physician Assistant Board's staff within the office suites located at 2005 Evergreen Street by the year's end.

Ms. Forsyth introduced new staff member Kristy Voong, Probation Monitor. Kristy was previously assigned to the Board when working as an analyst for the Medical Board of California's (MBC) Disciplinary Coordination Unit. Ms. Forsyth reported that the individual selected to fill the vacant Office Technician position is not eligible and staff will be reposting the position.

c. Licensing Program Activity Report

Ms. Fletcher reported the following licensing activity beginning July 30, 2019 through October 18, 2019:

- Initial applications received - 340
- Initial licenses issued – 341
- Licenses renewed – 1,353
- Current licensees – 13,319
- Retired licensees - 41

Pending Application Workload

- Initial Applications – 269

Licensing Performance Measures

- Application processing time – 41 days

Ms. Fletcher stated the License Performance Measures report indicates the office exceeded the allotted 20 day target to complete an initial application by 100%. This is a result of many factors, 1) the 20 day target was established in 2013, 2) the number of California PA programs has more than doubled since 2013 and 3) there was a significant increase in number of applications received both at the end of the last quarter and the beginning of this quarter. The office's goal is to complete the initial application review within 30 days.

In response to Mr. Grant's request to explain the difference between the desk age and the application age, Ms. Fletcher responded that the application age is the average number of days since receiving the application and the desk age starts when it's actually assigned to a staff member.

In response to Mr. Martinez's request to explain why there is a significant number of delinquent licenses, Ms. Fletcher responded that one reason could simply be that the Board doesn't offer another option for licensees who choose not to renew their license. A license that is not renewed expires, is considered delinquent and will cancel after being delinquent for five years. Licensees do have the option to retire their license, but only if retiring from the PA profession. Mr. Grant commented that this is true for licensees who move out-of-state.

d. Diversion Program Activity Report

Ms. Forsyth reported the following diversion activity as of October 31, 2019:

- Total number of participants currently in the program - 10
- Total number of participants since inception – 155

The current diversion contract expires at the end of 2019. DCA has issued a Request for Proposal to secure a new diversion contract. Bids will be reviewed during the third week of November. At this time, she doesn't have any additional information regarding vendors who have submitted bids.

e. Enforcement Program Activity Report

Ms. Khan reported the following enforcement activity beginning July 1, 2019 through September 30, 2019:

- Complaints – Intake
 - Complaints received – 119
 - Assigned to desk analyst (**may include cases received in previous quarters) – 124
 - Pending at intake – 14
- Complaints and Investigations
 - Complaints referred for investigation – 12
 - Complaints and investigations closed** – 122
 - Complaints pending at desk analyst** – 104
 - Investigations pending at field** – 99
 - Average age of pending investigations** – 320
 - Investigation over 8 months old - 41
- Office of Attorney General Cases
 - Cases initiated – 12
 - Cases pending** - 48
 - Average age of pending cases** - 503
- Formal Actions Filed/Withdrawn/Dismissed
 - Accusations filed – 8
- Administrative Outcomes/Final Order
 - Placed on probation – 3
 - Revoked - 1
 - Surrender – 1
 - Probationary license issued - 1
 - Petition for reinstatement denied - 1

- Current Probationers
 - Active – 59
 - Tolling – 6
- Citations and Fines (April 1, 2019 to June 30, 2019)
 - Pending – \$0
 - Fines due - \$0
- Citations and Fines (July 1, 2019 to September 30, 2019)
 - Issued – 13
 - Withdrawn – 2
 - Resolved – 6
 - Pending – 5
 - Fines Issued - \$4,000
 - Fines Withdrawn - \$500
 - Fines Received - \$2,000
 - Fines Due - \$1,500

In response to Ms. Earley’s question on the length of time the licensee is given to satisfy the fine, Ms. Khan responded that the licensee is allowed 30 days to appeal the citation; if the citation is not appealed, it is posted on the website and the licensee has 60 days to resolve the citation.

Ms. Khan reported that a total of 120 complaints were received between July 1, 2019 and September 30, 2019. Mr. Grant asked if there is a reason why complaints identified as “fraud” have increased from the last fiscal year, Ms. Khan replied that when reports are captured complaints are assigned a “type”, but the complaints may not be valid and end up being closed.

Mr. Alexander commented that the volume of complaints has decreased. Ms. Khan stated that the complaint total for FY 2017-18 was higher than FY 2018-19 and that the decrease may be the result of efficient Breeze coding by staff and also performing clean-up on the reports by removing any duplicate complaints.

