

MEETING MINUTES

February 8, 2021
8:30 A.M. – 12:00 P.M.

Physician Assistant Board Meeting Was Held Via WebEx

1. Call to Order by President

President Armenta called the meeting to order at 8:38 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, M.D.
Diego Inzunza, PA-C

Staff Present: Rozana Khan, Executive Officer
William Maguire, Attorney
Karen Halbo, Regulatory counsel, Attorney III
Julie Caldwell, Lead Licensing Analyst
Kristy Voong, Probation Monitor
Armando Melendez, Complaint Analyst
Christina Haydon, Enforcement Analyst
Ariel Gompers, Administrative Analyst

3. Approval of the November 9, 2020 Board Meeting Minutes

M/ Jed Grant S/ Sonya Earley to:

Approve the November 9, 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				

Motion approved with the conditions to make the following corrections: change "The Governor's responsible" on line 398 of page 9 to read "The Governor's office is responsible", change "Mr. Alexander" to "Dr. Alexander" throughout the minutes, and

on page 19, insert the word “next” changing the text from “agenda items for the meeting” to “agenda items for the next meeting”.

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).])

No public comment.

5. Reports

a. President’s Report

DCA Approved Waivers Relating to the Practice of Physician Assistants

Mr. Armenta reported that pursuant to the Governor’s Executive Order N-39-20, the Director of the California Department of Consumer Affairs (Director) may waive any statutory or regulatory renewal requirements pertaining to individuals licensed pursuant to Division 2 of the Business and Professions Code (Code). The Director temporarily waives any statutory or regulatory requirement that individuals renewing a license pursuant to Division 2 of the Code take and pass an examination in order to renew a license; and or demonstrate compliance with any continuing education requirements in order to renew a license. This does not apply to licensees operating under any disciplinary order, and the renewal requirements may be further extended.

Additionally, the Director temporarily waives the statutory or regulatory requirement that an individual seeking to reactivate or restore a license originally issued pursuant to Division 2 of the Code, complete, or demonstrate compliance, with any continuing education requirements in order to reactivate or restore a retired, inactive or canceled license; and pay any fees in order to reactivate or restore a retired, inactive, or canceled license. These waivers apply only to an individual’s license that is in a retired, inactive, or on canceled status, and has been in such status no longer than five years.

The Director also extended three additional orders relating to Physician Assistants, Nurse Practitioners and Nurse-Midwife supervision until April 9, 2021.

Update on Joint Sunset Review Oversight Hearing

Mr. Grant reported that he was accompanied by Ms. Khan when presenting the Board’s Sunset Report to the Legislature. For those unfamiliar with this process, the Sunset Review process was created by the Legislature to assist the Legislature with its oversight responsibilities and allows the Legislature to determine if various boards are performing as intended. The Board is required to prepare a Sunset Report every four years for submission to the Legislature, reporting what the Board is doing, and whether the Board is meeting the mandates laid out for the Board regarding public protection. The Board followed this process, answered the Legislature’s questions in

terms of Board activities and what direction the Board is moving. Mr. Grant stated that currently there are no crises causing any sort of an existential threat to the Board and that the main focus of the presentation was to provide a status of the Board's Strategic Plan, actions taken to implement changes based on the Strategic Plan, the volume of work completed by the Board to implement changes related to SB 697, and the goal of ultimately becoming a fully independent board.

Stakeholder Meeting

Mr. Armenta reported that on January 14, 2021, select members of the Board, Board staff and the Board's legal counsel met with stakeholder California Academy of Physician Assistants (CAPA) via teleconference. In attendance were the following individuals: Teresa Chien, CAPA Executive Officer; Brett Bergman, CAPA President; Ed Howard, CAPA Advisor Attorney; Mr. Armenta, Board President; Mr. Grant, Board member; Ms. Khan, Board's Executive Officer; Mr. Maguire, Board's legal counsel; and Ms. Halbo, Board's regulatory legal counsel. The purpose of this meeting was to receive CAPA's input and comment on regulatory matters. Mr. Armenta reported that the meeting was productive, there were more agreements than disagreements on how to effectuate regulatory oversight, and all participants hope to continue similar interaction in the future. All participants considered the points from each side, and there were some suggestions from CAPA reflected in the regulatory language that were quite cogent and furthered the goals of seeking to promote the practice of PAs and public protection. Mr. Armenta stated that CAPA agreed to revisit Business and Professions Code (BPC), section 3502.1 and its revision of tying qualifications to a specific date, which could be problematic in an age where technologies are changing much faster than statutes or regulations. Mr. Armenta stated that the cooperation was appreciated by both himself and by the Board as a whole. Leadership on both sides of the equation is new, there is a good foundation moving forward and thanked everyone for their assistance.

Acknowledge of Mr. Grant

Mr. Armenta further commented that Mr. Grant is a Major in the United States Army and will be deployed to the Middle East soon. He thanked Mr. Grant for asking him to step forward and for nominating him to serve as the Board's president and Ms. Earley's nomination for vice president. He thanked Mr. Grant for his service to the Board and to the country and looks forward to his safe and speedy return. His expertise and leadership on the Board is appreciated.

b. Executive Officer's Report

Pandemic Response

Ms. Khan reported that the Board's office is operational and open to the public during the COVID-19 pandemic. Board staff continues to be on a rotational telework schedule and is providing essential services to applicants, licensees, and consumers.

Personnel

Ms. Khan reported that since the Board last met, staff has successfully filled some critical positions. Effective January 4, 2021, Julie Caldwell was promoted to the Lead

Licensing Analyst position. Ms. Caldwell has held various positions with the Board including Administrative Analyst and most recently as a Licensing Analyst. Effective January 11, 2021, Christina Haydon filled the Discipline Analyst position. Ms. Haydon joined the Board from the Medical Board of California's (MBC) Discipline Coordination Unit where she was the public disclosure analyst for Medical Board, Physician Assistant Board, and the Podiatric Medical Board since April 2011. Effective January 19, 2021, Ariel Gompers filled the Administrative Analyst position left vacant by Ms. Caldwell. Ms. Gompers joins the Board from Caltrans, where she was the Office Technician for the Director and two other Executive staff members. Staffing recruitment efforts are underway to fill the vacant Licensing Analyst position and the newly created Associate Analyst position to perform the analysis of legislative and regulatory workload and maintain oversight of the Board's budget.

