

# MEETING MINUTES

November 9, 2020

8:30 A.M. – 5:00 P.M.

Physician Assistant Board Meeting Was Held Via WebEx

## 1. Call to Order by President

President Grant called the meeting to order at 8:30 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  
Jed Grant, PA-C  
Randy Hawkins, MD  
Diego Inzunza, PA-C

Staff Present: Rozana Khan, Interim Executive Officer  
William Maguire, Attorney  
Karen Halbo, Attorney III DCA Regulation Unit  
Julie Caldwell, Licensing Analyst  
Armando Melendez, Complaint Analyst  
Kristy Voong, Probation Monitor

## 3. Approval of August 7, 2020 Board Meeting Minutes

M/ Sonya Earley S/ Jennifer Carlquist to:

Approve the August 7, 2020 Meeting Minutes.

Member	Yes	No	Abstain	Absent	Recusal
Charles Alexander	X				
Juan Armenta				X	
Jennifer Carlquist	X				
Sonya Earley	X				
Jed Grant	X				
Randy Hawkins			X		
Diego Inzunza	X				

Mr. Maguire stated that a Board member does not have to abstain from approving the meeting minutes if they were not present for the meeting. As long as the Board member has reviewed the minutes, the Board member may vote to approve the minutes.

Dr. Hawkins requested to change his vote to yes, as he has reviewed the minutes.

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).])

Ed Howard appeared on behalf of California Academy of PAs (CAPA). Mr. Howard provided apologies, CAPA had two problems related with the Board's August 7, 2020 meeting that regrettably led to CAPA not offering comments to the draft regulations then under discussion. The first issue was technical which prevented them from logging on. The second issue was the absence of the Board meeting materials posted on the Board's website. Included on the August 7, 2020, meeting agenda was that the Board was to consider "initiating rulemaking" and CAPA wrongly inferred that the agenda item was simply going to be about whether or not to begin drafting language, not whether to consider an actual draft. As a result, the first time that Mr. Howard realized that actual language had been proposed to the Board was November 8, 2020. Mr. Howard stated that the proposal that they would have most objected to was the one that Mr. Grant suggested to withdraw, the proposed changes to 1399.545. Mr. Howard again apologized for not relaying CAPA's thoughts to the Board earlier and commits to provide the Board with written comments on the proposed language, including the withdrawn 1399.545, by the end of the week. Mr. Howard thanked the Board for their consideration and for Mr. Grant's comments regarding SB 697 made during the last Board meeting. CAPA is pleased to partner with the Board moving forward on these important regulations.

No further public comment.

#### **5. Introduction and Swearing in of New and Reappointed Board Members**

Mr. Grant introduced Randy Hawkins, M.D. and Diego Inzunza, PA-C as the new members of the Physician Assistant Board. Mr. Grant stated that Dr. Hawkins was appointed by Governor Gavin Newsom to the Physician Assistant Board on August 17, 2020. Dr. Hawkins has been assistant professor at Charles R. Drew University of Medicine and Science since 2014 and a physician and surgeon in private practice since 1985. He is board-certified in internal medicine and pulmonary and critical care medicine. Dr. Hawkins is a member of the Golden State Medical Association of California, the National Medical Association, the Charles R. Drew Medical Society and the Food and Drug Administration Cellular. Mr. Grant stated that Dr. Hawkins is currently a member of the Medical Board of California (MBC) and is pleased to have him serve on the Board for the valuable input from our physician partners.

Mr. Grant stated that Diego Inzunza, PA-C was appointed to the Physician Assistant Board by Governor Gavin Newsom on August 17, 2020. Mr. Inzunza has been a physician assistant at VEP Healthcare, Patterson Urgent Care, and Primary Care at Home since 2019. He was a group supervisor for the San Mateo County Probation Department from 2015 to 2019, a medical translator for Santa Clara County from

2012 to 2016 and a community outreach coordinator for the City of San Jose Vice Mayor from 2010 to 2014. Mr. Inzunza is a member of the California Academy of Physician Assistants and the American Academy of Physician Assistants. He earned a Master of Science degree in physician assistant studies from Samuel Merritt University.

Mr. Grant administered the Oath of Office to Dr. Alexander, Ms. Carlquist, Ms. Earley, Dr. Hawkins and Mr. Inzunza as follows:

I do solemnly swear or affirm that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

Mr. Grant expressed his thanks to all board members for their commitment and service.

**6. Nomination and Election of Physician Assistant Board Officers**

Ms. Khan 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/ Jed Grant S/ Charles Alexander to:

Nominate Juan Armenta as president of the Physician Assistant Board (Board) for 2021.