In response to Mr. Grant’s request for an update regarding the transition of the workload from MBC to the Board, Ms. Khan responded that staff does have a better understanding of the process and is more in control, but it has been difficult. Since the Board does not have a designated analyst who is responsible for processing the discipline workload, the responsibility falls upon the enforcement analyst who is already responsible for completing multiple reports and processing caseloads. Ms. Khan is appreciative of Ms. Voong because she has enforcement experience and can assist with the additional workload. Ms. Forsyth commented that Ms. Khan has been working closely with herself preparing numerous reports, posting public documents to the Board’s website and with the Discipline Complaint Unit (DCU). Ms. Khan stated that the only task that the Board has not undertaken is the scanning and uploading of documents to the Board’s website.

Ms. Forsyth stated that she anticipates assuming all shared services within a year of relocating the office. Staff will be hired and trained in order to correctly execute new responsibilities as a result of assuming all shared services.

In response to Mr. Alexander’s request to explain the type of complaint category labeled Misc./Anonymous, Ms. Khan replied that the individual’s name or other identifying information of the person filing the complaint is not disclosed. Ms.

Schildge questioned if internal referrals are captured as miscellaneous, Ms. Khan responded yes, internal referrals are captured and reported as Government Agency complaints.

7. Department of Consumer Affairs (DCA)– Director’s Update

Mr. Grant provided the following update:

Department of Consumer Affairs Director Appointment

On October 8, 2019, Governor Newsom announced his appointment of Kimberly Kirchmeyer as Director of the Department of Consumer Affairs. Ms. Kirchmeyer has served as Executive Director of the Medical Board of California since 2013.

Executive Team Update

Chief Deputy Director, Chris Shultz, has been appointed by Governor Newsom to serve as Chief Deputy Commissioner at the California Department of Business Oversight. Mr. Shultz’s last day with DCA was November 1, 2019.

Deputy Director Christopher Castrillo’s last day with DCA will be November 22, 2019.

Assistant Deputy Director Karen Nelson as accepted a position as Chief Impact Officer with the American Leadership Forum. Ms. Nelson’s last day with DCA was October 31, 2019.

Assistant Deputy Director Patrick Le has accepted a position as a consultant with the Assembly Business and Professions Committee. Mr. Le’s last day with DCA was September 6, 2019.

New Publication – “DCA – We’re Listening”

DCA’s Communication Division has been working to find ways to improve interactions with the public and boards and bureaus and has created a simple, visual how-to-guide for Californians who want to interact with DCA called “DCA – We’re Listening”. The how-to-guide lays out everything the public needs to know about giving their feedback to DCA, our boards and bureaus. The guide is available in both brochure and poster form. Brochures work great at welcome tables for any public meetings or anywhere else where interested parties may see it.

Future Leadership Development Program

The third cohort kick-off meeting was held on September 24, 2019. Eight individuals were selected to be part of this year’s cohort. DCA will provide progress updates through this eight-month leadership program.

8. Approval of Passing Score for 2020 Physician Assistant (PA) Initial Licensing Examination and 2020 Dates and Locations for PA Initial Licensing Examination

Business and Professions Code Section 3517 provides, in pertinent part, that the Board shall establish a passing score for each examination. The Board is required to approve a passing score for the physician assistant initial licensing examination for the year 2020 as established by the National Commission of

Certification for Physician Assistants (NCCPA). The name of the test is the Physician Assistant National Certifying Examination (PANCE) and is administered at testing locations throughout the country on various dates set by the NCCPA.

M/ Robert Sachs S/ Xavier Martinez to:

Approve a passing score set by the NCCPA for the year 2020 as established by the NCCPA.

Member	Yes	No	Abstain	Absent	Recusal
Charles Alexander	X				
Juan Armenta	X				
Jennifer Carlquist	X				
Sonya Earley	X				
Javier Esquivel-Acosta	X				
Jed Grant	X				
Xavier Martinez	X				
Robert Sachs	X				
Mary Valencia	X				

In response to Ms. Earley’s question of what is the current passing score, Mr. Grant responded that the NCCPA has a fairly intensive psychometric profile that is viewable on the NCCPA’s website. The NCCPA doesn’t publicly disclose some of the detailed psychometrics used to set the passing scores, but they do periodically reevaluate the psychometrics. The minimum score was reset last year and psychometricians are continually evaluating the testing.

Motion approved.

The PANCE examination is given on a year-round basis at Person VUE Testing Centers except for December 17, 2020 through December 31, 2020.

M/ Robert Sachs S/ Sonya Earley to:

Approve the dates and locations for the Physician Assistant National Certifying Examination for the year 2020.

Member	Yes	No	Abstain	Absent	Recusal
Charles Alexander	X				
Juan Armenta	X				
Jennifer Carlquist	X				
Sonya Earley	X				
Javier Esquivel-Acosta	X				
Jed Grant	X				
Xavier Martinez	X				
Robert Sachs	X				
Mary Valencia	X				

Motion approved.