Information Technology

Ms. Khan reported that Board staff is currently working with the Department of Consumer Affairs' (DCA) Office of Information Technology to migrate to the DCA server. This migration is tentatively scheduled for the week of February 15, 2021. Once the migration is complete, board members and staff email extensions will change from "@mbc.ca.gov" to "@dca.ca.gov". Board staff met with the DCA's Office of Information Technology via Teams to discuss revamping the Board's outdated website. The new design and layout of the website will streamline the information presented and make it more user friendly. Lastly, in fulfilling the Board's 2019-2023 Strategic Plan - Objective 4.1, the Board continues to utilize Facebook and Twitter social media platforms to maximize outreach and communication.

In response to Mr. Armenta's question of what the time frame is for filling the vacant staff positions, Ms. Khan responded that the Licensing Analyst position has been posted, will close this week, and applications will be screened. Interviews for the Regulatory Analyst position are complete, and she is awaiting clearance from Office of Human Resources (OHR).

Mr. Grant reported that as part of the personnel changes, Ms. Khan was sworn in on December 1, 2020, as the Board's new Executive Officer. Mr. Grant recognizes this important change and thanked her for her service to the Board while serving as the Interim Executive Officer and her continued service as the Executive Officer.

Dr. Alexander also congratulated all the new hires and a special congratulations to Ms. Caldwell on her promotion.

Mr. Armenta congratulated all the new staff and those being promoted.

c. Board Activity Reports

Licensing

Ms. Caldwell reported that the Licensing Population by Type report provides an overall view of the licensing population and different statuses. As of January 25, 2021, the Board's licensing population is as follows:

Licensing Population by Type

Total Licensing Population: 20,778
Current Licenses: 14, 413
Inactive Licenses: 31
Total Current Licenses: 14, 444

Summary of Licensing Activity Report for July 1, 2020 to December 31, 2020:

Applications received – 816
Licenses issued – 741
Licenses renewed – 3,150

Pending Application Workload Report as of January 28, 2021:

- Pending Applications – 282
- Desk Age:
 - 0-30 days: 174
 - 31-60 days: 77
 - 61-90 days: 22
 - 91 plus days: 9

Licensing Performance Measures for October 1, 2020 to December 21, 2020:

- Complete Applications: 126
- Incomplete Applications: 310

Ms. Caldwell reported that the application age begins once the application is submitted and payment received. The desk age begins once the application is assigned to a specific staff member. Staff's goal is to review applications within 30 days of receipt. There are various reasons that impact the age of an application such as failing the Physician Assistant National Certifying Examination (PANCE), applying months before graduating from an approved program, or moving from another state, and difficulties arising in completing the application requirements. Ms. Caldwell reported that most applicants receive the initial review within 30 days of applying for licensure and are frequently issued their license within the same time frame.

Mr. Grant requested clarification of whether the desk age calculation begins before the application is complete, because if the calculation begins before the application is complete, then the Board may need to think about what those numbers mean. Ms. Caldwell stated that the application age begins once the application and payment are received; however, the desk age begins once the application is assigned to a staff member. Once the application is reviewed and it is determined that the application is incomplete, a milestone marker is placed on the applicant's account. The milestone marker stops the calculation of days that the Board is responsible for the application and places it back on the applicant. For example, if an application is received on January 1st (application age begins), reviewed on January 22nd and application deficiencies are noted, a milestone marker is placed on the account and places the responsibility back on the applicant. Ms. Caldwell stated that the most common application deficiencies are the delay in receiving a verification(s) and the receipt of the PANCE. Once all the requirements are met, a milestone marker end date is added to the applicant's account which reverts the responsibility back to the

Board.

In response to Mr. Grant's question of whether the desk age accurately reflects how long it's taking the Board to process applications including incomplete applications, Ms. Caldwell responded, yes.

In response to Mr. Armenta's questions of whether bottlenecks are reflected on the chart or is the delay the normal processing time taking into account that the clock stops when the responsibility to move forward is placed on the applicant, Ms. Caldwell responded yes. If the application is complete upon the initial review, the application would be considered approved and the license would be issued. Once the last requirement is fulfilled, there may be a delay in the issuance of the license due to regularly scheduled days off or other responsibilities of the licensing desk. The milestone marker end date is the date that the Board received the last application requirement. Board staff is currently meeting the goal of completing the initial review within 30 days of receiving the application and is frequently able to issue the license within the 30-day goal.

In response to Dr. Hawkins' question of whether there is a major reason why some of the desk ages are 90 days or more, Ms. Caldwell responded it may be because of disciplinary history, whether it's by another agency or licensing agency within California, or criminal history may play a factor. The Board's current application for licensure does not contain criminal history questions, but the information may be disclosed by the applicant or contained within the results of the background check, and then the Board requests documentation which may result in a delay. Another reason for the application age to increase may be due to the applicant failing the PANCE and the applicant is required to wait before retesting. Although the Board is currently accepting verifications and program certifications by email, some agencies are slow to provide a verification even prior to COVID-19, and this causes a delay in licensure.

In response to Mr. Armenta's question as to why an application may be considered incomplete, is it due to the responsibility being placed back on the applicant, Ms. Caldwell responded that it could be a combination of reasons such as the application has not been reviewed or that the review is complete, but the licensing requirements have not been met.

In response to Mr. Grant's question of whether it is helpful for the PA programs to tell students to start the application process prior to graduating and/or before taking the PANCE or would staff prefer that the student wait until they are closer to graduation, Ms. Caldwell responded that she believes that the application instructions state to apply within 30 days of graduation. She doesn't recommend applying three or four months prior to graduation. Applicants are required to complete the application process one year from the date the Board receives the application and at risk that the application may expire if they experience significant delays, such as failing the PANCE. If the application expires, the applicant is required to start the process over. Currently, the Board is both completing the initial review and providing an update to applicants within 30 days, so if the application is submitted 30 days prior to completing the PA program, that is sufficient.