Member	Yes	No	Abstain	Absent	Recusal
Charles Alexander	X				
Juan Armenta	X				
Jennifer Carlquist	X				
Sonya Earley	X				
Jed Grant	X				
Diego Inzunza	X				

Mr. Armenta expressed concerns as the expiration of his current term is 1/1/2021. Mr. Maguire advised that a board member can serve up to a year after the term has expired. If the Governor were to replace Mr. Armenta during his grace year, the Board would elect a new president.

No other nominations were made.

No public comment.

Motion approved.

M/ Charles Alexander S/ Jennifer Carlquist to:

Nominate Sonya Earley as vice president of the Board for 2021.

<b>Member</b>	<b>Yes</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>	<b>Recusal</b>
Charles Alexander	X				
Juan Armenta	X				
Jennifer Carlquist	X				
Sonya Earley	X				
Jed Grant	X				
Diego Inzunza	X				

Mr. Armenta commented if Mr. Grant is permitted to serve as the vice president while on deployment. Mr. Grant commented that he will be out of the country beginning mid-February 2021 through the end of 2021 which is part of the issue as serving as vice president. Mr. Grant stated he is not sure how much reliable access to the internet he will have, he will have access to email and is happy to assist during his deployment.

Mr. Armenta motioned to nominated Mr. Grant for vice president. Nomination was not seconded, the motion failed.

No public comment.

## **7. Reports**

### **a. President's Report**

Mr. Grant currently on military orders took the opportunity to thank Colonel Gronewald and Lieutenant Colonel Goldsmith for freeing him up from his military obligations to conduct the meeting.

### **Board Member Recognition and Commendations**

Mr. Grant recognized the new Board members and thanked them for their service. He also recognized Ms. Carlquist who was nominated by her peers as one of the top 10 cardiology PAs in the country. The Point of Care Network was built specifically to provide nurse practitioners and PAs with peer-review resources to learn and connect. These resources and tools have been vetted by the Editorial Board and they nominate the individuals they felt were the top PAs in various specialties in the country. Mr. Grant stated that Ms. Carlquist is a frequent speaker at continuing medical education conferences on EKG interpretation and cardiology issues. Mr. Grant expressed appreciation for her contributions to the profession and well deserved award.

### **DCA Approved Waivers Relating to the Practice of Physician Assistants**

Mr. Grant reported that on March 4, 2020, the Governor proclaimed a state of emergency related to COVID-19 and the Department of Consumer Affairs (DCA) responded by issuing several orders, one of which waived physician assistant supervision requirements under certain circumstances. This order has been extended through December 10, 2020. All of the orders are posted on the Board's website; however, Mr. Grant wanted to make sure that the public was aware that the

orders have been extended allowing for PAs to practice without a practice agreement under certain circumstances and conditions to ensure the ability of PAs to provide health care during this crisis is not hindered.

Additionally, an executive order issued waiving some of the requirements in place for the renewal of license has been extended through December 31, 2020, unless further extended.

Finally, an executive order issued temporarily waiving any statutory or regulatory requirements for individuals seeking to reactivate or restore a license has been extended through January 1, 2021, unless further extended.

No public comments.

b. Interim Executive Officer's Report

**Pandemic Response**

Ms. Khan reported that the Board's office is open and operational to the public during the pandemic. Board staff continues to be on a rotational telework schedule and are able to provide essential services to applicants, licensees and consumers.

**Personnel**

Ms. Khan reported that the Board's licensing program is currently understaffed due to the departure of the licensing analyst and the lead licensing analyst effective August 24, 2020. To maintain coverage of these essential functions Julie Caldwell, the Board's administrative analyst, was redirected to the licensing analyst position. Ms. Voong has also stepped up to temporarily assist with the licensing workload. The Board is in the process of recruiting to fill the administrative analyst position, lead licensing analyst position and a discipline analyst position. The discipline analyst position was approved through the budget change proposal in an effort to bring the enforcement workload in-house from the MBC.

**Update on the Sunset Review Process**

Ms. Khan reported that Board staff was recently advised that the Sunset Review Oversight Committee (Committee) will resume in the near future. The Committee will continue to utilize the sunset report submitted last year and requested that the Board provide any relevant updates or provisions. The Committee is requesting responses to supplemental questions related to COVID-19, Attachment 1 of the Board packet materials. Sunset report updates or revisions along with the responses to the supplement questions are due to the Committee electronically by December 1, 2020; however, the Board has received a hearing date of November 19, 2020, so she will be working on responses to the supplemental questions with the Board president and the Board's legal counsel to provide responses before the date of the hearing.

**Social Media**

Ms. Khan reported that objective 4.1 of the Board's 2019-23 Strategic Plan is to utilize social media to maximize outreach and communication. Ms. Khan is pleased to announce that the Board now has a Facebook and Twitter presence. The Board is now utilizing these social media platforms to disseminate all Board related information and/or updates.