9. Schedule of 2020 Board Meeting Dates and Locations

Mr. Grant asked for the Board's input regarding the suggested dates for 2020 included in the board meeting packet.

M/ Juan Armenta S/ Mary Valencia to:

To approve the following dates and locations of the PAB's board meetings:

January 13, 2020 - Sacramento

April 27, 2020 - Sacramento

August 7, 2020 – Southern California

November 2, 2020 – Sacramento

Member	Yes	No	Abstain	Absent	Recusal
Charles Alexander	X				
Juan Armenta	X				
Jennifer Carlquist	X				
Sonya Earley	X				
Javier Esquivel-Acosta	X				
Jed Grant	X				
Xavier Martinez	X				
Robert Sachs			X		
Mary Valencia	X				

Motion approved.

10. Report on Medical Board of California Activities

Christine Lally, acting Executive Officer for MBC provided the following update:

MBC is currently undergoing a recruitment process to fill the vacant Executive Officer position.

Discussion during MBC's August board meeting included the need for a fee increase. Currently MBC is at a 2.1 month reserve for the end of FY 2019-20. A vendor is conducting a fee audit to determine appropriate fee levels. The board plans on seeking legislation to increase the board's fees. The last fee increase was 2005.

With the passage of AB 528, MBC is revising its brochures and website information regarding the mandatory use of the Controlled Substance Utilization Review and Evaluation System (CURES). To reduce the administrative burden on prescribers, changes include expanding access for delegates acting on behalf of licensed prescribers and the timeline for which a prescriber must query CURES prior to renewing a prescription for scheduled substances from once every four months to once every six months.

MBC endorsed legislation to enhance consumer protection. Effective January 1, 2020, an applicant, regardless of if the medical school attended was either domestic

or international, must successfully complete a minimum of 36 months of board approved postgraduate training. An application has been developed for the new post graduate training license and other applicable forms have been revised. The online system, BreZE, will be updated by January 1, 2020, to ensure applicants can apply online. The licensing program has been busy educating stakeholders on the upcoming changes. Webinars and other information on the new requirements are available on the board's website.

MBC's final board meeting for 2019 will be held November 7-8 in San Diego.

11. CLOSED SESSION

- A. Pursuant to Section 11126(c)(3) of the Government Code, the Board moved into closed session to deliberate and take action on disciplinary matters.
- B. Pursuant to Section 11126(a)(1) of the Government Code, the Board moved into closed session to conduct the annual evaluation of performance of the Executive Officer.

RETURN TO OPEN SESSION

12. Discussion and Possible Action to Approve the Board's Legislative Sunset Review Report

Mr. Grant stated that the sunset report is required by the legislature every four years. Staff has been working hard to address questions and provide information as required regarding Board activities.

Mr. Grant expressed concern because the report is due December 1, 2019, and staff is still working on completing the report so there is no final copy.

Ms. Schieldge stated that this sunset review process provides the Board with an opportunity to seek legislative and other changes, including changes the Board has previously authorized staff to pursue. The section titled "New Issues" is where the Board would put their requests to the legislature for items such as staffing or legislation and suggested including the following legislative proposals:

- An increase of the application processing fee for an initial physician assistant license.
- Authority for the Board to administer its own examination in lieu of the national examination or to contract with another private or public entity to administer the exam.
- Revising Business and Professions Code (BPC) section 3517 to remove the requirement for the Board's approval of the exam score, dates and locations since the Board has selected to use a national vendor who is responsible for setting the exam score, dates and locations.
- Revising the Physician Assistant Practice Act language to remove the Physician Assistant Board from the jurisdiction of the Medical Board of California to meet the Board's strategic objective of becoming a completely independent board.
- Due to the enactment of SB 697, revising the Physician Assistant Practice Act, to add the current regulatory requirement that allows physicians to only

delegate procedures and tasks that are consistent with the supervising physician specialty or usual and customary practice and with the patient's health and condition. The Board expressed an interest moving that into the statute to make sure that it is clear that physician assistants should be supervised by someone in the same specialty or usual and customary practice.

- Striking the June 7, 2019 date used twice in BPC section 3502.1 (e)(3) that reads "PAs who hold an active license, who are authorized through a practice agreement to furnish Schedule II controlled substance, and who are registered with the United States Drug enforcement Administration, and who have not successfully completed a one-time course in compliance with Sections 1399.610 and 1399.612 of Title 16 of the California Code of Regulations (CCR), as those provisions read on June 7, 2019, shall complete, as part of their continuing education requirements, a course that covers Schedule II controlled substances". This language prevents the Board from amending its controlled substances course because it's tomb stoned in statute and prevents the Board from using its discretion to amend its regulations because any amendments would happen after June 7, 2019.

Ms. Schieldge stated that the sunset report doesn't need to include all of the necessary language, but rather the concept details for the legislature to consider. If the legislature agrees to the suggested legislation, then text would be provided.