Mr. Armenta requested that Ms. Khan update the Board's website to include the information for new graduates advising when to submit their application for licensure.

Ms. Earley supported that request.

No public comment.

Enforcement

Mr. Melendez reported the following enforcement activity for the period of October 1, 2020, to December 31, 2020:

- Complaints – Intake
 - Complaints received – 84
 - Assigned to desk analyst (**may include cases received in previous quarters) – 93
 - Pending at intake – 0
- Complaints and Investigations
 - Complaints referred for investigation – 18
 - Complaints and investigations closed** – 72
 - Complaints pending at desk analyst** – 149
 - Investigations pending at field** – 105
 - Average age of pending investigations** – 357
 - Investigation over 8 months old – 62
 - Automatic suspension order – 0
 - Cease practice order – 0
 - Interim suspension order - 0
- Office of Attorney General Cases
 - Cases initiated – 5
 - Cases pending** - 27
 - Average age of pending cases** - 379 days

Ms. Haydon reported the following formal actions filed, withdrawn and dismissed for the period of October 1, 2020 to December 31, 2020:

- Formal Actions Filed/Withdrawn/Dismissed
 - Accusations filed – 4
 - Accusation and/or Petition to Revoke Probation Filed - 1
- Administrative Outcomes/Final Order
 - License application denied – 1
 - Probation – 2
 - Surrender - 3
- Citations and Fines (July 1, 2020 to September 30, 2020)
 - Pending – 0
 - Fines due - \$0
- Citations and Fines (October 1, 2020 to December 31, 2020)
 - Fines due from previous/current quarters - \$0

Ms. Haydon stated that the majority of the cite and fines are a result of the CME audits. Due to the current waiver in place, the Board is not conducting any CME audits.

In response to Dr. Hawkins' question as to the reasons why the application was denied and the licenses surrendered, Ms. Haydon responded that she didn't have the information available.

Ms. Haydon stated that as a discipline analyst she processes all of the discipline cases, updates the PA's profile, posts the information on the Board's website and reports the information to the National Practitioner Data Bank (NPDB). Page 49 of the Board meeting packet includes an example of a website profile for a PA. When there is disciplinary action or felony convictions, the information is entered into the licensee's profile and is included in the public record action section and considered public disclosure. The Board is federally mandated to report to the NPDB any type of restriction, discipline or suspension. The reports are submitted electronically.

In response to Mr. Armenta's question of if any thought has been given to a potential bottleneck once the CME waivers cease, Ms. Khan responded that the number of licensees who have not completed their CMEs is low, and for those who have not, the licensee has six months from the expiration date of the last waiver to comply. Ms. Khan stated she is not foreseeing any major backlogs.

Mr. Grant commented that one of the reasons he believes this will not be a problem is because most PAs are required by their employer to maintain their national certification. Even though the waiver is in place for the state, most PAs are required to maintain their national certification which satisfies the state's CME requirement and reduces the amount of PAs who will fall out of compliance. Mr. Grant believes the way that PA practice is set up, in terms of credentialing, it will unlikely result in a large number of people who have not met the CME requirements.

Mr. Armenta commented that there seems to be a downward trend in complaints filed comparing FY 2019-20 to FY 2020-21, Mr. Melendez stated that complaints have decreased and it could be a result of COVID-19 and a reduction with in-person visits.

Probation

Ms. Voong reported the following from page 64 of the Board meeting materials.

Probation Activity Report as of December 31, 2020:

- Current Probationers – 60
 - Active – 50
 - Tolling – 10

Period of October 1, 2020 to December 31, 2020:

- Entered Probation – 2
- Completed Probation – 3
- Voluntary Surrender – 1

Diversion Program Activity as of December 31, 2020:

- Current participants – 4

In response to Dr. Hawkins' earlier question regarding the surrendered licenses in the Enforcement Activity Report, Ms. Voong commented that two of the surrendered licenses were stipulated to surrender their license during the administrative process and one while on probation.

In response to Dr. Hawkins' question of what is the total number of PAs currently on probation, Ms. Voong responded that there are currently sixty probationers of which fifty are active probationers and ten are non-practice toll status. Tolling status means they are not active probationers because they are not practicing in California, or they are out of state and not serving in active probation with the state licensing board.

In response to Mr. Grant's question of whether any probationers have reported difficulty in access and compliance due to issues regarding the pandemic, Ms. Voong responded no. Participants are encouraged to follow Centers for Disease Control and Prevention guidelines.

No public comment.

6. Department of Consumer Affairs – Director's Update

Carrie Holmes, Deputy Director of Board and Bureau Relations at the DCA thanked the Board for allowing her the opportunity to provide a department update. Ms. Holmes congratulated the Board's selection of appointing Ms. Khan as the Board's new Executive Officer. DCA is here to support the Board as the Board continues to build the team during this challenging time. COVID-19 has affected every aspect of work and after another temporary closure in December due to state local stay-at-home orders, DCA offices are open again with preventative measures in place to safeguard the health and safety of employees and guests. DCA is maximizing telework to help prevent risk for all employee and social distancing, face coverings and frequent hand washing are required for those employees who cannot telework. Ms. Holmes thanked Ms. Khan and Board staff for working so hard to maintain excellent customer service and protect the public during these challenging times.

DCA is pleased to announce that on January 12, 2021, Governor Newsom appointed Monica Vargas to the role of Deputy Director of Communications at DCA. Ms. Vargas has been an Information Officer at the Governor's Office of Emergency Services since 2015 and was an Information Officer at DCA from 2013 to 2015. On February 2, Governor Newsom appointed Sarah Murillo as Deputy Director of Administrative Services. Ms. Murillo gained a wide range of experience in her nearly 20 years of service to Californians in various state departments including California Complete Count Census 2020. Ms. Murillo comes to DCA with a skill set that makes her well suited to support all the entities within the DCA.