Mr. Maguire stated while he has no comment on the interim executive officer's report he would like to revisit agenda item 3, commenting that he didn't realize Dr. Hawkins serves as the Board's ex-officio member which technically means non-voting. For this reason Dr. Hawkins should not be called on to vote for agenda items requiring a vote, but can make comments during Board discussion. Mr. Maguire stated that Dr. Hawkins previous vote to approve the August 7, 2020 Board meeting minutes should be reverted to abstention. Mr. Grant agreed.

c. Licensing Program Activity Report

**Licensing Population by Type Report:**

Ms. Caldwell reported that the Licensing Pollution by Type Report provides an overall view of the licensing population and different statuses. As of October 19, 2020 the Board's licensing population is as follows:

Total Licensing Population: 20, 416  
Current Licenses: 14, 155  
Inactive Licenses: 30  
Temporary Family Support: 1  
Total Current Licensees: 14, 186

**Summary of Licensing Activity Report for July 1, 2020 through September 30, 2020:**

Applications received – 464  
Licenses issued – 305  
Licenses renewed – 1,643

**Pending Application Workload Report as of September 30, 2020:**

- Pending Applications – 367
- Desk Age:
  - 0-30 days: 210
  - 31-60 days: 87
  - 61-90 days: 12
  - 91 plus days: 58

Desk age begins when the application is assigned to a staff member. Application age begins when the application is originally submitted to the Board.

In response to Mr. Grant's question how Board staff has been handling the licensing applications due to the loss of the licensing and lead licensing analysts, Ms. Caldwell responded that because of Ms. Voong's hard work, application reviews and the issuance of licenses continued after the departure of the Board's licensing staff and until Ms. Caldwell returned to work on September 15, 2020. Ms. Caldwell stated that even though she teleworks most days and has limited access to files, her co-workers are working as a team to provide assistance to applicants as needed. Because of the group effort, staff has managed to move closer to the goal of providing an applicant with an application update, or issue a license, within 30 days of the submission of the application.

Mr. Grant thanked all of the Board staff for their hard work.

d. Diversion Program Activity Report

Ms. Voong reported the following probation activity from page 64 of the Board meeting materials. As of September 30, 2020:

- Current Probationers – 62
  - Active – 53
  - Tolling – 9
- Entered Probation – 4
- Completed Probation – 5
- Voluntary Surrender – 1

Ms. Voong reported the following diversion program activity as of September 20, 2020:

- Current participants – 4
- Completed Maximus – 2

In response to Mr. Grant's question of if any participants have reported difficulties in meeting the terms of their probation due to the pandemic, Ms. Voong stated that there were exposure concerns early on, but there haven't been any difficulties as testing sites remain open.

e. Enforcement Program Activity Report

Mr. Melendez reported the following enforcement activity beginning July 1, 2020, through September 30, 2020:

- Complaints – Intake
  - Complaints received – 97
  - Assigned to desk analyst (\*\*may include cases received in previous quarters) – 97
  - Pending at intake – 8
- Complaints and Investigations
  - Complaints referred for investigation – 15
  - Complaints and investigations closed\*\* – 67
  - Complaints pending at desk analyst\*\* – 127
  - Investigations pending at field\*\* – 85
  - Average age of pending investigations\*\* – 292
  - Investigation over 8 months old – 52
- Office of Attorney General Cases
  - Cases initiated – 5
  - Cases pending\*\* - 32
  - Average age of pending cases\*\* - 390
- Formal Actions Filed/Withdrawn/Dismissed
  - Accusations filed – 6
  - Accusation and/or Petition to Revoke Probation Filed - 1
- Administrative Outcomes/Final Order
  - Probation – 4

- Surrender – 3
- Citations and Fines (April 1, 2020 to June 30, 2020)
  - Pending – 2
  - Fines due - \$750
- Citations and Fines (July 1, 2020 to September 30, 2020)
  - Fines due from previous/current quarters - \$750

### Complaints Received by Type and Source

The Board members posed no questions regarding this report included on page 61 of the Board meeting materials for July 1, 2020 through September 30, 2020.

Mr. Grant stated that in terms of trending the Board's complaints and identifying areas of concerns, this helpful chart is helpful.

Mr. Mendez reported now that the complaint workload has been transferred from the responsibility of the MBC to the Board, new forms, letters and pamphlets were created that include the following: a complaint form, a medical release form, correspondence template letters, and brochures regarding the complaint process, medical consultants and investigations. Additionally, staff is currently working on creating their own medical consultant program. Staff hopes to have the new forms and brochures accessible via the Board's website within the next few weeks.

Mr. Grant stated that bringing the complaint and enforcement process in-house is consistent with the Board's Strategic Plan implemented a few years ago. Previously the intake of the Board's complaints was handled by the MBC and the decision to bring the complaint process in-house is supported primarily by the growth of the PA licensing population. The Board will gain helpful insight as a result of bringing PAs into the case review process of the various enforcement case. He thanked Mr. Melendez for his hard work and to the MBC for their support.