Ms. Forsyth suggested including four (4) additional staff positions in this section of the sunset report as she anticipates both moving into a larger office and assuming the shared services workload currently being completed by MBC.

Ms. Earley questioned whether the addition of four (4) new staff members will be sufficient to accommodate the continued growth.

M/ Mary Valencia S/ Robert Sachs to:

Include legislative proposals in the sunset report that would increase the application fee, an option of a Board administered exam, the removal of the requirement for the Board to approve the exam date and location from BPC 3517, to become fully independent from MBC, to make changes related to SB 697 specifically CCR 1399.545 and BPC 3502.1 (e)(3) and the addition of four staff positions:

Member	Yes	No	Abstain	Absent	Recusal
Charles Alexander	X				
Juan Armenta	X				
Jennifer Carlquist	X				
Sonya Earley	X				
Javier Esquivel-Acosta	X				
Jed Grant	X				
Xavier Martinez	X				
Robert Sachs	X				
Mary Valencia	X				

Motion approved.

Mr. Grant suggested the following option in order to approve the sunset report: 1) the Board could hold a teleconference meeting before December 1, 2019 or 2) the Board could authorize a Board member to review and approve the report without holding a meeting.

M/ Jennifer Carlquist S/ Javier Esquivel-Acosta to:

Authorize the Board president to review and approve the sunset report on behalf of the Board.

Member	Yes	No	Abstain	Absent	Recusal
Charles Alexander	X				
Juan Armenta	X				
Jennifer Carlquist	X				
Sonya Earley	X				
Javier Esquivel-Acosta	X				
Jed Grant	X				
Xavier Martinez	X				
Robert Sachs	X				
Mary Valencia	X				

Motion approved.

13. Discussion and Consideration of Position on SB 697 – Caballero: Physician Assistant: Scope of Practice

Ms. Schieldge stated that SB 697 has significantly changed the Physician Assistant Practice Act creating a need for the Board to develop a plan to get the word out and to explain the changes and differences in the law. In terms of publication, there are four major areas that need to be worked on: 1) Delegation of Services Agreement (DSA) being removed and replaced with the Practice Agreement, 2) changes to supervision protocols and requirements, 3) removal of medical records and counter signature requirements, and 4) drug order requirements. Ms. Schieldge recommended that staff remove and update anything from the Board’s website related to these areas of publication she has identified.

Ms. Schieldge advised developing a fact sheet to address questions collected by staff and the Board’s plans to implement the responses to those questions by explaining the differences between the current law and the law effective January 1, 2020.

Ms. Schieldge stated that due to the implementation of SB 697 the Board’s regulations will need to be made consistent with the statutory changes. Unfortunately, this is a long process that includes making the recommendation to MBC because a lot of the changes affect supervision and MBC is charged with amending the regulations when it comes to supervision. A two-year timeline is more common with respect to implementation, but in the meantime the Board should make sure that the fact sheet sets forth what the changes are and that they are interpreted correctly by staff. The Board is charged with implementation of the statute. One of the most frequent questions may be if the DSA needs to be replaced; a PA may continue with their current agreement or execute a new Practice Agreement.

Mr. Grant emphasized the importance of providing accurate information about what the law says and what licensees need to do in order to be in compliance beginning January 1, 2020.

Ms. Schiedge stated that she will work with staff to develop a fact sheet and bring the material to the next meeting for the Board to review. The Board can direct staff to post material to the Board's website once approved by legal counsel, delegate the authority to the Board's president to review a fact sheet and bring a final copy to the next Board meeting.

Ms. Sachs suggested mailing the fact sheet to the licensing population given the fact that not all licensees visit the Board's website. Ms. Forsyth suggested to also send an email to licensees who are part of the Board's email subscriber list. Ms. Forsyth stated that by mid-December she hopes to have removed the publications already identified from the Board's website.

M/ Jennifer Carlquist S/ Robert Sachs to:

Authorize the Board's president to review and approve a frequently asked questions (FAQ) document developed by staff and legal counsel prior to the next board meeting, to post the FAQ to the Board's website and to mail/email the FAQ to the licensees.

Member	Yes	No	Abstain	Absent	Recusal
Charles Alexander	X				
Juan Armenta	X				
Jennifer Carlquist	X				
Sonya Earley	X				
Javier Esquivel-Acosta	X				
Jed Grant	X				
Xavier Martinez	X				
Robert Sachs	X				
Mary Valencia	X				

Motion approved.