Ms. Holmes stated one of her top priorities at Board and Bureau Relations is appointments. Currently the Board has three vacancies; one public member appointed by the Senate and two licensee members appointed by the Governor. She stated 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. If any members know any great candidates, or if any members of the public attending the meeting are interested in getting involved, please find the link titled "board member resources" on the homepage of the DCA website, www.dca.ca.gov, to apply for an appointment.

Ms. Holmes advised that 2021 is a mandatory Sexual Harassment Prevention Training year and all employees and board members are required to complete the training. Ms. Holmes reminded the board members that Form 700 filings are due by April 1, 2021. Board members as designated appointees are required to complete a Statement of Economic Interest Form 700, even if there is no reportable interest. For any questions, please contact DCA's filing officer in the OHR. The Board and Bureau Relations has partnered with Solid Training and has developed a new Board member orientation to be held via WebEx on March 11, 2021. As a reminder, newly appointed and reappointed board members are required to take the training within a year. For more details, please visit the Board Member Resource Center at www.dca.ca.gov.

Lastly, to enhance DCA's services to all boards and bureaus, two exciting new initiatives were launched by DCA Director Kimberly Kirchmeyer for 2021. The first initiative is the Executive Officer Cabinet. This group of board and bureau executives will maintain regular communication, provide feedback and information at DCA and assist with special projects that will impact all boards and bureaus. The second initiative is the Enlighten Licensing Project. This work group is being formed to utilize licensing subject matter experts within the entire DCA. The group will help individual boards and bureaus streamline and make their licensing process more effective and efficient by utilizing best practices, information technology, and cost saving measures. These two initiatives are just kicking off and additional updates will be provided. Ms. Holmes stated that the Board and Bureau Relations is here to help and if assistance is required, to please reach out.

In response to Dr. Alexander's question on whether the sexual harassment training required by his employer would satisfy the training required by the DCA, Ms. Holmes responded that she believes it would fulfil the DCA required training but urged Dr. Alexander to provide the information to Ms. Khan in order to work with OHR to determine if it would qualify.

In response to Dr. Hawkins' comment that he was required to complete an ethics training at the end of 2020 as a requirement for a public service position he holds with one of the advisory committees of the Food and Drug Administration (FDA) and questioned if there is a general rule regarding substituting trainings, Ms. Holmes responded that there isn't a general rule due to the many factors and the decision to substitute certificates of completion would be based on a case-by-case situation.

Mr. Grant commented that in the past the Board members discussed the possibility of creating a spreadsheet to track the required trainings and impending due dates, and then to receive an email from Board staff reminding the Board member of the required training, deadline and how to access the training. Ms. Caldwell commented that Ms. Gompers is scheduled to attend a training liaison meeting and will be working on a spreadsheet to provide to Board members and staff outlining required training.

Ms. Earley also commented that the email reminders were very helpful and looks forward to receiving them in the future.

No public comment.

7. Budget Update (DCA Budget Analyst)

Paul McDermott, DCA Budget Analyst, introduced himself as the Board's new budget analyst, and stated that he has the distinct privilege of assuming the position vacated by Marie Reyes. Ms. Reyes, who is now retired, served as the Board's previous budget analyst and left him with well executed reports. Mr. McDermott presented and reviewed the Fund Condition Report and the Projected Expenditures Report.

Fund Condition Report

This report shows the fund as a Board, the Board's revenue streams are located at the top of the report and the expenditures are located toward the bottom of the report. Included in the report for fiscal year (FY) 2019-20 is the repayment of a \$1.5 million dollar General Fund (GF) loan and an interest payment of \$45,000 related to the repayment of the GF loan. The revenue stream for FY 2020-21 is on track; renewal fees are higher this FY compared to last FY. Mr. McDermott stated that the current year column, FY 2020-21, includes projected dollars based on what he has seen for the first five months. The amounts are fluid, they will change, but provide a close to a real time revenue stream as he can provide.

FY 2020-21 shows a GF loan of \$116,000 to assist with the DCA's costs due to the pandemic. Similar GF loans were made by all boards and bureaus. The GF loan is scheduled to be repaid within 3-4 years or immediately if the Board becomes insolvent.

Total projected expenditures for FY 2020-21 are \$2.697 million. Expenditures for FY 2019-20 were \$1.8 million. The Board's projected fund balance is \$4.583 million dollars with a 17.6 month reserve. The reserve is important because if all resources and revenues were to cease, the Board would still be able to operate for 17.6 months. A six to twelve month reserve is considered a healthy fund. Mr. McDermott stated he doesn't see anything that the Board has to worry about as long as the trends stay the way they are.

In response to Ms. Earley's request to elaborate as to the reason why there is a loan increase when the Board's expenditures have decreased in areas such as travel and mail services, Mr. McDermott responded that the loan itself was not part of the original expenditure projection for the current fiscal year, but because of the pandemic the loan has grown. Statute provides authority for the DCA to borrow a percentage for the GF and they divide it up amongst all the boards. If there was not a pandemic, then that line item would have been zero.

In response to Mr. Grant's question of why Mr. McDermott anticipates the Board's expenditures increasing each year and a reminder that if the fund gets to twenty-four months, the Board has to revert money, Mr. McDermott responded by reviewing the Expenditure Projection Report.

Expenditure Projection Report

The second column titled "Budget" is the budgeted amount of \$645,000 for salaries. This column increased basically because of increases in salaries that include a merit salary adjustments (MSA) increase. Even though this year the budgeted amount for

salaries started with a small decrease because of the 10% pay cut across the Board, the Board is filling more positions this year and this line item captures that increase. Last fiscal year the budgeted amount for salaries was \$401,000, there was a salary savings because the Board didn't fill positions; however, because he is projecting to fill these positions, he has carried the salary of \$482,000 going forward to the end of the year. There is also an increase in the amount for benefits because that number increased proportionally with the number of positions. The salary and benefit expenditures increased in total from \$659,000 last fiscal year to a projection of \$881,000 for this fiscal year. Additional increases to the Board's budget are due to an increase in Attorney General (AG) fees from \$455,000 last year to a projected \$618,000 this fiscal year, and an increase in rent/facilities from \$70,000 to \$120,000.