Ms. Carlquist expressed her excitement about being involved at the ground level for complaints submitted to the Board and looks forward to future updates.

In response to Mr. Armenta's question on how this will affect the Board's ability on the selection of experts for disciplinary cases, Mr. Grant stated individual cases will be discussed in closed session. Historically some of the complaints filed with the Board may not have resulted in an accusation had a PA been involved early on in the expert case review process in order to provide a better perspective.

No public comments.

## **8. Department of Consumer Affairs (DCA) – Director's Update**

Carrie Holmes, DCA Deputy Director of Board and Bureau Relations, thanked the Board for the opportunity to provide her report.

In addition to congratulating and welcoming Diego Inzunza and Dr. Hawkins as the newest member of the Board, Ms. Holmes thanked them for their willingness to



serve. Ms. Holmes also congratulated Dr. Alexander, Ms. Carlquist and Ms. Earley for their reappointments and thanked them for their ongoing service.

Ms. Holmes stated one of her top priorities at the Board and Bureau of Relations is appointments. According to the Physician Assistant Practice Act the Board consists of nine members who serve four-year terms and may be reappointed. However, as set forth in Business and Professions Code (BPC) section 3505, the Board is currently comprised of one physician and surgeon, five licensed physician assistants and four public members for a total of 10 members. The Governor's office is responsible for appointing the licensed members and two public members, the Speaker of the Assembly and the Senate Rules Committee each appoint one public member. Currently the Board has three vacancies, two public members appointed by the Senate and Governor, and a licensee member appointed by the Governor. DCA and all the appointing authorities share the goal of a fully seated diverse and effective board. Filling current and upcoming vacancies is a priority, anyone interested in serving as a board member can apply by visiting DCA's website and choosing the link titled Board Member Resources.

Ms. Holmes stated that our work continues even though COVID-19 has changed the way we conduct business now and in the future. Before the Board's last meeting, DCA and its boards and bureaus had just reopened offices to the public after a temporary closure due to the state and local stay-at-home orders to prevent the spread of COVID-19. DCA offices remain open with preventative measures to safeguard the health and safety of our employees and visitors. DCA continues to partner with the Governor's office and Business Consumer Services and Housing Agency on statewide efforts related to awareness and enforcement of public health measures. DCA would like to thank the Board and staff for their continued service during this challenging time.

Ms. Holmes encouraged the Board to reach out to DCA if with any questions or assistance that they may need.

Mr. Grant thanked Ms. Holmes for her assistance with the Board's appointments. In response to Mr. Grant's question of when in-person meetings might resume, Ms. Homes replied that she did not have any information at this time. For now, the executive orders that affected the Bagley-Keene Open Meeting Act will be in place until the state of emergency is lifted.

No public comment.

## **9. Budget Update**

Marie Reyes, DCA Budget Analyst, thanked Mr. Grant for his service and extended a welcome to the Board's new members.

Ms. Reyes reviewed the Fund Condition Report on page 68 of the Board meeting materials. The Board is in a good fiscal position. The first part of the report depicts the revenue and transfers occurring in FY 19/20. The revenue projection for FY 19/20 was 2.3 million; the Board's actual revenue was 2.33 million which left the Board with 19.4 months of reserves. The Board's estimated revenue for FY 20/21 is 2.4 million. Historically the Board's projected revenue always seems to fall within 5-8% of the actual revenue, as the Board is very conservative in their projections. Ms.

Reyes stated that she anticipates the Board’s actual revenue for FY 20/21 to be higher than the 2.4 million despite of the pandemic.

Mr. Reyes reviewed page 69 of the Board meeting materials. The Board reverted \$207,000 for FY 19/20, which is considerably more than the previous two years of \$15,000-\$18,000.

In response to Mr. Grant’s request to clarify why the revenue projections for FY 21/22 and FY 22/23 are lower, Ms. Reyes responded that the reason is due to the income surplus as a result of a 1.5 million dollar payment paid to the Board.

In response to Mr. Grant’s question of how the Board reverted \$207,000 for FY 19/20, Ms. Reyes replied that the main reasons were due to a reduction of general expenses, reduction in travel expenses and a reduction in the costs for the Attorney General. The Board has been fiscally responsible and will be in good shape even with the additional expenditures due to the increase in staffing and bring services in-house.

No public comment.

**10.Approval of Passing Score for 2021 Physician Assistant (PA) Initial Licensing Examination and 2021 Dates and Locations for PA Initial Licensing Examination**

Mr. Grant stated that this requirement is from BPC section 3517. The Board has drafted legislation to change this section, however, the legislation changes have not occurred and the Board is required to vote. The initial licensing examination is administered through the National Commission on Certification of PAs (NCCPA) at the Pearson VUE testing centers.