14. Discussion Regarding Implementation of AB 241 – Kamlager-Dove: Implicit bias: continuing education: requirements

Ms. Schiedge stated the implicit bias continuing education requirements enacted in 2019 will be effective January 1, 2020, but the continuing education providers don't have to implement it until January 1, 2023. The Board is required to adopt regulations by January 1, 2022, that requires all continuing education courses for licensees under this chapter to contain curriculum that includes the understanding of implicit bias. Ms. Schiedge advised that CCR 1399.616 could be amended to require the approved continuing medical education providers to include the implicit bias training as part of the approval process. Currently, the Board has a deemed approved program, which means that the programs are deemed approved if they are offered by one of the sponsors and are designated as Category 1 (Pre-approved). Ms. Schiedge stated to meet the minimum bill requirements she suggests adding the text "and meets the requirements of subdivision (c) of section 3524.5 of the BPC,

effective January 1, 2023". Ms. Schieldge's question for the Board is if they want to continue with the current program of if the course is offered by one of the sponsors it's approved and it meets the requirements of the statute, or whether the Board wants to consider actually affirmatively approving the courses.

Mr. Armenta questioned if there is a down side to the current program, Mr. Schieldge responded that she believes it has worked well.

Ms. Schieldge stated that if the Board would like to continue with the current model, she will incorporate the requirements of the bill into this current "considered deemed approved process", as indicated, and provide the Board with the text at a future meeting for approval.

Ms. Winslow stated that when conducting continuing medical education (CME) audits, licensees who are not nationally certified are required to submit CME certificates that show the type of CME category and that is pre-approved. She questioned whether or not the certificate would have to indicate compliance with the statute. Ms. Schieldge stated it is not required by the statute; however, the course has to meet the requirements to be considered approved by the Board. Mr. Grant stated that the Board is recognizing these organizations as appropriately presenting Category 1 CME and accepting their work as complete because CME can be completed in a multitude of topics, depending on the specialty. The change to the regulation is only to add the need for implicit bias training somewhere in the CME to comply with AB 241.

Mr. Grant directed staff to bring back text to a future meeting to implement changes as discussed.

15. Regulations

Discussion and Possible Action to Initiate a Rulemaking to Amend Title 16, California Code of Regulations Sections 1399.514 and 1399.615 - Renewal of License and Continuing Medical Education Required

Ms. Winslow reported that the license renewal application, as it is currently written, only provides information regarding the criminal conviction and CME questions. The renewal application doesn't include information regarding the renewal requirements or penalty if the license is not renewed. The office receives a large volume of calls concerning these topics and she suggests changing the regulations to include all pertinent information regarding the requirements to renew. Ms. Winslow worked with legal counsel to incorporate in Section 1399.514 additional language regarding CURES, CME compliance, and if not renewed by the expiration date the license has expired and practice is prohibited.

Ms. Schieldge stated section (f) of the proposed language includes that "the individual shall be considered unlicensed". When using the DCA's website to view the status of a license that has expired, it currently shows the status as "delinquent" or "canceled" and based upon staff's experience, individuals who are delinquent seem to think that they still have a license and are in good standing. Ms. Schieldge stated delinquency is not a license status, what it really means is that you are expired and that you would need to pay delinquency fees in order to reinstate your license. The argument staff has been receiving from licensees is that nowhere in law does it say that failing to

renew means that they are no longer licensed if their license is delinquent. To clear up this misunderstanding of the true status of the license, the language of section (f) makes it clear that the licensee is unlicensed if they fail to renew their license by their expiration date.

In response to Mr. Grant's question regarding whether all of the proposed language needs to be included in the regulation as it seems more of a policy, Ms. Schieldge responded yes. Any time requirements are interpreted or implemented, they have to be in a regulation per the Administrative Procedure Act or statute in order to clarify, interpret or make specific what those requirements are. It is her suggestion to consolidate them in Section 1399.514.

Ms. Winslow stated to avoid being duplicative, subsection (c) of Section 1399.615 will be deleted and moved into Section 1399.514.

Mr. Sachs stated section (d) (2) of the proposed language reads "is currently certified by the National Commission on Certification of Physician Assistants" (NCCPA); this isn't a current renewal requirement. Ms. Schieldge advised licensees have to meet one of the requirements of section (d) which is to comply with CME requirements of Section 1399.615, currently certified by NCCPA, exempt or obtained a CME waiver, or renewing the license in an inactive status.

In response to Ms. Earley's question on how long the regulation process will take, Ms. Winslow responded eighteen months at a minimum.

In response to Mr. Grant's question on if this regulation will be impacted by SB 697, Ms. Winslow and Ms. Schieldge responded no.