In response to Mr. Grant's comment about reversion, Mr. McDermott stated that the Board's total project expenditures is \$2.66 million which equals a reversion of about 7.62% of the allocated money or about \$220,000. The \$220,000 is a savings that is earmarked or projected to go into reversion, which will then go back into this fund condition. Mr. McDermott stated that he has had to put procedures in place for boards exceeding the twenty-four month statute, but the Board is doing fine even though it is currently on the high end because there is a downward trend due to the increased expenditures that will reduce the Board's fund reserve to about ten months.

In response to Dr. Hawkins' question of whether the AG projected expenditure line item includes the fee increase or is the expenditure based on other AG costs, Mr. McDermott responded, that the expenditure projection does include the AG fee increase.

In response to Ms. Carlquist's question of whether the Board is anticipating an AG increase due to their salary because she believes the volume of complaints has reduced due to the pandemic and the Board is utilizing them less, Mr. McDermott responded that he only reports what has been paid. He takes the first five months on the books and extrapolates the average over the next seven months. When he has the figure for fiscal month six, he will re-average the amount. If there is a downward trend when it comes to cases, the projected amount will decrease.

Ms. Khan stated that one point taken into consideration when making this projection was that there are several petitions out at the field, which will be going to the AG's office and then set for hearing. This accounts for one of the reasons why there is an increase in the AG and the Office of Administrative Hearing costs because there are at least seven or eight petition hearings that the Board is anticipating.

Mr. McDermott stated that Ms. Khan is being fiscally responsible with the funds that she is charged with and he does not see any issues with the fund or the expenditures.

No public comments.

Returned from Recess - 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, M.D.
 Diego Inzunza, PA-C

8. Discussion and Possible Action on New Physician Assistant Board Logo

Ms. Khan stated that previously she reported that she has been working with DCA’s Office of Technology to upgrade the Board’s website and requested to open a discussion regarding updating the Board’s logo. Ms. Khan stated that an organization’s logo is the graphical visual symbol representing the company or brand. It is designed uniquely, so that it is easily identifiable and can set itself apart from other organizations. Ms. Khan questioned if the current Physician Assistant Board (PAB) logo reflects what the Board stands for, or if there a need for it to be broader and more purpose oriented to create an understanding of what our organization stands for. Ms. Khan stated that she believes by redesigning the Board’s logo, the Board will be able to better market and educate stakeholders. If approved, staff will work with the DCA’s Office of Publication Design and Editing to begin the process of updating the logo.

Dr. Hawkins’ endorsed the discussion to update the Board’s logo.

Ms. Earley commented that it is difficult to determine if the current logo contains a stethoscope and welcomes the opportunity for change.

In response to Mr. Armenta’s question of whether the logo will be designed in-house, Ms. Khan responded that Board staff will work with DCA’s Office of Publication Design and Editing team.

Mr. Grant commented that the point is well taken and the examples provided of other board’s logos do represent their profession and the Board’s current logo does not represent PAs or what PAs do. He supports a redesign. In response to Mr. Grant’s question of whether design options will be presented to the Board for a vote, Ms. Khan responded yes, she is hoping to provide design options at the August meeting or sooner.

M/ Jed Grant S/ Sonya Earley to:

Direct staff to provide options for a revised logo.

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.

9. Report on Medical Board of California Activities

Dr. Hawkins' reported that the Medical Board of California (MBC) last met on February 4-5, 2021, and the agenda is available on www.mbc.ca.gov. MBC officers elected on November 13, 2020, are as follows: Kristina D. Lawson, J.D. - President, Howard R. Krauss M.D. – Vice President, Randy W. Hawkins, M.D. - Secretary. New Governor appointments include: Alejandra Campoverdi of Los Angeles and Ryan Brooks of San Francisco. The MBC approved the November 2020 meeting minutes and they will be available on MBC's website in a few weeks. The February 2021 MBC meeting agenda is available on the MBC website, www.mbc.ca.gov.

Dr. Hawkins' reported that when the MBC last met the following updates and discussions regarding the state's response to the COVID-19 crisis, SB 48 Limón: Dementia and Alzheimer's Disease, SB 57 Wiener: Controlled Substances: Overdose Prevention Program, and the Mexico Pilot Program were held.

Dr. Hawkins' reported that the MBC's 2020 Sunset Review report was submitted to Senator Roth and Assembly Member Low on December 31, 2020 and is available on the MBC's website. MBC staff members met with the Legislature to discuss the following board requests:

1. Increasing various fees by 20-50% to cover previously incurred expenses and anticipated increases to programs including personnel and enforcement. Based on the MBC's projected revenues and expenses, the board expects to become insolvent within eighteen months. The MBC has not had a fee increase for a minimum of ten years.
2. Seeking to increase the allowed reserve amount from a four- month reserve to a maximum of twenty-four months of operating expenses.
3. Authority to seek recovery of some of the investigation costs.
4. Ease access to medical and pharmaceutical records.
5. Increase use of non-adversarial "letters of advice" in non-quality care matters that might lead to educational courses or other simple remediation efforts.
6. Create a new board to regulate licensed midwives.

Presentations provided during the meeting included MBC's enforcement process (slide deck available on www.mbc.ca.gov), revising the MBC's Guidelines for Prescribing Controlled Substances (last updated in 2014), and AB 890 given by the Board of Registered Nursing.

Dr. Hawkins stated that the MBC receives a substantial number of comments from members of the public during its meetings. Some members of the public have strong feelings about the MBC's disciplinary guidelines and whether it is honoring its mandate to protect the public. While the MBC believes it is honoring the its mandate, there are members of the public who are reaching out to legislators questioning whether or not the MBC is reaching the mandate of public protection.