M/           Juan Armenta           S/           Sonya Earley           to:

Approve the passing score for the Physician Assistant National Certifying Examination (PANCE) for the year 2021 as established by the NCCPA as the test that the Board requires to establish minimum competency.

Member	Yes	No	Abstain	Absent	Recusal
Charles Alexander	X				
Juan Armenta	X				
Jennifer Carlquist	X				
Sonya Earley	X				
Jed Grant	X				
Diego Inzunza	X				

M/           Juan Armenta           S/           Sonya Earley           to:

Approve the dates and locations as established at the Pearson VUE testing centers by the NCCPA.

Member	Yes	No	Abstain	Absent	Recusal
Charles Alexander	X				

Juan Armenta	X				
Jennifer Carlquist	X				
Sonya Earley	X				
Jed Grant	X				
Diego Inzunza	X				

No public comment.

### 11. Discussion and Possible Action Setting Schedule for 2021 Board Meeting Dates and Locations

Mr. Grant stated that the Board typically holds quarterly meeting, one of which is held in Southern California.

M/ Juan Armenta S/ Jennifer Carlquist to:

Approve meeting dates of February 8, 2021, May 10, 2021, August 9, 2021 and November 8, 2021 with the first in-person meeting being held in Sacramento once the emergency orders are lifted and further locations determined at that meeting.

Member	Yes	No	Abstain	Absent	Recusal
Charles Alexander	X				
Juan Armenta	X				
Jennifer Carlquist	X				
Sonya Earley	X				
Jed Grant	X				
Diego Inzunza	X				

Mr. Grant stated he will be out of the country for the last three quarterly meeting dates, but he will try to attend the meeting remotely.

Mr. Maguire stated that agenda item 11 is listed as “discussion and possible action on meeting dates and locations” and the board has only discussed the dates. While it is fair to say that due to the state of emergency, the pandemic, and we don’t really know with much certainty possible locations for 2021, is it the Board’s intention to have the meetings via WebEx until further notice. Mr. Grant stated that the intention is to set the dates with the understanding that they will be remote until further notice. Once we are no longer required to hold the meetings remotely, the Board can make a subsequent motion during a future meeting to amend the location as needed. Historically three of the four annual meetings were held in Sacramento and one in Southern California.

Mr. Maguire stated that when a Board member, board counsel or the executive officer describes a motion accurately and in detail, the individual making the motion can simply say “so moved”, or “I make the motion as described”, in order to move forward with making the motion and without having to describe verbatim what was just said and agreed with.

Public comment: Mr. Howard thanked Mr. Grant for seeking CAPA’s input on the proposed meeting dates, the dates work for CAPA.

No additional public comment.

## **12. Discussion and Possible Action Regarding Hearings Pursuant to Business and Professions Code section 3530. Petition for Reinstatement of License or Modification of Penalty**

Mr. Maguire stated that BPC section 3530 talks about the Board's rights and responsibilities when a licensee issues the Board a petition for reinstatement of a license that's been revoked, or a modification of the penalty of the discipline the licensee is serving. It is his understanding that when the Board receives such a petition, the Board generally has an administrative law judge (ALJ) from the Office of Administrative Hearings (OAH), come and hear the petition before the Board during a Board meeting. Subsequently the Board then meets with the ALJ and Board counsel in closed session to discuss the action they wish to take regarding the petition. BPC section 3530(c) states "the petition may be heard by the board and 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 Board that shall be acted on in accordance with the administrative procedure."

Mr. Maguire stated that the Board has two options under this section. Currently the Board has been utilizing the primary option of hearing the petition themselves with the assistance of the ALJ, but the Board does have the option to refer the petition out to the ALJ to conduct the hearing separate from the Board meeting, and then the judge would issue a proposed decision to the Board to vote on.

Mr. Maguire states that one advantage of hearing the petitioner, and his/her attorney before the Board is that the Board can personally see them, hear their tone of voice, decide whether they're truthful, whether they're truly showing contrition for their past behavior. The judge will make findings and say things like "I found this petitioner trustworthy or truthful or contrite," or the opposite for the Board to rely on, but it is not the same as laying eyes on them. The other implication is the time and constraints due to limited Board meetings and limited time allotted to a hearing per Board meeting.

Mr. Maguire stated that basically the purpose of this agenda item is to initiate discussion of the relative pros and cons of the two approaches and a motion to direct staff to proceed accordingly.

Mr. Grant stated that historically the hearings had been the responsibility of an ALJ, then the Board would vote on a proposed decision, and if the Board rejected the proposed decision, the Board could then set the matter for a hearing during a Board meeting. With the petitions for reinstatement or for early termination of probation, the Board members felt that they wanted to have eyes on the petitioner and have an opportunity to directly interact with the petitioner.