Ms. Winslow stated the question mark next to the license status in Breeze defines delinquent as "no practice is permitted". In response to Ms. Earley's question regarding whether the DCA's definition could be changed, Ms. Schieldge responded that DCA has not been willing to change its website definitions at this point. From DCA's administrative perspective, the status of "delinquent" differentiates between two different classes of unlicensed persons as follows: delinquent licenses can be reinstated within five years, canceled licenses can't be reinstated. Ms. Schieldge stated she is hopeful that DCA will consider including an explanation on their website that if a license status is delinquent, the licensee is unlicensed and practice is prohibited. The status of delinquent causes confusion for consumers and practitioners about the true license status, it doesn't simply mean that the licensee hasn't paid their fee.

M/ Xavier Martinez S/ Robert Sachs to:

Approve the proposed regulatory text for sections 1399.514 and 1399.615, direct staff to submit the text to the Director of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for hearing.

Member	Yes	No	Abstain	Absent	Recusal
Charles Alexander	X				

Juan Armenta	X				
Jennifer Carlquist	X				
Sonya Earley	X				
Javier Esquivel-Acosta	X				
Jed Grant	X				
Xavier Martinez	X				
Robert Sachs	X				
Mary Valencia	X				

Motion approved.

Proposed Amendments to Title 16, California Code of Regulations, Section 1399.523.5 Required Actions Against Registered Sex Offenders

Update provided in the meeting materials.

Proposed Amendments to Title 16, California Code of Regulations, Section 1399.525 Substantial Relationship Criteria

Update provided in the meeting materials.

Proposed Amendments to Title 16, California Code of Regulations, Section 1399.526 Rehabilitation Criteria for Denials and Reinstatements

Update provided in the meeting materials.

Proposed Amendments to Title 16, California Code of Regulations, Section 1399.527 Rehabilitation Criteria for Suspensions and Revocations

Update provided in the meeting materials.

Discussion Regarding Proposed Amendments to Title 16, California Code of Regulations, Section 1399.545 – Supervision Required and Possible Withdrawal of Rulemaking Package

Ms. Winslow reported that MBC posed the question of whether the Board would like to withdraw the proposed amendment due to the required changes as a result of the implementation of SB 697. MBC has held the hearing, but the package has not been filed with Office of Administrative Law (OAL) or Department of Consumer Affairs. Ms. Schieldge recommended to withdraw the proposed amendments because the changes the Board proposed had to do with conforming the language to a prior bill that required medical records review and countersignature. The regulation will be superseded by SB 697, which eliminates the countersignature and medical records review requirement, rendering those changes inconsistent with the statutes going into effect January 1, 2020.

M/ Sonya Earley S/ Mary Valenica to:

Recommend to the Medical Board of California to withdraw the rulemaking package for section 1399.545.

Member	Yes	No	Abstain	Absent	Recusal
Charles Alexander	X				
Juan Armenta	X				
Jennifer Carlquist	X				
Sonya Earley	X				
Javier Esquivel-Acosta	X				
Jed Grant	X				
Xavier Martinez	X				
Robert Sachs	X				
Mary Valencia	X				

Motion approved.

Proposed Amendments to Title 16, California Code of Regulations, Section 1399.617 – Audit and Sanctions for Noncompliance

Ms. Winslow reported that the amendment was pulled by (OAL) to correct the language as submitted. New language was discussed and approved during the July 11, 2019 teleconference. The package was approved by Business, Consumer Services and Housing Authority (Agency), resubmitted to OAL on October 24, 2019 and should have an effective date of January 1, 2020.

Ms. Schieldge stated she does not foresee issues moving forward as the OAL attorney, who previously had concerns with some of the text, has approved the changes and documentation that was needed to effectuate the changes.

16. Education/Workforce Development Advisory Committee

Mr. Alexander provided the following update:

- Total number of accredited programs - 246
- Total number of PA programs in development – 56
- Current accredited PA programs in California - 16
 - located in the Los Angeles/San Diego area - 9
 - located in the bay area - 4
 - located in the Sacramento area - 2
 - located on the central coast - 1
- New programs currently under development in CA – 5
- Current annual capacity – 704
- Estimated annual capacity for all 22 programs – 1039

Mr. Alexander stated that since the last Board meeting the accreditation status for Marshall B. Ketchum University changed from provision to continuing and the accreditation status for Samuel Merritt University changed from continuing to probation.

Mr. Grant defined the accreditation statuses as:

- Developing - not accredited, not in operation.

- Provisional - last for the first five years of the program and involves additional scrutiny from the accrediting body before receiving an accreditation status of continuing.
- Continuing – ongoing accreditation for programs that have progressed from provision status.
- Probation – program is not meeting accreditation standards, status may last for up to two years allowing the program time to meet standards.

Mr. Grants stated that the amount of accredited PA programs in California has doubled in the last five years.

Ms. Earley confirmed the locations of developing schools being A.T. Still University in Santa Maria, Point Loma Nazarene University in San Diego, Touro University – Worldwide (online), University of St. Augustine for Health Sciences in Los Angeles or San Diego and West Coast University in Los Angeles.