Mr. Grant stated that he appreciates Dr. Hawkins' comments, he has attended a few MBC meetings and was surprised by the amount of public comment. Mr. Grant stated that the culture between the PA and the Physician Assistant Board (PAB) differs from the MBC and its licensees. He also stated that the PAB has been fairly

aggressive with the public protection mission which may account for why the PAB has not received some of those type of comments. Mr. Grant stated that Dr. Hawkins' input is valuable and will be helpful in order to avoid similar types of problems when the PAB is making various decisions.

No public comment.

10. Regulations

a. Review, Consider and Possible Action on Previously Adopted Draft Regulatory 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 Align with SB 697 Statutory Changes

Ms. Halbo stated that select staff and board members met with CAPA to discuss the proposed language related to implementing SB 697. She stated that included in the board meeting materials is a memo highlighting the changes, a November 12, 2020 letter from CAPA regarding their concerns and issues raised, and subsequent changes to the proposed text previously approved by the Board. Ms. Halbo stated that the changes shown as a double underline indicate new text since last approved by the Board, and double strikethrough indicates the removal of text since last approved by the Board. Ms. Halbo stated that the language in the memo walks the reader through each of the changes and asked if there were any questions about any of the changes, or concerns related to the more substantive changes to Title 16 of the California Code of Regulations (16 CCR), section 1399.541 regarding supervision during a surgical procedure.

Mr. Grant commented that Ms. Halbo's memo included in meeting materials does a really good job of describing the changes made to the previously approved proposed text, during the meeting with CAPA. He stated that the changes put in place for the current regulations reflects the intent of SB 697. Mr. Grant stated that the point made during the last Board meeting was to work more closely with stakeholders prior to bringing proposed text to the Board to vote on in hopes of avoiding comments during the review process that may result in the Board having to start the process over. Mr. Grant extended his thanks to CAPA for collaborating on the proposed text. There is a minor amount of disagreement related to how physician assistants are supervised while a patient is under general anesthesia and with the tombstoning of the Board's regulatory authority to ensure that the controlled substance education courses are compliant with the Board's intent for the courses. Mr. Grant stated that the proposed language brings the regulations up-to-date and into compliance with SB 697.

Mr. Armenta expressed his thanks to both CAPA and Ms. Halbo. Mr. Armenta stated that the immediate availability is critical for protection of the public under general anesthesia. The anecdotal information that Ms. Halbo included in the memo is correct. Under general anesthesia there is a fear that while the doctor does not need to be in the actual operating theater, if allowed to be too remote, would have an inability to respond. This is a safe balancing act that protects the public and fulfills the legislative intent of the statute. Mr. Armenta stated that from a legislative interpretation and statutory point of view, the Board is on solid ground in terms of Office of Administrative Law (OAL) approving this package. Mr. Armenta stated that regarding the subject of the tombstone date, at some point technology and drug

standards are going to change and it does not seem wise to tie the Board to what might be an antiquated system.

In response to Mr. Inzunza's question of whether it might be more appropriate to change the reference of "physician and surgeon" in several sections of the regulations to "physician and/or surgeon", Ms. Halbo responded that most individuals do not realize that the license issued to doctor's is a physician and surgeon license. The Board defines a supervising physician as a physician and surgeon; if "supervising" is there, it just says supervising physician, but if it does not have "supervising" before it, the formal term of physician and surgeon is used.

In response to Mr. Grant's question of whether the official name of the Physician Assistant Board could be changed from the Physician Assistant Board of the Medical Board of California to the Physician Assistant Board, Ms. Halbo responded that she would need to research that question before providing an answer. Mr. Grant stated that because the Board is submitting changes to the regulations it might be a good idea to include changing the name of the Board in the regulatory package. Mr. Maguire stated that this current regulatory package doesn't include amending the definitions. Mr. Grant stated that BPC section 1399.502 states that Board means Physician Assistant Board, but the official name of the Board is the Physician Assistant Board of the Medical Board of California and he would like to ensure that this gets fixed so that the official name of the Board is the Physician Assistant Board. Mr. Maguire commented that BPC section 3501 (a) simply says that "Board" means Physician Assistant Board. Mr. Grant stated that he does see the Board referred to as the Physician Assistant Board of the Medical Board of California on charging documents, he does not have the specific BPC that supports the use of the Physician Assistant Board of the Medical Board of California but wanted to make sure that as these regulations move forward the name is fixed. Mr. Maguire stated that he does not see the name mentioned in the current package, statute, regulations, or amended regulations, but it may be an operational point if it is included in the charging documents; it may be a relic of the past and needs to be updated.

Ms. Khan commented that included in the Board's Sunset Review are legislative proposals to meet the Board's Strategic Plan for 2019-2023, by statute and striking out all reference of the Board being within the jurisdiction of the MBC except for references to standards and grounds for discipline BPC section 3527, grounds for discipline.

Ms. Halbo commented that Mr. Grant had pointed out, and it is in the memo, that the Board gets malpractice information from the National Practitioner Data Bank (NPDB). That NPDB only reports malpractice claims with judgements or settlements that are greater than \$30,000. The Board should decide if it wants to require disclosures of malpractice claims with judgements or settlements that are less than \$30,000. Mr. Grant confirmed the Board is already requiring a NPDB report, so requiring them to disclose other malpractice, as Mr. Howard pointed out, is really broad and could be problematic for the Board. Mr. Grant suggested that subdivision (e) of 16 CCR 1399.506 be removed since the Board is already requiring a NPDB report, the applicant does not need to disclose anything other than what would be included that report.

Mr. Armenta agreed with analysis. The section is ill-defined in terms of malpractice history.

M/ Jed Grant S/ Sonya Earley to:

Motion to remove 16 CCR 1399.530 from this regulation package, to strike subdivision (e) from 16 CCR 1399.506 and otherwise approve the revisions to the legal text language as shown on the attached text with the board materials, and direct the Executive Officer to take all steps necessary to initiate the rulemaking process, authorize the Executive Officer to make any technical or non-substantive changes to the rulemaking package, notice the revised text for a 45-day comment period, and if no adverse comments are received during the 45-day comment period, and no hearing is requested, adopt the proposed regulatory changes.