If a licensee has had their license disciplined, the licensee can petition for early termination of the conditions that were placed on their license as a result of their misconduct, or if their license has been revoke they can petition to have their license reinstated. Petitions heard during a Board meeting can take the better part of a day, so the thought is that if the Board could send the petition to the ALJ and receive a proposed decision just like the Board receives on other matters, it might save time.

As the number of licensees increase, there is potential for the number of hearing to increase which is costly and time consuming. This doesn't take away the Board's ability to reject a proposed decision and set the matter for a hearing during a Board meeting, it just adds an extra step to have the judge go through the case and make a proposed decision.

Dr. Hawkins stated that the MBC utilizes an ALJ, receives a proposed decision from the judge and then votes on whether or not to accept the proposed decision. The physician does not come before the board.

Mr. Grant stated that the Board typically holds quarterly meeting, one of which is held in Southern California.

M/           Juan Armenta           S/           Jennifer Carlquist           to:

Direct staff to set all petitions for reinstatement or early termination of probation to initially be heard by an administrative law judge rather than an in-person hearing.

<b>Member</b>	<b>Yes</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>	<b>Recusal</b>
Charles Alexander	X				
Juan Armenta	X				
Jennifer Carlquist	X				
Sonya Earley	X				
Jed Grant	X				
Diego Inzunza	X				

No public comment.

### **13. Report on Medical Board of California Activities**

Dr. Hawkins stated that he has over 35 years of experience working with physician assistants and his wife, of 35 years, is also a physician assistant.

He reported that the MBC last met August 13-14, 2020, and read the following greeting from Denise Pines, MBC board president:

- The board has appointed William Prasifka as the MBC Executive Director and Reji Varghese as the MBC Deputy Director. The previous executive director, Kimberly Kirchmeyer, was appointed as the Director of DCA.
- The Health Professional Education Foundation (HPEF) mission is to provide loan forgiveness scholarships to allied health advanced practice providers such as physician assistants, nurse practitioners and physicians who agreed to practice in underserved areas of California. The scholarship program available to physician assistants is called the Advances Practice Healthcare Scholarship Program and the next application cycle opens January 4, 2021. Information regarding all HPEF programs can be obtained by querying [oshpd.ca.gov/hpes](http://oshpd.ca.gov/hpes).

Mr. Grant thanked Dr. Hawkins for volunteering to serve on the Board as it is important, as historically PAs and physicians have close relationships. Although the

Board voted as part of their strategic plan to move to being a fully independent board, it is important to maintain close ties with our physician partners.

#### 14. Regulations

Ms. Halbo provided the following update:

- a. Proposed Amendments to 16 CCR Sections 1399.525, 1399.526 and 1399.527 Substantial Relationship Criteria, Rehabilitation Criteria for Denials and Reinstatements, Rehabilitation criteria for Suspensions and Revocations

This package is with the Office of Administrative Law (OAL). The reviewer at the OAL requested that the Board make certain language changes (most of them considered non-substantial), complete a 15-day notice so that the public could see the language changes and then place the matter with the Board to accept, or reject, the requested language changes. Due to the fact that OAL is trying to standardize all of the packages, approximately 38 packages, there has been a number of 15-day language modifications requested. It is Ms. Halbo's understanding that the Board received no comments for the 15-day notice of modification of text that ran from October 21, 2020 through November 5, 2020. Ms. Halbo reviewed the proposed language changes requested by OAL with the Board.

M/ Jed Grant S/ Sonya Earley to:

Approve the modified text for sections 1399.525, 1399.526 and 1399.527 provided by the OAL and move forward with the regulatory process.

Member	Yes	No	Abstain	Absent	Recusal
Charles Alexander	X				
Juan Armenta	X				
Jennifer Carlquist	X				
Sonya Earley	X				
Jed Grant	X				
Randy Hawkins			X		
Diego Inzunza	X				

- b. Proposed Language to Amend 16 CCR Sections 1399.502, 1399.506, 1399.507, 1399.511, 1399.530, 1399.540, 1399.541, 1399.545, and 1399.546 Changes to Existing Regulation Sections to Include SB 697 Requirements

Ms. Halbo reported that on August 7, 2020, the Board approved the proposed language for sections 1399.502, 1399.507, 1399.511, 1399.530, 1399.540, and 1399.541, and to repeal 1399.546; however, currently the Board doesn't have a designated regulation staff member so the initial documents have not been drafted or submitted to legal for review.

Mr. Grant stated that the intent of this package is to amend the Board's regulations to be consistent with SB 697 and reflect the legislative intent.