In response to Mr. Sachs' request for information regarding Touro University – Worldwide online program, Mr. Grant responded that there is no additional information other than that they are in development with the accrediting body. Touro University has an existing campus in the bay area.

17. Medical Board of California – Stem Cell Regenerative Therapy Task Force Meeting, September 18, 2019

Mr. Esquivel-Acosta reported that the main reason for the meeting was to collect information from both companies and doctors in attendance regarding stem cell research they have conducted over the last ten years and how stem cell treatments are going to work with some of the providers. Opinions from the public and physicians on how stem cells therapy is helping some patients with chronic disease and providing help and support for some chronic disease problems, has been captured. MBC will continue to hold meetings and collect data to assist with developing regulations for new alternative medical treatments. Data from Stanford and UC Davis will be available within the next five years. Mr. Esquivel-Acosta stressed the importance for the Board to continue to monitor the data released from the universities because once the data is good it will support the medical providers to obtain the necessary training to provide stem cell treatments to patients.

In response to Ms. Earley's question on if the task force is California specific or nationwide and who is on the task force, Mr. Esquivel-Acosta responded that this task force is California specific and comprised of a UC Davis stem cell team and a team from a Los Angeles area hospital.

18. Budget Update

Brian Skewis, Budget Office Manager, thanked the Board for the opportunity to provide the following update:

- FY 2018-19 Expenditure Projection provide a good idea for year-end expenditures. The report reflect an approximate \$4,000 reversion, 4.2% of the Board's budget. DCA is working on finalizing these figures in the FI\$Cal system and we anticipate finalization in the coming weeks. The Budget Office

works regularly with program staff to ensure expenditures stay within the budgeted allotment annually.

- Physician Assistant Fund Condition is basically a savings account from which year's budget is allocated and revenues deposited. The Board started FY 2019-20 with just over 2.6 million dollars in the fund, which is equivalent to approximately 14 months of operating expenses. The Board is currently authorized to spend approximately 2.2 million dollars and is projected to collect just over 2.1 million dollars leaving a gap of approximately \$100,000 which will cause the fund balance to decline slightly. While operating in a structural imbalance such as this ultimately erodes the fund, this is not a major concern at this time due to the high fund balance mentioned earlier. If operations continue with this rate over the long term or a significant expenditure growth is experienced, a cost restructuring or fee increase scenarios should be explored.
- The Budget Office is currently working on building FY 2020-21 budget for release by the Governor's office in January 2020. With that budget building comes several adjustments that also affect the Board's current year budget. These adjustments are generally associated with cost of doing business such as employee compensation benefits and other contract type costs related to enforcement such as the AG office hourly rate. Due to the timing of these adjustments, current year expenditure projections will not be as accurate as they could be mainly because the budget allotment is slightly in flux. Generally, final budget allotment and projections are available starting late November to early December.

Mr. Skewis stated that the Board has a healthy fund balance with sufficient reserves; however, close attention will continue to be paid to current year expenditure figures to ensure annual solvency.

In response to Mr. Grant's inquiry of if the figures include the AG's fee increase, Mr. Skewis responded that the AG's fee increase was effective September and those budgeted projections on the Expenditure Projection Report are closing out last year. The Fund Condition does not include the AG augmentation fee increase as an augmentation to the Board's budget as yet. The current year adjustments have not been finalized and the AG rate increase, should that be approved by the Department of Finance, would be in addition to the budget allotment to compensate. The budget building is current taking place to be completed by the January 10, 2020 release of the Governor's budget. He should have a final decision by the end of the calendar year.

In response to Mr. Sachs' question on if the Board is earning interest on the loan repayment included in the Fund Condition report, Mr. Skewis responded yes. The interest will show up as a revenue source, as income from inter fund loans, and interest will be calculated on the date that it's paid back at the accepted rate at the time the loan was taken out. Repayment will be toward the end of the current fiscal year. This information will be part of the Board's sunset review packet.

In response to Mr. Alexander's request to explain the increase of the budgets for FY 2019-20 and FY 2020-21, Mr. Skewis responded that the increase in the beginning balances is based on the loan repayment.

In response to Mr. Martinez's question on if at the next Board meeting will they be provided a final FY 2018-19 report and financial statements for the current fiscal year, Mr. Skewis responded that by the January meeting the Board should have revised current year appropriation. He can't speak specifically to the closing of FY 2018-19 because that's more of an accounting role than a budgetary role. Accounting is working on reports.

19. Legislative Committee

Ms. Valencia reported the following:

AB 193, AB 289, AB 312, AB 358, AB 544, AB 613, AB 890, SB 53, and SB 615

These bills failed to pass in 2019, but this is the beginning of a two-year cycle and the bills could potentially come back in 2020 when the legislature reconvenes. Ms. Schieldge stated that the bills failed passage for various reasons. Ms. Valencia confirmed that the Board will continue to track the bills in 2020.