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

Public comment: Edward Howard, CAPA, commented that he had four quick points. First, to reiterate the comments that Mr. Armenta made at the outset of the meeting as CAPA is grateful for the conversation held with the Board regarding the regulations and the ability to communicate constructively.

Second, CAPA still has questions and is puzzling through the consequences of the retention of the phrase “immediately available”. CAPA thanks the Board for the proposed clarifications otherwise to that proposed regulation and will be prepared in time certainly for public comment. He just wanted to flag that, but also to express gratitude to the changes that were made to that regulation.

Third, the Board materials invite a Board discussion on the question of malpractice history disclosure at the time of application for licensure. CAPA is not necessarily opposed to some form of malpractice history disclosure of time of licensure. There are some questions that fellow boards, especially the MBC, have had to grapple with in trying to figure out what is relevant for the Board consideration. For example, malpractice cases that are dismissed with prejudice, should those be considered by the Board? Those dismissed on the merits but not with prejudice, should those be considered by the board? A jury verdict for the defense? Does a malpractice history include cases where an appeal is pending and not final as this can suspend the underlying trial case? If someone has threatened a lawsuit but has not filed one? Lawsuits that are filed but not settled for a de minimis nuisance value? Lawsuits that have been filed by people who have decreed to be vexatious litigants? Again, CAPA is not necessarily against malpractice history certainly at the margins that could easily be relevant to the Board’s mission of patient protection. Just to highlight some of the remaining questions CAPA thinks that would make sure that the Board is getting relevant information for it.

Fourth, to circle back briefly on the question related to BPC section 3502.1 and those regulations. As stated in the meeting, and to report to the full Board, at CAPA's last board meeting this was the focus of an extremely substantial and detailed conversation and CAPA does hope to be circling back with the Board on CAPA's thoughts and fingers crossed, with a proposal for the Board.

b. Status of 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 the AB 2138 implementation package and it is under review at the OAL. This package is in the extension period, but the package is progressing.

c. Status of 16 CCR section 1399.523.5 - Required Actions Against Registered Sex Offenders. 16 CCR sections 1399.514 and 1399.615 - Renewal of License and Continuing Medical Education Required, and 16 CCR section 1399.616 – Approved Continuing Medical Education Programs – Implicit Bias

This package relates to requiring continuing medical education regarding implicit bias. The package was reviewed by legal and the DCA Director's Office before being sent to the Business, Consumer Services and Housing Agency (Agency) in October of 2020, and it is expected to be filed with OAL in the next few weeks.

12. Report by the Legislative Committee; Discussion and Possible Action to Consider Positions Regarding the following Legislation

a. SB 48 – Limon: Dementia and Alzheimer's Disease

Ms. Earley stated that this bill would require that the PA Board adopt regulations to require each person renewing their license, as a condition of license renewal, to complete at least 10 hours of continuing education on the special care needs of patients with dementia. This bill is currently in progress so it may have impact, meaning that licensees would have to complete an additional ten hours. So, this is something for the Board to consider.

Mr. Grant stated that PAs practice across the spectrum and there are probably many PAs that do not interact with dementia patients at all. For example, a general surgery PA or an individual who is in pediatric practice, probably does not deal with these issues very much, or at all; therefore, it is a bit onerous to require them to complete 10 continuing education hours every two years. Mr. Grant commented that he was unsure of what the political implications are of making a formal opposition, but if the Board is going to take a position, he recommended to only include people who are practicing with a patient population that includes a reasonable likelihood of encountering dementia. Ms. Earley agreed.

Dr. Hawkins stated that the MBC also had a discussion regarding this bill and it was decided that a letter of opposition, unless amended, would be sent to the author regarding this bill.

Mr. Armenta stated that there should be a position of opposition this for the reasons given by Ms. Earley and Mr. Grant. In response to Mr. Armenta's question of

whether to direct staff to study this and look at what our position would be in terms of modifications, or does the Board simply oppose unless modified, Mr. Grant responded that in the past when the Board took a position of opposed unless amended, the Board would direct staff to send a letter of opposition to the author of the bill and include a list of requested changes. At a subsequent meeting, the Board would then look at any changes made to the bill to see if the Board wanted to change their position.

Dr. Hawkins commented that one of the reasons he wanted to be part of drafting MBC's letter of opposition is that the MBC's board president is a lawyer, the vice president is ophthalmologic neurosurgeon, and he himself is in private practice mostly internal medicine. Their discussions included specialists who are not dealing with this group of important individuals, should that person be required to take these courses. Also, should the Legislature be in the habit of dictating what is appropriate continuing education.

In response to Ms. Earley's question on if the PAB's proposal is in alignment with what the MBC is requesting, Mr. Hawkins' responded that the letter has not been drafted but he suspects it will be similar. He is not sure why the Legislature stated that PAs need 10 continuing education hours and physicians have 4 hours, particularly the internal medicine and family practice PAs who are seeing a large number of the same groups of patients, so that they would be exposed to this. Mr. Hawkins' commented that the Board can try to acknowledge what the Legislation intent, but should ask does this accomplish the goal of the bill of addressing the large group of citizens with this diagnosis, acknowledging that there is a need, addressing this as early as possible, have a standard of evaluating and treating this group of patients. One needs to careful that if the legislation passed, and suddenly you see many drugs directed at treating this condition is it the pharmaceutical companies the ones who are pushing this. Research needs to be completed in this area.

M/ Jed Grant S/ Sonya Earley to:

Oppose SB 48 unless amended, direct staff to send a letter to the author requesting that the number of continuing education hours required for PAs be the same number of continuing education hours required for physicians, and that the bill would be restricted only to those that regularly practice in a patient population where there is a higher incidence of dementia such as geriatrics, internal medicine or primary care.