Public Comment: Mr. Howard, on behalf of CAPA, stated that he cannot find proposed final language for SB 697. He is unsure of the reason as to why the draft regulatory language for the August 7, 2020, meeting was not posted on the Board's website, but that there were two comments made during the webcast about concerns as to whether or not the public had access to the language prior to the meeting. Mr. Howard stated he cannot remember a time when a Board would vote on initiating formal rulemaking based on particular language, without having the proposed language actually in the board packet and materials distributed to the public and available. There are certainly parts of those regulations related to SB 697 that he is sure CAPA will find to be completely innocuous and in fact very welcome. There a couple that might benefit from our ability to be able to finally see the proposed language to be sent out for formal rulemaking. He respectfully requests that the Board postpone a decision on this until the time that the public and the Board has the ability, before the meeting, to be able to look at final proposed language. If in fact, if he is correct and the proposed language contemplated for initiating formal rulemaking for SB 697 was not in the packet.

Mr. Grant stated that he appreciates Mr. Howard's comments. The proposed text is included in the approved August 7, 2020, Board meeting minutes posted to the Board's website. While the Board has approved to move forward with the proposed text, there will be notice periods allowing CAPA to make comments. Ms. Khan stated that due to ADA compliance issues the August meeting materials were not posted to the website prior to the meeting; however, posted on the Board's website was a statement that the meeting materials will be provided upon request. Ms. Khan stated that she will work with DCA to get the meeting materials posted to the Board's website. Mr. Grant requested that Board staff provide CAPA with a copy of the August meeting materials. Ms. Halbo stated the majority of the approved changes were minor, but she understands Mr. Howard's concern if he hasn't seen any of the proposed text. Mr. Maguire commented that contained within the November Board meeting materials is a copy of the August 7, 2020, meeting minutes.

Public Comment: Mr. Howard, on behalf of CAPA, commented that based on the August meeting minutes, it is not clear that the language underlined and struck out was what the Board had approved. For example, when Mr. Grant states that the Board will not proceed with proposed regulation language for section 1399.545, the proposed language is included in the minutes. So the language that is reflected in the minutes has not been changed, as yet, to reflect the decision of the Board. It is true, however, that there are descriptions in the minutes of what the Board voted to do. It appears that the language in the minutes is the language that is supposed to be changed, prior to going out for public comment as opposed to final language where this could serve as a substitute for having proposed final language to build on to initiate formal rulemaking. It is far cleaner process to have the materials posted to the Board's website.

c. Board's Authority to Approve Controlled Substance Education Course, Title 16, California Code of Regulations, Section 1399.610

Mr. Maguire stated that on August 7, 2020 the Board approved to amend Section 1399.610 of the California Code of Regulations, Title 16 to add the audit authority language. BPC 3502.1(e)(3) currently reads "The Board shall establish the requirements for satisfactory completion of this subdivision. Evidence of completion of a course meeting the standards, including pharmacological content, established in

Sections 1399.610 and 1399.612 of Title 16 of the California Code of Regulations, as those provisions read on June 7, 2019, shall be deemed to meet the requirements of this section.” Because the underlying statute limits the criteria for controlled substance education course providers, the Board will need to amend BPC 3502.1(e)(3) before amending the regulation. Board staff and legal counsel are currently preparing a statement to potentially give the Board the authority to change the controlled substance course provider regulations. The request to amend the statute will be part of the sunset hearing scheduled for November 2020.

Mr. Grant stated that when the Board was presented with SB 697 language, the Board had requested the removal of the sunset date, but it was left in the final version. Mr. Grant stated that the Board can’t adequately police the controlled substance providers with that sunset date in statute, but once it is corrected, the Board will be able to amend the regulations to allow the Board to better regulate the controlled substance course.

d. Proposed Amendments to 16 CCR Section 1399.523.5 – Required Actions Against Registered Sex Offenders

Ms. Halbo reported that the rulemaking package was submitted to Business, Consumer Services and Housing Authority (Agency) on October 8, 2020. Once Agency is finished with the package, it will be published in the notice register for the 45-day public comment period. While the package is in its beginning stages it is close to being published with the OAL.

e. Proposed Amendments to 16 CCR Sections 1399.514 and 1399.515 – Renewal of License and Continuing Medical Education Required

Ms. Halbo reported that the rulemaking package has been approved by legal and is currently with budget.

f. Proposed Amendments to 16 CCR Section 1399.616 – Approved Continuing Medical Education Programs – Implicit Bias

Ms. Halbo reported that the rulemaking package has been approved by legal and is currently with budget.

Ms. Halbo stated that over the last nine months, the Department of Finance (DOF) has made two changes to the requirements of regulation packages. As a result of one of the changes, rulemaking package for all programs had to have a review of its budgets estimates and language.

## **15. CLOSED SESSION**

A. Pursuant to Section 11126(a) of the Government Code, the Board moved into closed session to conduct interviews and Possible Appointment of Executive Officer.