AB 476 – Rubio: Department of Consumer Affairs: Task Force: Foreign-trained Professionals

The bill was vetoed by the Governor.

AB 521 – Berman: Physician and Surgeons: Firearms: Training

The bill was signed into law by the Governor and will be effective January 1, 2020. The Board of Regents of UC will require the center to develop education and training program for medical and mental health providers on the prevention of firearm related injury and death.

AB 1076 - Ting. Criminal records: automatic relief

The bill was signed into law by the Governor and will go into effect January 1, 2021. The bill requires the Department of Justice to automatically update their databases and identify people who are eligible to have certain arrests and convictions sealed.

Ms. Schieldge stated that she is bringing this to the Board's attention because it may have an impact on the Board's ability to take disciplinary actions based on criminal convictions. For certain misdemeanors and felonies, the record would essentially be wiped clean if there has been a period of time elapsed; one year from the date of the arrest or conviction and three years for felonies. The rap sheet will be completely wiped. Even today, dismissals and convictions that are set aside the Board is able to take disciplinary action going forward, but when the bill goes into effect, essentially the Board will not get the information and won't be aware of the conviction and won't be able to take any action based on those felonies or misdemeanors. This could have a big impact on the Board's enforcement cases going forward.

In response to Mr. Grant's question regarding if the Board could take action if the individual discloses the information, Ms. Schieldge responded that the individual will no longer have a conviction, it will be erased from the record.

In response to Mr. Grant's question of what is the Board to do if an applicant discloses the conviction on the application but it is no longer on record, Ms. Schieldge responded that effective July 1, 2020, the Board will not be able to ask the question on the application. If the information is voluntarily disclosed and there is a record, the Board can take action. Her concerns is the licensees who have criminal convictions. If the Board doesn't receive information about a conviction, it's not recorded for a while, it's out of state, or there is a delay, at some point that record is going to be wiped clean. As far as the state's concerned, they will no longer have a rap sheet on that particular conviction. This is a big policy shift as rap sheets will no longer have a complete criminal history. The exception to this would be sex offender convictions.

In response to Mr. Grant's question regarding if the Board's letter of opposition was sent to the author, Ms. Forsyth responded yes. Ms. Schieldge stated the Board was not the only board in opposition. However, the bill is contingent on budget appropriation as it will be costly for the AG's office to implement.

AB 1184 – Gloria: Public Records Retention: writing transmitted by electronic mail

This bill was vetoed by the Governor.

AB 1819 – Committee on Judiciary: Public Records: use of requester's own equipment

This bill was signed into law by the Governor and will be effective January 1, 2020. The bills allows individuals to bring their own equipment to copy records. Ms. Schieldge stated that this is already allowed.

SB 425 – Hill: Health Care practitioners: Licensee's file: probationary physician's and surgeon's certificate: unprofessional conduct

This bill was signed into law by the Governor and will be effective January 1, 2020. This bill requires health care facilities, who receive allegations from patients or representative accusing individuals of sexual abuse or contact, to report the allegations to the licensing agency.

Ms. Schieldge stated that the Board will now have citation and fine authority against health care facilities or any other entity for a willful failure to file a report that would include a civil fine not to exceed \$100,000 per violation, and any other failure to make that report punishable by a civil fine not to exceed \$50,000 per violation. This will be a big change to enforcement scope and there may need to be an adjustment to the database enforcement tracking because the Board currently does not cite health care facilities. In response to Mr. Grant's question as to how the Board would obtain knowledge of this, Ms. Schieldge responded that a whistle blower may report that the entity failed to file a report, or a consumer/victim might repor the abuse and then it is discovered that it was also reported to the health care facility.

SB 518 – Wieckowski: Public Records: disclosure: court costs and attorney's fees

This bill was vetoed by the Governor.

Ms. Valencia thank the Board for the opportunity to serve.

20. Agenda Items for the January Meeting

- 1) Review of Board meeting dates and locations for 2020
- 2) Implementation of SB 697 – Fact sheet
- 3) Sunset Review Report
- 4) Legislation
- 5) Regulation update
- 6) Budget update

M/ Xavier Martinez S/ Javier Esquivel-Acosta to:

To adjourn meeting.

Member	Yes	No	Abstain	Absent	Recusal
Charles Alexander	X				
Juan Armenta	X				
Jennifer Carlquist	X				
Sonya Earley	X				
Javier Esquivel-Acosta	X				
Jed Grant	X				
Xavier Martinez	X				
Robert Sachs	X				
Mary Valencia	X				

Motion approved.

With no further business the meeting was adjourned 1:45 p.m.

Minutes do not reflect the order in which agenda items were presented at the Board meeting.