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.

b. AB 29 – Cooper: State Bodies: Meetings

Ms. Earley stated that this bill would add requirements pertaining to what information is being made public before board meetings. This notice would include all writings or materials provided for the noticed meeting to a member of the state body by the staff of a state agency, board, or commission. The material must be made available on the state bodies' internet website, and to any person who requests the writings or material in writing, on the same day as the dissemination of the writings and materials to members of the state body or at least 72 hours in advance. The bill would prohibit a state body from discussing those writings or materials, or from taking action on an item to which those writings or materials pertain, at a meeting of the state body unless the state body has complied with these provisions.

Mr. Armenta commented that transparency in government is important and does not see anything in this bill that would make the staff's job more difficult. The Board is currently working with a deadline, that of the meeting date itself, and moving the time line back 72 hours would simply adjust the workflow to ensure that the board meeting packets are updated. For this reason, Mr. Armenta did not have a particular problem with the bill.

Mr. Grant commented that the 72 hour policy is a concern because sometimes the Board is updating the meeting material packets right before the meeting. He requested comment from the Board's executive officer, on whether the 72 hour rule would impact the Board. Ms. Khan stated that this may impact the Board because sometimes staff "walks-in" meeting materials the day of the meeting. All meeting materials for this Board meeting were available and posted long before the meeting, but there may be circumstances where materials would not be available. For example, maybe a report needs to be re-run for accuracy and it would be provided at the time of the meeting.

Mr. Grant further commented that over the last several years it has not been that unusual to have last minute updates to the meeting materials packet and wonders if the bill might result in incomplete information in the meeting materials packet or a delay in discussion of a topic because of last minute changes. Ms. Khan stated that Board staff submits requests to the DCA's internet team to post meeting materials to the website, the DCA does have other boards and bureaus that they provide this service to and she would have to work with them to ensure the time line involved with replacing board meeting materials posted to the Board's website.

In response to Mr. Grant's question directed to staff of whether there would be any significant impact on the workflow in terms of preparing board meeting packets and conducting meetings if this bill were to pass, Ms. Khan responded that this could impact staff's ability to "walk-in" meeting material and she would like an opportunity to discuss this with the DCA internet team, but given she feels that staff currently has adequate time to prepare meeting materials and the 72 hours would not impact staff's ability to prepare complete packets.

The Board took no position but agreed to watch the bill.

c. AB 54 – Kiley: COVID-19 Emergency Order Violation: License Revocation

Ms. Earley stated that this bill regards the Department of Consumer Affairs' COVID-19 emergency order violation, regarding license revocation. This bill would prohibit the Department of Consumer Affairs, a board within the Department of Consumer

Affairs, and the Department of Alcoholic Beverage Control from revoking a license for failure to comply with any COVID-19 emergency orders unless the board or department can prove that lack of compliance resulted in transmission of COVID-19.

Mr. Grant commented that it is his understanding that this bill and SB 102 seek to discipline a licensee if their failure to comply with proper preventive measure causes the transmission of COVID-19 but restricts discipline if it does not cause transmission. For example, a licensee refuses to wear a mask when seeing patients and it does not result in any transmission of COVID-19, the licensee cannot be disciplined; but if the licensee refuses to wear a mask and it does result in some transmission of COVID-19, their license could be disciplined.

In response to Ms. Carlquist's question of how one would prove that the transmission of COVID-19 occurred due to the licensee not wearing a mask, Mr. Armenta responded that from a legal perspective, that is a near impossible standard. Mr. Armenta stated that he does not see how the Board would meet this standard to clearly identify any disease spread that is airborne transmissible was due to the lack of compliance resulting in the transmission. The Board would of course exercise discretion whether to bring an action, but from a legal perspective, the scientific problems are insurmountable. If this is construed as some type of mandatory duty to impose discipline it could create all kinds of problems and waste for the Board because the Board would not be able to prove evidence.

In response to Ms. Carlquist's question of what is the intent of the bill and why is this on the radar as there is a current mandate to wear masks, Mr. Grant responded that he believes that the intent is willful disregard for personal protective equipment. If there is someone who just willfully refuses to take appropriate precautions against transmission and they cause a lot of transmission, they want that person disciplined.

In response to Ms. Carlquist's question of whether this should be the employer's decision to discipline the licensee, Mr. Grant responded that the Legislature is looking at it from a public safety perspective, which is how it got to the Board. The problem is that due to the nature of COVID-19, it would be basically impossible to prove that the licensee was the cause of the person acquiring it. Mr. Grant stated that he understands the Legislature's idea behind the bill, if there is a health care provider that refuses to take appropriate precautions against transmission, then their license should be disciplined or revoked. From a practical perspective, it is hard to see how the Board would make this work. The Board already has the authority to take action against a licensee under unprofessional conduct if one licensee was responsible for a super spreader event. In response to Mr. Grant's question on whether the MBC has taken a position on these bills, Dr. Hawkins responded that these bills have not been discussed by the board.

Ms. Earley agreed with the comments made by the Board members and suggested to continue to watch this bill.

The Board took no position but agreed to watch the bill.

d. SB 102 – Melendez: COVID-19 Emergency Order Violation: License Revocation

Ms. Earley stated that SB 102 is similar to AB 54 and suggested placing on the watch list as well.

The Board took no position but agreed to watch the bill.

No public comment.

13. Agenda Items for the Next Meeting

In response to Mr. Armenta's question of whether any board members had requests for items to be placed on the next agenda, beyond what is usually contained on the agenda, Mr. Grant responded that the Accreditation Review Commission for PAs will have met prior to the next Board meeting and requested that an update from the Education and Workforce Committee be added to the agenda. In response to Ms. Earley's question of who is on the committee with Mr. Grant, Mr. Grant responded that committee is comprised of himself and Dr. Alexander.

Mr. Armenta thanked Mr. Grant for his service, CAPA, congratulated Ms. Earley on her appointment and staff on their promotions. Ms. Earley thanked Mr. Grant for his service to both the Board and the country, congratulated staff on their promotions and thanked Mr. Armenta for a successful first meeting with him serving as the Board's new president.

In response to Mr. Grant's question of whether or not the Board is required to take a motion to adjourn the meeting, Mr. Maguire responded that it is not required, it is at the discretion of the Board.

No public comment.

14. 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.