B. Pursuant to Section 11126(c)(3) of the Government Code, the Board moved into closed session to deliberate and take action on disciplinary matters.

## **16. Report and Actions Taken During Closed Session Regarding Executive Officer Appointment**



Based on the outcome of Board discussion, the Board took no action on this agenda item.

## **17. Education/Workforce Development Advisory Committee**

Mr. Grant reviewed the data on page 69 of the Board meeting materials. As of October 26, 2020:

- Total number of accredited programs in the United States - 264
  - Total number of PA programs in development – 50
- 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 central valley - 2
  - located on the central coast - 1
- Estimated annual capacity for all 21 programs – 1064

Mr. Grant provided the following definition regarding the programs statuses:

- Developing – currently not enrolling students,
- Provisional – assigned during the first five years that the program is operational.

Currently more than half of the California PA programs are provisional. The information reflects the continued growth in California as programs in California have more than doubled in the last five years.

Mr. Grant stated that PA training models medical school which means that the first year is didactic, second and third years are clinical. The average length of a PA program is twenty-seven (27) months. The second and third year of the program, PAs are completing clinical rotations and because of the pandemic, many of the clinical rotation sites have closed, or are no longer taking students. This is causing significant difficulties for the PA training programs and as a result some programs have turned to alternative options one of which is online. The accrediting body is watching this closely to ensure that the standards are met; however, the changes are something for the Board to be aware of. Additionally, the cost of the training may increase as a result of increasing the length of time it takes to complete the program.

The numbers included on the report do not include out-of-state applicants.

No public comment.

## **18. Nomination and Possible Selection of Legislative Committee Member**

Mr. Grant stated that Sonya Earley has been shouldering the responsibility of this committee due to the departure of Mary Valencia. The legislative committee is responsible for reviewing upcoming legislation that will affect PA practice or our Board, reports to the Board; thereby allowing the Board an opportunity to take a position on legislation.

M/ Jed Grant S/ Sonya Earley to:

Nominate Jennifer Carlquist to serve on the legislative committee.

<b>Member</b>	<b>Yes</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>	<b>Recusal</b>
Charles Alexander	X				
Juan Armenta	X				
Jennifer Carlquist	X				
Sonya Earley	X				
Jed Grant	X				
Diego Inzunza	X				

### **19. Legislative Committee**

Ms. Earley reported the following:

#### AB 890 – Wood: Nurse Practitioners

Requires the board to establish minimum requirements for nurse practitioners to transition to practice independently among other provisions.

Previous Board Action: None

Status: Signed by the Governor September of 2020.

#### AB 1616 – Low and Garcia: Expunged Convictions

Required programs under the Department of Consumer Affairs that posted information on their website about the revoked license prior to criminal convictions, to update or remove that information within six months.

Previous Board Action: None

Status: Dead

#### AB 2113 – Low: Refugees, Asylees, and Special Immigrant Visa Holders: Professional Licensing: Initial Licensure Process

Requires programs with the Department of Consumer Affairs to assist and expedite the initial licensure process for those applicants who supplied satisfactory evidence that they are either a refugee, asylee, or immigrant visa classified.

Status: Signed by the Governor September of 2020.

#### SB 53 – Wilk: Open Meetings

Modifies the Bagley-Keene Open Meeting Act to require two-member advisory committee of the state body to hold open public meetings.

Previous Board Action: Opposed as the Board utilizes a two-person committee that has no decision-making ability and is required to report back to the Board.

Status: Held in Committee under submission.

#### SB 878 – Jones: Department of Consumer Affairs: License: Application: Processing Timeframes

Beginning January, 2021, each board and bureau within the Department of Consumer Affairs that issue licenses to prominently display on their website an update quarterly basis either the current average time frame processing and then also combined current average time frame for processing both initial and renewal license applications.

Status: Signed by the Governor September of 2020.

SB 1474 – Committee on Business, Professions and Economic Development.  
Business and Professions

Provides a one year sunset extension for a host of boards and programs undergoing the sunset review process prior to COVID-19.

Status: Signed by the Governor September of 2020.

SB 1463 – Glazer: Physician Assistants: Written Examination

Remove the requirement that the board establish a passing score and time and place for the examination.

Status: Dead

In response to Mr. Grant's question of whether or not a letter was sent to the author of SB 53 regarding the Board's position, Ms. Khan and Ms. Earley responded that they have no record indicating a letter was sent. Mr. Grant stressed the importance of sending the letters to authors regarding the Board's position and requested that staff ensure that this letter gets sent. Ms. Khan stated she will work with Ms. Earley to draft and send this letter.

No public comment.

**20. Agenda Items for the Next Meeting**

- 1) SB 697 regulatory changes
- 2) Regulation 1399.610

No public comment.

**21. Adjournment**

Adjournment will immediately follow closed session, and there will be no other items of business discussed.

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